

CHAPTER 6

Process-Serving Establishment

Part A

REMARKS AND DIRECTIONS

1. General—The rules in Parts B and C have been made by the High Court with the sanction of Government and are republished for the guidance of Civil Courts in supersession of all previous rules on the subject.

2. Chapter 18-A deals with appointments—Process-serving establishments are appointed and dealt with in accordance with the rules given in Chapter 18-A, Volume I.

3. Controlling authority—The Senior Sub-Judge or the Administrative Sub-Judge in districts where there is an Administrative Sub-Judge, has control over, and is responsible for the efficiency of the process-serving establishment of the district except that of the District Judge and Judge, Small Cause Court.

4. Duties of Civil Nazir—The Civil Nazir is to be regarded as the ministerial head of the process-serving establishment under the control of the Senior Subordinate Judge (or the Administrative Sub-Judge in districts where an Administrative Sub-Judge has been appointed). His main duty is to maintain the efficiency of the process-serving establishment and for this purpose he will submit reports and make suggestions from time to time to the Senior Sub-Judge or the Administrative Sub-Judge as the case may be.

5. Registration of process-servers—Every appointment of a process-server shall be registered in the Court of the Senior Subordinate Judge or the Administrative Sub-Judge, of the district in which the appointment is made, together with the following particulars :

The name of the process-server, his age, his place and abode, his father's name and the date of appointment. The names of the process-servers should be entered according to the date of their appointment in a register containing the above particulars, and a column of remarks should be added for the entry of such notes respecting the conduct of each process-server as the presiding Judge may from time to time deem it necessary to record.

6. Courts by whom the register is to be kept—There shall be one such register for the Court of the District Judge, one for the Senior Subordinate Judge's Court and other Subordinate Courts, and one for each Court of Small Causes.

7. Only registered process-servers to be employed—Except in cases of necessity, when the special leave of the Court must be obtained, no person other than a registered process-server shall be employed in the service or execution of any civil or criminal process : the reason for granting such leave should be recorded.

8. Belts and badges of bailiffs and process-servers—Every registered bailiff and process-server shall be supplied with the following equipment, the cost of which will be met from the contingencies of the Court to which he is attached :

Bailiffs—

- (a) Brown leather waist belt with cross strap over left shoulder. Brass buckle combined with badge prescribed by High Court to be fixed to waist belt:

Maximum cost Rs. 8 with buckle and badge or Rs. 3.25 nP. without buckle and badge.

- (b) Khaki drill haversack:—

Maximum cost Rs. 2.50 nP.

Process-servers—

- (a) Brown leather waist belt with brass buckle combined with badge prescribed by High Court to be fixed to belt.

Maximum cost—Rs. 6.37 nP. with buckle and badge or Rs. 1.62 nP. without buckle and badge.

- (b) Khaki drill haversack :

Maximum cost Rs. 2.50 nP.

Belts should last four years, and badges and buckles for an indefinite period. Haversacks should last two years. No article will be replaced unless the Presiding Officer of the Court to which a bailiff or process-server is attached certifies that it requires replacement. All equipment will remain Government property and should be inspected by Presiding Officers of Courts from time to time. Losses will be made good by the process-server or bailiff responsible.

9. Duties of Civil Nazir—The Civil Nazir will be expected to keep up the Civil Deposit and Repayment Accounts and to manage the execution of decree business. It is left to Senior Subordinate Judges to issue detailed instructions as to the duties which are to be performed by the Civil Nazir. The Civil Nazir should devote his time to the distribution of business amongst process-servers, the transmission of processes to agencies located at tahsils for service, the management of the accounts and correspondence regarding the payment of diet money to witnesses, and other similar matters connected with the carrying out of the system of serving processes through agencies located at outlying tahsils.

10. Scale of process-servers and their distribution among different Courts—The maximum scale of process-serving establishments allowed to each district has been fixed, but the Senior Subordinate Judge or the Administrative Sub-Judge as the case may be has power to distribute the process-servers sanctioned for the Courts of Sub-Judges in such manner as he thinks fit with reference to the amount of business coming before the different Courts and the distances to be traversed in serving processes; it must be understood, however, that the full number of process-servers should not be entertained unless they are actually required. Civil Register No. XXIII is intended to show how the work is distributed amongst the different process-servers, and controlling authorities should frequently inspect this register for the purpose of satisfying themselves that no unnecessary process-servers are entertained. Every marked diminution in work or income should be followed by a reduction of establishment.

11. Contingent expenditure—The total amount of contingencies expended on process-serving

establishment should not exceed ten *per cent* of the cost of such establishment for the year.

12. Special messenger and special bailiff—No sanction of the higher authorities is necessary if one of the registered process-servers attached to a Court can be spared for employment as a special messenger in the circumstances mentioned in Chapter 6-B. If, however, all process-servers in the district are attached to the Senior Subordinate Judge, the matter should be referred to him for necessary action, special fee will of course be levied in either case.

The appointment of a special messenger need not necessarily cause the creation of a new temporary post. If, however, a temporary post is required, a reference should be made to High Court under paragraph 20.5 of the Book of Financial Powers. The District and Sessions Judge can create posts of bailiffs required for execution of work of the co-operative societies only and not for others.

A special bailiff may be appointed for the execution of a warrant of arrest if service cannot be effected in the ordinary course. The period of such appointment can be determined by the Court concerned in the circumstances of each case but no special fee should be levied.

Part B
RULES UNDER SECTION 20, CLAUSE (iii)

Rules made by the High Court under the power conferred by Section 20, clause (iii) of the Court-fee Act, 1870, confirmed by the Provincial Government regarding the remuneration of the process-servers and all other persons employed by leave of a Court in the service or execution of processes.

Rules

1. Scale of salary of process-serving establishment—The salaries of the process-serving establishment as such shall not, except with special sanction of the High Court exceed the scale shown below against each officer:—

Civil Nazir	....	Rs. 60-4-80/5-120/5—175
Naib-Nazirs	....	Ditto
Madad Naib-Nazirs	....	Ditto
Execution Bailiff	....	Rs. 45-1-60
Process-server	....	Rs. 35-1-50

Provided that existing establishments and existing salaries shall in all cases remain unchanged until the sanction of the High Court has been given to any alterations.

Note 1—The establishment will in addition to salaries, draw such compensatory and other allowances as are sanctioned by Government from time to time.

Note 2—European bailiffs are now paid a monthly salary of Rs. 30 and Rs. 3 for each process served.

Note 3—Process servers of the Small Cause Courts, Simla and Amritsar, are allowed, in addition to their pay, a bonus of Rs. 2 per mensem of successful personal services effected exceed 50 per cent and Rs. 4 per mensem if they exceed 75 per cent.

2. Whenever it is necessary to employ additional persons as process-servers, that is to say,

persons other than the registered process-servers, the pay of a person so employed shall be at the rate of seventeen rupees per month.

3. Should it appear to the Court, on the motion of party to a suit or proceeding, or otherwise, that for the convenience of the parties or for some other reason, it is expedient that any process should be executed by special messenger, such process shall be so executed. Except in the case of a warrant for arrest, a special fee will be payable for such emergent service, and the Court will, at the time of making its order, declare by whom the fee shall be paid and whether it shall be included in the costs of the suit or be charged to a particular party.

4. How to employ process-servers—The process-servers entertained under these rules shall be employed mainly in the work of serving and executing processes, but they may be required to perform any other public duties that may be assigned to them.

Part C RULES UNDER SECTION 22

Rules made by the High Court with the approval of the State Government, under the power conferred by Section 22 of the Court-fees Act, 1870, regarding the number of persons necessary to be employed for the service and execution of processes issued out of the Civil and Criminal Courts established within the local limits of its jurisdiction.

Rules

1. High Court to fix number of process-servers for each district—The High Court shall fix, and shall from time to time, as may be necessary, alter the maximum number of process-servers to be retained for the Court of each District and Sessions Judge, and for each district in the State.

2. Distribution of process-servers among senior Courts—The number of process-servers to be retained in each district shall be allotted by the Senior Subordinate Judge, subject to the control of the District Judge and High Court, to the various Courts of the District in such manner as shall be most convenient for the service of processes.

3. How to fix the number of process-servers for each district—In submitting proposals with regard to the maximum number of process-servers to be retained in any district, and in distributing the process-servers retained amongst the various Courts, the Senior Subordinate Judge or the Administrative Sub-Judge should ascertain, and report, when necessary, the number of processes issued from his own Court and from every other Civil and Criminal Court in the district during each month of the previous year; and the maximum number of process-servers fixed for each Court shall be so many as are sufficient for the service of the largest number of process ascertained to have been issued in any one month. In calculating the number of process-servers capable of serving such ascertained number of processes, regard shall be paid to—

- (a) the average distance travelled by the peon ;
- (b) the nature of the country to be traversed and the local circumstances ;
- (c) the number of process-servers by whom the processes were actually served¹.

¹ . In fixing the number of process-service regard must be had to the system serving processes through agencies

located in tahsils.