

Himachal Pradesh High Court Rules and Orders

Volume-4

(Administrative and other matters of Subordinate Courts)

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Chapter-1

Canons of Judicial Ethics

Following norms are being laid down by the High Court for the guidance of all Judicial Officers. These norms are not statutory rules. However, in view of the power of superintendence over subordinate Courts conferred on the High Court by virtue of Article 227 of Constitution of India, these norms are being prescribed to be followed in letter and spirit by the Judicial Officers so as to make them good Judicial Officers. These are canons for the professional and personal conduct of Judicial Officers and should be observed not only in the discharge of their official functions but also in their private life, so as to avoid any conduct unbecoming of a Judicial Officer. These norms would help the Judicial Officers in maintaining good image expected from them by the litigants/general public. These norms are not exhaustive but are in the nature of general guidance and are in addition to the existence of the other equally imperative duties. These norms are in addition to and not in derogation of the conduct rules framed by the Governments.

1. The assumption of the office of Judicial Officer casts upon the incumbent duties in respect to his personal and professional conduct in relation to the State, the general public, the litigants before him, advocates, witnesses, Court staff and other persons attending the Court.

2. Impartiality, honesty, and integrity of a Judicial Officer are of utmost importance. A Judicial Officer should not only maintain absolute impartiality, honesty, and integrity but should also carry such an image in the eyes of general public, litigants and Advocates and should command their absolute confidence. Dishonesty includes not only financial dishonesty but also any extraneous consideration or reason in passing an order or judgment or otherwise dealing with any case. Judicial Officers should remain true to their oath in letter and

spirit. They should not bow or succumb to any influence or pressure, particularly from the Bar members, in the discharge of their official functions. They should act faithfully, conscientiously and without fear or favour, affection or ill-will. We are governed by rule of law. Judicial Officers should not be influenced in any manner by the status of any litigant, witness or another person. They should uphold the majesty of the law. Their personal and professional conduct and behaviour should be beyond reproach and free from any impropriety and the appearance of any impropriety. Judicial Officers should promote justice and thus serve the public interest for which the Courts exist.

3. Punctuality is the next important attribute of a Judicial Officer. Lack of punctuality by a Judicial Officer results in wastage of precious time of Advocates, litigants, and witnesses and also adversely affects the image of the Judicial Officer.

4. Judicial Officers should be prompt in the performance of their official functions. Justice delayed is justice denied. Judicial Officers should, therefore, strive to administer justice efficiently and without undue delay. At the same time, care should be taken that quality of work is not adversely affected. Judicial Officers should be careful in their decisions. They should also maintain decorum and dignity in the Court.

5. The Judicial Officers should be temperate, attentive, patient, polite but firm, and impartial. They should be studious and diligent.

6. The Judicial Officers should not tolerate improper behaviour and conduct by Advocates, Clerks, litigants, witnesses etc. Good nature of the Judicial Officer should not be allowed to be construed as his weakness.

7. Every Judicial Officer should maintain a cordial relationship with other Judicial Officers-seniors, colleagues, and juniors. He should also be polite and courteous to Advocates, litigants, and witnesses. Young

and inexperienced Advocates should not be demoralized. He should also enforce similar courtesy and politeness on the part of Advocates, litigants, and witnesses.

8. Unprofessional or improper conduct of any Advocate should not be tolerated and should be commented upon to correct the same. Any such serious matter (not trifles) should be reported at once to the High Court.

9. Trustees, receivers, liquidators, guardians, and other persons appointed by a Judicial Officer in the exercise of the judicial function should have the strictest probity and impartiality and should be selected solely with a view to their character, suitability, and fitness. The power should not be exercised for personal, partisan, communal or any extraneous advantage. Excessive allowances and fees should not be allowed to such appointees, even by the consent of parties or counsel.

10. The Judicial Officer should not deal with any case in which he has a personal interest or he or his near relative is a party. He should not create an impression that he can be improperly influenced by any party or another person. He should act independently and should not be swayed by partisan or communal demands, public clamour or personal popularity or notoriety nor should he be apprehensive of unjust criticism or false and frivolous complaints.

11. A Judicial Officer should not exhibit undue interference, participation, impatience or harsh attitude during the examination of witnesses. At the same time, he may properly intervene, wherever necessary, in the trial to promote expediency and to prevent unnecessary waste of time or to clear some obscurity. While having a necessary conversation with any counsel at the hearing of any case, the Judicial Officer should avoid unnecessary controversies. Ordinarily, Advocates should not be interrupted during arguments except to clarify some point. He should avoid the premature expression of opinion.

12. Ordinarily, cases including applications for interim reliefs should not be heard ex-parte when the other party is being represented. When absolutely essential to hear some urgent application ex parte, the Judicial Officer should scrupulously ascertain and examine the facts and principles of law and relief should be granted only when fully satisfied that the law permits and the emergency demands it. Temporary injunction should not be granted or refused lightly.

13. The Judicial Officer should not permit private interview, arguments or communications designed to influence his judicial action except in accordance with law. Written arguments presented by any party should not be concealed from the opponent.

14. Adjournments should not be granted lightly or merely at the asking. However, he should not be arbitrary in forcing an unprepared counsel to conduct trial unreasonably and unjustly.

15. In disposing of contested cases, a Judge should indicate the reasons for his decision in the order/judgment depicting application of mind. Serious arguments of counsel should not be omitted to be dealt with. He should avoid suspicion of arbitrary conclusion and should promote confidence in his intellectual integrity. Judgments and orders should be clear and concise.

16. Appellate or Revisional Courts should avoid passing strictures against the Lower Courts in the judgments/orders, but may write a separate note, if necessary, regarding their errors or defects, so as to guide them in future.

17. Personal opinion or consideration regarding substantial justice in a particular case should not influence the decision of the Judge. He has to decide according to law and not according to what should be the law in his opinion. He is not a depository of arbitrary power, but a Judge under the sanction of law.

18. A Judge should exercise discretion judiciously. He should adopt the usual and expected method of doing justice and should not be extreme, peculiar, spectacular or sensational. He should not compel persons brought before him to submit to some humiliating act or discipline of his own devising, without authority of law, merely because he thinks that it will have a beneficial corrective influence. In imposing sentence, he should endeavour to conform to a reasonable standard of punishment and should not seek popularity or publicity by undue severity or leniency.

19. A Judge should avoid giving ground for any reasonable suspicion of misuse or abuse of power or prestige of his office. He should not persuade or coerce others to patronize or contribute, to any private business or to charitable entities. He should not use his office or name to promote the business of anybody nor should he solicit for charities. He should not enter into any business relation which might come in conflict with his official duties.

20. A Judge should abstain from making personal investments in enterprises which are apt to be involved in litigation in the Court. He should maintain his complete judicial impartiality. He should enjoy public confidence in his integrity. He should not utilize information coming to him in judicial/official capacity, for personal use or speculative investment etc.

21. A Judge should not accept or continue to hold any fiduciary or other position, if it would tend or seem to interfere with the proper performance of his judicial duties.

22. While entitled to have his personal views on political questions and enjoying his rights or opinions as a citizen, a Judge should not become promoter of the interests of any political party. He should avoid making political speeches, making or soliciting contributions to party funds or participation in party politics.

23. A Judge should not accept any presents or favours from litigants or prospective or potential litigants, or Advocates (except some minor usual customary gift on some special occasion or festival).

24. A Judge may not live in absolute seclusion or retirement. However, he should be very careful in socializing so as to maintain his high image and to avoid any suspicion in pending or prospective litigation.

25. In brief, in every particular, conduct of a Judicial Officer should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamour, regular regardless of public praise, and indifferent to private, political or partisan influences; he should administer justice according to law, and deal with his appoints as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

26. The dress of the Judicial Officer should be in keeping with the dignity of his office. Shorts and half-sleeve shirts are unsuitable for him. Judicial officers should wear a white shirt, black coat, black necktie or white bands, and grey or white trousers. The necktie will not be worn with a high collared coat. The Judicial officer wearing turban should wear white or off-white (Matia) coloured turbans. Lady Judicial Officers should wear white sari with black blouse or white shirt and white salwar, and black coat. Advocates (including Government Law Officers) appearing in Subordinate Courts should wear white shirts, black coats, grey or white trousers, and black necktie or white bands.

27. Except with previous sanction of the High Court, no Judicial Officer shall participate in a discussion programme on television or in radio broadcast, or publish a book.

Chapter 2

Superintendence and Control-General

1. Supervision by controlling Courts:

(i) Controlling Courts are required to exercise an active and continuous supervision over subordinate courts in regard to all executive matters and should take reasonable steps to prevent the occurrence of irregularities and to enforce the directions of the High Court.

(ii) District and Sessions Judges are responsible not only for proper distribution of work amongst the Courts and for the disposal of their own work but are also required to see that subordinate Courts follow the prescribed procedure in all their proceedings and are not left without guidance when they may be found to be at fault. The supervision to be exercised over inexperienced officers should be specially thorough and vigilant. Their work should be watched keenly, guidance being afforded to them on all proper occasions. Their judgments/orders should be examined periodically and necessary guidance, if any, be afforded to them.

(iii) Appellate/Revisional Courts should bring to the notice of subordinate Courts errors or irregularities which may be observed in the course of hearing appeals/revisions. Unnecessary adjournments, too harshness or leniency in cases of default in attendance or producing evidence and similar matters should always be brought to the notice of the Officer concerned in a note separate from the judgment. Passing of strictures against lower courts in judgments of Appellate/Revisional Courts should ordinarily be avoided.

2. Acquaintance with the law:

Every Judicial Officer should acquaint himself with the Rules and Orders of the High Court and with the law. He should regularly read some law journals or judgments of High Courts and Supreme Court on

the internet to acquaint himself with the latest law. He should also supervise the work of the staff attached to his Court.

3. Punctuality:

All Judicial Officers should be scrupulously punctual. Serious notice will be taken of habitual unpunctuality. It is also the duty of District & Sessions Judges to ensure that the Judicial Officers subordinate to them maintain punctuality. Surprise visits may be paid when necessary. Report to High Court may be made only if any Officer is habitually not punctual.

4. Proper accounting and application of money and property:

The Presiding Officer of every court is responsible to see that the Registers and accounts of his Court are regularly and correctly kept and that money and property passing through his hands or dealt with under his orders are duly accounted for and applied. Controlling Officers should bring home this responsibility to their Subordinate Officers. The arrangement should also be made for receipt of money orders during the absence of the Officer on leave or vacation. Cheques from private persons in lieu of cash should not be accepted. Special vigilance is necessary to supervise the pecuniary transactions of the Courts. Controlling Officers should frequently and carefully inspect the accounts and registers of Subordinate Courts.

5. E-deposit of money etc.

(i). The deposit and withdrawal of all sorts of money in the courts shall be through Net-Banking, Debit Cards, Credit Cards and Mobile Banking, as per the instructions and procedure prescribed by the High Court from time to time. The expenses of the witnesses to attend the court, likewise, shall be paid by directly transferring the money into their Bank Accounts and only in exceptional circumstances where a witness is in immediate need of refunding of the expenses, money in

cash should be paid but only after obtaining necessary order from the Presiding Officer of the court.

(ii). When the accused is convicted and sentenced to fine and/or payment of compensation, then the court may in appropriate circumstances give an option to the convict that instead of depositing the fine/compensation in cash, he may create a lien against his Bank Account to the extent of fine/compensation. In the event of his conviction upheld by the higher courts, then such amount shall be withdrawn from his account and adjusted as per the final order of the court.

(iii). This provision of creating a lien against a bank account can also be extended to the compensation cases under the Motor Vehicles Act as well as Land Acquisition Act.

6. Defalcation/loss to be reported:

(i) Whenever defalcation in the accounts of any Court or loss of public money comes to notice, it should be forthwith reported and an inquiry instituted. After a full inquiry, the further complete report should be submitted, intimating the prospects of effecting a recovery of the amount in whole or in part and the nature of error and neglect of rules resulting in defalcation or loss, along with names of officials directly or indirectly responsible. The reports will be submitted to the High Court by the District and Sessions Judge directly and by other Judicial Officers through the District and Sessions Judge. If the defalcation/loss exceeds the prescribed amount or merits detailed investigation and consideration, copies of the reports will also be forwarded to the Accountant General, as required by Himachal Pradesh Financial Rules, 2009. Presiding officers should adhere to Himachal Pradesh Financial Rules, 2009 and the instructions issued by the Govt. Regarding the financial matters from time to time.

(ii) Drawing and Disbursing Officers and Controlling Officers should also properly supervise the payment of pay and allowances etc. to avoid any loss to the Government due to any overpayments.

7. Receipt of money and property:

Money and property should in every case be received by or in the presence of the judicial officer concerned and a proper acknowledgment on the prescribed printed form (not on manuscript form) signed by the Judicial Officer or authorized responsible officer should be given. Officials like civil nazirs, who are authorized to conduct certain pecuniary transactions, should be closely watched. Required security should be rigidly taken from the ministerial staff having a duty of pecuniary nature.

8. Cancellation of stamps:

Court fee stamps and labels attached to pleadings or other documents filed in the Court have to be cancelled according to law by punching out the figurehead, without touching the amount designed on the stamp. The rules on the subject must be strictly observed. Judicial Officer should supervise the cancellation properly and vigilantly. If not properly cancelled, stamps or labels may be removed and used again. Such instances have come to the notice of the High Court. Where any fraud comes to light, it should be forthwith reported to the High Court.

9. Deposit of money:

All monies received by a Government servant in his official capacity must be paid into the treasury on the same day or on the morning of the next working day at the latest as revenue deposit or civil court deposit as the case may be.

10. Inspection of Subordinate Courts

The inspection of the Subordinate Courts is conducted by the Presiding Officer himself, District and Sessions Judge and the

Administrative Judge. Rules have been framed by the High Court of H.P for regulating the inspection of the Courts.

(Inspection by the Presiding Officer)

(i) Every Presiding Officer has to conduct the Inspection of his Court quarterly on the 1st working day in the month of February, May, August, and November regularly. However, when it is not possible for the Presiding officer to do so due to short absence, the inspection shall be carried out on the first working day and if the Presiding Officer remains absent for whole of the month due to leave or for any other reason, Inspection should be conducted in the next quarter and the Presiding Officer should give the reason for not conducting the Inspection during the previous quarter.

(ii) The inspection shall be conducted by the Presiding Officer himself, but he can take the assistance of Office Superintendent for conducting the inspection.

(iii) It is to be noted that inspection is meant to familiarize the Presiding Officer with the working of office subordinate staff and therefore, it is not proper for him to hand over the inspection of the Courts to the Superintendent as the Presiding Officer would be missing an opportunity to note the working of his subordinates.

(iv) The inspection shall be conducted in such a manner as to cover the points noticed in the pro-forma appended to the Rules. The presiding officer should mainly notice the status of accommodation, library, place for sitting of bar and litigants, the condition of the premises, the working scenario of his establishment, maintenance of registers and record etc.

(v) The inspection note should notice lapse if any, found during the inspection and should guide the erring officer to rectify the same. The defects noticed and the remedies suggested should be carefully noticed in the inspection note. The Presiding Officer should also notice whether

the defects pointed out during the last inspection have been rectified or not.

(vi) The inspection is meant for the guidance of the Presiding Officer, and therefore, it should confine to the work of the Presiding Officer himself. He should not unnecessarily criticize the working of his predecessor and criticism if any should be confined to the work done during the tenure of the Presiding Officer conducting the inspection.

(vii) An important part of inspection is to notice whether financial transactions are being conducted properly or not. Hence, the Presiding Officer should pay careful attention to the cash accounts especially those relating to Civil Court Deposit and Sheriff Petty accounts. He should tally the cash in the cash book with the cash in hand of the Nazir. Any excess or shortage in the cash should be noticed and the reason for the same should be reflected in the Inspection note. Careful attention should be paid to the fact whether Nazir is holding any cash in excess of the permissible amount and whether the security has been furnished by the Nazir as per rules or not.

(viii) The presiding officer should prepare a detailed inspection report, which should be sent to the District and Sessions Judge within 15 days of the inspection after getting the defects removed. The District and Sessions Judge should submit a consolidated report to the High Court in the third week of the month along with his comments.

(ix) The District and Sessions Judge and Additional District and Sessions Judge should forward the inspection reports of their Courts to the High Court within 15 days of the Inspection after ensuring the rectification of the defects pointed out by them during the inspection.

(Inspection of Subordinate Courts by District and Sessions Judge)

i. District and Sessions Judge or Addl. District and Sessions Judge shall conduct an annual inspection of the Courts Subordinate to them. However, inspection of those Courts which have been inspected by the

Administrative Judge during the year will not be conducted by the District and Sessions Judge/Addl. District and Sessions Judge.

ii. The District and Sessions Judge may take the assistance of the officials posted in his Courts for conducting the inspection. He may authorize any of the Addl. District and Sessions Judges of his division to inspect one or more subordinate courts as may be deemed fit and proper.

iii. The Inspection shall be carried out in accordance with the proforma prescribed in the Rules and particular attention should be paid to the removal of the defects, functioning of the Presiding Officer and his relationship with the members of the Bars, litigant, and the public. The Court building should also be carefully looked and accommodation for staff, bar members, and litigant should be examined. Any vacant post(s) and the reason for the vacancy should also be noticed. Attention should be paid to the fact whether witnesses are being examined promptly, the road and diet money is being paid to them on the date of their examination and whether the judgments are being pronounced promptly or not. Registers and files should be examined to see whether they are being maintained carefully or not. The functioning of Copying Agency and Nazarat should also be commented upon and attention should be paid to the fact whether the copies are being supplied promptly or not and whether there is any official irregularity in the functioning of the Nazarat. Any lapse should be pointed out to the erring officer and should be got rectified. The executive bodies of the local Bar Association should be afforded an opportunity of hearing in connection with their grievance if any, and their views should also be obtained.

iii. The inspection report shall be prepared in the proforma and will be submitted to the High Court within 15 days of the Inspection. The District and Sessions Judge (Inspection) shall examine the report and

shall place the same before the Administrative Judge for orders/directions.

(Inspection of the Subordinate Courts by the Administrative Judge.)

i. The inspection of the subordinate Court shall be conducted by the Administrative Judge once in two years. However, this will not prevent the Administrative Judge from conducting any surprise inspection at any time.

ii. The Administrative Judge will have the discretion to conduct inspection regarding any aspect. The inspection party shall conduct the groundwork and shall prepare the draft inspection note in accordance with the pro-forma. The note shall be placed before the Administrative Judge on his arrival by District and Sessions Judge (Inspection). The Administrative Judge may meet the staff, members of Bar, public and litigants to apprise himself with the working of the Presiding Officer. The executive bodies of the local Bar Association may be afforded an opportunity of hearing in connection with their grievance if any, and their views may also be obtained. The Inspection Report shall be prepared and shall be circulated for the guidance of the Presiding Officer who shall ensure the compliance by rectification of the defects within 30 days from the date of receipt of the inspection note.

11. Assumption and relinquishment of charge:

(i) The assumption and relinquishment of charge by every Judicial Officer should be reported to the High Court and the Accountant General without delay.

(ii) Relieving Officer should satisfy himself at the time of assuming charge that all public money or property (including books supplied) is duly taken over and accounted for. If the deficiency, if any, is not reported at the time of taking charge, the relieving officer will be held responsible for the same.

(iii) When a District & Sessions Judge relinquishes charge, the report should state that the key (and the Treasurer's receipt for duplicate key) of the iron safe provided for the custody of Wills has been taken over by the relieving officer.

(iv) Charge relinquishing report should be accompanied with a certificate by the Officer that he has written, pronounced and signed judgments in all cases in which he had heard arguments.

12. Acquisition and disposal of property:

(i) Rules relating to acquisition and disposal of property (moveable as well as immovable) are to be found in the Government Servants Conduct Rules framed by State Governments. These rules should be scrupulously followed while acquiring or disposing of any property. Where such rules require the previous sanction of, or intimation to, the Government, Judicial Officers are required to obtain the previous sanction of or make intimation to, the High Court.

(ii) Annual declaration of moveable and immovable property held by the Judicial Officer, his spouse and dependants has to be furnished in the prescribed form to the High Court for each financial year. The same should be submitted by the end of April every year. Such declaration should be treated as a confidential document.

(iii) Similar declarations of moveable and immovable property shall also be obtained by District and Sessions Judge from the staff of the Courts. The same shall be scrutinized by him and maintained in his office with the service book or character rolls of the employee concerned.

(iv) Judicial Officers or Court staff should not indulge in any Benami transaction of any property.

13. Position of Additional District and Sessions Judges:

Some misunderstanding existed regarding the position of Additional District and Sessions Judges in relation to the District and

Sessions Judge. It is, therefore, clarified that in administrative matters, subject to the general superintendence and control of the High Court, the District and Sessions Judge has administrative control over the Additional District and Sessions Judges in his District/Sessions Division, for purposes such as the grant of leave, appointment of staff, general discipline and correspondence with the High Court. Distribution of work on judicial side also rests with the District and Sessions Judge. Additional District and Sessions Judges may be made acquainted with this position.

14. Appearance of advocates:

No advocate should appear professionally before any Judicial Officer to whom he is nearly related, or in any Court where a near relative of his holds post of Reader, Judgment Writer or Stenographer or any other position necessitating his presence in Court during the hearing of the cases. The term 'near relative' includes father, brothers, sisters, sons, daughters, nephews, nieces, uncles and aunts on either side, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, father-in-law and mother-in-law. Any breach of this rule coming to the notice of District and Sessions Judge should at once be reported to the High Court.

15. Control over establishments of Courts

In exercise of the powers delegated by the State Government, the High Court has framed Rules for regulating the recruitment and general conditions of service of employees of the Courts subordinate to the High Court. The District and Sessions Judge is the Appointing and Punishing Authority for all the posts other than Superintendent, who is appointed by the High Court.

Chapter-3

Superintendence and Control – Civil Courts

1. Controlling Authority

The general superintendence and control over all District and subordinate Courts are vested in, and all such Courts are subordinate to, the High Court. Subject thereto, every District Judge has control over all other Civil Courts in the District.

2. Inspection of subordinate courts:

(i) The general instructions for the inspection of subordinate criminal courts are contained in Rule 10 of Chapter 2 of this Volume.

(ii). A portion of the civil work of each subordinate Court should be quarterly examined and commented upon by the District and Sessions Judge who should keep himself acquainted with the working of his subordinate Courts. The registers of subordinate courts should also be periodically inspected.

(iii) While examining their records, particular attention should be paid to the number of adjournments granted in any case and the reasons for the same, and necessary guidance, if any, be given.

(iv) Detailed annual inspection of the Courts of Civil Judges/Judicial Magistrates should be done by the District and Sessions Judge as per Rules who should send a copy of his annual inspection note to the High Court and to the Court concerned. Follow up action, where required, should be taken by the court concerned and monitored by the District & Sessions Judge.

3. Inspection by Presiding Officer:

Every Presiding Officer should conduct a quarterly inspection of his own court in the months of February, May, August, and November in accordance with the Rules framed by the High Court in this regard. Work and registers of the ministerial staff should be inspected in detail.

Destruction of registers liable to be destroyed should be arranged. Oldest pending files may be examined to find out the cause of the delay. Some files may be checked at random to see that they are properly maintained with proper indexes. Defects, if any, found should also be mentioned. The Presiding Officer should not comment on or criticise the work done by his predecessor and should confine the inspection to his own period. Inspection notes by Civil Judges/Judicial Magistrates shall be submitted to the District and Sessions Judge who should send them to the High Court with his reports. Inspection note of District and Sessions Judge and those of Additional District & Sessions Judges shall be submitted to the High Court. Follow up action, where required, should be taken by the Court concerned.

Chapter-4

Superintendence and Control-Criminal Courts

1. Controlling Authority

All Criminal Courts are subordinate to the High Court. Subject thereto, Sessions Judge has control over all other Criminal Courts (Judicial) in the Sessions Division. Subject to the general control of the Sessions Judge, Judicial Magistrates are also subordinate to the Chief Judicial Magistrate. However, administrative control for grant of leave, appointment, and posting of staff etc. does not vest in the Chief Judicial Magistrate. For this purpose, Sessions Judge has administrative control over all other Criminal Courts in the Sessions Division. The Sessions Judge, besides being the ordinary official channel of communication between the Criminal Courts and the High Court, is also required to see that Rules and Orders and other instructions of the High Court are duly carried out within his Sessions Division and to bring to the notice of the High Court any matter requiring attention. The Sessions Judge should from time to time satisfy himself as to the state of business in the Criminal Courts and the quality and quantity of the work done by the Presiding Officers by himself scrutinizing with care the monthly statements of the Courts. By inspection of Jail at least once a month, Sessions Judge may also keep a check on delay in disposal of cases of under trial prisoners. The Sessions Judge has to impress on all the Criminal Courts, the desirability of speedy disposal of cases, particularly those in which the accused are in custody. The Sessions Judge should himself be punctual and also check and ensure punctuality of all other Judicial Officers.

2. Inspection of Subordinate Courts

(i) The general instructions for the inspection of subordinate criminal courts are contained in Rule 10 of Chapter 2 of this Volume.

(ii) The annexed list of points for inquiry during inspection is intended for the assistance of the Inspecting Officers. The said list is not exhaustive. Therefore, inspection may not necessarily be confined to the matters specified therein nor each inspection may necessarily embrace all the points mentioned therein.

3. List of points to be attended by the Inspecting Officers

(i) Registers

- All prescribed criminal registers should be properly examined to see whether these are neatly and properly maintained as per instructions and all relevant columns have been filled in and kept up-to-date. He should also to see whether all cases have been entered in the register till the date of inspection.
- Peshi registers may be checked with the records of at least 10 decided cases to see whether the cases were heard on the dates fixed and also whether adjournments were frequent and on sufficient grounds or not.
- Fine registers may be examined to see that correct amount of fine has been entered and that the fine amount was deposited in Treasury in time.
- Registers of summary trials may be examined, particularly to see compliance with requirements of Section 263 of the Code of Criminal Procedure.
- It may also be seen whether errors and omissions noticed at previous inspection have been corrected and supplied.

(ii) Records

- Records of some pending and decided cases may be examined at random to see that the witnesses are promptly examined and witnesses in attendance do not go unexamined.
- Note whether adjournments are granted for sufficient cause?

- Whether complaint cases are referred to the Police or other Agency for inquiry in routine or as a rule?
- Whether service of processes is satisfactory?
- Whether evidence has been properly recorded in accordance with Sections 274 to 276 of the Criminal Procedure Code?

Chapter 5

Court fees and Stamps

1. Reduction and remission of Stamp duty:

In exercise of power conferred upon it under section 9 of Indian Stamp Act, 1899 (Act 11 of 1899), the Government of Himachal Pradesh has exempted the following from the payment of stamp duty:-

- (i) Affidavits to be filed by the displaced persons in connection with their claims, allotments etc. in the offices and Courts of Himachal Pradesh Administration.

(No. 101-200/56. Simla-4 the 11th April 1957)

- (ii) Power of attorney executed by Mandi Rock Salt Nominees in favour of their agents.

(No. 22-939/57, Simla-4 the 4th March 1958)

- (iii) Loan agreement executed by the Societies and other bodies registered under the Societies Registration Act (Act XXI of 1860) in favour of All India Khadi and Village Industries Commission.

No. 14-7/60, Simla-4, the 24th May 1960)

- (iv) Contracts of apprenticeship executed under Section 4(1) (a) of the Apprentices Act, 1961.

(No. 17-8/62-Rev.I., Simla-4, the 1st February 1965)

- (v) Transfer deeds in respect of Government of India 4½% 10 years. Defence Certificates executed in the Union Territory of Himachal Pradesh

(No. 17-8/62-Rev.I., Simla-4, the 7th June 1965)

- (vi) Bonds executed in connection with the grant of Housing subsidy to the Scheduled Castes/Tribes granted by the Welfare Department, Himachal Pradesh under the scheme "Grant of

Housing subsidy to the Scheduled Castes/Tribes for the construction/repair of Houses.”

(No. 17-2/65-Rev.1., Simla the 16th August 1965)

(vii) Documents to be executed by the Industrialists in connection with the loans advanced to them by the Punjab Financial Corporation for a further period until the end of the Fourth Five Year Plan.

(No. 14-18/60 Rev.1., Simla-4, the 16th September 1966)

(viii) Bonds, mortgage bonds and security bonds which may be executed by the Indian Nationals returning from Burma, in connection with business loans granted to them by State Government.

(No. 14-18/60 Rev.1., Simla-4, the 24th November 1966)

(ix) Documents to be executed by the “United Nations Children’s Funds” in connection with their official transactions.

(No. 14-18/60 Rev.1., Simla-2, the 22nd November 1967)

(x) Documents to be executed by the Industrialists in connection with the loans advanced to them by the Himachal Pradesh Financial Corporation for the period until the end of the Fourth Five Year Plan.

(No. 14-18/60 Rev.1., Simla-2, the 22nd November 1967)

(xi) Affidavits filed before the Commission of Inquiry into the incidents of April 6, 1970, in New Delhi in connection with the Samyukta Socialist Party demonstration.

(No. 5-4/70 Rev.1., Simla-2, the 8th October 1970)

(xii) Loan agreements and mortgage deeds executed by the Cottage and small-scale industrialists in connection with the loans advanced under the Punjab State Aid to Industries, Act, 1935, as applied to Himachal Pradesh.

(No. 14-18/60 Rev.1., Simla-2, the 1st Feb. 1962)

(xiii) Loan agreements executed by the Himachal Pradesh Khadi and Village Industries Board in favour of the Khadi and Village Industries Commission.

(No. 14-2/60 Rev.1., Simla-2, the 7th November 1970)

(xiv) Any instrument executed in respect of mortgage deeds by the small/marginal farmers/Agricultural labourers for loans borrowed from the Commercial Banks provided such loans are recommended by the Small Farmer Development Agency and Marginal Farmer and Agricultural Labourers Agency.

(No. 5-4/71- Rev.1., Simla-2, the 3rd March 1972)

(xv) Affidavits filed by the Pong Dam Oustees before the Allotting Authority in connection with the allotment of land for their temporary shelter in Kangra District.

(No. 5-11/72 Rev.1., Simla-2, the 14th July 1972)

(xvi) Himachal Pradesh State Electricity Board Loan Bonds, 1984 for Rupees one Crore only to be floated by the Board, in the whole of Himachal Pradesh.

(No. 5-18/72 Rev.1., Simla-2, the 9th September 1972)

(xvii) On mortgage deeds to be executed by the beneficiaries of loans under the low-income Group Housing Scheme and for the purchase of houses built under the said scheme but same should be duly registered.

(No. 5-5/70 Rev.1., Simla-2, the 9th October 1972)

(xviii) Mortgage deeds executed in favour of the Life Insurance of Indian, for the loans granted up to Rs. 50,000/- (Rupees Fifty thousand only) for the construction of house or extension or purchase thereof under the Own Your Home Scheme run by the Insurance Corporation in the whole of the State of Himachal Pradesh with immediate effect.

(No. 5-7-/70 Rev.1., Simla-2, the 24th April 1973)

(xix) On the documents of the mortgage without possession executed by the Himachal Pradesh State Electricity Board in favour of the Life Insurance Corporation of India in connection with the loans taken by the Himachal Pradesh State Electricity Board for schemes relating to rural electrification including transmission and energizing of tube-wells, in Himachal Pradesh, with immediate effect.

(No. 5-18/72 Rev.1., Simla-2, the 22nd December 1973)

(xx) Mortgage/hypothecation of land for a loan up to Rs. 5,000/- (five thousand) to be executed by the small farmers, owning not more than 5 acres (25 Bighas) of land, borrowed by them from the Commercial Bank.

(No. 5-4/71 Rev.1., Simla-2, the 31st August 1979)

(xxi) Instruments to be executed by the Army Welfare Housing Organisation in connection with the purchase of land for the purpose of construction of Houses for the Ex-servicemen with immediate effect.

(No. Rev. 1-6(Stamp) 3/80, Simla-2, the 4th February 1981)

(xxii) Instruments executed for house building and purchase of car/conveyance with effect from 25th January 1971.

(No. Rev.1-3/ (Stamp) 6/79, Simla-2, the 2nd July 1983)

(xxiii) An instrument executed by those persons who are below the poverty line and the persons whose cases are recommended for a loan by Himachal Pradesh Scheduled Castes and Scheduled Tribes Development Corporation, Himachal Pradesh Ex-servicemen Corporation and Himachal Pradesh Khadi and Village Industries Board, up to Rs. 25,000/- (Rupees Twenty Five Thousand) only with immediate effect.

(No. 17-2/65 Rev.1., Simla-2, the 1st March 1986)

(xxiv) An instrument executed by the Earth Quake Victims in favour of the Banks pertaining to loans to be advanced to such victims.

(No. 17-28/65 Rev. A, Simla-2, the 11th May 1986)

(xxv) Instruments executed by the agriculturists in favour of any commercial bank for securing loan up to an amount of Rs. 1,00,000/- (Rupees One Lac) for the purpose of a tractor with its accessories, tractor trolley, thresher, installation of tube well based on diesel engine, boring and electrification of tube well, laying of underground pipes, lining of water courses, levelling and reclamation of land and development of horticulture and up to an amount of Rs. 60,000/- (Rupees Sixty thousand only) for purpose of pumping sets, cane-crushers, bullocks or ploughs and spray equipment, sprinkler irrigation for agricultural purposes, dairy, piggery, poultry and crop loans or any other allied purpose.

(No. 1-6 (Stamp) 2/80, Simla-2, July 1987)

(xxvi) Instruments executed by or on behalf of Co-operative Society or by any officer or member thereof and relating to the business of such society or any class of such instruments or in respect of any award or order made under the H.P. Co-operative Societies Act, 1968, (Act No. 3 of 1969) with immediate effect in the whole of Himachal Pradesh.

(No. Rev.1-C (15)1/76(Vol-I), Simla-2, the 11th March 1988)

(xxvii) Instruments executed by the agriculturists in favour of Himachal Gramin Bank for securing loans up to an amount to Rs. 1,00,000/- (Rupees One Lac) for the purpose of tractor with its accessories, tractor trolley, thresher, installation of tube well based on diesel engine, boring and electrification of tube well, laying of underground pipes, lining of water courses, levelling and reclamation of land and development of horticulture and up to an amount of Rs. 60,000/- (Rupees Sixty thousand only) for the purchase of pumping sets, cane-crushers, bullock or ploughs and spray equipment, sprinkler

irrigation for agricultural purpose, dairy, piggery, poultry and crop loans or any other allied purposes.

(No. Rev. 1-6(Stamp) 2/80, Simla-2, the 2nd June 1988)

(xxviii) Any instrument executed by the persons whose house have been damaged/destroyed in the recent excessive rains and floods during September 1988 in favour of Himachal Pradesh Housing Board/any commercial bank for the loans granted to them for the construction/repair of the house under the following schemes:-

(i) HUDCO ASSISTED HOUSING LOAN SCHEME

(ii) BANK ASSISTED HOUSING LOAN SCHEME

(No. 17-2/65-Rev.I., Simla-2, the 20th December 1988)

2. Description of Stamps:

Himachal Pradesh Court Fee Stamp Rules, 1973 have been framed by Himachal Government for regulating the kind and number of stamps to be used for denoting fees chargeable under the Court-fees Act, 1870. The said rules may be kept in view.

3. E-payment of court fees etc.

(i). Consequent upon the amendment in the H.P. Court Fees Act, the court fees shall be paid electronically through Net-Banking, Debit Card/Credit Card as per the procedure prescribed by the High Court in this regard.

(ii). The High Court may designate advocates as financial agents on the lines of Oath Commissioners who can pay court fees electronically for any person. As soon as the court fee is paid, the financial agent shall immediately issue a receipt with a unique number and a barcode which can be verified at the Judicial Service Centre at the time of filing of the case. After verification, the unique number will get locked eliminating the possibility of its re-use.

(iii). The High Court may assign the work of e-Court fee and e-stamping to any specialized agency, after the state government enters into an agreement with such agency as per the terms and conditions to be fixed by the High Court and any litigant can avail the services of such agency on payment of the Court fee or stamp charges through e-mode before any Court.

4. Cancellation of Court fee Stamps:

The cancellation of court-fee stamps shall be effected

- (a) when a document bearing a court-fee stamp is received by a court competent to receive the same;
- (b) when a court-fee stamp is paid in on account of process-fee;
- (c) when a court-fee stamp is affixed to a document issued by any court or office;
- (d) when the record of a case in which court-fee stamps have been filed is finally made over to the Record-keeper for safe custody.

5. Mode of cancellation of stamps:

(i) Court-fee stamps falling under clauses (a) and (b) of the foregoing rule shall be cancelled immediately on receipt of the document or stamp, by such officer as the court may from time to time appoint, in writing, in the manner prescribed by Section 30 of the Court-fees Act. As an additional precaution, the cancelling officer should affix his signature, and the date, across each label, at the time of cancellation, in durable ink.

(ii). In regard to stamps on documents falling under clause (c) of rule 1, the Central Government have directed in financial Department resolution No. 3373, dated the 24th September, 1875, that the court or office issuing copies, certificates, or other similar documents liable to

stamp duty under the Court-fees Act shall, before issue, cancel the labels affixed to them by punching out a portion of the label in such a manner as to remove neither the figure-head nor that part of the label on which its value is expressed, and that, as an additional precaution, the signature of the officer attesting the document, with the date, shall be written across the label, and upon the paper on either side of it.

Note – In order to ensure compliance with the rules and uniformity of practice, it has been decided that round punches shall be used by courts and offices and triangular punches by the record room staff. Care should be taken to see that all round punches in courts and offices in a district are of a uniform size in order to prevent fraud arising from the stamps, already punched being punched again with a larger punch.

6. Cancellation of stamps by Record-keeper. –

The rules for the cancellation of court-fee stamps by the Record-keeper are contained in a resolution of the Central Government in the Financial Department, No. 1763, dated the 24th July, 1873, in which it is ordered that the Record-keeper of every court shall, when a case is decided and the record consigned to his custody, punch the second hole, or, in the case of stamps falling under clause (d), rule 4, a third hole, in each label, distinct from the first and note the date of doing so at the same time. The Record-keeper's punching should not remove so much of the label as to render it impossible or difficult to ascertain its value or nature. From the resolution of the Central Government, No. 3047, dated 5th September 1883, it will be seen that these directions apply only to adhesive labels used under the Act, and not to impressed stamps which need not be punched a second time.

7. Certificate required when a record is transferred from one official to another.-

Whenever the custody of a record containing court-fee stamps is transferred from one official to another before final disposal, the receiving officer shall examine the court-fee stamps in the record and either certify on the index of papers that they are complete or immediately bring to notice any deficiency, as the case may require.

8. Record-keeper to see that stamps in the record are complete.-

Record-keepers will be held personally responsible that the stamps appertaining to the records under their charge are complete, and that they have been duly cancelled in accordance with these instructions. Should a record be sent into the record-room in which the stamps are incomplete or not duly cancelled, the Record-keeper shall report the circumstances at once to the head of the office and shall defer entering the case in its appropriate register until orders have been passed in the matter.

9. Certificate as to the completeness of stamps when a record is taken out of record-room.-

When a record containing court-fee stamps is taken out of the record room for any purpose, each official through whose hands it passes must note on the index of papers or on the list of records where such a list is with the record, that he has examined the court-fee stamps in the record, and that they are complete, or, if they are not complete, at once report the fact for orders.

Note: To facilitate the examination required by the above rules, a column has been inserted in the index of papers attached to each record which shows at a glance what papers in the record bear court-fee stamps, and the number and value of the stamps attached to each of such papers.

10. Precautions against the fraudulent use of stamps.-

Further precautions against the fraudulent use of court-fee labels a second time were, under the orders of Government, prescribed by the Superintendent of Stamps in his Circular No. I, dated 24th April 1877 of which the effective portions are extracted below. It is to be noted that at that time adhesive labels alone were used to denote fees of the court:

The most important point to be guarded against is the reuse of stamps which have once been used; such stamps may have been punched, or they may have been left unpunched, and passed into the record-office and there removed. In the case of a removed stamp that has been punched once, it is clear that its use for a second time can only be effected by the dishonesty of the subordinate official who, in the first instance receives the document presented by suitors. In the case of a removed stamp that has not been punched, it is possible that it may have been so little injured in the removal as to be used a second time without detection, unless the stamps be closely examined, and it may pass undetected, whether from dishonesty or from want of vigilance on the part of that official. In order to effectively prevent frauds of this nature, it is absolutely necessary that the subordinate official whose duty it is to see that the full fee has been affixed in each case and to punch the stamps and to record orders, should be made to stand or sit within the view of the officer and in that position to perform his task, certifying on each petition that the full fee has been affixed, and all stamps have been punched. It is of the utmost importance that the subordinates should be allowed no time or opportunity for tampering with the stamps.

When files of decided cases are sent to the record-room, the Record-keeper should be required, without any loss of time to examine the stamps and punch a second hole in each stamp, affixing the date on which he does so.

11. Instructions to be observed when two or more impressed stamps are used.

The following executive instructions, to be observed when a document is written upon two or more impressed stamps which are used to make up the fee chargeable under the Court-fees Act, 1870, have been issued by the Financial Commissioner:

When two or more impressed stamps are used to make up the amount of the fee chargeable under the Court-fees Act, a portion of the subject-matter shall ordinarily be written on each stamped sheet. Where this is impracticable or seriously inconvenient, the documents shall be written on one or more sheets bearing impressed stamps of the highest value, and the remaining stamps shall be punched and cancelled by the court and filed with the record, a certificate being recorded by the court on the face of the first sheet of the document to the effect that the full court-fee has been paid in stamps. The writing on each stamped sheet shall be attested by the signature of the person or persons executing the documents.

12. Instruments not duly stamped:

(i) Sections 33 to 48 contained in Chapter IV of the Indian Stamp Act, 1899 may be studied carefully to deal with documents/instruments not duly stamped, when produced in any case. For Civil Courts, the procedure laid down in these sections is mandatory and not a directory or discretionary.

(ii) In brief, an instrument not duly stamped has to be impounded and endorsed with the word 'impounded', duly dated and signed. It may be admitted in evidence on payment of necessary duty and penalty under Section 35 of the Act.

(iii) Requisite endorsement required by Section 42 of the Act regarding payment of proper duty and penalty has to be made on the instrument.

(iv) When an instrument has been admitted in evidence, its admission shall not be called in question at any stage of the same suit or proceeding on the ground of being not duly stamped.

(v) Original instrument or copy thereof, as the case may be, is required to be sent to the Collector as per Section 38 of the Act.

(vi) The document admitted in evidence on payment of deficient stamp duty and penalty may be returned to the person presenting it, in accordance with Section 42(2) of the Act.

(vii) Any person paying any duty or penalty as aforesaid may recover it from any other person bound to pay the same or the amount may be included in costs.

13. Refund of Court fee:-

The Governor, Himachal Pradesh has ordered the refund of Court fee in exercise of the powers conferred by Section 42 of the Himachal Pradesh Court Fees Act, 1968, (Act No. 8 of 1968), as specified in column 2 in respect of suits specified in column 1 of the following table:-

- | | |
|---|-------------|
| 1. Suit in which decree is passed in accordance with agreement, compromise or satisfaction recorded in terms of order XXIII rule 3 of the Code of Civil Procedure, 1908, before the recording of any evidence | Two-thirds. |
| 2. In summary suit under order XXXII in the First Schedule to the Code of Civil Procedure, 1908, where leave to defend is refused or where the defendant does not appear. | Two-thirds. |

- | | |
|---|---|
| 3. Suits - the claim in which is admitted but only time or installment for payment is asked for | Two-thirds. |
| 4. The suit which is got dismissed by a plaintiff for want of prosecution before the recording of any evidence. | Two-thirds |
| 5. The suit which is withdrawn unconditionally by the plaintiff (before the recording of any evidence) as settled out of Court. | Two-thirds. |
| 6. The suit in which the plaint is rejected without issuing summons to the defendant as not disclosing any cause of action, or as barred by the Law of Limitation. | Three-fourth |
| 7. The suit in which judgment is given on admission under Rule 6 of Order XII in the First Schedule to the Code of Civil Procedure, 1908, before the recording of any evidence. | Two-thirds of the amount of institution fee of the claim admitted |
| 8. The suit which abates because the right to sue does not survive for the legal representatives of a deceased litigant. | Two-thirds. |
| 9. Suits in which the plaint is returned by the High Court for the purposes of being presented to a Court outside the State of Himachal Pradesh in which the suit should | Two-Thirds |

have been instituted on an undertaking given by the plaintiff that the plaint shall not be presented to any court within the State.

Chapter-6

Process Fees

1. General

(i) A table of the fees chargeable on processes should be exhibited in each Court in some conspicuous place.

(ii) Process fees, in a sum to be determined, shall be collected one time from the plaintiff/complainant at the time of institution of the suit/complaint. Process fee, in a sum to be determined, shall be collected one time from the defendant at the time of filing the written statement. In case a party is burdened with payment of expenses towards publication, commission etc. the same shall be forthwith deposited and not later than seven days of the date of the order. The Court shall notify the process fee payable from time to time and require the plaintiff to ensure availability of copies of the plaint and documents for the service on another side. At present, the process fee shall be charged at the following rates:-

| | |
|------------------------------|---------|
| Up to five accused/defendant | Rs. 200 |
|------------------------------|---------|

| | |
|---|---------|
| Five accused/defendants and part thereafter | Rs. 200 |
|---|---------|

This fee will not include the charges for registered post cover or substituted service by the beat of drum or publication in a newspaper, which charges shall be paid in addition to the process fee. In an appropriate case, the Court may also ask for an additional fee to the extent of Rs. 100/-for any miscellaneous application filed during the pendency of the case.

Summons in such cases shall be served by the Process Serving Establishment of the Judicial Courts. In case of conviction in such case, the convict may be directed to pay the cost (including the amount of process fee) to the complainant.

(iii) Processes issued by Revenue Courts and Revenue Officers are also to be served by Process Serving Agency of the Judicial Courts. The control over income from process fee for the same shall remain with the High Court. The amount of process fees shall be in accordance with the rules framed by the High Court.

(iv) No process shall be prepared or issued until payment of the proper process fee. A receipt shall be given by the official receiving the process fee. The court fee label of the process fee shall be immediately punched.

2. Particulars on the process

On every process issued by any Court, the following particulars shall be recorded, namely:- (i) the name of the process server deputed to serve or execute the same; (ii) the period within which the process server is required to certify service or execution; (iii) the amount of fee paid and (iii) the date of return after service or execution. Such endorsements shall be signed by the Civil Nazir or Naib Nazir or Bailiff.

3. Accounts to be maintained

An account of Court fee stamps realized as process fee, of the number of process servers employed, of the cost of establishment and of contingencies shall be kept for each Process Serving Establishment.

4. No process fee in some criminal cases

No process fee shall be charged for serving or executing processes on behalf of the prosecution in any criminal proceedings instituted on Police Report or on information presented or complaint made by a Public Officer acting in his official capacity. The Government has declared all Police Officers to be Public Officers for this purpose.

5. Separate process for each person

A separate process shall be issued for each person. However, a combined warrant of attachment shall be issued if it is desired to

attach the property of more than one person in the same village/city in one case.

6. Process issued by or sent to other Court

A process issued by any Court in India, Civil or Criminal, shall be served free of charges by any other Court, in Himachal Pradesh, if it be certified on the process that the proper fee has been levied under the rules applicable to the Court issuing the process.

When any Court, Civil or Criminal, subordinate to this High Court, transmits a process for service or execution to any other Court, a certificate shall be endorsed on the process that process fee chargeable under the rules has been levied.

7. Travelling Allowance of Process Servers

Until now, Process Servers are required to travel on foot for serving or executing the processes. However, the process servers can travel in the bus/travel for which a fixed travel fee is being paid to them.

Chapter 7

Process-Serving Establishment:

1. General:

There are separate service rules regulating the recruitment and conditions of service of the process-serving establishment including process servers, bailiffs, Naib Nazirs and Civil Nazirs, besides other staff of establishment of the Subordinate Courts. The said rules also provide for the number of posts and pay scales of various categories. They may be referred for guidance.

2. Controlling authority:

Subject to the general control of the District Judge, Senior Civil Judge has control over the process-serving establishment of the entire District (except that of the District Judge) and is responsible for the efficiency thereof. Subject thereto, Additional Senior Civil Judge at Sub Divisional Headquarter has control over the process-serving establishment of the Sub Division. Controlling authority should pay special attention to personal service of processes and should also frequently inspect the prescribed register for distribution of work amongst the process servers so as to monitor their work.

3. Duties of Civil Nazirs:

(i) The Civil Nazir at District headquarters and Naib Nazir at Sub-Division is ministerial head of the process-serving establishment under the control of the controlling authority. His duty is to maintain the efficiency of process-serving establishment and to submit fortnightly or monthly reports to the controlling authority regarding service of processes by each process-server and bailiff.

(ii) The Civil Nazir is also to keep up the Civil Deposit and Repayment Accounts and to manage the business of execution of decrees. The controlling authority may issue detailed instructions as to the duties to be performed by the Civil Nazir. The Civil Nazir should

also devote his time to the distribution of business amongst process-servers (subject to overall control of the controlling authority), the transmission of processes to agencies located at outstations for service, the management of the accounts and correspondence regarding the payment of diet money to witnesses, and other similar matters connected with process serving system at outstations.

4. Belts and badges of bailiffs and process-servers.

Every 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:

(1) Bailiffs

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

Maximum cost Rs. 500/- with buckle and badge.

- (b) Khaki drill haversack or another suitable bag:-

Maximum cost Rs. 300/-

(2) Process-servers

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

Maximum cost Rs. 400/-

- (b) Khaki drill haversack or another suitable bag:

Rs.300/-maximum cost.

Belts should last four years and badges and buckles for an indefinite period. Haversacks/bags should last two years. No article will be replaced unless the controlling authority certifies that it requires replacement. All equipment will remain Government property and should be inspected by the controlling authority from

time to time. Losses will be made good by the concerned process server or bailiff as the case may be.

5. Process servers to be properly dressed.

It shall be the duty of the Central Nazir or Nazir to see that the process servers are properly dressed and wear their badges, belts, and satchels.

6. Number of process servers:-

The maximum number of posts for process-serving establishment allowed to each District has been fixed by the High Court and may be varied from time to time. Reference for the variation may be made by District and Sessions Judge to the High Court by giving necessary data of processes issued and served month-wise during the preceding 12 months. Within the District, the District Judge may distribute the process-servers for District head-quarters and various Sub-Divisions in such manner as shall be most suitable for the efficient and maximum service of processes.

7. Processes to be delivered to Nazir for service.

Every process issued or received by a Court at the headquarters of a district for service within its own jurisdiction or within the jurisdiction of any other Court at such headquarters shall be delivered to the Civil Nazir for service.

8. Duty of Nazir on receipt of processes for service.

The Nazir to whom the process is sent under the preceding rule shall be deemed the serving officer of the Court from which he receives the process, and shall forward directly to such Court in the case of a summons the return prescribed by O.V., R.18, and in the case of a warrant for arrest, the judgement-debtor, if arrested, and any decretal money received from the judgement debtor.

NOTE: A Nazir may serve a process himself but ordinarily should get process served by process servers.

9. Processes for service within outlying Court.

Where any process is for service within the jurisdiction of an outlying Court of the district, it shall be sent to the Court concerned:

Provided that a warrant of arrest, or an urgent process, or any other process which in the particular circumstances of the case it is advisable to serve or execute by a process-server at headquarters shall be delivered to the Civil Nazir at headquarters for such service.

10. Processes issued or received by outlying Court.

A process issued or received by an outlying Court shall -

- (a) if it is for service within its own jurisdiction, be delivered to the Nazir of such Court;
- (b) if it is for service within the jurisdiction of another outlying Court of the same district, be sent for service to such other outlying Court.
- (c) if it is for service within the jurisdiction of a Court at headquarters but not within the jurisdiction of any outlying Court, be sent for service to the District Judge or the Senior Civil Judge at headquarters, as the case may be.

11. Beats of the area outside eight-kilometer radius.

- (1) The Civil Nazir or Nazir shall divide the area outside the eight-kilometer radius into beats, and shall make the best arrangement possible for the prompt service of processes in each beat.
- (2) The Central Nazir or Nazir shall prepare a statement showing:-
 - (i) the number of the beat.
 - (ii) The names of the villages included in the beat,

- (iii) The day or days of the week on which processes are issued in the beat, and
- (iv) The number of process servers posted at each beat.

The allotment of process servers to the various beats shall be done by the Senior Civil Judge or Civil Judge who may be in charge of process serving established every year but for special reasons a process server may be transferred from one beat to another earlier also. A copy of such statement shall be kept in the Court-room and the dates shall be fixed in accordance therewith.

12. Process almirah and distribution of processes.

In the office of the Civil Nazir or Nazir, there shall be kept an almirah which shall be divided into pigeon-holes the number of which shall be more than the number of beats, extra holes being used for urgent processes and each process shall be placed in its appropriate pigeon-hole as soon as it is received. The processes relating to a particular beat shall issue on the day fixed for that beat or if so ordered by an officer in charge of the Nazarat, on any other day.

13. Issue of process within eight kilometers radius.

A process for service at a place within the eight-kilometer radius shall ordinarily be returned either the same day or the next. Emergent processes shall be issued for service on the day they are received by the serving officer.

14. Priority to process servers with long stay.

In distributing processes to the process-servers, priority shall ordinarily be given to the process-server or process -servers who have longest been at headquarters.

15. Processes from foreign Courts.

A process received for service from foreign Courts shall be shown in red-ink in the register of processes; and the Civil Nazir or Nazir

shall place the register once a week before the Superintendent of his Court, who shall mark the last entry in the register and put his initials thereto indicating that he has checked all the entries and issued necessary orders for obviating delay.

16. Attendance of process servers.

An attendance register of process-servers shall be kept and the roll shall be called every morning at 10 am.

17. Diaries of process servers.

Every process-server shall keep a diary, containing the duties performed, places visited by him together with the time spent therein, and stopping place for the night when away on duty from his headquarters; and the signature of the Nazir, respectable person of the places visited, as the case may be, in attestation of the contents of the diary.

18. Service by special messenger.

A process may be executed by a special messenger in the following cases:-

(1) in the case of a warrant for the arrest of a person,

(2) in any other case in which a Court either suo motu or otherwise, record an order that, for the convenience of the parties or for some other reason, it is expedient that such process shall be executed by a special messenger.

19. Emergent service-fee.

A special fee to be fixed by the Court shall be payable for such "emergent service". The Court shall, at the time of passing the 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.

20. Boat or vehicle hire for emergent service.

In addition to the special fee payable for an emergent process, the Court may direct payment by the party concerned of requisite railway fare, boat hire, vehicle hire, or any other incidental charges.

21. Prompt service of processes.

The Nazir shall arrange for the prompt issue and service of all processes received by him having regard to the dates fixed for the appearance.

22. Mode of service of processes.

A process should be served with utmost care. One copy is to be delivered to the person named in the summons or to any adult member whether male or female of the family of the person or such other person as may be authorized to receive it for him. On the other copy must be entered the acknowledgment of the person served attested by the neighbours after explaining the contents of the process to him. The process server shall prepare his report on the spot at the time of executing the process.

NOTE: (1) It should be impressed upon the process servers that it is their duty and not of the party concerned to find out the person on whom the process is to be served. It is not necessary for the party to accompany them for identifying that person. They should seek the assistance of the village headman, Pradhan, Chaukidar, etc. to find out the person on whom the process is to be served.

(2) A process served on an advocate of any party or left at his office or residence shall be presumed to have reached the party whom the pleader represents.

23. Witnesses to service.

If the summons is affixed on the outer door of a house an acknowledgment of this fact is to be taken from two respectable persons of the locality in a town or from headmen, Pradhan, Chowkidars, or neighbours in a village.

24. Sufficiency of service and reissue of processes.

When a process is received back with a service report as contemplated under O. V, r. 17, it shall be promptly laid before the Court for orders under O.V., r. 19. A fresh service on payment of necessary process fee shall ordinarily be ordered if there is sufficient time for such service to be effected.

25. Service by publication.

Recourse to the mode of substituted service by publication in a newspaper shall be had only when service by any other method is considered impracticable. A careful discretion shall be exercised in selecting the newspaper in which the publication is to be made under Order V, Rule 20 C.P.C. Only a daily newspaper circulating in the locality in which the defendant to be served is last known to have actually and voluntarily resided or carried on business or personally worked for gain, shall be selected. No summons or notice shall be published in a magazine.

26. The duty of process-servers.

The process-servers shall be employed mainly in the work of serving processes, but they may be required to perform any other public duties that may be assigned to them.

Chapter-8

Finger Impressions, Forged Stamps, Currency and Bank Notes.

1 Documents on which thumb impressions to be obtained

Thumb and finger impressions on judicial records as a means of identification of individuals should be affixed on the following documents and papers i.e. petitions, entries in registers of Petition-writers, statements and confessions by accused persons, statements by persons against their own interests, compromises, references to arbitration, withdrawals of suits and complaints, security bonds and receipts filed in Court.

2. Mode of taking impressions

- (i) For taking thumb and finger impressions, a tin slab, printer's ink, and a rubber roller to spread the ink are required.
- (ii) A very small quantity of printer's ink should be poured on the slab and spread thereon with the rubber roller till it forms into a very thin film. The bulbs of the thumb and all the fingers of one hand, after being carefully wiped, should be laid lightly over the ink film and then impressed on the paper.
- (iii) The ink once spread is sufficient for taking a large number of impressions at a time. If the ink becomes too thick, a drop or two of common sweet oil may be added and rubbed over again with the rubber roller. The slab should be properly cleaned every day before the ink is poured on it.
- (iv) A Manual on the classification and uses of fingerprints by Mr. E.R. Henry contains full instructions for taking impressions.
- (v) District Judges should make it a point to see that Petition-writers have proper apparatus and apply proper impressions to petitions and on their registers.

(vi) Impressions should be affixed to the document in a place where the paper is clean and free from writing or other marks.

3. **Finger Print Bureau**

(i) The fees prescribed by the Finger Print Bureau, Phillaur (Punjab)/Madhuban (Karnal, Haryana) FSL (Junga) and GEQD (Shimla) for the examination of finger impressions by the experts of the Bureau shall be credited to Government in the local Treasury under the relevant head. The Treasury receipt shall be sent with the documents to the Bureau and the fact mentioned in the forwarding letter.

(ii) If Police Finger Print Proficient is required to take impressions in a civil case for transmission to the Bureau, he shall be paid prescribed fee, to be paid by the concerned litigant.

(iii) The Courts shall continue to send documents in civil cases directly in the first instance to the Bureau for examination and opinion by the experts.

4. **Evidence of Bureau Expert**

(i) When the evidence of a Finger Print Expert is required in a civil case, the Additional Senior Civil Judge, Phillaur/Senior Civil Judge, Karnal/Senior Civil Judge (Shimla) shall be appointed to be the Commissioner to record it. The expert of the Bureau shall be summoned and examined by such Commissioner.

(ii) The Bureau shall decide the name of the expert to be deputed for examination.

(iii) A reasonable fee to be paid for the Commissioner's work (mainly depending on the value of the civil suit) shall be fixed and charged by the Court issuing the commission and shall be credited to Government in the local Treasury under the relevant head.

(iv) Fee payable to the expert for appearing as witness shall be as per scale contained in Chapter 17 of High Court Rules and Orders, Volume I. One-third of the said fee shall be paid to the expert by remitting it to the Commissioner at Phillaur/Karnal/Shimla and the balance two thirds credited into the local treasury under the relevant head. The Treasury receipt shall be sent with the commission to the Commissioner who will send it to the Bureau while summoning the expert.

(v) The experts may continue to be summoned to give evidence in Courts in criminal cases and no fee shall be leviable in criminal cases prosecuted by Government. However, the feasibility of examining the expert witness on the commission may be looked into and resorted to in the appropriate case.

(vi) In order to ensure the protection of documents sent by Civil Courts to the Commissioner at Phillaur/Karnal/Shimla, care must be taken to see that they are sent in a stout envelope or strong paper or cloth wrapping. The same be sent by registered post acknowledgment due at Government expense (both to and from the Commissioner). For the return of the documents, the Commissioner will use a cloth-lined envelope of appropriate size.

5. Expert opinion on forgeries relating to Stamp, Currency and Bank Notes

(i) When an Expert opinion is required on the question whether stamps are genuine or forged, reference should be made to the Master, India Security Press, Nasik Road.

(ii) The requisite fee prescribed by the Master, India Security Press for examination of stamps and for giving evidence on the commission has to be credited in Government Treasury under the relevant head.

(iii) Similarly, the fee prescribed by the Master, India Security Press for examination of currency and bank notes and for giving evidence on the

commission has to be deposited under the relevant head in Government Treasury.

(iv) No fee should ordinarily be charged by the Master, India Security Press for giving expert assistance to the Police or to the Reserve Bank of India in connection with any criminal prosecution. However, if the Master considers that his free services are being abused, he may bring the matter to the notice of Central Government. He is also entitled to charge for assistance given to private parties or in civil suits in which Government is not a party.

Chapter-9

Forfeited and Unclaimed Property and Malkhanas

1. Civil Court's Malkhana

(i) There shall be one common store-room at the District Headquarters for all the Civil Courts of a District under the control of the Civil Nazir known as the Civil Nazir's malkhana which shall be placed under the direct supervision of the Senior Civil Judge to be known as the Officer-in-charge, subject to overall general control of the District Judge.

(ii) Every Civil Nazir shall be provided with a strong box, besides Store Room, for the custody of valuable property made over to him. Valuable property like valuable securities, currency notes, bullion or jewels of less than twenty thousand rupees value shall be kept in the strong box to be deposited in the Treasury under a single lock, whereas other property shall be kept in the Store Room. Such valuable property on exceeding the value of 20,000/- in all, shall be deposited with Treasury Officer for safe custody. Entry thereof shall be made in the prescribed register. Civil Nazir shall be primarily responsible for the safe custody of the malkhana, the strong box and the keys thereof, subject to the general superintendence of the Officer-in-charge.

(iii) Currency notes other than counterfeit notes will be treated as regular deposits.

(iv) Relevant columns of prescribed Miscellaneous Register shall be filled up by the Civil Nazir on the receipt of the property. Deposit number of the Register shall be noted by the Nazir on the record of the concerned case.

(v) Record-keeper should not receive any record in which property appears to have been made over to the Civil Nazir, without acknowledgment of the Civil Nazir and the deposit number of the Register being entered on the record.

(vi) On disposal of the property, relevant columns of the Register shall be filled up. Delivery of property to a private person shall take place in the presence of the concerned Court or Officer-in-charge of the malkhana who shall attest the entry of delivery in the register.

(vii) The Officer-in-charge shall examine and counter-sign the Register at least once a month and inspect the contents of malkhana at least once in six months. He shall make a report of six monthly inspections to the District Judge regarding the value of the property lying with the Civil Nazir and the efforts made to dispose of the same.

(viii) The malkhana shall be guarded by a Chowkidar (Watchman).

(ix) Where there is a store-room attached to outstation Civil Court, it shall be under the immediate control and supervision of the Naib Nazir subject to the general superintendence of the senior most Judicial Officer at the Station as well as of the Officer-in-charge. The Naib Nazir shall be responsible in the same manner as the Civil Nazir in respect of Store-room at District Headquarters. Valuable property like securities, jewels etc. shall be deposited in sub-treasury and not kept in such storeroom.

(x) Perishable property or livestock shall not be kept in malkhana, but made over to a Sapurdar or otherwise disposed of as per order of the Court.

2. Judicial Malkhana for the property of Criminal cases

(i) At every District Headquarters and at Sub-division having Judicial Court, there shall be a Judicial Malkhana for the property of criminal cases. Building and open space for the same shall be provided according to the norms laid down by the High Court.

(ii) The senior-most official on the staff of the Malkhana (to be known as Malkhana-in-charge) shall be primarily responsible for the safe custody of the property in the Malkhana subject to general control and superintendence of the Chief Judicial Magistrate/Sub-Divisional

Judicial Magistrate to be known as Officer-in-charge. Sessions Judge may issue necessary directions to them. The Malkhana may be kept under double lock.

(iii) All case property handed over by the Police in criminal cases shall be kept in the Judicial Malkhana. Malkhana-in-charge shall be provided with a strong box in which valuable property like bullion or jewels shall be kept for safe custody. If the aggregate value of such property exceeds 20,000/-, it shall be deposited in the Treasury/Sub-treasury. Currency notes not being counterfeit notes shall remain in deposit with the Treasury/Sub-treasury.

(iv) Counterfeit coins and currency notes together with implements for their manufacture such as dies, moulds etc. shall remain in Judicial Malkhana till the end of the trial and subject to the decision of appeal or revision, if any, be destroyed or otherwise dealt with as per order of the Court.

(v) The property ordered to be returned to owner/entitled person shall be so returned against a proper receipt in the presence of Malkhana-in-charge or concerned Court or Officer-in-charge who shall attest the entry of delivery in the register.

(vi) The property ordered to be forfeited shall be handed over to the concerned quarter for disposal in accordance with law.

(vii) Entry of every property received in Judicial Malkhana shall be made in relevant columns of the prescribed Register immediately on the receipt of the property. Remaining relevant columns of the Register shall be filled up at the time of disposal of the property as per the order of the Court. A separate prescribed Register shall be maintained for the forfeited property.

(viii) In case of cash amount being the case property or sale proceeds of the property, the same shall be deposited in Treasury, and Treasury

receipt No. and date shall be entered in the relevant column of the Register.

(ix) The Officer-in-charge of the Malkhana shall examine and counter-sign the Malkhana Register at least once a month and shall inspect the case property deposited there at least once in six months. Report of six-monthly inspection shall be sent to the Sessions Judge. The Officer-in-charge should see that case property of the cases, in which final orders for disposal/return thereof have been passed, is promptly disposed of/returned accordingly and does not remain stored in the Malkhana. Malkhana-in-charge shall, however, be primarily responsible for disposal/return of such case property at the earliest. The Officer-in-charge, as well as Malkhana-in-charge, should also ensure that in cases under the Narcotic Drugs and Psychotropic Substances Act, 1985, the contraband substances already issued and other notifications, if any, that may be issued from time to time particularly bulk quantities are disposed of at the earliest in accordance with Section 52-A of the Act *ibid* read with notification No. G.S.R. 339(E), dated 10th May 2007 by the Central Government in the exercise of the powers conferred under sub-section (1) of Section 52-A *ibid*.

(x) Malkhana-in-charge will prepare a monthly statement of sale proceeds of unclaimed and escheated property credited to the Treasury for submission to the Accountant General through District and Sessions Judge. The same should be verified from the record of the Treasury.

(xi) The Judicial Malkhana shall be guarded by Police Guards. Police will be responsible for safe custody of the property in Judicial Malkhana.

3. Custody and disposal of the property attached in criminal cases.

(i) Whenever moveable property of an absconding person is attached under Section 83 of the Code of Criminal Procedure, the same shall be deposited in Judicial Malkhana. However, it does not apply to perishable goods or livestock, which may be made over to Sapurdar or may be sold or otherwise disposed of as per the order of the Court.

(ii) Entry of the property so received shall at once be made in the prescribed register. Such property (other than that ordered by the Court to be sold immediately) shall not be sold till the expiry of six months from the date of attachment and till the disposal of all claims preferred or objections made to the attachment. On expiry of the said period, the Court shall ordinarily take steps to sell the attached property.

(iii) If the attached property is ordered to be released in favour of any person, it shall be delivered to him in the presence of the Malkhana-in-charge.

(iv) The amount realized by the sale of the attached property or its income shall be deposited in the Government Treasury under the relevant head.

(v) If such amount is ordered to be paid to any person, it shall be paid to him by means of a refund voucher by the concerned Court.

4. Forfeited amount

(i) Demands of amounts forfeited on bail and security bonds should be entered in the prescribed register and realization thereof in prescribed Fine Recovery Register. Monthly statement of the amount so realized shall be prepared and sent to the Accountant General (through District and Sessions Judge), on the lines of the statement of fine recovery.

(ii) Necessary separate monthly statement of forfeiture of earnest money in auction sales in execution petitions shall be submitted to the Accountant General (through District and Sessions Judge) without delay, on the lines of monthly fine recovery statement.

(iii) The Presiding Officer should ensure that only legitimate expenses of sale are deducted from the forfeited earnest money in auction sale in execution proceedings. Treasury receipt for the amount actually credited to the Government shall remain in the record of the execution proceedings. Record -keeper shall not receive any record which is not accompanied by such receipt.

(iv). If any property attached by a Court in the execution of a decree is subsequently found to be unclaimed and incapable of being returned, it should be disposed of under Sections 25 to 27 of the Police Act, 1861.

5. Arms and Ammunition

(i) If possible, a separate room shall be set apart in every judicial malkahana for the deposit of arms and ammunition. Such a room shall be kept under double lock, one key being retained by the Malkhana-in-charge and the other by the Officer-in-charge.

(ii) Malkhana-in-charge shall generally be responsible for the supervision and disposal of the arms and ammunition deposited in the malkhana. He shall compare the stock thereof with the prescribed register once a month and submit a report to the Officer-in-charge. Malkhana-in-charge shall also be personally responsible for the proper receipt, safe custody, and disposal of arms and ammunition subject to the control of the Officer-in-charge.

(iii) Particulars of the arms and ammunition received in the malkhana shall at once be entered in the prescribed Register. The entries shall be attested by the Officer-in-charge after satisfying himself as to the accuracy thereof.

(iv) If ordered by the Court, the arms and ammunition shall be returned to the persons entitled to possess the same, in the presence of the Court concerned. Entry thereof shall be made in relevant columns of the register.

(v) Arms and ammunition forfeited to Government and not ordered to be destroyed by the Court shall be handed over to the District Magistrate or his nominee for disposal in accordance with law.

(vi) Arms and ammunition ordered to be destroyed shall also be made over to the District Magistrate or his nominee for destruction in a safe manner by breaking up the same either locally or through nearest Ordinance Officer as per the Government instructions.

(vii) At the beginning of each calendar year, a new Register shall be opened wherein arms and ammunition lying in the Malkhana shall also be entered.

Chapter-10

Record of Fines

1. Fine Register

Every Court, whether Criminal or Civil, will keep a separate prescribed Fine Register. A reader of the Court shall enter all fines imposed by the Court in this Register on the same day. Compensation awarded under Section 357 of the Code of Criminal Procedure will be treated as fine imposed in the case and entered in this Register. Fine imposed under Section 345 of the Code of Criminal Procedure or under Order XVI, Rules 12 and 17 of the Code of Civil Procedure, will also be entered in this Register. The entries should be signed by the Presiding Officer on the same day.

2. Payment of fine

Whenever a fine amount is paid in whole or in part in the Court, receipt in the prescribed form for the same shall be issued under the signature of the Presiding Officer and counter-foil retained for record of the Court. The entry of the receipt of the fine should be made in the Fine Register by the Reader but the amount received should be written by the Presiding Officer himself in the relevant column and the entry should be signed by him.

3. Credit of amount deposited in Treasury

(i) Amount of fine paid into the Treasury will be paid to the credit of Government whereas amount payable as compensation paid into the Treasury shall be credited as a deposit.

(ii) Even in appealable cases, the fine amount should at once be credited to Government and will be subject to refund if remitted on appeal or in revision. Refund voucher in prescribed form shall be issued for a refund of the fine amount. Before issuing refund voucher, the amount realized and credited to the Government must be ascertained and certified by the concerned official of the Court. The

refund voucher will be passed for payment by the Officer-in-charge of the Treasury.

(iii) Amount paid into the Treasury as a deposit may similarly be paid to the entitled person by way of refund voucher after the expiry of the limitation period for filing appeal/revision petition or after and subject to the decision of appeal/revision petition, if any filed.

(iv) Rules on the subject of crediting and accounting of fines issued by the Accounts Department of the Government should also be strictly observed.

4. Statement of fines

(i) At the close of each month, a consolidated statement of fines imposed by all the Courts in the District, realization thereof and credited to the Government during the month should be prepared separately (by the office of the Chief Judicial Magistrates for all the Courts of Magistrates in the District and by the office of the Sessions Judge for all the Sessions Courts of the District, to be signed by the Chief Judicial Magistrate/Sessions Judge) and submitted to the Accountant General after verification from the Treasury. For the preparation of the consolidated statement, each court will send its own monthly statement to the Chief Judicial Magistrate/Sessions Judge. A copy of the consolidated fine statement of Courts of Magistrates shall also be submitted to the Sessions, Judge. The Officers who sign the statements will be responsible for accuracy thereof.

(ii) To facilitate the preparation of these statements, prescribed register of fine realization will be maintained by each Court. Entry therein should be made at once on the realization of the fine amount along with an entry in the Fine Register. The Register should be checked by the Presiding Officer with Treasury certificate at the end of each month.

5. Attention to unrealized fines

Fine Clerk or another concerned official should draw the attention of the Presiding Officer to fines remaining unrealized for more than three months, so that proper steps for recovery thereof may be taken. Sessions Judge should also monitor the progress of recovery of fines in all Courts in the Sessions Division so as to expedite the recovery and should issue necessary instructions, wherever required.

6. Fines imposed by Civil Courts

Fines imposed by Civil Courts under the power conferred by Section 345 of Code of Criminal Procedure should also be dealt with in accordance with the instructions laid down in this Chapter, so far as they are applicable.

Chapter 11

Affidavits

1. **Relevant Law:**

Section 139 and Order XIX of the Code of Civil Procedure, Section 297 of the Code of Criminal Procedure and Section 3(2) (a) of the Oaths Act, 1969 contain the provisions on the subject of affidavits.

No Court fee or other stamp is required on an affidavit made for the immediate purpose of being filed or used in any Court or before the officer of any Court, vide exemption (b) under Article 4 of Schedule 1 to the Indian Stamp Act, 1899. No fee is chargeable for attesting an affidavit except as laid down in Rule 3 below.

2. **Joint Affidavit:**

There is no legal objection to several persons joining in a single affidavit in whole or in part, but Attesting Officer should in such case be careful that each deponent deposes separately and that the attestation certificate is adapted to the actual circumstances of the particular case.

3. **Oath Commissioners:**

(i). The High Court shall appoint Oath Commissioners for the purpose of administering oaths and affirmations at the headquarters of each sub-division/tehsil/sub-tehsil of a district as well as for the High Court premises.

(ii). No person shall be eligible for appointment as Oath Commissioner unless:-

(a) he has for at least two years but not exceeding five years been an Advocate of the High Court, and

(b) he is below the age of thirty-five years.

(iii) An eligible advocate may submit his application in the prescribed form for appointment as Oath Commissioner to the President of the High Court Bar Association for seeking appointment for the High Court premises, who shall forward the same to the High Court with his comments about the suitability of the applicant. The High Court shall take these comments into consideration while making the appointment of the oath commissioner.

(iv) An Oath Commissioner shall hold Office for a term of two years from the date of his appointment :

Provided that the High Court may curtail the term if it thinks fit to do so:

Provided further that the High Court may relax the conditions regarding eligibility and duration of the term of office of an Oath Commissioner on the compassionate ground or in public interest or on any other sufficient ground.

(v) The Oath Commissioner may charge a remuneration as may be prescribed by the High Court from time to time for each affidavit. He shall keep a register in the prescribed form in which all affidavits shall be entered. A written receipt in printed form, containing the name of the Oath Commissioner, a serial number of the receipt and the amount received Rs.....as attestation charges from (Name of the deponent) for affidavit bearing No.....in, the Register shall be issued. The receipt shall be dated and signed by the Oath Commissioner and shall consist of foil to be given to the deponent and counterfoil to be retained in the Receipt Book by the Oath Commissioner for the purpose of inspection. The Commissioner may charge an additional fee as may be prescribed by the High Court from time to time when he is required to attend the deponent's residence.

(vi) The Registers and Receipt Books containing counter foils shall be kept by the Oath Commissioner in safe custody and shall be presented

to the District and Sessions Judge whenever demanded for inspection. The same shall be inspected by the District and Sessions Judge at least once in a year. On expiry of the term of office, the Oath Commissioner shall within fifteen days, deposit the Registers and Receipt Books in the Office of District and Sessions Judge against receipt. The record shall be kept and preserved in the office of District and Sessions Judge for five years and destroyed thereafter unless it is required in proceedings before any authority or in connection with any case.

4. Attestation of affidavits of process serving officials:

In order to facilitate the verification of affidavits of process serving officials made under the Code of Civil Procedure, Senior Civil Judge at the district headquarters and sub-divisional headquarter may appoint an official subordinate to himself to administer oaths to process servers, bailiffs, Naib-Nazirs and Nazirs making the affidavits of service of summons, notices and other processes under the said Code.

5. Register of affidavits:

(i) A register of affidavits in the following form shall be maintained by each Court as well as by each Oath Commissioner in which every affidavit attested should be entered.

(ii) The register should be duly page marked, having a certificate of the Presiding Officer concerned on the opening sheet of the total number of pages contained therein. Similar certificate on the register of Oath Commissioner shall be under the signatures of District and Sessions Judge.

6. Form of Register:

Register of affidavits attested in the Court of/attested by
(Name of the Oath Commissioner) Oath Commissioner:

| | | | | | | | |
|----|----|----|----|----|----|----|----|
| 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. |
|----|----|----|----|----|----|----|----|

| Sr. No. | Name and address of the deponent | Nature of affidavit (if the affidavit relates to a cause in Court, the cause and Court should be specified) | Date of Administering Oath or Affirmation | Name and address of the person, if any identifying the deponent | Signature/thumb impression of the deponent | Signature of the Attesting Officer | The fee charged (in the Register of the Oath Commissioner only). |
|---------|----------------------------------|---|---|---|--|------------------------------------|--|
|---------|----------------------------------|---|---|---|--|------------------------------------|--|

7. Title of affidavits:

(a) Every affidavit to be used in a Court of Justice shall be entitled "In the Court of (Naming such court) at"

(b) If there be a cause in Court, the affidavit in support of, or in opposition to, an application respecting it must also be entitled in the cause.

(c) If there be no cause in Courts the affidavit shall be entitled "In the matter of the petition of"

(d)The affidavit shall contain the name of the deponent, his father's name, age, occupation and complete address so as to identify him clearly. Date and place of making the affidavit shall be mentioned at the bottom.

8. Contents of the affidavit:

(i) Every affidavit containing a statement of facts shall be divided into paragraphs, every paragraph consecutively numbered and confined to a distinct portion of the subject:

Provided that a short affidavit verified in the manner prescribed by Order 19 Rule 3 of the Code of Civil Procedure may be filed to support the averments made in any application.

(ii) The deponent should state the facts within his own knowledge or if the fact is stated on information obtained from others, it should be so stated along with the source of information and should be verified as true to belief. If the information has been derived from documents or copies of documents, the same should be specified along with the source of documents and verified as true accordingly to belief.

(iii) Ordinarily, affidavits should be confined to facts within the knowledge of the deponent except for interlocutory applications in which statements of his belief may be admitted if the grounds thereof are stated.

(iv) All inter-lineations, alterations or erasures in an affidavit shall be initialled by the deponent and the attesting officer and made in such manner as not to obliterate or render it impossible or difficult to read the original matter, otherwise, such original matter may be re-written in the margins and initialed as above.

9. Identification of deponent:

Every person making an affidavit, if not personally known to the Attesting Officer, shall be identified to him by some person personally known to him. The Attesting Officer shall specify at the foot of the

affidavit the name and description of the person identifying the deponent.

10. Mode of attestation:

(i) The Attesting Officer shall certify, at the foot of the affidavit, the fact of making of such affidavit before him and shall date and sign in full the certificate along with designation, and shall, for the purpose of identification, mark, date and initial every exhibit referred to in the affidavit.

(ii) If the deponent appears to be illiterate or ignorant of the language of the affidavit or not able to understand the contents thereof, the Attesting Officer shall cause the affidavit to be read and explained to the deponent in the language understood by him and the Attesting Officer. This fact (of reading and explaining) shall also be certified at the foot of the affidavit.

11. Indian Oaths Act -

In administering oaths and affirmations to deponents, the Commissioner shall be guided by the provisions of the Indian Oaths Act (Act 44 of 1969), Christian deponents shall be sworn on the New Testament.

12. Verification:

Every affidavit shall be signed and verified at the foot by the deponent and attested by the Attesting Officer. Every page of the affidavit shall be signed by the deponent and initialed by the Attesting Officer. The verification shall be in the prescribed form and signed by the deponent.

Form No. 1

Verification of affidavit:

I (Name of the deponent) do hereby solemnly swear/affirm that the above contents of my affidavit are true and correct to my knowledge

(or belief as per information received from (source) and that nothing has been concealed therein and that no part of it is false.

Form No. II

Certificate of Attesting Officer

Certified that the above was declared on (Oath/Affirmation) before me on (Date, month and year) at (place) by (full name and description of deponent) who is personally known to me or has been identified by (name and description of the identifier) who is known to me personally.

Form No. III

Application Form

(For appointment as Oath Commissioner)

1. Name

2. Parentage

3. Date of Birth

(Attach attested copy of matriculation certificate or other attested proof of age):

4. Address:

5. Date of enrolment as an Advocate (Attach attested copy of enrolment certificate):

6. Place of Practice:

7. Area for which application is made:

8. Particulars of all earlier appointments as Oath Commissioner and the periods of such appointments, if any:

9. Whether his term was ever curtailed by the High Court:

10. A special category, if any, for seeking appointment:

11. Declaration by the applicant

I hereby declare that I shall be bound by the rules/directions pertaining to the appointment of the Oath Commissioner and shall have no objection if my appointment is cancelled for non-compliance of any of the rules, notifications or directions issued. I shall properly maintain the register and accounts and shall regularly submit the same for inspection to the authority concerned.

Signature of the applicant.

12. Recommendation of the District Judge/President, High Court Bar Association with regard to suitability for appointment and report regarding honesty and integrity.

13. **Pasting of Bar Code:-**

In order to ensure the authenticity and genuineness of affidavits, every Notary Public, as well as an Oath Commissioner, shall affix a Bar Code on the affidavit attested by him, if the High Court directs that the Oath Commissioner must have the facility of barcoding.

Chapter-12

Touting

1. Relevant Provision

The attention of all Judicial Officers is drawn to Sections 3 and 36 of the Legal Practitioners' Act, 1879. 'Tout' is defined in Section 3 of the Act *ibid*. Section 36 of the Act *ibid* should be used when required as it enables the Courts to protect litigants and Members of the Bar, at least to the extent of stopping touting within the precincts of the Courts.

2. List of Touts

Section 36 of the Act *ibid* requires that the District and Sessions Judge preparing a list of touts should satisfy himself that the persons to be included in the list habitually act as touts and should give them an opportunity to show cause against the inclusion of their names. However, a wide discretion is left to him as to the method in which he may so satisfy himself. The list shall be displayed in every Court in the District/Sessions Division.

3. Punishment for acting as tout

Special attention is drawn to Section 36(6) of the Act *ibid*. According to it, if a person, whose name is on the list of touts, acts as a tout, he is liable to punishment. This provision (not sufficiently known) should be properly enforced to minimize the evil of touting.

Chapter-13

Legal Proceedings by or against Judicial Officers.

1. The institution of Proceedings by Judicial Officer regarding defamatory attacks.

(i) As per Section 199 of the Code of Criminal Procedure, Public Prosecutor, with the previous sanction of State Government, may institute a criminal complaint direct in a Court of Sessions regarding any offence falling under Chapter XXI of the Indian Penal Code relating to defamation alleged to have been committed against a Judicial Officer in respect of his conduct in the discharge of his public functions. The Court of Sessions may take cognizance of such offence on such complaint without the case being committed to it.

(ii) The aforesaid provision does not affect the right of the Judicial Officer concerned to institute a complaint before the Magistrate having jurisdiction, who may take cognizance of the offence on such complaint.

2. Rules

Detailed rules in connection with suits by or against Public Officers relating to their public acts or character as a public servant are contained in Law Department Manuals of the States of Himachal Pradesh.

3. Private Cases

A Judicial Officer has right to sue or defend qua his private dealings or behaviour in any way that he may be advised.

4. Sanction of Government for prosecution of Judicial Officer

(i) In view of Section 197 of the Code of Criminal Procedure, no Court can take cognizance of an offence alleged to have been committed by a Judicial Officer while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the

State Government. The State Government should call for and follow the recommendation of the High Court in this regard.

(ii) Attention is also invited to Section 80 of the Code of Civil Procedure, which requires at least two months' prior notice before the institution of a suit against a Public Officer (which would include Judicial Officer) in respect of any act purporting to be done by him in his official capacity.

5. Report of legal proceedings to the High Court.

A detailed report in respect of legal proceedings, civil or criminal, which may be brought by or against a Judicial Officer in his official capacity, should be submitted by the Officer concerned through proper channel to the High Court as soon as the question of the institution of the proceedings arises.

Chapter 14

Foreign Jurisdiction

1. Origin of foreign jurisdiction:

The Central Government has and may hereafter acquire jurisdiction in and in relation to areas outside India by treaty, agreement, grant, usage, sufferance and other lawful means, as per preamble and Section 2(a) of the Foreign Jurisdiction Act, 1947.

2. The manner of exercise:

In view of Section 3(1) of the Act *ibid*, it is lawful for the Central Government to exercise foreign jurisdiction in such manner as it thinks fit.

3. Orders by the Central Government:

In view of Section 4(1) of the Act *ibid*, the Central Government may, by notification in the official Gazette, make such orders as may seem to it expedient for the effective exercise of any foreign jurisdiction of the Central Government.

4. Notification under Section 79 of the Indian Evidence Act:

The Government of India vide notification No. 417-1 dated the 6th August 1932 has authorized the following persons in Jammu and Kashmir State to certify documents for the purposes of Section 79 of the Indian Evidence Act.

1. Registrar, High Court, Jammu, and Kashmir.
2. District and Sessions Judge, Srinagar.
3. District and Sessions Judge, Jammu.
4. Wazir Wazarat, Gilgit.
5. Wazir Wazarat, Ladakh.

Chapter-15

Records-Preparation, Inspection, Custody, Presentation, and Destruction

1. Quality of paper to be used

- (i) All pleadings, applications, and petitions presented to Civil and Criminal Courts shall be written on paper of superior quality having 70 GSM and of legal size.
- (ii) All Judicial forms like Fard Talbanas, list of documents etc. may be printed on B quality paper of legal size.
- (iii) Depositions of witnesses, all orders and judgments and decree sheets be written/ computer printed on paper of superior quality having 70 GSM and of legal size. The judgment should be typed/printed on a computer with font 'Thorndale', size of the font '14' in double space with margins 1.26 inches on top and bottom of the page and 1.65 inches on the left side and 1.05 inches on the right side.
- (iv) Paper of lighter texture may be used for forms of processes.

2. Particulars of the case to be noted on every paper.

Every sheet of every document, in or relating to a suit, appeal or proceeding, from the institution of the suit down to the final execution of the decree, shall bear on the right-hand center portion on the obverse side:-

- (1) the name of the Court in which the original suit was instituted;
- (2) the registration number and the year of the original suit; and
- (3) the names of the parties to the suit.

3. General instructions

- (i) The practice of writing orders and other matters across the top and along the sides of a page or application or on the back of the application, plaint etc. is forbidden

- (ii) Sufficient margin should be left on each side of the paper while writing orders, statements etc. so that writing may not be obliterated by fraying at the edges.
- (iii) Bundle of records of pending cases should be placed between stiff cardboard protectors, so that the strain of the string of tape or other covering does not fall on the papers within and so as to prevent fraying, folding etc.
- (iv) Exhibits should be placed in strong envelopes to be supplied by the concerned party.
- (v) Every page (not sheet) should be consecutively numbered.
- (vi) The handwritten record should be legible so that it can be read without difficulty by others. Illegible record causes serious inconvenience to all concerned.
- (vii) Lamination of if deemed proper and appropriate, important or damaged or likely to be damaged documents may be ordered suo motu or on the application of any party at its cost.

4. Index

- (i) Each Civil and Criminal record should have pre-fixed to it an index of its contents in the prescribed form.
- (ii) Each paper should be entered by the concerned Ahlmad/official in the index on the day on which it is admitted to record. The entries in a column of 'nature of paper' must be in sufficient detail to allow the described paper being readily identified. Deposition sheet entry should mention the name of the deponent, witness number etc. Order sheet may be entered as a single paper/document.
- (iii) Each sheet should be marked with its index number. Whenever any document is withdrawn, whether before or after judgment, a note thereof should be made in the column of remarks and it should be stated whether a copy has been substituted or not. The exhibit mark of

every document admitted in evidence shall be noted in bold letters and figures on the right-hand margin of the index opposite the entry relating to such document.

(iv) At the conclusion of the case, the papers should be arranged by the concerned official into Part A and Part B. There shall be a separate index for each part. The index of Part A will show all the papers originally on record, with an entry in remarks column regarding papers transferred to Part B. Index of Part B will show only the papers contained in this part. The words 'not to be destroyed' shall be written in red ink in the remarks column of the index of Part A against any paper which is to be preserved under this Chapter. The certificate at the foot of the index should be signed and the record should then be sent to the Record Room.

5. **Order Sheet:-**

The order sheet shall form the second paper of the record in every suit or case. It shall be maintained by the official in charge of the record for the time being and shall contain –

- (a) a record of the presence of parties, and the names of their recognized agents or pleaders,
- (b) a record of each order passed and material event occurring in the case, or
- (c) where such order or event is recorded elsewhere in the file, a note referring to such record and giving the subject matter and the date thereof.

Note: The expression “material event occurring in the case” shall, without prejudice to its generality, be held to include –

- (a) the filing of a plaint or written statement;
- (b) the examination of parties under O. X, Rules. 1 and 2;
- (c) the recording or amendment of issues;

- (d) the examination and names of witnesses;
- (e) the reading of the deposition of a witness examined by the commission;
- (f) the filing of a Commissioner's report and any objection (oral or in writing) thereto;
- (g) the presence of witnesses when a case is adjourned;
- (h) the date on which arguments are heard with names of counsel and parties present;
- (i) the delivery of judgment;
- (j) the signing of the decree;
- (k) the filing of an application for review of judgment or amendment of the decree; and
- (l) an order relating to a deposit, and order for repayment thereof, or an order for the issue of a repayment order.

6. Arrangement in Order sheet and Judge's signatures.

A separate entry shall be made in the order sheet for each distinct order or event, which shall be initialed by the Judge to signify its accuracy and correctness:

7. Consigning records to Record Room

- (i). Records of cases decided by the Court of District and Sessions Judge and those of Additional District and Sessions Judges shall be consigned to the Record Room of the District and Sessions Judge, to be known as Sessions Court Record Room, which shall be under the control and supervision of the District and Sessions Judge.
- (ii). Records of cases decided by all other Civil and Criminal Judicial Courts at the District Headquarters shall be consigned in the separate Record Room, to be known as Subordinate Court Record Room, which shall be under the control and supervision of the Senior Civil Judge.

(iii). Records of cases decided by all Civil and Criminal Judicial Courts at Sub-divisional Headquarters shall be consigned to the Judicial Record Room, if any, of the Sub-division (to be known as Sub-divisional Judicial Record Room), failing which the same shall also be consigned to the Subordinate Courts Record Room at the District Headquarters. Sub-divisional Judicial Record Room shall be under the control and supervision of the Additional Senior Civil Judge of the subdivision.

(iv). The records of cases decided by the Court of Small Causes at Shimla shall be consigned in the separate Record Room of the said Court which shall be under the control and supervision of the Judge, Small Cause Court.

(v). The file of every decided case should be consigned to the Record Room within a period of 15 days from the date of the final orders passed therein.

(vi). Judicial Officers should furnish certificate with monthly statements that the records of decided cases have been consigned to the Record Room within the said period of 15 days. Reasons be stated if the record of any case is not so consigned.

(vii). A challan in duplicate in the form given hereinafter, duly completed, will accompany the records along with the Court Register containing the details of the records. The Court Register will be signed by the Record Room Clerk and returned immediately after receiving the record. One copy of the challan will be returned later, after entry of Goshwara number with a date against each record and signature in full of the Record Room Clerk. The other copy of the challan will be retained in the Record Room, to be destroyed after three years. The Goshwara numbers given by the Record Room Clerk will be entered in the relevant Registers by the Ahlmad. Presiding Officer of the Court should periodically (at least once a month) check the entry of Goshwara numbers in the Court Registers.

(FORM OF CHALLAN)

Court of _____ in _____

District _____

CHALLAN OF FILES CONSIGNED TO RECORD ROOM

| Sr. No. | Date of dispatch | Case number | Name of parties | Nature of case | Date of decision | Name of village | Signature in full | Goshwar number | Remarks |
|---------|------------------|-------------|-----------------|----------------|------------------|-----------------|-------------------|----------------|---------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

8. Record keeper's examination of record received.

As soon as may be after the bundles have been received, the record-keeper himself or through his assistant record-keeper, shall compare the papers in each record with the general index and satisfy himself-

- (1) that the papers in the record correspond with those entered therein;
- (2) that each file contains the papers properly pertaining to it;
- (3) that documents in the record bear no blots, erasures, or interlineations, except those noted in column 8 of the general index;
- (4) that the papers bear the stamps entered in column 6 of the general index;
- (5) that the stamps have been duly canceled;
- (6) that on each paper the number and aggregate value of the stamps on it have been recorded;

- (7) that the rules made by the State Government for regulating the number of stamps to be used for denoting fees have been complied with;
- (8) that there is nothing suspicious in the appearance of the stamps;
- (9) that all orders have been duly signed;
- (10) that all necessary receipts are in the record.

9. Record-keeper's certificate of correctness or report to District Judge.

If the record be found to be in order, the record-keeper, or the assistant record-keeper, as the case may be, shall record a certificate to that effect in the general index. If the record be found to be defective in any respect he shall, in writing, report its condition for the orders of the officer-in-charge of the record room, or where no officer has been placed in charge, the District Judge; and the report with all other papers consequent on it shall, after being entered in the general index, be filed with the record. If the officer-in-charge or the District Judge orders the file to be returned for correction, the record-keeper will intimate the Court regarding the defects and the clerk at fault will carry out the necessary corrections in the record room. The record while under correction and the clerk correcting it should always be under the immediate eye of the record-keeper or of a deputy record-keeper to avoid any tampering.

10. Examination when to be completed.

The examination of the records of each bundle received in the record-room shall be completed within a month from the date of receipt.

11. Checking of record on passing from one official to another

In every office, there should be a responsible Dispatcher and Receiver of Judicial records who should check the papers in each

record which passes through his hands and certify that the index is correct and the record is complete or if there is any deficiency in papers or Court-fee stamps, he should immediately report. Head of the office may permit exemptions from compliance with this rule if the record is required for the temporary or special purpose, so as to render the compliance unnecessary.

12. **Execution records**

Whenever record of any execution petition is consigned, in which the decree has been fully executed or has become incapable of further execution, the Record-keeper should see if the execution pertains to civil suit or appeal, record whereof is to be destroyed after six years and should make a note thereof on the index of such civil suit or appeal to enable destruction of records thereof in time.

13. **Transmission of Judicial records**

(i) When records are transmitted from one office to another, a list of the records (in addition to the index of each case) should be prepared in duplicate in the prescribed form and sent with the records.

(ii) On receipt of the record, the concerned official of the receiving office should check the list and should note the date of receipt of the record in an appropriate column of both copies and sign the entry, if the list is correct. If the list is incorrect, he should make a note to this effect thereon and forthwith report it to the head of the office. One copy of the list will be returned to the Dispatching Office immediately after checking, with the intimation that the papers are correct/incorrect. When the records are no longer required, the second copy of the list will be returned with the records to the original office. Here the list will again be checked and will be returned, attested as such, to the office to which the records had gone.

(iii) Number and date of the requisition and class and number of the case of the requisitioning Court should also be mentioned in the docket to be sent with the record.

14. **List of record not returned to Record Room**

In the first week of each quarter, the Record-keeper should prepare a list of the files which were requisitioned from the Record Room but not returned and forward the same to the concerned Court for verification.

15. **Inspection of Judicial records**

(i) Records of decided cases shall be open to the inspection of the public, subject to the general control of the head of the office i.e. District and Sessions Judge/ Senior Civil Judge /Additional Senior Civil Judge, as the case may be.

(ii) Records of pending cases shall be open to the inspection of the parties or their counsel or agents alone, subject to the general control of the Presiding Officer of the Court concerned. Clerks of Advocates may inspect the records only in the presence of the Advocate concerned.

However, a stranger to a civil or criminal case may, for sufficient reasons, be allowed by the Court concerned to inspect the record of a pending case. Every order for the inspection of a record or paper shall specify the record or paper of which inspection is ordered, and shall state the name of the person or persons who may make such inspection, and the day on which such inspection may be made. If no inspection is made on the date fixed, the application and the stamped paper shall be filed with the record and shall not entitle the applicant to inspect on any other date.

(iii) Inspection of a pending case on the date of hearing (before the hearing takes place) may be allowed with special permission of the Presiding Officer on payment of an urgent fee. After the hearing,

inspection may be allowed on the same day on payment of an ordinary fee.

(iv) There shall be a separate room for inspection of records. An official shall be deployed to supervise the inspection of records.

(v) Record of the case to which Government is a party may be inspected by Government Law Officer/counsel without payment of any inspection fee.

(vi) Application for inspection of records of a decided case shall bear Court-fee stamp of Rs. 5 as a search fee. Besides it, requisite inspection fee for each day or part thereof shall be paid in every case. Day-to-day inspection may be continued on payment of the requisite fee for each day but without the necessity of fresh application.

(vii) If in some case, a record of another case is summoned under Order XIII Rule 10 of the Code of Civil Procedure for inspection by the Court, no fee shall be charged for such inspection. The application for summoning the record should comply with the provision of Order XIII Rule 10 of the Code.

(viii) No inspection fee should be charged from a counsel defending an accused at Government expense or as amicus curiae or as legal aid counsel.

(ix) A separate application shall be made and a separate fee paid for an inspection of each record.

(x) No mark shall be made on any record or paper inspected.

(xi) The copying of any document or portion of the record in pen and ink is strictly prohibited. However, pencil copies of a document or portion of the record may be made by the counsel or under his supervision and in his presence, by his Clerk, or by the party. Any person infringing or attempting to infringe the rule shall be liable to be deprived of the right to inspect records for such period as the head of the office or Presiding Officer of the Court concerned may think fit.

Photostat copy, or printout in the case of a digital record, of any document or portion of the record, may be obtained by the inspecting person on payment of two rupees per page.

(xii) Fee for inspection and on the application for inspection is to be paid in Court-fee stamps.

(xiii) In order to trace the particulars of a case or document, party or counsel may be allowed by the Court concerned to inspect the relevant registers of the Court free of charge in the presence of a Court official.

(xiv) The inspection fee for each day or part thereof shall be Rs.5 for ordinary and Rs. 10 for urgent inspections.

16. Custody of Judicial records

(i) When an official having custody of pending judicial records is transferred permanently or proceeds on leave for two months or more, he shall make over full and complete charge of the records in his custody to the official relieving him. The relieving official shall, in the presence of the official to be relieved, check all the records leaf by leaf with the indices attached thereto. If any part of the record or any document is found missing, the matter shall be immediately brought to the notice of the Presiding Officer. If the record is found complete, the relieving official shall sign a certificate to this effect.

(ii) If any document or part of the record is found missing at the time of taking charge by the official or subsequently, the Presiding Officer shall immediately take action for its recovery or reconstruction and shall also fix responsibility for the loss thereof and shall also immediately report the loss to the High Court through proper channel.

(iii) If the official having custody of the pending judicial records is transferred temporarily or proceeds on leave for less than two months, he shall hand over records to the relieving official of only those cases which are likely to come up for hearing in the ordinary course during his absence and the procedure given in clause (i) adopted for the same.

The remaining records shall be locked up, the key being kept by the Presiding Officer. If any further records are needed during the absence of the permanent custodian, they shall be taken out and properly checked as aforesaid under the supervision of the Presiding Officer before being taken over by the temporary custodian.

(iv) As regards the Record Room, only the files not yet acknowledged by the Record-keeper need be checked.

(v) Both the relieved and relieving officials will be deemed to be on duty in the same post while the charge is being transferred. The transfer of charge under sub-rule (i) shall not ordinarily take more than four days, but this period may be extended to seven days under the written order of the Presiding Officer. Under sub-rule (iii), not more than a day should be allowed for the transfer of charge.

(vi) Frequent transfers of officials holding charge of records should be avoided.

(vii) These instructions do not apply to the transfer of charge of administrative files.

17. Production of revenue records.

(i) Original revenue records should not ordinarily be requisitioned unless necessary. The parties should be asked to file certified copies or extracts of relevant entries/documents.

(ii) Excerpts from the revenue records are prepared by the Special Kanungo for which detailed instructions are contained in Chapter 20 of Volume I of the High Court Rules and Orders.

18. Papers taken out of a record to be replaced by its copy.

When a document in any record civil or criminal, is made an exhibit in another record, civil or criminal, and is removed to that record, a certified copy of the document shall be retained in the record from which the document is removed and a note of the removal made

on the general index or order-sheet. The certified copy shall be prepared by the Court Reader or clerk, and shall be signed by the Presiding Officer of the Court. After the decision of the appeal or after the expiry of the period of appeal, if no appeal has been brought the document shall be returned to the record of which it originally formed part, its place being taken by the certified copy.

19. Preservation and destruction of records

I. Timely destruction of records

All judicial records and registers, which under these Rules become liable to destruction, shall be destroyed as soon as the period for their retention has expired:

Provided that the District and Sessions Judge may, for reasons to be recorded, order that any particular paper or record be preserved beyond such period.

II Manner of destruction and disposal

The destruction of the records and registers shall be effected under the supervision of the Record-keeper by tearing or shredding with shredder if provided, special care being taken that all Court-fee stamps have been duly cancelled. The torn or shredded paper may be sold in the open market as per Government instructions. The sale proceeds shall be credited under the relevant Head.

III Secret or confidential documents

Documents of secret or confidential nature should not be sold but destroyed by being burnt under proper supervision.

IV Arrangement of records

All civil and criminal records shall be arranged in two parts A and B.

V Civil Record Parts

(a) In original cases, Part A shall contain the following papers:

- (1) The index of papers
- (2) The order sheet chronologically arranged.
- (3) The plaint together with any schedule annexed thereto.

Note: - In miscellaneous cases, the petition or written application of the party setting the Court in motion will take the place of the plaint.

- (4) The written statements and other pleadings of the parties.
- (5) All depositions of witnesses.
- (6) All documents received by the Court during the trial, as evidence between the parties.
- (7) Commissions' proceedings held thereunder, and reports of Commissioners.
- (8) Applications to refer to arbitration, reply thereto and rejoinder.
- (9) Instruments of withdrawal, compromise or admission of judgment.
- (10) The judgment or other final order.
- (11) The decree and all documents relating to the preparation or amendment thereof.
- (12) Applications for review of a judgment or for a new trial, with the Court's orders thereon.
- (13) Judgments and decrees of Appellate Courts, if any.
- (14) Processes by which service is effected on the defendants in civil suits decided ex parte.
- (15) Applications of parties who are strangers to the suit with the Court's orders thereon.

(16) Documents relating to arrest or attachment before judgment.

(17) Powers of attorney of counsel or agents of parties.

Part B shall consist of all papers not included in Part A.

(b) In appeals cases, Part A shall contain the following papers:

(1) The index of papers.

(2) The order sheet chronologically arranged.

(3) The petition of appeal.

(4) Copies of judgments and decrees of Lower Courts.

(5) Any cross-objection filed by the respondent under Order XLI, Rule of the Code of Civil Procedure.

(6) Issues referred for trial by the Appellate Court, with the evidence and findings thereon.

(7) Commissioner's proceedings held thereunder, and reports of Commissioners.

(8) Any additional evidence, oral or documentary admitted by the Appellate Court under Order XLI, Rule 27, of the Code of Civil Procedure.

(9) Deeds of withdrawal, compromise or admission of judgment.

(10) The judgment or other final order.

(11) The decree of the Appellate Court.

(12) Applications for review of the judgment, with the Court's orders thereon.

(13) Any judgment and decree of a superior Court of appeal.

(14) Processes of service effected on the respondent in appeal decided ex-parte.

(15) Powers of attorney of Counsel or agents of parties.

Part B shall consist of all papers not included in Part A.

VI Criminal record parts.

In criminal records, Part A shall contain the following papers:

(a) In original cases tried by a Court of Session.

- (1) The index of papers.
- (2) The order sheet chronologically arranged.
- (3) The charge.
- (4) All depositions of prosecution witnesses, statements of accused persons and depositions of defence witnesses.
- (5) All documentary evidence.
- (6) The final order.
- (7) The judgment or order of the High Court as a Court of Appeal, reference or revision.
- (8) Warrants returned after execution of sentence.
- (9) All proceedings relating to the realization of fines.

(b) In Magisterial inquiries and trials.

- (1) The index of papers.
- (2) The order sheet chronologically arranged.
- (3) The final Police report (challan), or petition of complaint.
- (4) All depositions of prosecution witnesses, statements of accused persons and depositions of defence witnesses.
- (5) All documentary evidence.
- (6) The charge or substance of accusation and plea of accused thereto.
- (7) The final order of the Court.
- (8) The judgment of the Appellate Court, if any.

- (9) The judgment of the High Court/Sessions Court in revision, if any.
- (10) Warrants returned after execution of sentence.
- (11) All proceedings relating to the realization of fines.

(c) In appeal/revision cases

- (1) The index of papers.
- (2) The order sheet chronologically arranged.
- (3) The petition of appeal/revision.
- (4) Copy of the judgment/order of the Lower Court.
- (5) Any additional evidence taken under Section 391 of the Code of Criminal Procedure.
- (6) The final order of the Court.

Part B shall consist of all papers not included in Part A.

VII. Records to be preserved in perpetuity:-The following records shall be preserved in perpetuity:-

(1) Part A of all suits and civil appeals involving title to the immovable property as defined in Section 3, Clause 25, of the General Clauses Act, 1897.

Note: In suits for arrears of rent or for a share in the produce, when the right is not disputed and only the amount is contested, this clause will not apply.

(2) Part A of all suits and appeals relating to the succession to an office or to establish or set aside an adoption or otherwise determine the status of an individual and of all suits and appeals relating to trusts or religious endowments.

(3) Records of attachment, sale, and delivery of immovable property in execution of decrees, including all objections, proceedings, and orders thereon.

(4) Part A of proceedings under the Indian Succession Act of 1925 and the repealed Acts entered in Schedule 9 of that Act.

(5) Part A of cases of divorce, restitution of conjugal rights and judicial separation.

(6) Insolvency proceedings under the Provincial Insolvency Act, 1920, where the Court has decided a question of title to immovable property under Section 4 of the Act.

(7) Correspondence with other offices on matters connected with the administration of justice, which in the opinion of the District and Sessions Judge should be preserved in perpetuity as likely to be useful in the future.

Other correspondence of merely formal or ephemeral character may be ordered to be destroyed after three years if retention thereof is considered no longer necessary. However, list of all papers proposed to be destroyed shall be prepared and preserved in perpetuity.

(8) Part A of proceedings under the Mental Health Act, 1987.

(9) Part A proceedings under the Companies Act, 1956/2013 or under the Banking Companies Act IX of 1949.

VIII. Records to be preserved for 50 years:-

The following records shall be preserved for fifty years and shall then be destroyed:

(1) Part A of proceedings under Sections 1 and 8 of Regulation XVII of 1806.

(2) Part A of proceedings under the Guardians and Wards Act, 1890, and under the Hindu Minority and Guardianship Act, 1956, other than those in which the petitions have been rejected.

(3) Records of Insolvency proceedings under all Acts other than those falling under Rule VII (6).

(4) Part A of the cases relating to any of the offences specified in Section 39 of the Code of Criminal Procedure, in which any suspected person has escaped apprehension:

Provided that whenever it becomes known that such offender is dead, the records may be destroyed.

(5) Part A of criminal cases in which the offence is punishable with death, and it is not known who the offender is.

Note: The records specified in Clauses 4 and 5 shall, at the time when under ordinary circumstances they would be liable to destruction, be removed to a separate bundle of cases of absconding and unknown offenders.

(6) Part A of criminal cases in which a mentally ill person is concerned unless such person is subsequently tried or is dead.

IX. Records to be preserved for 20 years:-

The following records shall be preserved for twenty years and shall then be destroyed:-

(1) The charge, finding and sentence in cases in which conviction has been had of an offence for which enhanced punishment is provided on a second or subsequent conviction.

(2) Part A of cases in which any public servant has been tried, whatever may have been the result of the case.

(3) Part A of all Civil suits and appeals, other than suits and appeals falling under Rule VII, where one of the parties is a minor suing or sued through a next friend/guardian under Order XXXII of the Code of Civil Procedure.

(4) Part A of Criminal cases relating to any offences, other than those specified in Section 39 of the Code of Criminal Procedure, in which any suspected person has escaped apprehension:

Provided that whenever it becomes known that such offender is dead, the records may be destroyed.

X. Records to be preserved for 12 years:-

The following records shall be preserved for twelve years and shall then be destroyed unless their preservation for a longer period is necessary on the special grounds noted below:

(1) Part A Sessions cases:

Provided that, if the sentence has not been fully executed, the record shall be preserved until the return of the warrants, and then destroyed.

(2) Part A of cases under Chapter IX of the Code of Criminal Procedure in which maintenance is awarded.

(3) Insolvency proceedings (other than those mentioned in Rule VII under the Provincial Insolvency Acts where immovable property is involved. The period shall be taken to run from the date of the order of the Court declaring the insolvent discharged from further liability in respect of the scheduled debts.

(4) Part A of proceedings under the Guardians and Wards Act, 1890 and the Hindu Minority and Guardianship Act, 1956 in which the petitions have been rejected.

XI. Records to be preserved for 6 years:-

The following records shall be preserved for six years and shall then be destroyed unless their preservation for a longer period is necessary on any of the special grounds noted below:

(1) Part A of all civil suits and appeals other than suits and appeals falling under Rule VII and Rule IX (3):

Provided that, if the decree has not been fully executed or become incapable of further execution, Part A must be preserved until

such time as the decree has been fully executed or become incapable of further execution.

Note 1: A note of all cases destroyed under this clause shall be made at the time of destruction in the list of cases put up with the village bundle.

Note 2: Only such portion of the record, if any, as relates to the attachment, sale, and delivery of immovable property in execution of decrees, including all objections, proceedings, and orders thereon, should be taken out and preserved permanently as required by Rule VII, when the record is destroyed under this rule.

(2) Records relating to the realization of fines of Criminal Courts.

XII. Records to be preserved for 3 years. -

The following records shall be preserved for three years and shall then be destroyed:

(1) Insolvency proceedings under the Provincial Insolvency Acts wherefrom the date of the order of the Court declaring the insolvent discharged from further liability in respect of the scheduled debts.

(2) Records of Criminal cases inquired into or tried by Magistrates and not otherwise provided for in these rules.

(3) Part A of appeals from orders passed by the Magistrates.

(4) All correspondence between the District and Sessions Judge and Subordinate Courts, and other records, periodical statements, reports, proceedings, applications etc., not expressly provided for in these rules. However, head of the office should exercise his discretion in preserving the record likely to be useful in the future.

XIII. Records to be preserved for 1 year. —

The following records shall be preserved for one year and shall then be destroyed:

(1) Part B of all civil and criminal cases and appeals provided that papers relating to deposits and payments thereof shall be separated and preserved until such time as the accounts of the deposits and repayments concerned have been audited and any objections raised in connection therewith have been finally settled and that Part B of civil cases and civil appeals in which a first or a second appeal lies to the High Court, shall not be destroyed until the period of limitation for instituting such an appeal has expired or until the appeal, if instituted, is decided by the High Court.

(2) Proceedings of other Courts and Officers forwarding notices, proclamations, calling for records, etc.

XIV. Record in Digital Form

i) In every Court where necessary infrastructure for digitization stands installed, the original judicial record as maintained in the physical form shall also be preserved in the digital form as may be prescribed by the High Court. And the digitized record shall be preserved permanently in the un-editable digitized format.

ii) The digitized/ electronic record shall have the meaning assigned to it in the Information Technology Act, 2000 as amended from time to time.

iii) The digitization of the judicial records and papers including court fees stamps affixed thereto shall be effected by the scanners in the presence of Supervising Officer notified by the District Judge.

iv) All the original documents after due digitization shall be returned to the parties after giving them three months' notice to receive the documents and in case the parties do not collect the documents within a period of three months, those documents shall be destroyed under the general superintendence of the Supervising Officer as notified by the District Judge for that purpose.

v) Notwithstanding anything contained in the Rules, the entire Judicial Record of every case filed in and disposed of by any Court in the Civil and Sessions Division, shall be digitized and preserved permanently in the digitized unedited format by the said Court and the digitization of the current cases shall be carried out and updated from time to time as may be necessary under the general Superintendence of the Supervising Officer notified by the District Judge.

vi) The official digitizing the Judicial Record shall certify that the entire judicial record of the given case has been digitized. The Supervising Officer/ Record Keeper shall then as soon as possible, give a certificate under his physical and digital signature that the entire judicial record of the given case is available in the uneditable digitized format.

vii) The Judicial Record of the given case which has been digitized, the undermentioned judicial record alone shall be preserved for the period specified, in the physical form.

In Civil Cases

1. Interim orders/final signed judgment of that Court
2. The signed/ certified decree, memo of costs of that Court
3. Unreturned original deeds of title
4. The affirmation/verification part of all the affidavits on record.
5. All order sheets duly signed or initialled by the Judges.
6. Original Power of Attorney (Vakalatnama)
7. Last page of the pleadings in the main matter i.e. plaint, written statement, replication, petition as well as in the applications which bears signatures. Affirmation/verification of the parties/Advocates.
8. Any document or papers which the Court considers of historical, sociological and scientific value, may be ordered to be preserved permanently in the physical form.

In Criminal Cases:

1. Interim/ final judgment of that Court.
2. Unreturned original deeds of title.
3. All order sheets duly signed or initialed by the Judges.
4. Original Power of Attorney (Vakalatnama).
5. Last page of the pleadings, (if any) in the main matter as well as applications which bears signature, affirmation/ verification of the parties/advocates.
6. Any document or papers which the Court considers of historical, sociological and scientific value, may be ordered to be preserved permanently in the physical form.
7. After digitization of the disposed of cases, all the judicial record documents and papers in the physical form except the judicial record mentioned in Paragraph 1-A (vii) above, which are required to be preserved in the physical form for the specified period, shall be destroyed and destruction shall be carried out from time to time as may be necessary under the general Superintendence of the Supervising Officer notified by the District Judge for that purpose or in the mode and manner as may be directed by the High Court by general or special order.

XV. Mode of reckoning period

In cases under Chapter IX of the Code of Criminal Procedure, in which maintenance is awarded, the period shall be taken to run from the date of the last order passed for the enforcement of the maintenance order. In other cases, the periods prescribed above shall be taken to run from the date of the final order of the Court of the first instance, or in the event of an appeal or revision thereafter, from that of the decision of the appeal/revision.

XVI. Notes of destruction

- (i) When under the above rules the whole of the papers of Part A of the record are destroyed, a note to this effect shall be made at the time of destruction, against the entry of the case in the Goshwara. In the case of the record offices of District and Sessions Courts, where no Goshwaras are kept, the note shall be made against the entry of the case in the General Register.
- (ii) When some only of the papers of Part A of the record are destroyed and some are retained, a note of the papers destroyed shall be made, at the time of destruction, on the fly index of the case.
- (iii) All notes made under the above instructions (i) and (ii) shall be attested by the Record-keeper.
- (iv) No note whatever need be made of the destruction of Part B of a record. Such destruction will be presumed to have been effected in accordance with Rule XIII above.

XVII. Preservation of papers belonging to Government or private persons.

Before destroying Part A of any judicial proceedings, care must be taken to separate and remove from the record all documents belonging to private persons or to Government, as a party to the proceedings, which have not been superseded by the decree or impounded in the case in which they were produced. These documents shall be preserved and tied up in a separate parcel, and notice shall, whenever practicable, be given to the persons who produced them in Court, requiring them to take them back into their own keeping within six months from the date of the notice, and warning them that they will be kept at their risk and that the Court declines all responsibility for them. Copies of this notice should also be put up in a conspicuous place of the Court-house of the District and Sessions Judge and of the Court in which the case was tried. Heads of Offices must make the best arrangements for the custody of

these documents that the circumstances admit. It will probably be most convenient to keep them with the appropriate village bundles.

XVIII. Registers

(a) **Registers to be preserved in perpetuity:-** The following judicial registers shall be preserved in perpetuity:-

Civil Registers (Corresponding to existing Civil Registers Nos. I, II, III, IV, V, XV, and XXIV).

Criminal Registers (Corresponding to existing Criminal Registers Nos. VII, VIII and XVI)

(b) **Registers to be preserved for 50 years:-**

The following judicial registers shall be preserved for fifty years from the date of the last entry and shall then be destroyed:-

Civil Register (Corresponding to existing Civil Register Nos. XXVI and XXVIII).

Criminal Register (Corresponding to existing Criminal Register No. IX).

Miscellaneous Registers (Corresponding to existing Miscellaneous Registers G and I).

(c) **Registers to be preserved for 20 years:-**

The following judicial registers shall be preserved for twenty years from the date of the last entry and shall then be destroyed:-

Civil Registers (Corresponding to existing Civil Registers Nos. X, XI and XIII) Criminal Registers (Corresponding to existing Criminal Registers Nos. II and X) Miscellaneous Registers (Corresponding to existing Miscellaneous Registers Nos. A and H)

(d) **Registers to be preserved for 12 years: -**

The following judicial registers shall be preserved for twelve years from the date of the last entry and shall then be destroyed.

Civil Registers (Corresponding to existing Civil Registers Nos. VI and XIV) Criminal Registers (Corresponding to existing Criminal Registers Nos. I, III, IV, and XIV).

(e) Registers to be preserved for 6 years:-

The following judicial registers shall be preserved for six years from the date of the last entry and shall then be destroyed:-

Civil Registers (Corresponding to existing Civil Registers Nos. XVI, XVIII, XXI-A, XXI-B and XXV)

Criminal Register (Corresponding to existing Criminal Register No. XV)

Miscellaneous Register (Corresponding to existing Miscellaneous Register B.)

However, the registers mentioned in this sub-rule shall be preserved for a longer period, if necessary. The Registers shall be preserved for at least three years after the date on which all dues in respect of deficiencies in stamp duty and Court fees pointed out by Stamp Auditors are recovered or written off.

(f) Registers to be preserved for 3 years:-

The following judicial registers shall be preserved for three years from the date of the last entry and shall then be destroyed:-

Civil Registers (Corresponding to existing Civil Registers Nos. VII, VIII, IX, XII, XVII, XXI-C, XXII and XXIII)

Criminal Registers (Corresponding to existing Criminal Registers Nos. V, VI, XI, XII and XIII.)

Miscellaneous Registers (Corresponding to existing Miscellaneous Registers C, D, E, and F)

(g) Miscellaneous Register of petition writers: -

When a Register is full, the names of the petition-writers still

holding licences should be copied into a new register and the old register shall be destroyed.

(h) No more judicial register to be destroyed: -

No more judicial registers shall be destroyed except as directed above.

(i) Registers to be digitized:-

(i) Notwithstanding anything contained in this Chapter all the registers mentioned in this Chapter shall be digitized and preserved permanently in the digitized form under the general Superintendence of the Supervising Officer(s) as may be notified by the District Judge for that purpose.

(ii) The official digitizing the registers shall certify that the entire register has been digitized. The Supervising Officer shall then as soon as possible give a certificate under his physical and digital signature that the entire register is available in the digitized form.

(iii) The registers mentioned in this chapter which have been duly digitized and certified by the Supervising Officer shall be destroyed except the register of the current year which shall be preserved in the physical form. The destruction of the registers shall be progressively carried out from time to time under the General superintendence of the Supervising Officer(s) as may be notified by the District Judge for that purpose or in the manner and mode as may be directed by the High Court in general or in a particular case.

XIX. Other Papers

(a) Personal Files of Officers and Officials: -

Personal files of all Officers and officials of Government who die while in service shall be preserved for three years after their death and then destroyed, provided there are no outstanding claims on the part

of their heirs, and of those who have retired shall be preserved until their death or for three years from the date of retirement, whichever is later, and then destroyed.

(b) **Vouchers relating to contingencies: -**

Vouchers relating to contingencies should be preserved for three years and then destroyed, the period being reckoned from 1st January following the date of payment. However, the record shall not be destroyed before the audit and before the settlement of objection, if any.

(C) **Records of Sheriff's Petty and Civil Court Deposit Accounts:**

- The records relating to Sheriffs Petty and Civil Court Deposit Accounts shall be preserved for the period noted against each in the subjoined statements.

| | | |
|--|-----------------------|--|
| CIVIL COURT DEPOSIT ACCOUNTS REGISTER AND FORM | | The period for which it is proposed to preserve the registers etc. |
| Number | Heading | |
| Form No. 1 | Notebook of Execution | 3 years |
| Form No. 2 | Bailiff | Permanently |
| Form No. 3 | Register of Receipts | Do |
| Form No. 4 | (Cash System) | 12 years |
| Form No. 5 | Register of Receipts | Permanently |
| Form No. 6 | (Voucher System) | 6 years |

| | | |
|-------------|---|---|
| Form No. 7 | Register of Disbursement | One year from the date of the last audit |
| Form No. 8 | (Cash System) | 3 years |
| Form No. 9 | Cash Book | 6 years |
| Form No. 11 | | |
| Form No. 12 | Receipt Form (Cash system) | Permanently |
| Form No. 13 | Voucher Form | 6 years |
| Form No. 14 | (Cash and voucher systems) | Do |
| Form No. 15 | Cheque Form | 3 years |
| Form No. 16 | Challan Form | Permanently |
| Form No. 17 | (Cash and voucher systems) | 3 Years |
| Form No. 18 | Treasury pass Book (Cash system) | |
| | <p>Extract Register of receipts (Cash System)</p> <p>Form No. 28 Civil Account Code, Volume I</p> <p>Clearance Register (Cash system)</p> <p>List of repayments (Cash system) Form 47, Civil Account Code, Volume 11)</p> <p>Lapsed Deposits (Cash system) (Form No. 29, Civil Account Code, Volume I).</p> | <p>One year from the date of the last audit</p> <p>One year from the date of the last audit</p> |

| | | |
|--|--|--|
| | <p>Refund of lapsed deposit (Cash and Voucher system)</p> <p>(Form No. 30, Civil Account Code, Volume I)</p> <p>Intermediate Register of money-orders etc.</p> <p>Stock Book of Forms of Receipt Books/Cheque Books.</p> | |
|--|--|--|

SHERIFFS' PETTY ACCOUNTS

SHERIFF S' PETTY ACCOUNTS REGISTERS AND FORM

| New Number | Heading | Old Number | Heading | Period for which it is proposed to preserve the Register |
|-------------------|--------------------------|-------------------|---|---|
| Form No. 1 | Register of Receipts | Register A | Register of Receipts | Permanently |
| Form No. 2 | Register of Disbursement | Register B | Showing payments | 12 years |
| Form No. 3 | Cash Book | Register C | Showing receipts and disbursements and cash balance in hand of Agent each day | Permanently |
| Form No. 4 | Treasury Pass Books | | | Permanently |

| | | | | |
|------------|---------------------------------|------------|--|---|
| Form No. 5 | Receipt Form | Form G | Receipt Book | Six years from the date of last entry in the cash book. |
| Form No. 6 | Register of processes including | Register D | Register of Processes and warrants etc. etc. | Three years from the date of its last entry, but subject to the condition mentioned against Form 8 |
| Form No. 7 | NoteBook of Process Servers | Form H | NoteBook of Process Server | As against form No. 6 |
| Form No. 8 | Payment order Form | Form I | Court Payment Order | One year from the date of last audit and if at the last audit any objection was raised in connection with any documents or records they should be |

| | | | | |
|------------|--------------|--------|---|--|
| | | | | retained until the next audit, and should not be destroyed until the next audit and should not be destroyed until one year has elapsed since the removal of the objection originally raised. |
| Form No. 9 | Challan Form | Form J | (a) Memo to accompany remittance of surplus money to the treasury (b) Of monthly balance to the treasury (c) Consolidated memo of remittance to the treasury. | 6 years. |
| Form | Cheque Form | | | 3 years |

| | | | | |
|-------------|---|--------|---------------------|-----------------------|
| No. 10 | | | | |
| Form No. 11 | Statement of lapsed deposit (Form 29 Civil Account Code, Volume I) | | | Permanently |
| Form No. 12 | Voucher for Refund of lapsed deposits Form No. 30, Civil Account Code, Volume I | | | 3 years |
| Form No. 13 | Stock Book of Form of Receipt Books and Cheque Books | Form M | Stock Book of Forms | As against Form No. 8 |

Note: The main principle which should guide the destructions of accounts records should be that so long as an audit objection is outstanding and the accounts have not been completely checked and accepted in audit, they and the supporting documents should not be destroyed even though the period of preservation prescribed in the rules may have expired.

i) Notwithstanding anything contained in these Rules, all papers as mentioned in portion titled as “other papers” shall be digitized and

preserved permanently in the digitized form under the general Superintendence of the Supervising Officer(s) as notified by the District Judge for that purpose.

ii) The Officials digitizing the papers mentioned in portion marked as “other papers” shall certify that all the papers have been digitized. The Supervising Officer(s) shall then as soon as possible give a certificate under his signature, either in physical or digital form to the effect that all the above-said papers are available in the digitized form.

iii) All the papers mentioned in a portion entitled as “other papers” of which have been duly digitized and certified by the Supervising Officer(s) shall be destroyed except those papers which are directed to be preserved in physical form by the High Court by a general or special order. The destruction shall be progressively carried out from time to time in accordance with the provisions of these Rules under the general Superintendence of the Supervising Officer(s) as may be notified by the District Judge for that purpose.

20. Racks for each Court.

A separate part of a rack or one or more separate racks in the record-room shall, as far as possible, be assigned to each Court within the local jurisdiction of the Court to which the record-room is attached.

21. Arrangement of records.

Records shall be kept according to the date of the institution in the Court of the first instance, and not according to the date of the decision. Provided that, in the case of appeals to a Civil Court from a Court of revenue or any authority other than a Civil Court, the records of such appeals shall be kept according to the date of the presentation of the appeal in the Civil Court.

Chapter 16

Rules for supply of copies of records

The High Court of H.P. has framed the Rules for Supply of copies called Himachal Pradesh Civil and Criminal Courts (Preparation and Supply of Copies of Records) Rules 2000, which regulate the supply of certified copies by the Court. Copying Agencies have been established at headquarter of each Sessions Division under the control of District and Sessions Judge, or Additional and Sessions Judge where the District and Sessions Judge is not available and at every headquarter of the Sub Division under the control of senior most Presiding Officer for preparation and supply of copies.

1. Persons entitled to obtain copies

The following persons are entitled to obtain copies under the Rules.

- i. Any party to the civil and criminal case.
- ii. A stranger to the civil or criminal case. However, the copy can be supplied to him after passing of decree or judgment and if he desires to obtain copy during the pendency of the proceedings, he has to obtain an order from the Court for the same.

2. Supply of copies free of charge

Following persons are entitled to supply of copy free of charge:-

- i. An accused when he is convicted and sentenced as per Section 363 of Code of Criminal Procedure 1973.
- ii. Head of Department, Public Prosecutor, and Assistant Public Prosecutor when a public servant is convicted/acquitted/discharged on a request being made in the prescribed form.

- iii. Head of Department when the State Government or any functionaries of the State is a party to the litigation.

3. Supply of copies in other cases

An application in the prescribed form has to be made to the copying agent of the concerned Copying Agency bearing court fee stamp of Rs. 1.50. The copying agent will examine the application with a view to determine whether (a) copy can be supplied under Rules (b) the application contains necessary particulars for tracing the records. If he finds that application is not in order or it is not possible to prepare copy for any reason, then he will reject the application. However, if he finds that copy can be supplied and the application is in order, he will ask the applicant to furnish the requisite Court Fee Stamp within three days in case the application is for the supply of copy urgently within seven days. If Court Fee Stamps are not supplied within the time prescribed, the application shall be rejected.

4. Preparation of Copy

If the application is in order, the copy shall be prepared by the Copying Agent. If the document is in English, the copy shall be invariably prepared on a Typewriter/Computer. If the document is in vernacular, the copy will be prepared on the Typewriter/Computer or if it is not possible to do so, it will be prepared in good legible ink. The copy is to be prepared on Government Water Marked Paper except when the copy is to be prepared on a printed form or by photocopy. It shall be written on one side of the paper with a margin of 1/4th of the page on the left in double space and will contain a marginal reference to the paging of the original. The document will have 360 words in 35 lines if it is typewritten/computer printed, 240 words in 22 lines if it is handwritten in English and 250 words in 25 lines if it is in vernacular. The copy shall have a heading giving the name of the Court by which the case was decided, the name and description of the Presiding Officer and in an appeal case name and description of the

Presiding Officer against whose order the appeal was preferred along with date of order, date of institution of the suit proceedings or appeal, name, address, parentage, trade or occupation and place of residence of the parties, subject matter of the case. After copy has been prepared, an endorsement shall be put on the same containing the number of application, date of presentation of the application, name of the Copyist, date on which the copy was completed, date on which the copy was examined, date on which the copy was attested, the purpose for which the copy is applied, number of pages and the fee charged. The copy shall be prepared within three days if it is required urgently and within 10 days if it is required in an ordinary manner. The Copyist shall give the date to the applicant on which the copy would be delivered and if the copy was not ready on the date specified, another date would be given. It is the duty of the Examiner to examine the correctness of the copy and if it is found that copy is correct in all respects, he shall attest the same and shall affix the seal. Where the copy is not found correct, the Examiner shall cancel the same.

5. Delivery of copy.

It is the duty of the Copying Agent to ensure that fee chargeable according to Rules has been recovered from the applicant and he shall endorse the date of delivery on the copy and the cancellation of the Court Fee Stamp. If the applicant fails to receive the copy within 10 days, his application shall be filed and the copy shall not be delivered to him unless the fresh application is made in accordance with Rules.

6. Inspection by Presiding Officer

The Presiding Officer shall inspect the Copying Agency once in three months to determine that the copies are being supplied in accordance with the Rules, Court fee is being charged correctly and the same are being canceled in accordance with the Rules.

7. Certification of copies downloaded from the website of the court.

I. The court shall insist for the certified copies only of that judicial record which is not on the website of the court.

II. The advocate, who is relying upon the order or judgment, shall download it from the official website of the court concerned and certify it under his signatures as per the provisions of Sections 65-A and 65-B of the Evidence Act.

III. A copy of the order or judgment bearing the requisite certificate of an advocate referred to above shall be taken as sufficient for placing it on the record of the case.

However, the court may in its discretion and for the reasons to be recorded, require the party to produce on the record of the case, a duly certified copy having been obtained from the Copying Agency of the court.

IV. The uncertified copies downloaded from the website of the court, however, must bear a time stamp with the address of the documents so downloaded.

V. Besides the copying agent, the court shall also authorize its Superintendent or the Reader to supply unattested copies to the parties for their private use. However, such copy of the judicial record must bear the Bar Code on all its papers, if such facility has been made available in that Court.

Chapter-17

Libraries

1. (i) There shall be a Library for every Court.
(ii) There shall also be a Central Library of District and Sessions Judge for his own Court as well as for the Courts of Additional District and Sessions Judges of the Sessions Division.
(iii) Similarly, there shall also be a Central Library of Senior Civil Judge for his own Court as well as for all other Courts of Civil Judges/Judicial Magistrates in the District.
(iv) There shall be a small residential library at the residence of every Judicial Officer.
2. The High Court shall issue approved lists of books for each type of library mentioned in Rule 1. There may be separate lists for different classes of Courts under Rule 1(i) and (iv). Till such lists are issued by the High Court, the existing lists shall remain in force. Keeping in view the changes in law, new technology, new books of reference as well as legal periodicals and also revised editions of books, the High Court shall revise the lists once in every three years. While so revising the lists, various orders passed by Supreme Court on the subject in Civil Writ Petition No.1022 of 1989 shall be kept in view. However, the High Court shall be at liberty to amend, alter, add to or delete from the lists at any time. Since the lists have to be revised periodically, the lists are not being made part of this Chapter. The lists shall be uploaded on the High Court website and shall be kept up to date and may be accessed there.
(i) Books of reference, Acts of the Legislature and legal periodicals required for the use of Civil and Criminal Courts as contained in the aforesaid lists may be purchased from any law publisher in India subject to availability of budget. A new edition or publication of any book may be substituted for the edition or book specified in the lists.

Books not on the lists can be purchased with the previous sanction of the High Court.

(ii) District and Sessions Judges alone have the power to sanction the purchase of prescribed books for all the Courts of the Sessions Division. However, payment by District and Sessions Judge will be made only in respect of books required by him or by Additional District and Sessions Judges. Payment in respect of books required by Senior Civil Judge and other Civil Judges/Judicial Magistrates of the District will be made by Senior Civil Judge. Payment for books required by Judge, Small Causes Court, Shimla shall be made by him.

(iii) Acts of the State Legislature, Codes and Manuals as published by the State Government may be obtained/purchased from the Controller of Printing and Stationery.

(iv) Acts of the Legislature and all official publications of the Government of India and Governments of other States may be purchased on payment from the Press or Book Depot of the Government concerned. Payment for the same may be remitted directly to the quarter concerned by way of Bank Draft.

(v) Indian Law Reports, all series, which are also official publications of the various Governments in India, may be purchased and paid for as provided in sub-rule (ii).

(vi) Nothing in the foregoing Rules entitles the purchase of any book from a publisher not in India. If it becomes necessary to obtain for any Court a book not procurable in India, whether the book is or is not on the lists of approved books, special prior permission must be obtained from the High Court. For seeking such permission, the District and Sessions Judge shall specify the name of the publisher, the published price, and availability of budget provision to meet the cost of the book and other incidental charges.

(vii) The responsibility for the existence of sufficient budget provision to meet the cost of books (including Acts and legal periodicals) rests entirely with the drawing and disbursing officers. They should suggest an adequate provision for prescribed books at the time of preparation of budget estimates each year.

(viii) Every Judicial Officer of the Sessions Division/District shall be entitled to draw books from the Central Library of the District and Sessions Judge as well as of Senior Civil Judge.

(ix) An accession register shall be maintained by District and Sessions Judge and by Senior Civil Judge and also by Judge, Small Causes Court, Shimla in respect of books supplied or obtained. The register maintained by District and Sessions Judge shall contain separate lists for each Court of Additional District and Sessions Judge to which books etc. have been supplied by the District and Sessions Judge. Similarly, the accession register maintained by the Senior Civil Judge shall contain separate lists for each Court of Civil Judge/Judicial Magistrate to which books etc. have been supplied by the Senior Civil Judge. A copy of such lists shall be supplied to the Presiding Officer of the Court concerned.

The accession register will contain the following columns:

- (i) Serial number.
- (ii) Name of work/book
- (ii) The edition or date of publication
- (iv) The cost, if any.
- (v) The date of receipt
- (vi) Date when it ceases to be in the concerned library, and the reason for the same, e.g., transfer, weeded out, lost etc.
- (vii) Remarks.

3. As soon as a new book is received, it must be entered in the accession register and must be stamped on the title page and in several places in the volume with the seal of the purchasing or receiving office and number of accession register shall be written in the stamps. When any book has, from any cause, ceased to be in any library, a note should be made in the accession register of the manner in which it has been disposed of.

4. The following officials shall hold charge of the library of a Court under the control of the Presiding Officer:

| Court | Official-in-charge |
|--|-------------------------------|
| (i) District and Sessions Judge's Court | Librarian/Assistant Librarian |
| (ii) Civil Judge (Senior Division's) Court | Librarian/Assistant Librarian |
| All other Courts | Reader. |

5. The Presiding Officer of each Court will be responsible for making arrangement for custody of books and the maintenance of accession register and lists in accordance with these rules. The Presiding Officer may also appoint, in the cases of (i) and (ii) above, any other Clerk to assist the official—in-charge, without in any manner lessening the responsibility of the official-in-charge. However, the Reader in each case shall hold charge of books kept in the Court Room for the daily use of the Presiding Officer. These officials shall be personally responsible to the Presiding Officer for the proper arrangement of books, for their receipt and issue and for their protection from insects etc. They should ensure that all books are removed from Almirah /racks etc. at least once a quarter and thoroughly dusted. In case of large libraries, the books may be removed from shelves in rotation at

fixed intervals of a week or 10 days, so that the turn of each shelf comes at least once in three months. It will be the duty of the Reader to see that no unauthorized person is allowed to remove or otherwise tamper with the books in the Court Room. He shall see that the Court Room is locked before he leaves for the day.

6. A Peon or an orderly of each Court will be responsible for the proper dusting of the books without disturbing the order of books.

7. No books shall be issued from the Library without a written requisition. The requisition will be placed where the book was and should be returned when the book is restored to its place. If a book is not returned within a reasonable period (depending on the nature of the book and the purpose for which it was issued), the official-in-charge will inquire about it and will submit a monthly report to the Presiding Officer of the books not returned.

8. Each series of Law Reports and other legal periodicals published serially will be kept on a separate file till the series is complete, when it will be bound into volumes and brought on to the accession registers and lists.

9. All correction slips/amendments/repeals/changes shall be inserted in the High Court Rules and Orders shall be maintained by the official-in-charge in which the number and date of every correction slip received shall be entered with the date of receipt thereof. The entry will be attested by the Presiding Officer in token of the correction slips having been pasted in the relevant books without undue delay.

10. In January every year, every Presiding Officer shall check the books in the library of his Court and residence. While checking, the Presiding Officers should satisfy themselves that the prescribed accession registers/lists are properly kept up-to-date and that the books are complete and in good condition and where required, are duly bound into volumes. The Presiding Officer shall report the result of the

check to the District and Sessions Judge, who shall report the result of the check to the High Court. At the same time, the Presiding Officer shall, through District and Sessions Judge, submit for the order of the High Court, a list of the books, if any, which he thinks should be weeded out of his library. The books so weeded out with the sanction of the High Court shall be sold in the local market and the proceeds credited in the local Treasury under the relevant head. All books sold to private persons must be endorsed 'sold' on the title page. No book should be suggested for weeding out unless it is quite clear that it is of no use to any Court in the District/Sessions Division.

11. Personal responsibility must be fixed for all losses of books. Cost of the missing books will be recovered from the defaulter. However, only when the personal responsibility is not enforceable, the losses will be written off by the High Court.

Chapter-18

Correspondence

1. Correspondence with High Court

All communications to and correspondence with the High Court should be in English and should be addressed to the "Registrar General, High Court of Himachal Pradesh, Shimla" through proper channel. Judicial officers are not allowed to correspond directly with the Judges of the High Court on matters affecting leave, transfer etc. or other such official matters.

2. Government instructions

All Government instructions relating to correspondence with the Government/Civil Secretariat are to be followed mutatis mutandis in corresponding with the High Court, so far as may be.

3. Letters

(i) Every letter should have its number and date at the commencement. It should also have the name (if desirable keeping in view the subject of correspondence) as well as the office of the writer and also the addressee, and the place from which it is written. This rule applies to copies of letters as well.

(ii) Every letter should refer to the last preceding letter, if any, on the subject. It should also give as a heading, a brief description of the subject. In respect of a judicial case, the subject will be the title of the case i.e. case number and year and names of the parties. It should be followed in case of reminders also to facilitate the quick tracing of cases.

4. Loss or damage

A report should immediately be made to the High Court through the District and Sessions Judge whenever any judicial record or file or correspondence is found to have been seriously damaged, tampered

with, destroyed, lost or mislaid. Every effort should be made to replace/reconstruct the missing or damaged papers from all available sources. On such replacement/reconstruction, as may be possible from all available sources, the report should be made to the High Court. If the replacement or reconstruction takes more than three months, interim quarterly reports of the efforts made for replacement/reconstruction of the missing or damaged papers should be made to the High Court.

5. Invoice

When several papers or records are transmitted under one cover, a list or invoice (challan) in duplicate should accompany the same. In the case of judicial records having an index of papers, the files only be entered in the invoice along with number and date of the requisition and class and number of the case in the requisitioning Court.

6. Verification of invoice

The receiving officer should, upon receipt, verify the list or invoice with the papers received and return one copy thereof after entering the date thereon and signing it. If any paper or record entered in the list or invoice is found to be not received, the fact should be noted on each copy of the invoice and the dispatching office immediately informed of the fact by letter as well.

7. Destruction of correspondence

Ordinary official correspondence, routine and ephemeral correspondence supervision of the head of the office, who should exercise discretion in preserving correspondence likely to be useful in the future. A note in red ink under the signature of the head of the office regarding the destruction of the correspondence be made in the column of remarks of the relevant register.

8. High Court Circulars

All High Court circulars should be placed, as received, on a file. All correction slips relating to High Court Rules and Orders should be duly noted and the Volumes kept up-to-date.

9. **English figures**

English figures alone should be used in all official papers prepared and registers maintained in the judicial department.

10. **Rubber stamps for signatures not allowed**

The use of a rubber stamp in place of signatures in correspondence, even in matters of a routine nature, is objectionable and is not allowed. Full signatures should always be affixed by the forwarding officer to all correspondence addressed to the High Court. However, while forwarding copies of routine letters to other Judicial Officers, they may be signed by the Superintendent by order and on behalf of District and Sessions Judge.

Chapter 19

Compliance with the High Court precepts

1. Language:

- (i) All precepts issuing from the High Court are in English
- (ii) Endorsement of return of a precept should also be made in English. However, report of process server on the process or order of service or compliance (as the case may be) may be made in vernacular.

2. Precept to be treated as urgent:

All Courts subordinate to the High Court are directed to treat the precepts of the High Court as urgent and not to treat them in a leisurely and routine fashion. In Criminal cases, precepts are invariably urgent matters. Extreme inconvenience is caused by the failure on the part of lower courts to attend promptly to High Court precepts.

3. Despatch Register:

A Despatch Register should be maintained in each subordinate Court showing records and other papers dispatched (on requisition) to the High Court. The number and year of the case given in the precept of the High Court should be entered in the Despatch Registrar and the number of the Despatch Register should be noted on the reverse of the precept with the date of dispatch of the records.

4. Despatch of connected records:

While transmitting records, all connected records are sometimes not transmitted. Before records are dispatched in Civil or Criminal cases, they should be carefully examined with the invoice and all the records of connected cases to which reference is made in the judgments of the Original and Appellate Courts should also be transmitted, as well as any special records and papers called for. In

criminal cases, care should be taken to see that the police reports (first and intermediate) accompany the records.

5. Checking of record received from High Court:

Intimation should be given directly to the Registrar General, within one month of the receipt of records returned from the High Court, if any papers, stamps or Court fees are found to be missing, damaged or incomplete (otherwise than as noted on the "State of Record Sheet" transmitted with the record), failing which the receiving office will be held responsible.

6. Transmission of records to the High Court:

Instructions regarding the transmission of records including preparation of index should be carefully complied with while transmitting records to the High Court. The list of the records should be submitted in duplicate. The list should contain the number and date of requisition as well as the class and number of the case in the High Court for which the records are requisitioned. On receipt of the records in the High Court, the concerned Superintendent will fill in the relevant columns and return the duplicate copy of the list to the dispatching office. When the records are returned by the High Court, the receiving office will fill in the relevant columns in the original list and will return it for the record as an acknowledgment.

7. Packing of records:

Records dispatched by post to the High Court should be packed in an inner cover of thick paper tied across with tape and secured in an outer cover of coarse cloth. During the rainy season, wax-cloth should, if possible, be used for the outer covering. All parcels should be securely closed and sealed. Even while transmitting records through a messenger, the records should be properly packed to avoid damage, loss or mutilation etc. during transit.

8. Prompt compliance with a requisition for records:

Where compliance with a requisition for records is desired by the return of post or through a special messenger, compliance should be made accordingly. In other cases, requisition for records must be complied with within a week of the receipt of the precept or docket calling for them. If there is likely to be a delay in forwarding a record, the fact should be intimated at once along with the probable date of dispatch of the record.

9. Prompt service of High Court Notices:

Notices issued by the High Court should be served and returned with promptitude.

Chapter-20

Budget

1. Introductory

The Himachal Pradesh Budget Manual, 1971 contains detailed instructions in regard to all matters concerning the preparation of budget estimates. This manual should be consulted whenever any question regarding the budget arises. The rules herein are intended only as a brief summary of the principal points to be borne in mind by Judicial Officers in dealing with expenditure.

2. Sanction and budget provision necessary for expenditure.

The mere fact that budget provision exists is no authority for incurring expenditure. Sanction of competent authority must in all cases be obtained before any expenditure is incurred, and the sanctioning authority must ascertain whether budget provision exists before according sanction.

3. Budget estimates

Responsibility for the preparation of the statements of estimated revenue and expenditure, as well as for requests for supplementary grants, or demands for excess grants lies with the Controlling and Disbursing Officers.

4. Estimates

All demands for grant in the ensuing year must be entered in one of the following estimates:-

- (1) Estimates of expenditure on permanent activities.
- (2) Estimates of expenditure on continuing temporary activities.
- (3) Estimates of expenditure on new activities.
- (4) Supplementary Schedule of expenditure on aforesaid activities.

(5) List of Major and Minor Works.

The list of Major and Minor Works is dealt with in Chapter of Judicial Buildings.

5. Dates of submission of estimates

The dates for submission of the estimates are given in Appendix C of the Budget Manual. Controlling and Disbursing Officers are responsible for ensuring that estimates are submitted punctually on or before the dates fixed. If forms are not received in time, copies should be printed on the computer from the specimens in the Budget Manual.

6. Classification of items of the estimates

The principle which should guide officers in deciding whether expenditure of a particular kind is to be included in the estimates of expenditure on permanent activities or in the estimates of expenditure on continuing temporary activities or in the estimates of expenditure on new activities is laid down in detail in Chapter 6 of the Budget Manual. In case of doubt, the said provision may be looked into. Special care is necessary in this respect.

7. Estimates of expenditure on permanent activities

Particular attention is drawn to the following points in connection with the estimates of expenditure of various kinds:

Pay of officers and Establishment

(i) Provision should be made with reference to the pay due on 1st April and increment and installments of dearness allowance which may be due during the year.

(ii) The estimate should be supported by a nominal roll, prepared separately for gazetted and non-gazetted officers, showing the pay to be drawn by each officer during the year for which the estimate is made.

(iii) The number of posts should be carefully checked. Any variations in the number of posts or pay should be explained, a reference being given to the orders of Government/High Court if any.

(iv) Permanent and temporary establishment should be shown separately.

(v) Special care should be taken to show voted and charged expenditure, if any, separately.

8. *Miscellaneous expenditure*

(i) All variations must be clearly explained in a separate note.

(ii) For fluctuating expenditure, the modified grant and last three year's actuals should be taken as a guide, regard being had to any extraordinary expenditure incurred or anticipated.

(iii) No change may be made in the contract contingent grants without the previous sanction of Government.

(iv) Estimates should also be submitted for official publications the cost of which is adjusted, on the books of the Accountant-General, and not paid in cash.

These estimates should be submitted in accordance with the Budget Manual.

Provision should also be made for the cost of Law books (including official publications) paid for in cash.

9. *Estimate of Expenditure on New Activities*

For any item which it is proposed to include in the Estimate of Expenditure on New Activities, administrative approval must be obtained in good time which should be clearly quoted while submitting the Estimate.

Any item not supported by administrative approval will be automatically cut out.

10. **Other estimates**

In addition to the estimates mentioned in Paragraphs 8 and 9 above, the following statements are also required:

- (i) Estimates for all articles of stationery obtainable from the Controller of Printing and Stationery so as to reduce local purchases of such articles to a minimum.
- (ii) Estimates of advances payable to Government servants, e.g., house building, conveyance, and purchase of computers.
- (iii) Estimates of superannuation allowances, pensions and the commuted value of pensions.

11. **Importance of punctual submission of correct estimates**

Importance of submission of punctual and correct estimates can hardly be overemphasized. Finance Department of the State Government has to collect and coordinate estimates received from all departments throughout the State within the specified short time frame so as to present the estimates to the Legislative Assembly in time. The late submission of a single return relating to one head delays consideration of all the other returns which may have been received in time. When errors of incorrect classification cannot be corrected at headquarters, it may result in reduced allotment of funds. The District and Sessions Judges should personally insist on the preparation of correct estimates by their office before due dates.

12. **Common errors**

Among errors which are most frequently noticed are the failure to distinguish between voted and charged expenditure, the failure to submit the names and designations of officers and the lack of explanations for variations in expenditure proposed compared with the modified grants for previous years. These are the principal omissions, but there are many others of the same kind which occur. Disciplinary

action will be taken against the guilty officials responsible for delays, errors, and omissions in budget estimates.

13. Primary units of appropriation and communication of grant to the High Court.

When a grant has been voted by the Legislative Assembly, the amount voted, together with any sum assigned to the same major head or heads of account which does not require the vote of the Assembly, is communicated to the High Court not later than 15th April in each year by the Finance Department in the shape of lump sums allotted under minor and sub-heads of account distributed under one or more of the following heads:

1. Salary
2. Wages
3. Dearness Allowances
4. Travel Expenses
5. Office Expenses
6. Petrol, Oil, and Lubricants
7. Rent, Rate, and Taxes
8. Payment for professional services
9. Medical Reimbursement
10. Advertisement
11. Leave travel concession
12. Contractual Services
13. Telephone
14. Electricity
15. Water
16. Miscellaneous

17. Computerization-IT
18. Legal aid to poor accused
19. Legal aid to indigent persons
20. Ex-gratia

14. **Appropriation of the grant**

Out of the grant allotted in each primary unit of appropriation, the High Court, and any officer to whom it has distributed grant, has full power to appropriate sums to meet expenditure falling under that unit, provided that-

- (i) grant provided for charged items of expenditure must not be appropriated to votable items, and without the previous consent of the Finance Department, the grant provided for voted items must not be appropriated to charged items;
- (ii) grant must not be appropriated to any item of expenditure which has not been sanctioned by an authority competent to sanction it;
- (iii) the grant shall be appropriated only to objects for which the grant is sanctioned;
- (iv) no expenditure shall be incurred without previous approval of competent authority on objects the demands for which have been specifically refused or the provisions for which has been specifically reduced either by the Legislature or by the Government/High Court;
- (v) the grant shall not be appropriated towards expenditure which should be met from a contract contingent grant beyond the amount specified in the grant.

15. **Re-appropriation**

No re-appropriation can be sanctioned by Controlling or Disbursing Officers.

All re-appropriations require the sanction of the High Court and are subject to the conditions set out in Rule 15.

16. Additional appropriation and surrender

(i) Requests for additional appropriations shall be prepared in Form B.M.20 and shall set forth the particular primary unit of appropriation, the provision for which has been exceeded or is likely to be exceeded.

(ii) The reasons for the insufficiency of the appropriation and remarks regarding re-appropriations should be given in the Form by the Disbursing Officer and also, if necessary, by the Controlling Officer and the Head of the Department. No separate re-appropriation statement or covering letter is required.

(iii) If the amount shown in column No. 2 of the Form includes any additional appropriation already sanctioned during the year, the number and date of the order sanctioning it should be quoted.

(iv) The request will be numbered and dated by the Disbursing Officer and forwarded through the Controlling Officer to the High Court.

(v) Statement of excesses and surrenders in form B.M. 19 may also be prepared and submitted by 1st Decemeber of every year so that the amounts saved and surrendered may be used for re-appropriation or additional appropriation.

(vi) The officer forwarding the request for additional appropriation should endeavour to suggest a source of re-appropriation.

(vii) All requests for additional appropriation must be submitted by the Disbursing Officer as soon as the necessity can be foreseen and should not be postponed.

(viii) In the case of requests for additions to contract contingent grants for the current year only, the Disbursing Officer should report the savings, if any, from his grant for the previous financial year.

17. Distribution by High Court.

The High Court, out of the grants allotted to it, distributes any portion thereof among the Controlling and Disbursing Officers concerned in such manner as may appear suitable.

18. Reserve

The High Court may in carrying out such distribution retain a portion of the grant as a reserve in its own hands. The distribution is carried out not later than the 15th May in each year.

19. General Control of High Court

The High Court exercises general control over the actual expenditure incurred against grants communicated to Controlling and Disbursing Officers. It is to be noticed that the authority administering a grant and not the Audit Department is ultimately responsible for keeping expenditure within the grant. For this purpose, monthly statements are prepared and forwarded to the Accountant-General for reconciliation. Both the Head of the Department and the Accountant-General are responsible for reconciling differences and correcting misclassifications.

The High Court may issue such instructions to Controlling and Disbursing Officers in this matter as may appear necessary for carrying out the duty of control.

Should the grant under any minor head appear likely to be exceeded, the High Court will arrange for the excess being provided by a re-appropriation or, if necessary, for the submission of a supplementary demand.

20. Duty of Controlling Officer to prevent expenditure beyond grant

The Controlling Officer is primarily responsible for watching the progress of expenditure against grants allotted to him under

each primary unit of appropriation concerned and for taking necessary steps to prevent expenditure in excess of a grant and if necessary, to make request for an excess grant under the prescribed rules as soon as the necessity arises for this course.

The Accountant-General will on request supply him with the same information as to the progress of actuals as is given to the High Court, and he may call for returns from Disbursing Officers.

21. Duty of Disbursing Officer

The Disbursing Officer is the officer directly responsible for the expenditure incurred against the grants allotted to him under each primary unit of appropriation. He shall keep a close watch over the progress of expenditure, and in no case should he allow the appropriation for any unit to be exceeded without obtaining the approval of competent authority.

22. Money to be spent only on the objects for which sanctioned

The Disbursing Officer is required to utilise the appropriations placed at his disposal only towards expenditure on the objects for which the grants are sanctioned and, in particular, no expenditure should be incurred without previous approval of competent authority on objects the demands, which have been specifically refused or reduced either by the Legislature or by the State Government/High Court.

Chapter-21

Judicial Buildings

1. Judicial Buildings

Earlier, at some places, there were purely judicial buildings housing Judicial Courts only whereas, at some other places, there were joint buildings of Judicial Courts and general administration. Only purely judicial buildings were governed by the High Court Rules and Orders whereas joint buildings were under the charge of the Deputy Commissioners.

Now, at almost all places in the States of Himachal Pradesh where Courts are located, separate judicial complexes have been constructed or are under construction or the process is in the pipeline.

Similarly, earlier, houses for Judicial Officers and staff of the Courts were allotted out of common pool houses. Sometimes, it resulted in great difficulty and inconvenience and even humiliation to the Judicial Officers. However, now houses exclusively for Judicial Officers and staff of Courts are being constructed which will relieve the necessity of getting accommodation allotted out of the general pool.

All these complexes and houses are under the control and supervision of the District and Sessions Judge concerned subject to the overall control of the High Court.

2. Building Committees

There are separate Building Committees for the States of Himachal Pradesh comprising of Judges of the High Court. Sites for new judicial buildings (Court Complexes and residences) are finalized by Building Committee concerned. Drawings of the new buildings are also approved by Building Committees. Construction of the new judicial building is thus now in the hands of Building Committees. Administrative Judge of the concerned Sessions Division is also requested to attend the meeting of Building Committee.

Higher Officers of Home, Architect and Engineering Departments of Government concerned along with other officers, if any required, also attend the meetings of Building Committees. Concerned District and Sessions Judge, as well as Deputy Commissioner, are also sometimes required to attend these meetings when thought necessary.

Representatives of the concerned Bar Association are also required to attend the meeting of Building Committee when construction of Bar Room/Library and Chambers for Advocates is to be considered.

Norms for various kinds of buildings i.e. Court Rooms and Retiring Rooms for different classes of Courts, rooms for staff of Courts, litigants hall, Bar Room/Library, Chambers for Advocates, office accommodation for State Law Officers/Public Prosecutors, judicial-lockups, toilets etc. in Court Complexes, and houses for different classes of Judicial Officers and staff, are laid down by the concerned Building Committee in consultation with Officers of the Government.

3. Initiation of proposal for new building

Proposal for any new building is normally initiated by District and Sessions Judge concerned. However, sometimes the High Court initiates the matter by calling for report or proposal from the concerned District and Sessions Judge.

Courts at new places are now not established unless suitable accommodation for Courts and houses of Judicial Officers is available. Similarly, new Sessions Division is not created without proper accommodation for Courts and houses of Judicial Officers.

Even for Courts at existing places, infrastructure in the form of Judicial Buildings i.e. Judicial Complexes and houses for Judicial Officers and staff of the Courts has been upgraded at almost all the places or is in the process of upgradation.

New Judicial Complexes have all modern facilities for Judicial Officers, the staff of Courts, advocates and litigants.

4. Litigants' Hall

For the convenience of litigants who are the main stakeholders in the process of administration of justice, spacious litigants' halls with facilities of air, light, and water are being provided in the Judicial Complexes.

5. Bar Room/Library

For the convenience of Bar Members, suitable accommodation for Bar Room and Bar Library is being provided in the Judicial Complexes.

6. Chambers of Advocates

In Court Complexes, earlier, advocates used to sit in open space or in makeshift or improvised accommodation like a tin shed or wooden khokha and, therefore, had to bear the vagaries of weather — summer, winter and rainy seasons. However, now, to facilitate their proper and efficient functioning, land for construction of chambers of advocates is being provided in Judicial Complexes so that the Advocates may feel comfortable. Design and drawings of the Chambers are sanctioned by Building Committee whereas chambers are constructed by the Advocates themselves. A nominal licence fee is charged from them for providing land for chambers. Bar as the licensee has to enter into a Memorandum of Understanding with the Deputy Commissioner as licensor.

7. Houses for Judicial Officers and Staff

There used to be an acute shortage of houses for Judicial Officers who had to face great inconvenience. A Judicial Officer residing in a private rented accommodation could sometimes face embarrassment in his functioning. In view thereof, Supreme Court vide judgment dated 13.11.1991 in the case of All India Judges'

Association Vs. Union of India and Others, W.P (C) No.10 22 of 1989 has laid down that all Judicial Officers shall be provided suitable residential accommodation by the State Government. If Government accommodation is not available for any Judicial Officer at any place, State Government shall at its expense arrange suitable accommodation by requisitioning or taking on rent suitable building.

Houses for the staff of the Courts are also now being constructed.

8. Rough cost estimate

Building Committee finalizes the selection of a site for any new judicial building, in consultation with District and Sessions Judge and Government Officers concerned.

Architect Department is then required to prepare drawings of the building as per requirement intimated to them. Concerned Engineering Department may also be associated with the process. The drawings are then approved by Building Committee.

Concerned Engineering Departments are then required to prepare a rough cost estimate of the building. The same is then sent through District and Sessions Judge and Administrative Judge/ Building Committee to the State Government concerned for administrative approval.

9. Construction of building

The State Government after granting administrative approval allocates budget for the new judicial building. The Building Committee then requires the concerned Engineering Departments of the State Government to undertake the construction.

10. Maintenance and Monitoring Committees

(i) State Level Monitoring Committees for the States of Himachal Pradesh have been constituted in the High Court in view of the

directions of Supreme Court in I.A. No. 279 of 2010 in Writ Petition (C) No.1022 of 1989, for monitoring the ongoing construction work of Judicial Buildings. Each State Level Monitoring Committee comprises of the Chairman, Building Committee as Chairman, and Registrar General, High Court, Legal Remembrancer and Chief Engineer as Members. This Committee holds monthly meetings to monitor the progress of the ongoing construction work of new Judicial Buildings and removes the bottlenecks, if any, in the construction.

(ii) District Level Maintenance and Monitoring Committees headed by District and Sessions Judge concerned and comprising of Chief Judicial Magistrate, Executive Engineers of PWD (B & R)-Civil and Electrical, Public Health, and Horticulture have been constituted for maintenance of judicial buildings and for monitoring the construction of new judicial buildings. These Committees are required to send monthly progress report of the construction of new buildings to the High Court. These Committees are supposed to remove the bottlenecks, if any, in the construction of new buildings resulting in delay. If they cannot resolve the matter at their own level, the report may be submitted to the High Court. Thereupon, Monitoring/Building Committee of the High Court takes up the matter with concerned Officers of the State Government and removes the bottlenecks.

11. Limits of High Court's power of sanction

Power to accord administrative approval has been delegated to the High Court to the extent of works relating to judicial buildings (Minor Works). Power to accord administrative approval in excess of the said limit vests with the State Government.

In the case of alterations to existing residential buildings, the power to accord administrative approval vests with Engineering Department up to certain limits and beyond the said limits, with the State Government.

12. Intimation of administrative approval and allocation of funds.

Intimation of all administrative approvals for Minor and Major Works, whether accorded by the High Court or by the State Government, is given to the concerned Engineering Departments. Similarly, an intimation of allocation of funds for the works is also given to concerned Engineering Departments. Building plans and rough cost estimates are also forwarded to them. Intimation of administrative approvals and allocation of funds is also communicated to the District and Sessions Judge concerned.

13. Maintenance of Judicial Buildings

(i). It shall be the duty of the Presiding Officer of the court to ensure that the Judicial Buildings are neat and clean with sufficient plants and flower pots. He shall take special care in providing public service and convenience to the litigants and the advocates. The premises must have facilities of drinking water and toilets.

ii. There must be appropriate provisions for sitting of litigants, advocates, and the witnesses. The Superintendent of the Court shall have such a working place from where he is able to supervise the working of the entire staff under him.

14. Furniture

The following scale has been prescribed by the High Court for the furnishing of the Subordinate Courts-

| Court Room | | 1. The District and Sessions |
|-------------------|----------------------------|------------------------------|
| | | |
| 1. | Central Table for Dias |1 |
| 2. | Presiding Officer's Chair |1 |
| | (Revolving cushioned seat) | |

| | | |
|-----|--------------------------------|----------|
| 3. | Reader/Steno tables 3'x2-1/4' |2 |
| 4. | Office Chairs for Reader/Steno | 2 |
| 5. | Lawyer's Tables (5'x4' | 2 |
| 6. | Office Chairs for Lawyers | 24 |
| 7. | Clocks | 2 |
| 8. | Side Racks | 2 |
| 9. | Waste paper baskets |4 |
| 10. | Steel Almirahs | 2 |
| 11. | Benches for litigants |6 |

| | | |
|-----|---|--------|
| 12. | Duree for Dias |1 |
| 13 | Woollen carpet for dias7'x4' |1 |
| 14 | Footrest |1 |
| 15 | Curtains according to requirements |2 |
| 16 | Air Conditioners 1 (1/2 tonne capacity) |2 |

Retiring Room

| | | |
|----|---------------------------------------|--------|
| 1. | Office table Sunmica top 7'x4' |1 |
| 2. | Office Chair revolving cushioned seat |1 |
| 3. | Duree |1 |
| 4. | Woollen carpet 7'x4' |1 |
| 5. | Steel Almirah (Wardrobe type) |1 |
| 6. | Footrest |1 |
| 7. | Side Racks |2 |

| | | |
|-----|--------------------------------------|--------|
| 8. | Side Table 2'x2' |1 |
| 9. | Office Chairs |9 |
| 10. | Sofa set 4 pieces |1 |
| 11. | Central table sunmica top |1 |
| 12. | Mirror |1 |
| 13 | Towel stand |1 |
| 14 | Screen |1 |
| 15 | Waste paper basket |1 |
| 16 | Trays |2 |
| 17 | Soap case |1 |
| 18 | Air Conditioner 1-1/2 tonne capacity |1 |
| 19 | Curtains according to requirements | |

Office and Waiting Room in Sessions House

| | | |
|-----|---|--------|
| 1. | Office Table sunmica top 7'x4' |1 |
| 2. | Office Chair (revolving cushioned seat) |1 |
| 3. | Duree |1 |
| 4. | Woollen carpet 9'x6' |1 |
| 5. | Steel Amirah (Wardrobe type) |1 |
| 6. | Footrest |1 |
| 7. | Side racks |2 |
| 8. | Side Table 2'X2' |1 |
| 9. | Office Chairs |1 |
| 10. | Sofa Set 3 pieces |6 |

| | | |
|-----|---------------------------------------|--------|
| 11. | Central Table Sunmica Top |1 |
| 12. | Mirror |1 |
| 13. | Towel Stand |1 |
| 14. | Screen |1 |
| 15. | Waste Paper Basket |1 |
| 16. | Tray |1 |
| 17. | Soap Case |1 |
| 18. | Air Conditioner (1 ½ tonne capacity) |1 |
| 19. | Curtain according to the requirements |1 |

1. The Additional District and Sessions Judge Court Room.

| | |
|--|---------|
| 1. Central Table for Dias |1 |
| 2. Presiding Officer's Chair (Revolving Cushioned Chair) |1 |
| 3. Reader/Steno tables 3'x2 ¼ |2 |
| 4. Officer Chairs for Reader/Steno |2 |
| 5. Lawyers' table 15'x4' |1 |
| 6. Office Chairs for Lawyers |18 |
| 7. Clocks |2 |
| 8. Side Racks |2 |
| 9. Waste paper baskets |4 |
| 10. Steel Amirah |2 |
| 11. Benches for litigants |4 |

| | |
|--|--------|
| 12. Duree for Dias |1 |
| 13. Woollen carpet for Dias 7'X4' |1 |
| 14. Foot Rest |1 |
| 15. Curtains according to requirements | |
| 16. Air Conditioner (1 ½ tonne capacity) |1 |

Retiring Room

| | |
|--|--------|
| 1. Office table sunmica 7'x4' |1 |
| 2. Office chair revolving cushioned seat |1 |
| 3. Duree |1 |
| 4. Cotton carpet 7'x4' |1 |
| 5. Steel Amirah (Wardrobe type) |1 |
| 6. Foot rest |1 |
| 7. Side Racks |2 |
| 8. Side Table 2'x2' |1 |
| 9. Office Chairs |6 |
| 10. Easy Chairs |2 |
| 11. Central Table sunmica top |1 |
| 12. Mirror |1 |
| 13. Towel Stand |1 |
| 14. Screen |1 |
| 15. Waste paper basket |1 |
| 16. Tray |1 |
| 17. Soap case |1 |
| 18. Air Conditioner 1 ½ tonne capacity |1 |
| 19. Curtains according to requirements | |

Senior Civil Judge/Chief Judicial Magistrate/Additional Senior Civil Judge

Court Room

| | |
|--|---------|
| 1. Central table for Dias |1 |
| 2. Presiding Officer's Chair |1 |
| 3. Reader/Steno tables 3'x 2 1/4 | 2 |
| 4. Office Chairs for Reader/Steno | 2 |
| 5. Lawyers' tables (5'x4' | 2 |
| 6. Office Chairs for Lawyers |18 |
| 7. Clock |1 |
| 8. Side Racks | 2 |
| 9. Steel Amirah |2 |
| 10. Benches for litigants |4 |
| 11. Duree for Dias |1 |
| 12. Cotton Carpet 7'x4' |1 |
| 13. Curtains according to requirements |1 |
| 14. Room Cooler |1 |
| 15. Foot Rest |1 |
| 16. Waste paper baskets |1 |

Retiring Room

| | |
|---------------------------------------|--------|
| 1. Office Table sunmica top 7'x4' |1 |
| 2. Office Chair revolving canned seat |1 |
| 3. Duree |1 |
| 4. Cotton carpet 7'x4' |1 |
| 5. Steel Almirah (Wardrobe type) |1 |
| 6. Footrest |1 |

| | | |
|-----------|--|---------|
| 7. | Side racks | 2 |
| 8. | Side Table 2'x2' |1 |
| 9. | Office Chairs |4 |
| 10. | Easy Chairs | 2 |
| 11. | Central table sunmica top |1 |
| 12. | Mirror |1 |
| 13 | Towel stand |1 |
| 14 | Screen |1 |
| 15 | Waste Paper Basket |1 |
| 16 | Trays | 2 |
| 17 | Soap case |1 |
| 18 | Room cooler |1 |
| 19 | Curtains according to the requirements | |
| | | |
| 3. | The Civil Judges-cum-Judicial Magistrate Court Room | |
| 1. | Central table for Dias |1 |
| 2. | Presiding Officer's Chair |1 |
| 3. | Reader/Steno tables 3'x2 1/4 | 2 |
| 4. | Office Chairs for Steno/ Reader | 2 |
| 5. | Lawyers' tables (5'x4' |1 |
| 6. | Office Chairs for Lawyers |12 |
| 7. | Clock |1 |
| 8. | Side Racks |2 |
| 9. | Steel Amirah | 2 |
| 10. | Benches for litigants |4 |
| 11. | Duree for Dias |1 |

| | |
|--|--------|
| 12. Cotton Carpet 7'x4' |1 |
| 13. Curtains according to requirements | |
| 14. Room Cooler |1 |
| 15. Foot Rest |1 |
| 16. Waste paper baskets |4 |

Retiring Room

| | |
|---|---------|
| 1. Office Table sunmica top 7'x4' |1 |
| 2. Office Chair (revolving canned seat) |1 |
| 3. Duree |1 |
| 4. Cotton carpet 7'x4' |1 |
| 5. Steel Almirah (Wardrobe type) |1 |
| 6. Foot rest |1 |
| 7. Side racks |2 |
| 8. Side Table 2'x2' |1 |
| 9. Office Chairs |4 |
| 10. Easy Chairs |2 |
| 11. Central table sunmica top |1 |
| 12. Mirror |1 |
| 13. Towel stand |1 |
| 14. Screen |1 |
| 15. Waste Paper basket |1 |
| 16. Trays | 2 |
| 17. Soap case |1 |
| 18. Curtains according to requirements | |
| 19. Room cooler |1 |

15. Renewal of furniture

The refurbishing of all Courts in the Sessions Division will be done by the District and Sessions Judge/Senior Civil Judge out of his grants. The Presiding Officer of each Court is responsible for seeing that all furniture is maintained in good condition. He will request the District and Sessions Judge/Senior Civil Judge for renewal when required. If any article of furniture is broken or becomes useless, immediate steps must be taken to mend it or replace it, if necessary. When an article is replaced, the old article must be disposed of as per Government rules and instructions. The storing of broken and useless chairs etc. in godowns is absolutely forbidden.

16. Computers

In view of switch over to new technology, the Judicial Officers and staff of Courts are being provided with laptops/computers and printers etc. The scales thereof are laid down by the High Court from time to time.

Chapter-22

Reports and Returns

1. Different kinds of returns: There are following two main classes of returns relating to judicial work:-

(i) Annual statements of civil and criminal work which are compiled into the State's statements for the purpose of making a yearly survey of the judicial administration.

(ii) Periodical returns, usually monthly and quarterly, made to the High Court in order that the High Court may keep a check on the progress of the judicial business.

2. Dates of submission

(i) Annual criminal statements by Judicial Magistrates and Additional Sessions Judges should be submitted to the Sessions Judge not later than the 1st February of each year. The Sessions Judge should submit the same along with an annual statement of his own Court to the High Court not later than the 15th February.

(ii) Annual civil statements by all the Civil Courts of the District should be submitted to the District Judge by the 1st February of each year. The District Judge should submit the same along with an annual statement of his own Court to the High Court not later than the 15th February.

(iii) Monthly statements by all Courts in the Sessions Division should be submitted to the District and Sessions Judge by the 5th of next month. Monthly statements of the District/Sessions Division should be submitted by the District and Sessions Judge to the High Court by the 10th of the next month. Similarly, quarterly statements should reach the District and Sessions Judge by the 10th of the month following the quarter concerned and reach the High Court by the 15th of the said month.

2. Annual Statements.

The Annual Civil and Criminal Statements for a Calendar Year should be compiled strictly according to instructions on the subject. The concerned officials and officers should, before and after compilation of the said statements, carefully go through the instructions including explanatory notes at the foot of the forms and ensure that the same have been properly observed.

3. Other Statements

Various monthly and quarterly statements for all Civil and Criminal Courts are also prescribed for submission by each Court to the District and Sessions Judge and by the latter to the High Court along with consolidated statements of the District/Sessions Division. Forms for the same are contained in Volume VI of the High Court Rules and Orders. Broadly, the statements depict the number of cases of each category pending at the beginning of the month/quarter, instituted and disposed of during the month/quarter and pending at the end of the month/quarter relating to each Court. A similar statement of old cases of each category is also required from each Court. Similar consolidated statements of the entire District/Sessions Division pertaining to Courts of Civil Judges/Judicial Magistrates and District and Sessions Courts separately are also required to be submitted.

These statements enable the High Court to exercise constant check and monitoring of the state of business in subordinate Courts and the manner in which that business is disposed of and to issue necessary directions when required.

5. Scrutiny

Before submitting any prescribed statement to the District and Sessions Judge, every Judicial Officer and his staff should carefully scrutinize the same.

Before forwarding any prescribed statement to the High Court, the same should be carefully scrutinized by the District and Sessions Judge and his office. Necessary remarks, if any, on the work of any Judicial Officer may be added thereto while forwarding the same to the High Court. The remarks may be communicated to the Officer concerned. Necessary instructions, if any required, may also be issued by the District and Sessions Judge to the Court concerned. District and Sessions Judge may also take necessary steps periodically to equalize the work in different Courts and to prevent accumulation of execution cases. District and Sessions Judge may also call for and examine the file of any oldest case (s) of any Court, if there appears to be unnecessary delay in disposal thereof and may issue necessary instructions to the Court concerned and may, if necessary, make a report to the High Court.

Presiding Officer should sign the statements of his Court and he will be responsible for the correctness thereof.

6. Certificate of delivery of judgments

Every Judicial Officer shall, in his monthly statements, furnish a certificate to the following effect:-

"Certified that judgments have been pronounced in civil cases within conclusion of arguments and in criminal cases within fifteen days of the conclusion of the evidence and within seven days of the conclusion of arguments".

7. Statements must be accurate

i) Every Court is required to submit annual civil and criminal statements to the High Court. Therefore, it shall be imperative for the Presiding officer of the Court to see that the accurate statements are submitted to the High Court in the mode and manner as may be directed by the High Court from time to time. As such, the official must

carefully go through the instructions before compiling the statements and ensure that the same have been properly complied with.

ii) The CIS Software of the Court has a flexible reporting system based on queries as in that case, any sort of information based on the stored data can easily be collected and sent. Therefore, it is imperative that the data should be correctly and faithfully fed into the CIS.

Chapter-23

Registers and Forms

1. Indents

(i) The registers prescribed for use in all Civil and Criminal Courts will be obtained from the concerned Controller of Printing and Stationery, to whom indents will be submitted by District and Sessions Judges in accordance with the instructions laid down in the Printing and Stationery Manual.

(ii) Similarly, all indents for forms prescribed for the use in all Civil and Criminal Courts should be sent to the concerned Controller of Printing and Stationery by the District and Sessions Judges.

(iii) The annual consolidated indents for the registers and the forms should reach the Controller of Printing and Stationery by the 15th March. This date should be strictly adhered to so that there is no delay in the supply of the registers and the forms.

(iv) The indents will be sent in duplicate in the prescribed form. One copy will be retained by the Press and the other will be forwarded by the Press to the High Court at the close of the year for examination and record.

(v) Indenting Officers should so frame their annual indents as to obviate the necessity of large or frequent supplementary indents.

(vi) The Press or the Contractor, while dispatching packages containing registers/forms to Indenting Officers, will also forward by post a dispatch note or challan. On receipt of the package, the officer concerned should examine the contents carefully, and after ascertaining that they are correct, return the challan, duly signed, to the dispatching office or if there is any shortage or discrepancy, the challan be returned with an appropriate objection.

(vii) These instructions do not apply to forms for periodical returns which are supplied by the High Court without indents or of which computer printouts may be taken.

(viii) Forms of establishment and contingent bills will be supplied by the Accountant General.

2. Binding etc. of registers

All registers will be of convenient sizes with all headings and columns printed and ruled. The paper will be durable and of reasonably good quality. The binding will be of hard cardboard with leatherbacks and corners in the case of registers to be preserved for 12 years or more and with cloth backs and corners in the case of other registers.

3. Suggestions for alterations

Should any Judicial Officer desire to suggest an alteration of a prescribed register or form, he should address the District and Sessions Judge who will make such recommendations as he thinks fit to the High Court. The Controller of Printing and Stationery should not be addressed directly in such a matter.

4. Lists of registers and forms

(i) The registers prescribed by the High Court for adoption in the subordinate Civil and Criminal Courts under the High Court are enumerated in the Appendix to this Chapter in which it is also indicated the Courts in which each register is to be maintained and the officials who will maintain them. The remarks in the column of remarks in the Appendix should be read with the footnote, if any, to the registers reproduced in Volume VI of the High Court Rules and Orders, for instructions as to the manner in which certain registers are to be maintained.

(ii). In the Courts where the CIS has been made operational, Civil Registers Number I to XIV, XVI to XX, XXVIII, XXX to XXXII and

XXXIV shall be henceforth discontinued and composite Civil Register of Civil cases, shall be maintained

(iii). In those courts where CIS stands installed, the Civil Register No. XV and B-Register of files taken from the record room for references, as mentioned in the list of miscellaneous Register for either or both Civil and Criminal Courts shall be substituted in the new format.

(iv). The Civil Registers No. XXII to XXVII, XXIX and XXXIII, shall be maintained in the existing format prescribed in the High Court Rules and Orders. However, the same can also be discontinued under the general or special orders of the High Court.

(v). From the date of commencement of these Rules, the maintenance of the existing Criminal Register Nos. I to XI, XIV, XV, XIX, XX, and XXII shall be discontinued and replaced by a new composite Criminal Register in those Courts where the CIS stands installed. The Criminal Registers XVII, XVIII and XXI shall be maintained in the existing format as provided under the High Court Rules and Orders. However, the same can also be discontinued under the general or special orders of the High Court.

(vi). The existing Criminal Register No. XVI and B-Register of files taken from the record room for references shall be substituted by a new format. Such register can also be discontinued by the High Court under the general or special orders of the High Court. Similarly, the maintenance of B-Register of files taken from the record room for references shall be discontinued and substituted by the new format. However, the High Court under general or special order can direct for discontinuation of such register also.

(vii) Lists of civil and criminal forms prescribed by the High Court for general use in subordinate Civil and Criminal Courts are contained in Volume VI of the High Court Rules and Orders. Such

printed forms as are in most general use will be supplied whereas other forms of occasional use may be prepared in manuscript when required.

5. Registers to be in English

The registers will have headings in English and should also be maintained in English.

6. Common mistakes in filling up registers

Judicial Officers are responsible to see that the registers of their Courts are correctly and regularly maintained. The following common mistakes are found in maintaining the registers, which should be avoided:-

- (i) Many registers have no heading or Peshani at all, while some of them are in a torn and mutilated condition, being of no practical use. Each register should have regular heading in good condition.
- (ii) Entries are sometimes made in a running order across several columns. Each individual column must be filled up separately.
- (iii) Entries do not follow the column headings but are made regardless of them. This creates confusion. The entries must be made as per the column headings.
- (iv) Cancelled entries do not bear any initials.
- (v) English numerals should always be used.
- (vi) Separate serial numbers are not given for each calendar year. Sometimes, the serial number is changed with the change of register. However, it should only be changed with the New Year.
- (vii) In some registers, abstract of the orders passed is to be entered. This entry very often is sketchy and does not contain the necessary abstract of the order, judgment or decree. The entry sometimes says 'consigned to the record room' or 'the suit is decreed' or 'the appeal is allowed' etc., without specifying the reason for consigning the case to the record room or the relief

granted. The very purpose of the entry is defeated. The result of the case should be entered in full.

(viii) Amount of cost is not written at all in the relevant column or is not written separately for plaintiff/applicant/appellant and defendant/respondent.

(ix) In some registers, the name of the Presiding Officer deciding the case is to be entered but is not entered properly. The name should be so written that the identity of the officer is properly established when later on, it becomes necessary to do so.

7. Safe custody of registers

The officials who maintain the registers shall be responsible for the safe custody of their old Volumes till they are consigned to the Record Room.

8. Consignment of registers

(i) The following registers shall be consigned to the Record Room twelve years after their completion:-

Civil Registers (corresponding to existing Civil Registers Nos. I and X)

(ii) The following registers shall be consigned to the Record Room six years after their completion:-

Civil Registers (corresponding to existing Civil Registers Nos. II, III, IV, VI, VII, XI, XII, XIII, XIV, XXVI and XXVII).

Note: When Civil Register (corresponding to existing Civil Register No. XXVI) Is sent to the Record Room, entries relating to properties of minors (not accounts) in cases still pending should be copied into the new register.

Miscellaneous Registers (Corresponding to existing Miscellaneous Registers A and B).

(iii) The following registers shall be consigned to the Record Room three years after their completion:-

Civil Registers (Corresponding to existing Civil Registers Nos. XXV, XXVIII, XXIX, XXX, and XXXII).

Miscellaneous Registers (Corresponding to existing Miscellaneous Registers C, D, E, F, G, H and I)

Criminal Registers (Corresponding to existing Criminal Registers Nos. V, VI, VII, VIII, IX, X and XVIII).

(iv) The following registers shall be consigned to the Record Room two years after their completion:-

Criminal Registers (Corresponding to existing Criminal Registers Nos. I, II, III, IV, XI, XII, and XVII).

(v) The following registers shall be consigned to the Record Room after one year of their completion:

Civil Registers (Corresponding to existing Civil Registers Nos. V, VIII, IX, XVI, XVII, XVIII, XIX, XX, XXI-A, XXI-B, XXI-C, XXII, XXIII and XXIV)

(vi) Criminal Registers (Corresponding to existing Criminal Registers Nos. XIV and XV) shall be consigned to the Record Room after the expiry of every calendar year whereas Criminal Register (Corresponding to existing Criminal Register No. XIII) shall be consigned on completion.

(vii) All Civil Criminal Registers shall, on expiry of the prescribed period be consigned to the Record Room to which judicial files are normally consigned. No register should ordinarily be retained in a Court after the period prescribed for its consignment to the Record Room. However, any Judicial Officer, for reasons to be recorded in writing, may retain any register for a longer period.

9. Civil Nazir to stock forms

All civil forms will be stocked by the Civil Nazir whose duty it will be to supply them to Civil Judges when required.

10. Judicial Forms to be available online

- (i). Wherever the necessary infrastructure for computerization stands installed, the court shall ensure that all judicial forms as prescribed in the High Courts Rules and Orders are uploaded on its website with provision to fill them online, if such facility is available.
- (ii). The summons or notices as prescribed under the law shall also contain a stipulation in bold letters that the defendant/respondent/accused may apply to the said court for free legal aid.
- (iii). In a summons issued to a person accused of a petty offence shall also contain a narration about plea bargaining. Likewise, in civil proceedings, there shall be writing on the summons /notices issued to the defendant/respondent, regarding the alternative disputes resolution mechanism.

Appendix

[Rule 4 (i)]

A. List of Civil Registers

| No. of Register | Name of Register | Court in which to be kept | Official by whom to be kept | Remarks |
|-----------------|-------------------------|--|-----------------------------|---|
| 1. | Register of Civil suits | (i) Court of all Civil Judges (ii) Small Causes Court | Ahlmad Clerk of Court | (i) A separate register should be maintained in each Court. (ii) Cost amount of plaintiff/applicant/appellant and defendant/respondent should be mentioned in the relevant column, |

| | | | | |
|-----|---|--|--------|---|
| | | | | <p>separately from the substantive relief granted.</p> <p>(iii) The names of the counsel for the parties should be noted in each case.</p> <p>(iv) The terms of a decree passed on a compromise should be entered in detail. A mere note “decree on compromise” is not sufficient.</p> |
| II. | Register of miscellaneous suits/cases cognizable only by a Principal Court of Original jurisdiction | (i) Courts of District Judges/A d d l. District Judges. (ii) Courts of Civil Judges where empowere d. | Ahlmad | <p>All cases cognizable by a Principal Court of Original Jurisdiction for which no specific register is prescribed e.g. application for Succession Certificates, Probates, Letters of Administration under the Indian Succession Act, Applications under the Guardians and Wards Act etc. should be entered in this register.</p> |

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| III | Register of Matrimonial cases | <p>(i) Courts of District Judges/Adl. District Judges.</p> <p>(ii) Courts of Civil Judges where empowered.</p> <p>(iii) Family Court</p> | Ahlmad | All petitioners under the Special Marriage Act, 1954 or the Hindu Marriage Act, 1955 or any other law relating to matrimonial cases of divorce, void or voidable marriage, judicial separation or restitution of conjugal rights etc. should be entered in this register. |
| IV | Register of cases under the Land Acquisition Act. | Court of District Judge/Adl. District Judge | Ahlmad | All cases under the Land Acquisition Act should be entered in this register. |
| V | Register of Miscellaneous petitions and applications | All Civil Courts | Ahlmad | |

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| VI | Register of application s to sue and appeal as an indigent person | All Civil Courts | Ahlmad | |
| VII | Register of rejected and returned plaints and memorand a of appeal | All Civil Courts | Ahlmad | <p>(i) The entries should be made by Reader on the order of rejection or of return being made by the Presiding Officer of the Court. It is not correct to wait until the party concerned turns up to take back the papers before making an entry in this register.</p> <p>(ii) This register must not be used for “documents returned” for which a separate register is prescribed.</p> |
| VIII | Register of dates fixed in civil cases | All Civil Courts | Reader | When the number of appeals and execution cases is very large separate registers may be kept for the dates fixed for appeals and |

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| | | | | execution cases. There should be a separate page for each day of the year and when a cause is set down for hearing on any date, the cause should be entered in the proper page of the register. |
| IX | Register of execution of decrees | All Civil Courts | Ahlmad/ Execution Clerk | <p>(i) Column for adjustments subsequently to the decrees should be filled up carefully and regularly.</p> <p>(ii) It is a common mistake to put down the same amount in a column for the amount decreed and a column for the amount for which execution is sought in any particular execution. The mistake should be avoided</p> |
| X | Register of appeals from decrees | Appellate Courts | Ahlmad | |

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| XI | Register of Miscellaneous appeals | Appellate Courts | Ahlmad | In this Register should be entered all appeals from orders which do not appear in register No. X |
| XII | Record-Keeper's General Register of suits and appeals disposed of | All Records Rooms | Record Keeper | The entries in this register should be made as the file of each decided case is received in the record room by the record-keeper. If more than 15 days expire between the date of the decision and the date of filing of any record, the record keeper should bring the delay to the notice of the District Judge. |
| XIII | Register of persons punished | All Civil Courts | Reader | |
| XIV | Register of stamp deficiencies | All Civil Courts | Reader | (i) An adequate description of each document must be given in relevant column. |

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| | | | | (ii) A column of brief reasons must be filled up intelligently and not left blank. |
| XV | Register of Commissions | All Civil Courts | Reader | |
| XVI | Register of warrants executed by Bailiffs | Senior Civil Judge | Civil Nazir | |
| XVII | Register of processes served by process servers | Senior Civil Judge | Naib Nazir | The register should be constantly inspected by the Court to see that there is a proper distribution of work amongst the different process-servers. |
| XVII | Register of documents returned | (a) All Civil Courts | Reader | (i) On the return of a document which has been admitted in evidence a receipt shall be given by a person receiving it (Order XII Rule 9 of Act V of 1908 (ii) An adequate |

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| | | (b) All Record Rooms | Record Keeper | description of the document returned must be given in relevant column. (iii) The Record Keeper will maintain this register for the return of documents in cases which have been consigned to the Record Room. |
| XIX | Register of deposits and refunds of commission on sale proceeds in execution proceeds | All Civil Courts | Ahlmad | |
| XX | Diary Register for Process-servers and Bailiffs | (a) District and Sessions Judge (b) Civil Judge (Sr. Division) | Process Server or Bailiff | |
| XXI | Register | All Civil | Ahlmad/Execu | |

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| | showing the decrees transferred to other courts and vice-versa | Courts | tion Clerk | |
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(B) List of Criminal Registers.

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| 1. | Register of cases under the Indian Penal Code and under Special and Local Acts. | All Magistrates Courts | Ahlmad | <p>(i) In this register should be entered all cases under the or under Special and Local Acts, as the case may be, Indian Penal Code sent up for trial by the Police or entertained by the Magistrate on a complaint preferred directly to themselves.</p> <p>(ii) The separate register will be maintained for cases under the Indian Penal Code and for cases under Special and Local Acts.</p> |
| II. | Register of Miscellaneous | All Criminal Courts | Ahlmad | In this register should be entered all |

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| | Criminal cases | | | cases under the Code of Criminal Procedure not involving offences and miscellaneous cases not forming the subject of a regular trial, such as inquiries into claims to suspected property, claims to restore property declared to be forfeited under Section 85 of the Criminal Procedure Code, rights to unclaimed property under Sections 25 to 27 of Act V of 1861 etc. |
| III | Register of cases decided in each Court | 'All Magistrates' Courts | Ahlmad | This register is intended to furnish materials for the compilation of the annual returns. The entries in this register are to be made at once on the conclusion of the |

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| | | | | <p>trial. In relevant columns, a distinctive mark should be used to show whether the imprisonment was rigorous or simple.</p> <p>In case in which a complainant is required to pay compensation to the accused, the fact should be noted in the column of remarks</p> |
| IV | Register of Sessions trials | Sessions Courts | Ahlmad | |
| V | Register of appeals and revisions in Criminal cases | Sessions Courts | Ahlmad | Separate Register for appeals and for revisions will be maintained. |
| VI | Register of dates fixed for trial of Criminal cases including dates of | All Criminal Courts | Reader | Section 309 of the Code of Criminal Procedure limits to a Maximum of 15 days the period for which a remand can be granted by |

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| | receipt of cases sent up for trial by the police | | | Magistrate. |
| VII | Register of Judicial fines | All Criminal Courts | Reader | <p>(i) The amount of fine realized should always be entered in the relevant column in the Judicial Officer's own handwriting.</p> <p>(ii) The number and date of the Treasury receipts should always be given in relevant column.</p> |
| VIII | Record Keeper's General Register of decided cases | All Record Rooms | Record Keeper | The entries in the register should be made in the order in which the files are deposited in the Record Room, and if more than 15 days expire between the date of the decision and the date of filling the record, the delay should be brought to the notice of the |

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| | | | | Sessions Judge. |
| IX | Register of All Summary Trials | Magistrates exercising summary powers | Reader | Columns 7-14 should be filled in by the Magistrate himself. |
| X | Register of Road and Diet Money of witnesses | All Criminal Courts | Reader | This Register should be checked by the Magistrate or the Sessions Judge, at least once a week and relevant column initiated |
| XI | Register of bail application | All Criminal Courts | Ahlmad | |
| XII | Register of First Information Reports | All Magistrates | Ahlmad | |
| XIII | Register of Arrest Warrants | All Criminal Courts | Ahlmad | |

(C) List of Miscellaneous Registers for Either or both Civil and Criminal Courts.

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| A | Register of Contingent expenditure | (a) Court of District and Sessions Judge (b) Court of Civil Judge (Sr. Div.) | Nazir or Cashier under the supervision of (a) Superintendent (b) Clerk of Court (c) Clerk of Court | |
| B. | Register of files taken from the Record Room for references. | All Record Rooms | Record Keeper | |
| C. | Register of miscellaneous proceedings received from other Districts or Courts | All Civil and Criminal Courts | Ahlmad | |
| D. | Register of dispatch packets or letters | All Civil and Criminal Courts | Ahlmad | |
| E. | Register of property received into the Nazir's | (a) District Judge (b) Civil Judge (Sr. | (a) District Nazir (b) Civil Nazir © Judicial | |

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| | store room/ Judicial Malkhana | Div.) © Chief Judicial Magistrate | Malkhana In charge. | |
| F. | Register of Petition Writers | District and Sessions Courts | English Clerk | |
| G. | Register of Caveats | District Judge. Civil Judge (Sr. Div.) | Superintendent Reader. | |
| H. | Disposal Register | All Courts | Readers. | |

(D)

**Registers Referred In Paragraph 4 A not Being Reproduced in
Volumes Vi-A and Vi-B But in Volumes I to IV**

| Name of Register | By whom kept | Reference to Rules and Orders, Volumes I to IV |
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| Register of officials required to furnish security and the amount of security | Superintendent to District and Sessions Judge and Clerk of Court to Civil Judge | Volume I, Chapter-29 |

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| deposited | (Senior Division Small Cause Court | |
| Register E of Guardian | Ahlmad | Volume II, Chapter |
| Insolvency Registers | Ahlmad | Volume II Chapter |
| Official Receiver's registers | Official Receivers | Volume II Chapter |
| Civil Court Deposit Registers | Civil Nazir and Nazir | Volume II, Chapter |
| Sheriffs Petty Accounts Register | Civil Nazir and Nazirs or Cashiers | Volume II, Chapter |
| Note Book of Bailiffs | Bailiffs | Volume II, Chapter |
| Note Book of Process-servers | Process-servers | Volume II, Chapter |
| Register of maintenance orders made by courts outside India for enforcement in India | Ahlmad | Volume III, Chapter |
| Register of Arms and Ammunition | Officer-in-charge of Nazarat | Volume IV, Chapter-9 |
| Supply of Copies Registers | Senior Copyist | Volume IV, Chapter- 16 |