

**CIVIL CIRCULAR.**

**No. 50**

**The 28th December 1891.**

For Criminal Circular, section 274 published at page 722, Part IV of the Burma Gazette dated the 19th December 1891, read section 275.

No.50. - The following rules, relating to the preservation and destruction of civil records belonging to the Courts of the Judicial Commissioner, or to the Civil Courts subordinate thereto, have been framed by the Judicial Commissioner, Lower Burma, in exercise of the power conferred by section 2 of the Destruction of Records Act, 1879, and have been confirmed by the Chief Commissioner and sanctioned by the Governor-General in Council. They are now published as required by section 5 of the Act and will supersede all previous rules on the same subject:-

**Records of Civil Cases.**

I. - The A files of cases under Classes I and IV shall be preserved for ever, with the exception of the oral and documentary evidence, which shall be destroyed after 12 years.

II. - Cases under Class II shall be destroyed at the end of 25 years.

III. - The A files of cases under Class III shall be destroyed after 12 years.

IV. - The B files of cases under Class IV shall be destroyed after 12 years, and in all other cases after 3 years.

N.B. - The above periods shall be calculated as regards suits or cases under Classes I, II and III from the date of the final decree or order, which in cases appealed will be that of the Appellate Court.

In cases under Class IV the period shall be reckoned from the date on which the application for execution was finally disposed of by the Court executing the decree, or by a Court of Appeal, whichever is the later date. For the purposes of this rule each execution record shall be dealt with separately irrespective of any other application to execute the same decree or order.

The above rules must be read in connection with section 8 of Act III, 1879. Wills must be permanently preserved, of which probate or letters-of-administration with the Will annexed have been granted (Indian Succession Act, X of 1865, section 259, and section 81, Probate and Administration Act, V of 1881).

V. - Miscellaneous non-judicial cases shall be destroyed at the end of six years from the date on which they were disposed of.

VI. - The records of suits decided by Judges of Small Causes, or under Small Cause Court procedure, shall be destroyed as follows:

If there is a decree under which any one is entitled to recover anything,

- at the end of one year from the date on which the decree has been fully satisfied or on which it has been declared that execution is barred or cannot be had.

In all other cases,- at the end of one year from the date of decree.

#### Papers other than Records of Cases.

VII. - Periodical statements prescribed by the Judicial Commissioner shall be destroyed at the expiration of the following periods:-

Weekly, monthly, or quarterly statements	...	...	...	One year.
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Annual statements	...	...	...	Seven years.
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Judges must exercise their discretion in preserving reports, returns, and proceedings likely to be useful in the future as containing the results of enquiries or other information, or the opinions of experienced officers on matters connected with the general administration of justice.

#### Registers.

VIII. - The periods for which Civil Registers shall be preserved shall be as follows:

(a) Register I of receipts and repayment of deposits, stamps, fines, & c.	...	...	...	...	}
(b) Register III of Regular Suits	...	...	...	...	
(c) Register VII of Regular Appeals	...	...	...	...	
(d) Register XV of letters received	...	...	...	...	
(e) Register XI of letters issued	...	...	...	...	
(f) Register V of Miscellaneous Judicial cases	...	...	...	...	}
(g) Register VIII of Miscellaneous Appeals	...	...	...	...	
(h) Register IV of applications for execution of decrees	...	...	...	...	
(i) Register II of daily receipts and payments on account of witnesses, civil prisoners, &c.	...	...	...	...	}
(j) Register IX of documents returned	...	...	...	...	
(k) All other Registers	...	...	...	...	Three years.

#### General.

IX. - The destruction of all records and papers of Civil Courts shall be carried into effect by burning. The practice of selling them as waste-paper is prohibited. Care must be taken that the papers set aside for destruction are not otherwise dealt with.

X. - The above rules shall be acted on from year to year at the close of each calendar year, so that no accumulation beyond the periods prescribed may be allowed to occur.

#### **Arrangement and Classification of Records.**

I. - The records of civil judicial proceedings, whether suits or cases, in all Civil Courts other than Small Cause Courts, and excluding suits and cases disposed of under Small Cause procedure by officers invested with Small Cause Court powers, shall be divided into four classes:-

Class I includes records of-

- (a) Suits for, or affecting, immoveable property, including suits for foreclosure, redemption, or sale.
- (b) Suits in respect of the succession to an office, or to establish or set aside an adoption, or otherwise to establish the status of an individual.
- (c) Suits relating to public trusts, charities, or endowments.
- (d) Suits between landlord and tenant to determine the rate of rent, or in which a question of right to enhance or vary the rent of a tenant, or any question relating to a title to land or to some interest in land as between parties having conflicting claims thereto, is in issue.

Class II includes records of-

- (a) Contested and uncontested suits and cases for probate and letters-of-administration and for the revocation of the same.
- (b) Cases under Act VIII of 1890 relating to the guardianship of minors and the administration of their property.
- (c) Cases under Act XXXV of 1858 relating to the guardianship of lunatics and the care of their estates.

NOTE.- An application by an executor or administrator, or by the guardian of a minor or lunatic, to sell, mortgage, &c., property belonging to the estate, is an application in the case and, together with all the proceedings connected with it, must form part of the record of the case.

Class III includes records of -

- (a) All suits which do not come under Class I or Class II, excluding suits of the Small Cause Court class which are tried in the regular Civil Courts under the procedure prescribed for Small Cause Courts.
- (b) Cases under Act XIX of 1841.

Cases under Act VII, 1889 (Collection of Debts).

Cases under Act X, 1870 (Land Acquisition Act), Parts III and IV.

Cases under the Civil Procedure Code for a declaration of insolvency.

Cases under the Civil Procedure Code to transfer a decree when no application for execution is pending.

Cases under Regulation V, 1799, section 7, regarding the property of intestates in which a claimant appears.

(c) Such other cases as the Judicial Commissioner may from time to time direct to be included.

NOTE. - Proceedings under the Civil Procedure Code for the transfer, or for the restoration, of a suit or appeal, or for a review of judgment, are proceedings in the suit or appeal and must form part of the record relating thereto.

Class IV includes-

Proceedings on an application to execute a decree.

NOTE. - Each application for execution shall be treated as a separate case, the record of which shall include the papers on all matters connected with the execution from the date on which the application was presented until it is finally disposed of, excepting only proceedings under section 331 of the Procedure Code, which are suits and come under Class I.

II. - Every record under Class I and Class III shall be divided, as the trial proceeds, into two files, A and B.

File A shall be called the Trial Record and shall contain-

- (a) Fly-leaf, with index of contents.
- (b) The plaint or application, together with any schedule annexed thereto.
- (c) The written statements of the parties.
- (d) Memorandum of the issues.
- (e) The lists of documents admitted in evidence.
- (f) The documents admitted in evidence in the order of their numbers or marks.
- (g) All the oral evidence in the order in which it was taken.
- (h) All the evidence taken on commission (including the interrogatories) in the order in which it was put in.
- (i) Interlocutory orders in the order of date.
- (j) Award of arbitrators or petition of compromise, if given effect to in the decree; also the return or report and the map and field-book (if any) of a Commissioner in matters relating to immoveable property, if

referred to or given effect to in the decree, but not any portion of the evidence taken by such Commissioner; also, in the case of minors or lunatics, any order of the Court sanctioning a compromise as beneficial to the minor or lunatic.

(k) The order (if any) for administration, or for partition, or for accounts, or enquiry, with the directions given and the judgment upon which such order is founded.

(l) The judgment.

(m) The final decree and, in mortgage suits, the decree or order absolute after decree.

(n) The diary.

(o) The copy of the judgment and decree of the Appellate Court or Courts (if any).

File **B** shall be called the Process Record and shall contain-

(a) Fly-leaf, with index of contents.

(b) All processes, returns thereto, lists of witnesses, petitions relating to adjournments and to the attendance of witnesses or their examination by commission, proceedings or letters calling for or sending for papers or records, and affidavits relating to processes.

(c) All powers-of-attorney, petitions, and papers not included in File A.

III. - Every record under Class II shall consist of one file, **A**, which shall contain all the papers relating to the case.

IV. - Every record under Class IV shall consist of two files, **A** and **B**.

File **A** shall contain-

(a) Fly-leaf, with index of contents.

(b) The application for execution.

(c) Applications by judgment-debtor or other persons objecting to the execution proceeding.

(d) Interlocutory orders.

(e) The final order.

(f) The diary.

(g) Copy of judgment and decree in appeal.

(h) The Bailiff's return of delivery of possession when possession of immoveable property is given in execution of decree.

File **B** shall contain all other papers.

V. - The record of an Appellate Court shall be arranged in the same way as that of the Court of Original Jurisdiction in cases falling under each class.

VI. - The records of suits decided by Judges of Small Cause Courts, or tried under Small Cause Court procedure, shall consist only of one file, A, including proceedings connected with execution of the decree.

F. RIPLEY  
Registrar.

----- Footnote -----

(1) Records of Civil cases. Para I., II., III., IV. = See Rules for arrangement and classification of records hereto annexed.