

(The Chief Court Process Fee Rules, 1912.)

No. 127

The 23rd July 1912.

[Amendment : 18.06.1989]

No. 127.- In exercise of the power conferred by section 3 of the Myanmar Process Fees Act, 1910, the Lieutenant-Governor is pleased to make the following rules for the service and execution of processes issued by the Chief Court of Lower Myanmar and the Court of Small Causes, Rangoon:-

1. (1) These rules may be cited as "The Chief Court Process Fee Rules, 1912."
(2) They shall apply to the Chief Court of Lower Myanmar and the Court of Small Causes, Rangoon.

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2. Throughout these rules-
 - (1) "The Chief Court" includes the Court of Small Causes, Rangoon, except in Rules 2 (2), 2(3), 15 and 16;
 - (2) "Senior Judge" means the Senior Judge of the Chief Court;
 - (3) "The Registrar" includes-
 - (a) The Registrar, Chief Court, and
 - (b) The Deputy Registrars, Chief Court.
 - (4) "Process" includes a summons on accused or defendant or witness, a warrant of attachment or arrest and any notice, proclamation, injunction or order, whether civil, criminal or general.
3. The general control of the process-serving establishment shall be vested in the Senior Judge.
4. Except as provided by Rule 11, no new appointment shall be made and no existing salary shall be increased under these rules unless the expenditure thereby to be incurred is provided for in the budget allotment of the Chief Court or by re-appropriation duly sanctioned by competent authority.
 - (a) Process-serving Establishments.

Bailiffs.

5. The Registrar-

- (1) shall appoint two Bailiffs;
- (2) shall declare which one shall be regarded as the Senior Bailiff;
- (3) may promote, suspend, remove or dismiss any Bailiff appointed under this rule.

6. The Senior Bailiff shall be directly subordinate to the Registrar and shall supervise and control the Junior Bailiff.

7. The Senior Bailiff shall give security in such form as may be prescribed by the Local Government and of such kind and amount as may be fixed by the Registrar.

Process-servers.

8. (1) The Registrar shall appoint one permanent establishment of process-servers for the service and execution under the direction of the Senior Bailiff and under his own control of processes issued or received for service by the Chief Court.

(2) The Registrar may promote, suspend, remove or dismiss any process-server appointed under clause (1).

9. No person shall be appointed as a process-server, whether permanent or temporary, unless he can read and write, and is capable of carrying out the rules relating to the actual service and execution of processes. Such special qualifications in addition to those mentioned may also be demanded from process-servers prior to appointment as the Registrar may from time to time consider necessary.

10. (1) The Registrar shall fix annually the number of permanent process-servers and the numbers in each grade required with regard to the annual number of processes issued for service or execution, processes received from other Courts or Officers being included and processes issued to other Courts or Offices being excluded.

(2) One process-server shall ordinarily be considered capable of serving or executing at least 2,000 processes per annum, separate account being taken of each person on whom or property in respect of which a process is issued. The strength of the establishment worked out on this basis shall then be scrutinised with regard to actual requirements and if possible reduced.

11. When no permanent process-server is available for-

(a) the custody of attached property, or

(b) the service or execution of a particular process or class of processes which must be served or executed with special expedition out of its turn-

the Registrar may appoint one or more temporary process-servers for this purpose. When the budget provision for such temporary appointments has been exhausted, if re-appropriation is not possible, the Registrar shall apply to the Local Government for an additional allotment, explaining briefly the

reasons which have rendered it necessary and, where possible, indicating the source from which the additional expenditure proposed may be met.

(b) Remuneration of Process-serving Establishments.

12. There shall be two grades of process-servers on the permanent establishment and

Grade.	Process-servers.	Bailiffs.	two grades of Bailiffs and the salaries of each grade shall not exceed the amounts respectively noted in the margin under their appropriate headings. Where the salary of an existing appointment differs from that shown against any of the prescribed grades no change shall be made without the sanction of the Senior Judge.	
			Rs.	Rs.
1st	---	15	200	
2nd	---	12.	120- 150	

13. Temporary process-servers appointed under Rule 11 (b) shall be remunerated at a daily rate which shall be fixed by the Registrar but shall not exceed annas 8 without the sanction of the Senior Judge.

(c) Registers to be maintained.

14. The Bailiff shall maintain registers in connection with the service and execution of processes in such forms and according to such instructions as may be prescribed by the Senior Judge subject to the control of the Local Government.

(d) Fees chargeable for service and execution of Processes.

15. (1) Subject to the exemptions set forth in Rule 16, process-fees on the following scale shall be levied in respect of each process from the person at whose instance or in whose interest the process is issued:-

Chief Court.

Rs. A.

(a) Summons (i) for each defendant 3 0

		(ii) for each witness and each accused	...	1	0
	Warrant of	(i) arrest for each person	...	...	4 0
		(ii) attachment-			
		(1) for each warrant or prohibitory			
	order	...	...	4	0
		(2) for each person required to take charge of the property attached, a watching			
	fee per diem of	...	0	8	
	(c) Any other process	...	...	3	0

Court of Small Causes, Rangoon.

(a) Summons	(i) for each defendant	...	...	1	0
	(ii) for each witness	...	...	0	8
(b) Warrant of	(i) arrest for each person	...	...	2	0
	(ii) attachment-				
	(1)	for each warrant or prohibitory order.	...	2	0
	(2)	for each person required to take charge of the property attached, a watching fee per diem of	...	0	8
(c) Any other process	...	...	...	0	8
(2) when a process (other than a warrant) is served on two or more persons residing in the same town or village in respect of the same case, half the prescribed fee shall be levied on account of each person.					

16. No process-fee shall be levied-

A. - General. - By the Chief Court and Court of Small Causes, Rangoon-

- (1) for any process re-issued or issued in consequence of (a) a mistake or (b) an adjournment for which the Court is solely or mainly responsible;
- (2) for the copy of a process affixed to a Court-house or Government office;
- (3) for an order intimating withdrawal of attachment or postponement of sale;
- (4) for an order directing an officer in charge of a jail to detain or release a person in his custody;

B. - By the Chief Court in exercise of its original criminal jurisdiction-

- (1) for a summons to attend as a juror;
- (2) for any process issued (a) on its own motion or (b) in a cognizable case;

C. - By the Chief Court in exercise of its original civil jurisdiction and by the Court of Small Causes,

Rangoon-

- (1) for any process issued on its own motion solely for the purpose of taking cognizance of and punishing any act done or words spoken in contempt of its authority;
- (2) for a notice fixing the date for appearance in cases returned under Order XLI, Rules 23, 25 or 28 or sent under Order XLIV, Rule 2 of the First Schedule of the Code of Civil Procedure, 1908;
- (3) for any copy of a process fixed or posted up under Order XXI, Rules 35, 36, 44, 45, 54 and 96 of the First Schedule of the Code of Civil Procedure, 1908, or under section 250, Act X of 1865, or under section 69, Act V of 1881, when the prescribed fee has been levied for the original process;
- (4) for any notice affixed to the Chief Court buildings in pursuance of an order made by the Chief Court under paragraph 3 (2) of the Third Schedule of the Code of Civil Procedure, 1908;
- (5) for any order intimating to an officer holding a sale that permission has been given to a decree-holder to bid for or purchase property under Order XXI, Rule 72 of the First Schedule of the Code of Civil Procedure, 1908;
- (6) for any notice issued under section 20 of the Land Acquisition Act, 1894.

17. A copy of Rules 15 and 16 in English and Myanmar shall be posted up in the Chief Court buildings in a conspicuous position accessible to the public.

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18. All charges on account of boat-hire, tolls, railway and steamer fares, postage and other contingencies incurred in connection with the service or execution of processes shall be paid by Government and nothing beyond the process-fees prescribed by Rule 15 shall be levied from the person at whose instance the processes are issued or from such other person as the Chief Court may in any case determine.

(e) Manner in which Process-fees shall be levied and recovered.

19. In all cases, unless the Chief Court by order in writing permits their levy subsequent to the issue of process, process-fees shall be recovered before the process is drawn up for service or execution from the person at whose instance it is issued or by whom the Chief Court directs that payment shall be made-

- (a) in the case of watching fees prescribed by Rule 15 (1) (b) (ii) (2) in cash;
- (b) in all other cases in Court-fee stamps which shall be affixed either to the written application (if any) made for the issue of the process or to the order directing its issue.

20. (1) Warrants of arrest issued by the Chief Court in exercise of its original or appellate criminal jurisdiction shall ordinarily be sent to the Police for execution.

(2) All other processes for service or execution outside Rangoon shall be sent to the Court of highest grade, not being a Divisional Court, at the headquarters of the Township within which the process is required to be served or executed.

21. The clerk who issues a process before sending it to the Bailiff for service or execution shall note on it the words "Fee Rs. paid" or "Exempted under Rule 16 ()" entering in the blank the amount of the fee levied under Rule 15 or the number of the clause of Rule 16 under which the process is exempted as the case may be.

22. When a process is sent for service to another Court or Officer in British India or Hyderabad, an intimation (written on the face of the process or on a list containing particulars of the processes sent, where more than one) shall be sent to the effect that the prescribed fee (stating its amount in words and figures) has been levied or that the process is exempt from fee and such intimation shall authorize the service without further fee.

23. If process fees in excess of the prescribed amount have been paid, the Chief Court may within one year refund the excess to the person who paid the same.

W. J. KEITH,

Secretary to the Government of Myanmar.