

JUDICIAL II BRANCH.

(Rules for the High Court of Judicature at Rangoon.)

No. 316.

Rangoon, the 25th November 1940.

[Amendment : 18.06.1989]

Amending Law

No. 316.-In exercise of the powers conferred by section 3 of the Process Fees Act, the Governor of Myanmar makes the following rules for the service and execution of processes issued by the High Court of Judicature at Rangoon.

They supersede the rules published in High Court's Notification No. 7 (General), dated the 18th December 1922, and Judicial Department Notification No. 266, dated the 18th December 1922, as subsequently amended:-

RULES.

- 1.** Throughout these rules unless there is anything repugnant in the subject or context-
 - (1) "The Court" means the High Court of Judicature at Rangoon.
 - (2) "The Judge" means the Chief Justice or any other Judge deputed by him to perform the duties of the Judge under these rules.
 - (3) "Bailiff" means the Bailiff of the High Court.
 - (4) "Process" includes a summons on accused or witness, a warrant of attachment or arrest and any notice, proclamation, injunction or order, whether Civil, Criminal or General.
- 2.** The general control of the process-serving establishment of the Court shall be vested in the Judge.
- 3.** Except as provided by Rule 10, no new appointment shall be made and no existing pay shall be increased under these rules unless the expenditure thereby to be incurred is provided for in the budget allotment of the Court or by reappropriation duly sanctioned by competent authority.

(A) Process-serving Establishment.

Bailiff.

- 4.** The Judge-
 - (1) shall appoint the Bailiff of the Court;
 - (2) may promote, suspend, remove or dismiss the Bailiff.
- 5.** The Bailiff shall be directly subordinate to the Registrar and shall supervise and control the cashier and clerks in the Bailiff's Department of the Court.
- 6.** The Bailiff shall give security in such form as may be prescribed by the Governor and of such kind and amount as may be fixed by the Judge.

Process-servers.

- 7.** (1) The Registrar shall appoint a permanent establishment of process-servers for the service and execution under the direction of the Bailiff and under his own control of processes issued or received for service by the Court.
 - (2) The Registrar may promote, suspend, remove or dismiss any process-server appointed under clause (1).
- 8.** 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.
- 9.** (1) The Registrar shall fix annually the number of permanent process-servers required with regard to the annual number of processes issued for service or execution, processes received from other Courts or offices 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.
- 10.** 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.

(B) Remuneration of Process-serving Establishment.

- 11.** The pay of the Bailiff and of the process-servers shall be such as may be sanctioned by the Governor.
- 12.** Temporary process-servers appointed under Rule 10 (b) shall be remunerated at a daily rate which shall be fixed by the Registrar, but shall not exceed annas eight without the sanction of the Judge.

(C) Registers to be maintained.

- 13.** 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 Judge subject to the control of the Governor.

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

14. Subject to the exemptions set forth in Rule 15, 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:-

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

15. (1) No process-fee shall be levied-

- (i) 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;
- (ii) for the copy of a process affixed to a Court-house or Government Office;
- (iii) for an order intimating withdrawal of attachment or postponement of sale;
- (iv) for an order directing an officer in charge of a jail to detain or release a person in his custody;
- (v) for any process issued on the Court's own motion in respect of which the Court has declared that no fees shall be levied;

[The power of making such a declaration may also be exercised by the Registrar, Taxing Master and Official Referee, Deputy Registrars and Assistant Registrars.]

- (vi) 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) No process-fee shall be levied-

By the Court in exercise of its Original Criminal Jurisdiction.

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

(3) No process-fee shall be levied-

By the Court in exercise of its Original Civil Jurisdiction-

- (i) 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;
- (ii) 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, or under section 283 of the Succession Act, when the prescribed fee has been levied for the original process;
- (iii) for any notice issued under section 20 of the Land Acquisition Act.

16. A copy of Rules 14 and 15 in English and Myanmar shall be posted up in the Court buildings in a conspicuous position accessible to the public.

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17. 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 14 shall be levied from the person at whose instance the processes are issued or from such other person as the Court may in any case determine.

Provided that where a process may legally be served by post and the applicant desires it to be transmitted by air-mail between two places which are connected by a surface route, then the air-mail surcharge shall be levied in addition to the process-fee.

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

18. In all cases, unless the 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 Court directs that payment shall be made-

- (a) in the case of watching fees prescribed by Rule 14 (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.

19. (1) Warrants of arrest issued by the Court in exercise of its 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 at the headquarters of the township within which the process is required to be served or executed.

20. Before a process is sent to the Bailiff for service or execution, there shall be noted thereon the words "Fee Rs. paid", or "Exempted under Rule 15.)" and in the blank space the amount of the fee levied under Rule 14 or the number of the clause of Rule 15 under which the process is exempted, as the case may be, shall be entered.

21. When a process is sent for service to another Court, 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.

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

reposted as officiating Superintendent, Combined Borstal and Senior Training School, Thayetmyo.

By order,
F. S. V. DONNISON,
Secretary to the Govt. of Myanmar,
Judicial Dept.
The 26th November 1940.