

(Rules Under the Upper Myanmar Civil Courts Regulation, I of 1896)

No. 335

THE MYANMAR GAZETTE, NOVEMBER 19TH, 1898.

[Amendment : 18.06.1989]

Amending Law

No. 335. -The following rules regulating the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and Officers in Upper Myanmar, and as to the remuneration of such establishments, have, in supersession of all previous rules on the same subject made under the Court Fees Act, 1870, been made by the Lieutenant-Governor and sanctioned by the Governor-General in Council under section 32 of the Upper Myanmar Civil Courts Regulation, I of 1896, and are published for general information:-

A. - Relating to the remuneration of process-serving establishments.

Salaries of process-serving establishment.

- ☐ I.- (a) The salaries to be allowed to the persons employed in the service and execution of processes issued by the Civil and Criminal Courts and Revenue Courts and Officers of Upper Myanmar shall be as follows:-

Bailiffs-

First grade	...	...	...	...
Second grade	...	...	...	...

Deputy Bailiffs-

First grade	...	...	...	...
Second grade	...	...	...	...

Process-servers-

First grade	...	...	...	...
Second grade	...	...	...	...

Provided that the provisions of this clause shall not affect the salaries of present incumbents.

Proportion of process-servers in each grade.

- (b) The number of process-servers of the 1st grade employed on the permanent establishment of any district shall not ordinarily exceed one-third of the total number of process-servers employed on the permanent establishment of such Court or district.

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Security to be given by Bailiffs.

- ☐ II.- Security shall be taken from Bailiffs and Deputy Bailiffs in such amounts as may be decided from time to time by the Judicial Commissioner, subject to the approval of the local Government. The security bond shall be in the form prescribed by Circular.

Temporary process-servers.

- ☐ III.- Should it be necessary at any time to appoint temporary process-servers for any of the purposes mentioned in Rule XII, such process-servers shall be remunerated at a daily rate of 8 annas a day, and shall be charged for in the contingent bill of the Court or Revenue Officer employing them. The local Government may sanction a higher rate, not exceeding Rs. 2 a day, for districts or parts of districts, if necessary.

B. - Relating to the numerical strength of process-serving establishments.

Bailiffs and Deputy Bailiffs.

- ☐ IV.- (a) There shall be a Bailiff attached to every District Court subordinate to the Judicial Commissioner.
- (b) No Court, Civil or Criminal, subordinate to the Judicial Commissioner shall entertain a Deputy Bailiff without the previous sanction of the Judicial Commissioner.
- (c) The local Government shall fix for each District Court the grade of the Bailiff who shall be entertained. Subject to this condition Bailiffs shall be appointed by the Deputy Commissioner.
- (d) The local Government shall fix the grade of the Deputy Bailiff sanctioned for any Court. Subject to this condition Deputy Bailiffs shall be appointed by the Deputy Commissioner.
- (e) In determining the grade to which a Bailiff or Deputy Bailiff shall be appointed the Judicial Commissioner shall have regard to the amount of process-serving work which such officer is required to supervise.
- (f) Nothing in clauses (b), (c), (d), and (e) of this rule shall be taken to affect existing establishments or the pay drawn by present incumbents of the office of Bailiff or Deputy Bailiff.
- (g) Unless otherwise ordered by the Judicial Commissioner the Head Clerk of every Subdivisional Officer shall be ex-officio Deputy Bailiff of the Subdivisional Court and the Head Clerk of every Township Officer shall be ex-officio Deputy Bailiff of the Township Court. This clause does not apply to Township Courts located at the headquarters of a district or subdivision, or to Subdivisional Courts located at the headquarters of a district.

Subordination of Deputy Bailiffs to Bailiffs.

- ☐ V.- At Courts where there is a Bailiff the Deputy Bailiff shall be directly subordinate to him. At Courts where there is no Bailiff the Deputy Bailiff shall be immediately subordinate to the Subdivisional Officer or Township Officer, as the case may be.

Appointment of Sub-Deputy Bailiffs.

- ☐ VI.- For every Court for which a Deputy Bailiff is appointed the Deputy Commissioner may, subject to the control of the Judicial Commissioner, appoint a clerk, from whom security shall be taken in such amount as may from time to time be decided by the Judicial Commissioner, to be Sub-Deputy Bailiff and to perform, during any absence of the Deputy Bailiff, the functions of the Deputy Bailiff.

Subordination of process-servers to Bailiffs, &c.

- ☐ VII.- Process-servers, whether permanent or temporary, shall be under the immediate orders of the Bailiff and Deputy Bailiff or of the Deputy Bailiff where there is no Bailiff.

Appointment, &c., of process-servers.

- ☐ VIII.- The appointment, promotion, suspension, and dismissal of all process-servers shall in the District Courts, rest with the presiding officer of the Court, and in Subdivisional and Township Courts with the Deputy Commissioner.
- ☐ IX.- (a) There shall be one general establishment of process-servers permanently attached to each District Court for the service and execution under the immediate direction of the District Bailiff and the control of the Deputy Commissioner of processes, civil, criminal, and revenue, issued or received for service, by the Civil, Criminal, and Revenue Courts and Officers located at the headquarters of each district.
- (b) There shall be one general establishment of process-servers permanently attached to each Subdivisional Court, not located at the headquarters of a district, for the service and execution under the immediate direction of the Subdivisional Deputy Bailiff and the control of the Subdivisional Officer of processes, civil, criminal, and revenue, issued or received for service, by the Civil, Criminal, and Revenue Courts and Officers located at headquarters of the subdivision.
- (c) There shall be one general establishment of process-servers permanently attached to each Township Court, not being a Court located at the headquarters of a district or subdivision, for the service and execution under the immediate direction of the Township Deputy Bailiff and the control of the Township Officer of processes, civil, criminal, and revenue, issued or received for service, by the Township Court.
- ☐ X.- (a) The Deputy Commissioner of each district, including the district of Mandalay, shall ascertain annually and report to the Judicial Commissioner the number of process, civil, criminal, and revenue, issued for service or execution by the permanent establishment attached to the District Court and by the permanent establishments attached to every Subdivisional and Township Court in the district, including processes received by the District Court or by any Subdivisional or Township Court for service or execution from other Courts or officers, but excluding processes issued for service or execution to other Courts or officers.
- (b) The permanent staff of process-servers to be employed in the Court of each district shall be determined with reference to the number of processes ascertained in the manner laid down in clause (a), each process-server being for this purpose considered capable of serving and executing-

In Mandalay Town, at least	1,800	} processes per annum.
Elsewhere, at least	600	

Explanation.- For the purpose of this clause service of execution shall be taken into account in respect of each separate person on whom, or property with respect to which, the process was issued.

- (c) In districts where travelling is exceptionally difficult the number of processes which each peon is expected under clause (b) of this rule to serve or execute may, with the sanction of the Judicial Commissioner, be reduced by not more than one-half, and the number of process-servers to be employed may be determined accordingly.
- (d) Notwithstanding anything in clause (b) or clause (c), the number of process-servers employed shall not in any case exceed the number actually required.

By what authority the number of permanent process-servers for each Court and district is to be determined.

- ☐ XI.- Subject to Rule I, clause (b)-
- (a) the number of process-servers on the permanent staff to be attached to each district shall be determined annually by the Judicial Commissioner on receipt of the reports required by Rule X, clause (a), to be submitted to him;
- (b) the permanent staff of process-servers sanctioned by the Judicial Commissioner for each district shall, subject to approval of the Commissioner, be distributed between the District, Subdivisional, and Township Courts of the district as the Deputy Commissioner may direct, and no alteration in such distribution shall be made without the sanction of the Commissioner.

Employment of temporary process-servers.

- ☐ XII.- (a) On special occasions, should it be necessary in order to save delay, any Civil Court subordinate to the Judicial Commissioner may, in anticipation of sanction, appoint one or more temporary process-servers for the service or execution of any particular process or class of processes. All such appointments shall at once be reported to the Judicial Commissioner for formal sanction, with an explanation of the reason which has made the employment necessary.
- (b) When no process-server on the permanent establishment of any District, Subdivisional, or Township Court can be spared, temporary process-servers may be appointed to take charge of property attached by order of a Civil Court or of a Revenue Court or Officer. Such appointments shall not require the sanction of the Judicial Commissioner.
- (c) The Financial Commissioner may also from time to time sanction the employment of one or more temporary process-servers, should it be necessary to do so, in any district for the purpose of serving or executing any particular revenue process or class of revenue process, or to take charge of property attached by order of a Revenue Court or Officer.
- (d) Only persons who have been registered, as hereinafter provided, shall ordinarily be employed as temporary process-servers.

C. - Relating to the mode of issuing, serving, and executing processes, and the maintenance of Registers.

Court certificate to Bailiff that process fee has been paid.

- ☐ XIII.- When a process has been drawn up in any Court or Revenue Office, the Head Clerk of the Court or office shall, before sending it to the Bailiff for issue or service, certify upon it the amount of process fee which is leviable and that this amount has been paid, and the Bailiff shall not issue the process from this office without such certificate. If the process is exempt from payment of fee, the Head Clerk shall write or stamp across the process the word "exempted."

Mode of serving and executing processes.

- ☐ XIV.- (a) Every process issued by a Civil, Original, or Appellate Court for service or execution under section 85, 94, 166, or 553, Civil Procedure Code, shall ordinarily be sent direct to the Court of the township in which it is to be served or executed.

Explanation.- In this rule the term "Court of the township" includes the District Court when the Township Court is located at the headquarters of the district, and the Subdivisional Court when the Township Court is located at the headquarters of the subdivision.

- (b) When the jurisdiction of a Civil, Original, or Appellate Court embraces two or more townships, a process issued by such Court for service or execution within its own jurisdiction may be sent for service or execution either to the Bailiff or Deputy Bailiff of the issuing Court, or to the Deputy Bailiff of the Township Court in whose jurisdiction the process is to be served or executed, as the presiding officer of the issuing Court may by general or special order direct.
- (c) Processes issued by Criminal Courts (except warrants of arrest, which will ordinarily be sent for execution to the police) and processes issued by Revenue Courts and Officers shall be sent for service or execution to the same Courts as they would be sent to under this rule if they had been issued by Civil Courts.

Registers.

- ☐ XV.- In each Court such registers connected with the service and issue of processes shall be maintained as may from time to time, with the previous sanction of the Lieutenant-Governor, be prescribed by the Judicial Commissioner of Upper Myanmar and the Financial Commissioner for their own Court and office and the Courts and offices respectively subordinate to them.

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Service-books and note-books.

- ☐ XVI.- Every process-server on the permanent establishment shall keep-
- (i) a service-book in the usual form;
- (ii) a notebook in which he shall enter all processes and moneys received by him and the manner in which and the date whereon they have been disposed of. No form is prescribed, but the note-book, which shall be taken everywhere by the process-server when on duty, shall be inspected at least once in each month by the Bailiff or Deputy Bailiff, who shall write in it his initials and the date on the occasion of each inspection.

D. - Relating to the qualifications of persons to be employed on the duty of serving processes.

- ☐ XVII.- A person who cannot read or write, or who is not capable of fully and intelligently carrying out the rules relating to actual service, shall not be employed as a process-server either permanently or temporarily.

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