

CHAPTER 7

PROCESSES—CIVIL COURTS

PART A—GENERAL

1. The provisions regarding the service of summons on the parties, contained in sections 27, 28, 29 and 143, Order V, Rules 9 to 30, Order XXVII, Rule 4, Order XXIX, Rule 2, Order XLVIII, Rules 1, 2 and 3, Order III, Rules 3,5 and 6, Order XXVIII, Rules 3, Order XXX, Rule 3, and Order XLI, Rule 14 of the Civil Procedure Code as amended by the High Court should be strictly observed, as neglect of them may often render the service ineffectual, especially when personal service cannot be made.

General provisions, regarding services of summons.

2. Attention is drawn to the following rules regarding service in particular cases :-

Rules regarding service in particular cases.

<i>Re</i> : service on agents	..	Order III, Rules 3 and 6, and Order V, Rules 12, 13 and 14.
<i>Re</i> : service on pleaders	..	Order III, Rule 5.
<i>Re</i> : service on Corporation		Order XXIX, Rule 2.
<i>Re</i> : service on Firms	..	Order XXX, Rule 3.
<i>Re</i> : service in suits against the Government		Order XXVII, Rule 4 and Chapter 8 of Volume I.
<i>Re</i> : service in suits against Military or Naval men or Airmen		Order XXVIII, Rule 3, Order V, Rules 28 and 29 and Chapter 7-D of this volume.
<i>Re</i> : service by post	..	Order V, Rule 10, as amended by the High Court and Rules 20-A, 21, 24 and 25.
<i>Re</i> : service re : appeals	..	Chapter 14-B, volume I.
<i>Re</i> : service re : execution		Chapter 12, E, paragraph 11, Volume I.

3. Summonses for service on persons residing within the limits of cantonments should not be sent to Executive Officers of cantonments.

Service in cantonments.

4. The general procedure for serving processes on witnesses is the same as in the case of defendants. (See

Service on witnesses.

Order XVI, Rule 8, and also Volume I, Chapter 5 “Witnesses—Civil Courts.”

Service of orders and notices.

5. All orders and notices issued under the Code are to be served in the manner provided for the service of summons (Order XLVIII, Rule 2).

Service of processes during trial, appeal and execution.

6. In connection with the service of processes during the trial, attention is invited to Rules 19 to 25 of Order VII, Rules 11 and 12 of Order VIII and Order XLI (appeals), Rule 38, of the Code framed by the High Court under section 122 of the Code of Civil Procedure. Under the new rules parties are required to file addresses for the purposes of serving notices on them during the trial. If the party concerned is not found at the address given, the procedure laid down in Order VII, Rule 22, should be followed, and if the party fails to appear on the date fixed notice should be sent to the address by registered post. Such service is then taken to be as effectual as personal service.

The new rules are intended to facilitate service of processes on parties throughout the trial including appeals and executions and should be carefully studied.

Form of processes.

7. Forms of processes will be found in Appendix B to Schedule I of the Code of Civil Procedure. In the case of persons of distinction a letter may be substituted for a summons if the Court thinks fit (Order V, Rule 30).

Form for return of processes.

8. The forms prescribed for the return of Processes by Process-servers (as amended by the High Court) should be followed as nearly as the circumstances of the case permit. These forms are reproduced in Appendix I to this Chapter.

Scale of process-fees.

9. For the scale of process-fees see Chapter 5 of this Volume. For instructions as to the levy of fresh process-fees in certain cases and fees for substituted service see Part A of Chapter 5 of this Volume.

10. When processes are transmitted by post, they should be sent under service covers, and should ordinarily be registered. (Section 143, Civil Procedure Code).

Processes sent by post.

11. Ordinarily bailiffs are to be employed for the execution of warrants of attachment, arrest and delivery of possession, etc., but process-servers may be employed for this purpose with the permission of the officer-in-charge of the Nazarrat where the value of property involved is not high. *Re* : execution of warrants of sale by process-servers see Rule 24 (iv) Chapter 12-L, Volume I.

Employment of process-servers for execution of warrants of attachment, arrest and sale.