

PART D—ISSUE OF SUMMONS OR OTHER PROCESS FOR SERVICE ON PERSONS IN THE ARMY, NAVY OR AIR FORCE

1. (1) Order V, Rules 28 and 29, of the Code of Civil Procedure, provide for the service of processes on soldiers, sailors or airmen other than commissioned officers. Such processes should invariably be transmitted for service to the proper military authority.

Service of processes on employees in the Army, Navy and Air Forces.

(2) There is no special provision in the Code for the service of processes on officers as distinct from soldiers; and such processes should ordinarily be served personally by the European Bailiff of the Court. If there is no European Bailiff attached to the Court, it will be convenient to send the process to the commanding officer or the officer concerned for service in the manner indicated in Order V, Rules 28 and 29.

Sufficient time to be allowed in fixing dates.

2. In fixing dates for the attendance of persons in the Army, Navy or Air Force, the Courts should be careful to allow sufficient time. It should be remembered that in fixing a date for the appearance of the defendant in such cases, the time necessary for the transmission of the summons, through the usual channels, for service on the defendant must be taken into consideration, as well as the time which the defendant may, after service, reasonably require to make arrangements for obtaining leave and appearing in person or for appointing and giving instructions to an agent to represent him in the case.

Fresh date should be given if time allowed proves insufficient.

3. On the day fixed for hearing, if it appear that from any cause the summons was not served in sufficient time to enable the defendant to make the necessary arrangements for appearing in person, or by agent, a fresh date must be fixed and notice given to the defendant, but this will seldom be necessary if Courts are careful in the first instance to allow sufficient time, as required by Order V, Rule 6, of the

Code of Civil Procedure, and explained in the above remarks.

Service on agent or pleader.

4. It may be noted that when an officer, soldier, sailor or airman has authorised any person under Order XXVIII, Rule 1, to sue or defend in his stead processes may be served on such agent or upon any pleader appointed by such agent. (Order XXVIII, Rule 3).