

## CHAPTER 5

### Process Fees

#### Part A

#### REMARKS AND DIRECTIONS

**1. Table of fees to be exhibited in each Court house**—A table of the fees chargeable on processes should be exhibited in each Court in some conspicuous place.

**2. Fees on criminal processes**—The Court-fees Act, Section 20, clause (ii), restricts the levy of a fee on criminal processes to non-cognizable cases. The fee for such processes has been fixed at a uniform rate of twelve annas.

**3. Agency for service of criminal processes on which fee is levied**—Every criminal summons for the service of which a fee is levied under the rules framed by the High Court under Section 20 of the Court-fees Act (VIII of 1870) shall be served by the process-serving establishment of the Court issuing the summons.

**4. Recovery of process fee from accused as a fine in certain cases**—Courts are reminded that, under Section 546-A (Section 359 of new Code) of the Code of Criminal Procedure, in cases of conviction of an accused of the offence of wrongful confinement, wrongful restraint, or of any non-cognizable offence, the Court may by its order direct that the accused should pay to the complainant any sum that he may have expended in issue of processes; and such sum may be recovered in the manner provided for recovery of fines.

**5.** With regard to the service of processes issued by Revenue Courts and Revenue Officers, the Financial Commissioners, Punjab, have in exercise of the powers conferred by clause (c) of sub-section (1) of Section 155 of the Punjab Land Revenue Act, 1887, made the following rules :—

#### Rules

(1) Notwithstanding the separation of the Revenue from the Civil Courts, Revenue Courts and Revenue Officers shall send the processes issued by them, for which process fee is charged, to the civil process serving agency for service and execution.

(2) The control over income derived from process fees in all Revenue Courts and Revenue Offices and the expenditure on establishment, etc., from this source, shall be retained by the High Court. The Commissioners and the subordinate Revenue Courts and Officers shall maintain the registers and accounts prescribed by the Rules and Orders of the High Court and submit the annual returns in the prescribed form.

(3) The Revenue Courts and Officers of the Punjab are, for the purpose of levying

process fees, divided into three grades as shown in the annexed table—

Grade	Revenue Courts
First	Financial Commissioners
Second	Commissioners
Third	Collectors and Assistant Collectors

The process fee shall be levied in accordance with the rules framed by the High Court under Section 20(i), (ii) of the Court-fees Act, 1870, as contained in Chapter 5-B of the High Court Rules and Orders, Volume IV.

*(Financial Commissioners' Office, Punjab, Notification No. 54-R, dated the 15th January, 1946)*

**6. Diary of process fees. Receipts for process fees. Preparation and issue of processes**—No process shall be prepared or issued until the proper fee for the service thereof has been paid, but as soon as the process fee (talbana) is paid by a litigant, his agent or his pleader, a receipt in the prescribed form shall be granted by the ahlmad or other official receiving the same, and thereafter the Court-fee label denoting the fee shall be affixed to the diary of process fees and immediately punched. The process shall then be prepared but it will be left to the party who applied for the process to issue it or not as he thinks fit. This will obviate the necessity for making any refund of the value of Court-fee filed on account of processes which are not eventually issued.

**7. Particulars to be noted on processes issued**—On every process issued from any Court the following particulars shall be recorded, namely:—(1) the name of the process-server deputed to serve or execute the same; (2) the period within which the process-server is required to certify service or execution; (3) the amount of fee paid and the date of payment ; and (4) the date of return after service or execution.

Such endorsements shall be signed by the Civil Nazir or Naib-Nazir, or Bailiff.

**8. Accounts of process fees and costs of establishment to be maintained**—An account of Court fee stamps realised as process fee of processes issued (civil and criminal), of the number of process-servers employed, of the cost of establishment and of contingencies shall be kept for each Court where a separate establishment is entertained.

**9. Review of process-serving establishment in civil report**—A statement giving information on the above points should be submitted with the annual civil reports.

**10. Diary of process fees**—With the record of each civil case, and of each criminal case in which process fees are levied, should be kept a separate sheet of paper to be termed the 'Diary of process fee' which should be devoted to the sole purpose of maintaining a record of process fees. This diary should be in the prescribed form, and should form a portion of Part B. In it entries should be made in chronological order of every process ordered to be issued in the case, and the stamps should be affixed opposite each entry and cancelled immediately upon being affixed.

**11. Process fee in case of substituted service**—In cases of substituted service under Order 5, Rule 20, Civil Procedure Code, one process fee shall be charged to cover all the acts done under that rule. In case of drum beating or publications in a Newspaper the charges for the same shall be paid in addition to the process fees.

**12. No process fee for several attempts to serve the same process**—Where a process-server makes several visits before the date of hearing in order to serve the *same* process, no additional process fee shall be charged for those extra visits.

**13. Fresh fee payable for every fresh process**—Where however a fresh process is issued a fresh fee shall be paid, except in the following cases:—

(i) When the process previously issued is not received back after execution on the date of hearing;

(ii) When the previous process is received back unserved on account of a mistake on the part of the Court Ahlmad; and

(iii) When the previous process has been returned by the process-server on account of insufficient time for service.

*Explanation*—No fresh process fee shall be payable when process has not been issued on the fee already paid and in deposit.

**14. Fresh fee payable when a fresh process has to issue for want of correct address**—A fresh fee will also be charged when service cannot be effected owing to want of correct or adequate address and a fresh process has to issue.

**15. No fee to be charged for serving and executing processes on behalf of prosecution of certain criminal proceedings**—Attention is drawn to the Court-fees (Punjab Amendment) Act, 1939, Punjab Act IV of 1939. which lays down that no fees shall be charged for serving and executing processes on behalf of the prosecution in any criminal proceedings taken on information presented or complaint made by a public officer acting in his official capacity.

The State Government may by Notification determine what persons shall be deemed to be public officers for this purpose.

*Note*—The Government has declared all Police officers to be public officers for this purposes.

## Part B

### RULES UNDER SECTION 20, CLAUSES (i) AND (ii)

*Rules made by the High Court under the power conferred by Section 20, clauses (i) and (ii) of the Court-fees Act, 1870, confirmed by the State Government regarding the fees chargeable for serving and executing processes issued by the High Court in its appellate jurisdiction and by the Civil and Criminal Courts established within the local limits of such jurisdiction.*

## Rules

**1. Grades of Court for purposes of process fee**—The Civil Courts of the Punjab, shall for the purpose of levying process fees, be divided into three grades as shown in the annexed table—

Grade	Civil Courts
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First	The High Court
Second	District Court
Third	Courts subordinate to the District Court

*Notes* 1—The Disciplinary Committee of the Bar Council mentioned in Section 42 of Advocates Act, 1961 shall be deemed to be a Civil Court of the First Grade for the purposes of this Rule.

2. For the purposes of this rule a Tribunal established under Section 12 of Punjab Act, VIII of 1925 (the Sikh Gurdwaras Act of 1925), and the Motor Accidents Claims Tribunal Constituted under Motor Vehicles Act, 1939 shall be deemed to be a Civil Court of the Second Grade.

3. The Court of a Sub-Judge, invested with appellate powers, is deemed to be a District Court for the purposes of all appeals preferred and is therefor a Court of the Second Grade.

**2. Fees for each grade of Court**—Fees for the service of processes shall be levied in each grade of Court according to the following scale, namely—

Name of Process	Courts of first grade	Courts of second grade	Courts of third grade
	Rs. n.P.	Rs. n.P.	Rs. n.P.
Summons, notice or other process not being a warrant of arrest or of attachment	3.00	1.50	0.75
Warrant of attachment	6.00	3.00	1.50
Warrant of arrest	6.00	3.00	3.00

*Note*—(For Ambala District only). Parties serving processes on their own witness shall pay fees at half the rates prescribed in the table above.

**3. Separate process to issue for each person to be served and a separate fee to be charged**—A separate process shall be issued for each person summoned or arrested, or upon whom a notice is served; and *subject to the rule next following*, a separate fee shall be charged for each process.

In a case in which it is desired to attach the property of more than one person (judgment-debtors or their sureties), in the same village, a combined warrant of attachment shall be issued and only one attachment fee shall be charged, but if the property lies in more than one village a separate fee shall be charged for each village.

**4. Process fee when a process has to be served on 4 or more persons**—When any process, other than a warrant of arrest or of attachment, is to be served upon four or more persons being parties, one fee only shall, according to the scale in Rule 2, be charged in respect of the first four processes, and an additional fee, according to the subjoined scale, shall be charged for each process to be served in excess of four, provided that the aggregate amount of the fee leviable under this rule shall not exceed the maximum prescribed for each grade of Court—

	Courts of first grade	Courts of second grade	Courts of third grade
	Rs. n.P.	Rs. n.P.	Rs. n.P.
Rate of additional fee	0.75	0.37	0.19
Maximum	22.50	15.00	7.50

*Note*—This rule is not applicable to processes issued for service on witnesses.

**5.** Except as otherwise directed by any provisions of law, a fee of 75 nP. shall be chargeable for any process issued by a Criminal Court, whether such process be served through the Process-serving Establishment or through the Police :

Provided that no fee shall be chargeable for any process of a Criminal Court relating to a cognizable offence, as defined in Section (4) (i) (f) (See Section 4 of new Code) of the Code of Criminal Procedure or for any process relating to a non-cognizable offence, if in the same case a process relating to a cognizable offence is issued :

Provided also that no fee shall be charged by any Criminal Court in the Punjab for any individual process issued in a criminal case at the instance of a Municipal Committee in the Punjab, if such Municipal Committee has compounded for the process fees, otherwise payable by it, by paying such sum of money to the Government of the Punjab for such period and in such form as the Governor of the Punjab may from time to time direct.

**6. Processes issued by and sent to Courts in India to be served free of charge**—A process issued by any Court in India whether of Civil or Criminal jurisdiction, shall be served free of charge by any Court in the Punjab if it be certified on the process that the proper fee has been levied under the rules in force in the territory in which the Court issuing the process is situated. When any Court in the Punjab, whether of Civil or Criminal jurisdiction, transmits a process for service or execution to any Court beyond its jurisdiction, a certificate shall be endorsed on the process that the fee chargeable under Rule 2 or Rule 4, as the case may be, has been levied.

**7. Travelling allowance of process-servers**—Ordinarily process-servers should travel on foot when proceeding to serve or execute processes; but in special cases, the Judge of the Court issuing the process, may permit the journey to be made by railway. In such cases the permission should be in writing and the railway fare should be charged to the budget heads. Travelling allowance of process-servers under process-serving establishment is not charged to the person at whose instance the process is issued.