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INSTRUCTIONS  
FOR THE  
MANAGEMENT OF THE LEGAL AFFAIRS  
OF THE  
GOVERNMENT OF THE PUNJAB.  
(LAW DEPARTMENT MANUAL)  
PART-1-GENERAL MANAGEMENT AND OPINION WORK.  
CHAPTER-1 MANAGEMENT.  
THE LEGAL REMEMBRANCER.

GENERAL CONTROL.

The entire  
business of the  
Department,

1. The Legal Remembrancer is the head of the law Department of the Punjab Government, and, except in Such matters as have been assigned to the control of the Advocate-General, either by statute or by the order of the Governor, will exercise control over the expenditure of the business of the Department, including the expenditure of the Law Officers and The establishment allowed for the office of the Department. Subject to the orders of the proper controlling authority he has general charge of all the legal affairs of the Punjab Government and of legal proceedings, of whatever kind, taken by or against, or affecting that Government.

LEGAL REMEMBRANCER  
MAY VISIT ANY PLACE  
FOR PURPOSES OF  
SUPERVISION ETC.

2. The Legal Remembrancer may at any time visit any place for the purpose of supervising the conduct by local agency of the criminal or civil business of the Crown, or of watching the conduct, or of himself conducting any criminal case or any civil suit, appeal or proceeding on behalf of the Crown.

Legal Remembrancer  
to move with the  
Government.

3. The Legal Remembrancer is required to reside at Simla during the stay there of the Punjab Government, but will visit the plains whenever is Necessary of desirable that he should so for Court-work or consultation.

Legal Remembrancer  
and Central  
Department.

4. The provisions of this manual, unless otherwise specifically stated, relate to the legal business Of the Punjab Government if the services of the Legal Remembrance are , either by any department of

the Central Government, by the Crown Representative or by the Federal Railway Authority, this will be the subject of special arrangement between the Punjab Government and the Department concerned. It must be arranged in each case whether the Legal Remembrancer is only to give advice, or is to arrange for the conduct of cases on behalf of the Department.

THE ADVOCATE-GENERAL.

Advocate-General  
whole time Govern-  
ment servant.

1.5. The Advocate-General is a whole time servant of Government, and is not allowed to engage in private Practice.

Duties of Advocate-  
General

1.6. His duties are as follows:-

(a) The Advocate-General will advise on any case relating to the initiation of criminal proceedings by the Crown or executive action by the Punjab Government under the law, and on any other legal matter that may be referred to him by the Punjab Government or the Legal Remembrancer. It will also be his duty to advise upon any matter on which his advice is required by the Governor acting in his discretion. (For further details see Chapter 2 following).

(b) He will represent the Crown, or will arrange for the representation of the Crown, at all stages in all criminal cases in the High Court, and in quasi-criminal matters such as cases under the press law, cases of hebeas corpus and extradition cases. The Punjab Government may direct that, owing to the special importance of the case, the Advocate-General shall himself represent the Crown.

(c) He will appear , or arrange for the appearance of Counsel, in the following civil cases:-

(i) Cases in the High Court to which the Punjab Government is a party, or cases relating to the

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affairs of the Punjab Government to which the Secretary of State is a party.

- (ii) Cases in the High Court to which officers serving under the Punjab Government are parties, and which the Punjab Government has decided to conduct on behalf of officers.
- (iii) Cases in the High Court, in which neither the Punjab Government nor such officers are directly interested, but in which Government considers itself to be sufficiently interested to render it advisable to conduct the cases on behalf of some third person.
- (iv) Appeals from the cases referred to above.
- (d) He will personally appear, when so required, before the High Court in references from subordinate courts to which the Punjab Government is a party or which can otherwise be heard.
- (e) He will appear himself or arrange for the conduct of civil cases of the nature described above in the other civil courts of Lahore.
- (f) He will also be expected to appear in any civil or criminal case outside Lahore when specially desired to do so by the Punjab Government or by the Legal Remembrancer.
- (g) He will attend the Legislative Assembly when Required to do so by Government.

1.7. He will be paid-

Salary etc of the Advocate-General.

- (a) a fixed retaining salary;
- (b) fees on fixed scales for the civil cases in which He appears on behalf of the Punjab Government;
- (c) fees on fixed scales for criminal cases in which he appears for the Punjab Government outside the High Court.

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Fixed retaining  
Salary.

- 1.8. The fixed retaining salary is Rs. 2,500 per mensem. It covers the opinion work done by the Advocate-General his appearances for the Punjab Government in criminal cases in the High Court, (including cases of contempt of courts), and his attendances in the Legislative Assembly. (H.S.'s U.O. No. 2255 J-40, dated 30<sup>th</sup> March, 1940).
- 1.9. The scale of fees is laid down in Chapters 11 and 25.
- 1.10. To the extent to which his duties to the Punjab Government will allow, he will be allowed to do work for the Government of India or the Crown Representative on fees arranged with them.
- 1.11. The leave rules will be as follows:-

Leave Rules:

- (a) Leave on pay equivalent to full pay may be granted up to 1/11<sup>th</sup> of the period spent on duty as Advocate-General, provided that leave of this kind shall not accumulate beyond four months.
- (b) Leave may be granted on medical certificate on pay equivalent to half pay up to 2/11<sup>th</sup> of the period spent on duty as Advocate-General, subject to a maximum of three months at any one time.
- (c) Extraordinary leave may be granted without allowances, subject to a maximum of three months at any on time.
- (d) Leave of the various kinds may be granted in combination up to a maximum of six months only at any one time.
- (e) For the first two years of the appointment, the advocate-General will not be entitled to more than one month's leave except on medical certificate in any one year.

Recess.

- 1-11. Subject to the exigencies of the public service, and the rights of Government to require him at any time to appear personally in any case in any station, the advocate-General will be allowed to recess at Simla for

not more than six weeks during period will include the Simla Session of the Legislative assembly, if any. For any period that the Assembly may be in Session in Simla, the Advocate-General will be allowed travelling and halting allowances under the ordinary rules, and the same rules will apply in respect of any period for which he may remain in Simla, under the special orders of Government. Subject to these conditions, any period spent by the Advocate-General in Simla will be at his own expense, and Government will not be liable for any extra expenditure occasioned of his recess. (H.S's U.O. No. 2255-J-40, dated 30<sup>th</sup> March, 1940).

1.12. For purposes of travelling and mileage allowances the Advocate-General is included in Grade-I of the Grades shown in Rule 2.18 of the Punjab Financial Handbook No. 2.

1.13 The limit of ten days for the drawal of halting Allowances will not be operative when the Advocate-General Is called to Simla for purposes of the Legislative Assembly session.

Supply of Information To Legal Remembrancer by Advocate-General.

1.14 The Advocate-General will, in regard to all cases conducted by him or under his orders, supply the Legal Remembrancer with all the information which the latter officer may deem necessary to have supplied to him for statistical and other official purposes.

Notice of absence and incapacity to be given.

1.15. The Legal Remembrancer and the Advocate-General will each give notice to the other of his intended absence from headquarters for any period and of temporary incapacity for work.

THE ASSISTANT LEGAL REMEMBRANCERS AND ASSISTANT TO THE ADVOCATE-GENERAL.

1.16. When, by these rules, any duty other than the duty of supervision is assigned to the Legal Remembrancer, he may cause it to be done by Assistant Legal Remembrancers.

Assistant Legal Remembrancers.

1.17. (1) The Assistant Legal Remembrancers will assist the Legal Remembrancer in his duties and will discharge such duties as the Legal Remembrancer may assign to them. They will, when instructed in that behalf by the



Advocate-General, appear for the Crown in the High Court.

(2) The Assistant Legal Remembrancers will also render Assistance to the Legal Remembrancer in the management of Government civil litigation, opinion, work, conveyancing and office management.

(3) The sanction of Government should always be obtained Before an Assistant Legal Remembrancer is instructed to appear for the Crown in any criminal case in any court other than the High Court.

1.17. The Assistant Legal Remembrancer will each be required to do Division Bench criminal cases for the Crown, as senior counsel, free of charge for on full week, in each month commencing on a Monday and ending on the following Saturday. These cases shall ordinarily be murder references, appeals from transportation sentences and appeals from acquittals.

1.18. (1) The Assistant to the Advocate General will assist the Advocate-General in his duties and will discharge each such duties as the Advocate General may assign to him. He will, when instructed in that behalf by the Advocate-General, appear for the Crown in the High Court or elsewhere, on the terms given in Chapter 11 and 25.

(2) The remuneration of the Assistant to the Advocate-General will be a basic salary of Rs. 600 per mensom. For this salary the incumbent will do Division Bench cases which shall ordinarily be of the kind referred to in rule.

1.17. (a) or failing such cases Single Bench criminal cases, for seven days in each month free of charge. He will also help the Advocate-General in routine work and in opinion work as may be required by the Advocate-General. If in any month the opinion work done by the Assistant to the Advocate-General is exceptionally heavy (and of this fact the Advocate-General shall be the sole Judge), then the number of seven days during which he has to work free of

charge may be reduced by the Advocate-General in his sole discretion.

(3) The Assistant to the Advocate-General will do civil cases for the Punjab Government in Lahore on scale fees whenever he is required by the Advocate-General to do so. This will be in addition to the seven days mentioned in the previous rule.

(4) During the summer vacation the Assistant to the Advocate-General will be required to do free of charge one Chapter of the vacation criminal work.

(5) The appointment shall give the holder no kind of claim Whatever to succeed to the appointment of Advocate-General.

(6) the appointment will be on probation for one year, and will be renewable in the same manner in which the appointments of Public Prosecutors are renewable, that is, at the end of every period of four years or such other period for renewal as may, from time to time, be fixed by the Punjab Government for the renewal of the terms of the Public Prosecutors. The tenure of office will be on the same conditions as tenure of office of Public Prosecutors in the Punjab.

(7) The Assistant to the Advocate General may be absent from Lahore for a period of one month during the vacation by arrangement with the Advocate-General.

#### LOCAL AGENCY

Local agency  
to be employed  
in other  
courts

1.19. (1) In regard to all Government case-work not specifically assigned to Law officers by the above rules, local agency will ordinarily be employed, a law officer being employed only in specially important cases or at specially important stages of such cases.

(2) The local agency consists of..

(a) Public Prosecutors (see rules in Chapter 4)

(b) Government Pleaders (see rules in Chapter 14).

(c) Departmental officers specially empowered to

represent the Crown in civil and criminal cases under the orders of the Punjab Government or a Central Department.

(d) Private legal practitioners specially engaged for the case.

Recovery  
of Petty  
Sums.

1.20. Special arrangements are made for the conduct of petty Suits for the recovery of sums due to Government. These arrangements are given in detail in the suit rules.

The Crown Lists.

Crown Lists.

1.21. Lists of counsel considered suitable for being given special work on behalf of the Crown will be maintained.  
(1) for the High Court, and  
(2) for each district.

High Court List.

1.22. The list for the High Court will be maintained by the Advocate-General and will be revised annually under the orders of the Punjab Government. The proposals of the Advocate General in regard to the revision will be submitted to Government not later than the 31<sup>st</sup> March each year. (Pb. Govt. Letter No. 1191-J-40/8371, dated the 21<sup>st</sup> Feb, 1940).

District List.

1.23. (1) Lists for each district will be maintained by Deputy Commissioners. In order to keep this list up-to Date, the Deputy Commissioner will, before the month of October in each year, communicate the names on his list Together with his views thereon to the Commissioner; Who will obtain the views of the Sessions Judge. The commissioner will then forward the lists for his Division to the Legal Remembrancer, not later than October, together with the views of the Deputy Commissioners and Sessions Judges, and his own comments thereon.

1. a. When communicating these names, the Deputy Commissioner will forward the information required in statements I and II below in regard to each name recommended.

**Statement-I**

(1) Name and description—

(Give name, father's name, home of family, religion (with Sect. e.g. whether an Arya or Sanatanist, Shia or Sunni and so forth) caste of tribe, agriculturist or non-agriculturist.)

(2) Date of birth.

(3) Qualifications: University degrees. Distinctions earned In law (if any).

(4) Date of enrolment at the Bar and actual length of practice place or places at which the candidate has practiced and the length of practice at each place.

(5) Certificates—

(The candidate should be asked to produce any certificates he may possess about his legal knowledge, court work, etc. and true copies of such certificates, certified by the superintendent of the Deputy Commissioner's Office should be forwarded to his office).

(6) General reputation and standing at the Bar reputed professional income—

(7) Opinion of the (1) Deputy Commissioner and (2) District and Sessions Judge—

(The opinion should include remarks on the candidate's Knowledge of law - civil and criminal, ability Advocate and general reputation).

**Statement-II**

Details of Government work entrusted to the candidate.

Serial No.	Name of the Case	Period of employment From..... To.....	Result	Opinion of the presiding officer (if available)

(2) The Legal Remembrancer will then enter these names in a register in his own office, or may direct that any name be struck off the list, after giving his reasons for doing so.

(3) The list should contain not only the names of persons considered suitable for doing the work ordinarily assigned to Public Prosecutors, but should also contain the name if at least one lawyer with a good civil practice of his own, capable of doing the work of Government Pleader in difficult cases.

(4) The number of persons to be entered on the list must necessarily vary from district to district; but the list should be reduced as far as possible to actual requirements for over-flow work, and should include only persons of proved legal ability.

#### General

Report to be made by all officers of the law Department on appointment.

1.24. All officers in the Law Department, including Public Prosecutors should—

(1) Report to Government on appointment whether they are engaged in the management or promotion of any Bank of company, and

(2) Obtain leave of Government if they desire to become so engaged in future.

The report should be submitted through the Deputy Commissioner of the district.

Attitude to be Observed by officers of Law Department towards parties and candidates in election.

1.25. No Public Prosecutor or officer of the law Department who is not amenable to the Government Servants Conduct Rules should canvass or otherwise use his influence in connections with or take part in any election to a legislative body. Every such person should, therefore, refrain

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before and during the progress of elections, from giving support, except in so far as registering his own vote is concerned, to any candidate, and should avoid becoming in any way embroiled in party politics. (Punjab Government memorandum No. 6517-J-42/56219, dated 19<sup>th</sup> October, 1942.)

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CHAPTER-2-REFERENCES AND OPINIONS.

Distribution of opinion work between Legal Remembrancer and Advocate General.

2.1. Opinion work, which includes, among other things, all references regarding cases not actually instituted or pending and enquires whether appeals should or should not be instituted against orders of acquittal in criminal cases, will ordinarily be disposed of by the Legal Remembrancer.

Legal questions arising before Judicial Officers, As such, are not be referred to Legal Remembrancer.

2.2. Legal questions arising before Judicial Officers, as such, are not be referred to the Legal Remembrancer.

It is no part of the duty of the Legal Adviser of the Government to advise Judicial officers engaged in administering the general, civil and criminal law in regard to points of law or procedure. The Law officers are the advisors of the Government in administrative matters as well as in cases in which the Government is or may be likely to be a party to, or affected by, judicial proceedings, and they conduct legal proceedings by or against, or affecting the Government, on its behalf.

2.3. The Legal Remembrancer will always be found willing To advise executive officers unofficially, provided that it Is clearly understood that any opinion expressed on an Unofficial reference may be reconsidered when a full and Complete official reference, on the whole case, is subsequently made, and that opinions expressed unofficially are not, without previous reference to him, to be used officially.

2.4. When disputes arise between departmental officers And persons with whom they contract, reference should be made to the Legal Remembrancer at as early a stage of the dispute as possible. If all communications with third parties are made through him, or under his advise, complications

May be avoided and disputers adjusted without any appeal  
To the law becoming necessary. All communications made  
Direct and without such advice should be couched in guarded  
And carefully considered language, anything in the nature  
Or an admission being avoided.

FORM OF REFERENCE

That information  
is to accompany  
every reference.

2.5. (1) When a reference is made to the Legal Remembrancer  
for his opinion or advice, it is incumbent on the depart-  
ment or officer making the reference to give him every  
Possible assistance. Every case submitted to the Legal  
Remembrancer for opinion or advice should be accompanied  
By a note either stating the facts of the case, or referr-  
ing, in proper order, to the documents or parts of documents  
By heading which the facts and points for opinion can  
be readily ascertained or partly by doing the former  
and partly the latter.

Any reference in which this direction is not complied  
with will be returned to the department or officer from  
whom it was received with a view to the omission being  
rectified.

(2) The letter of reference should state the precise  
Points on which opinion or advice is sought. All available  
Documents, or copies thereof, should be sent with the referen  
ce.

2.6. (1) Whenever the opinion of the Legal Remembrancer  
Is required as to the Legality or suitability, in form  
And language, or any new draft or revised rules, the letter  
Of references should state whether (1) More criticism from  
A legal points of view is desired, or (2) it is open to  
the Legal Remembrancer to revise, re-arrange or recast the  
rules and submit a new draft of them for the approval of  
the proper authority.

**CORRECTION SLIP NO. 122 TO PUNJAB LAW DEPARTMENT**

**MANUAL (1938) EDITION**

*Chapter 2*

*Pages 9 and 11*

1. Rule 2.5- After sub-para (2), add the following sub-para (3):-

"(3) Cases where a precedent containing Legal Remembrancer's  
Advice on a similar case is already with the Administrative  
Department or which are purely of administrative nature or  
Do not involve any legal issue shall not be referred to the  
Law Department."



(2) Two copies (if possible printed) of all rules  
On which the Legal remembrancer's opinion is sought  
Should be submitted to that officer.

Reference as to  
Conveyancing.

2.7. Whenever the opinion of the Legal Remembrancer  
is required as to any draft deed, or he is asked to  
draft any deed, specific instructions should be given  
as to the intended scope and purpose of the deed and  
as to the detailed conditions required and the refer-  
ence should be accompanied by a copy of the corresponds  
authorizing the execution of the deed.

To whom References are to be made.

Unless otherwise  
expressly provided  
all references to be  
addressed to Legal  
Remembrancer.

2.8. (1) Unless otherwise expressly permitted by any  
rule, all references to, and communications with, the  
law officers of the Government, are to be addressed  
to the Legal Remembrancer, Punjab.

(2) References for opinion and advice on legal  
questions or probable litigation, including cases (whe-  
ther civil or criminal) not actually pending in a  
court of Law, and cases actually so pending which are  
not specially excepted by these rules, enquiries as  
to whether appeals should or should not be instituted  
against orders of acquittal in criminal cases, and  
communications on all other matters relating to the  
Law Department, are to be addressed to the Legal  
Remembrancer.

References to  
Government  
Pleaders etc in  
pending cases may  
be made direct of  
those officers.

2.9. (1) References to the Law officers, Government  
pleaders, and Public Prosecutors as to both Civil  
criminal cases and proceedings which are actually  
conduct may be addressed to those officers direct.

(2) For references to the Advocate-General, see rules  
2.12.

References regarding  
Litigation to be made  
direct to controlling  
authority.

2.10. References regarding litigation under the contr-  
ol of the Financial Commissioners will be made by

Deputy Commissioners direct to the Financial Commissioners, and not through Commissioners, and in other cases direct to the proper controlling authority.

Opinions by and References to the Advocate-General.

Differences of opinion between Law Officers.

2.11. (1) Whenever the Legal Remembrancer records an opinion which, if accepted and acted upon by the Government, would involve an appearance by the Advocate-General, before the High Court, he will, as a matter of course, pass it on Unofficially to the Advocate-General, in order that the latter may note whether he concurs to such extent as is necessary to enable him to argue the case on the lines indicated. If he does not concur to that extent, the Advocate-general will be expected to record his reasons in full, otherwise it will be unnecessary for him to do more than indicate general assent.

Reference when Advocate-General records dissentient opinion.

(2) When the Advocate-General records a dissentient opinion under clause (1), The Legal Remembrancer will forward the papers to the Government or the Financial commissioner, or the Department of the Central Government, concerned, as the case may be, for a decision as to whether, in the circumstances, action should or should not be taken upon the opinion of the Legal Remembrancer and, if so, whether the Legal Remembrancer should be instructed to appear in the case or whether any other and, if so, what suitable arrangement should be made for the representation of the Government.

What references may be addressed to Advocate-General.

2.12. References may be addressed to the Advocate-General only in the following cases, namely:-

(a) references relating to the representation of the Crown in the High Court in appeals and applications for revision made by persons under sentences, in accordance with the rules contained in Divisions. I, II, and III of chapter 8, of this manual.

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Note:- Proposals for the institutions of appeals against Orders of acquittal or for the filing of applications for revision on behalf of the Crown, are to be addressed to the Legal Remembrancer; reference to the Advocate - General being made only when it is proposed that the Crown should defend an application for revision made or an appeal filed In the High Court, by a person under sentence.

- (b) references relating to criminal proceedings (whether original, appellate or revisional) actually pending in the High Court.
- (c) references relating to any other pending Criminal proceedings which the Advocate - General may be actually conducting under proper authority, in any Criminal court.
- (d) reference relating to any pending Civil Suit, appeal or proceeding which the Advocate - General may be actually conducting under proper authority, in any Civil Court.

Note:- The Advocate - General does not ordinarily conduct Civil litigation affecting the Government in any Court other than the High Court or a Civil Court which holds its sitting at Lahore. The Advocate - General does not ordinarily conduct The criminal business of the Crown in any court other than The High Court. He may, however, be specially instructed, Under the orders of the Governor or other competent authority to appear in particular cases pending in other courts.

Ordinarily no other opinion-work to be made over to Advocate-General.

2.13. Except as above provided, and as laid down in the rules and orders regarding criminal cases, the Advocate-General will not be expected to record opinions unless the Government specially desires the Legal Remembrancer to pass any particulars references on to him for that purpose.

2.14. Advocate - General and the Legal Remembrancer will usually correspond, inter se, by unofficial reference or

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2. Rule 2.15-In clause (a) of sub-para (1) for the words "and  
The secretaries" the words "the secretaries and the Deputy  
Secretaries" shall be substituted.  
(Punjab Government Memo No. 11880-41J-68/1970, dated the 2nd July, 1968 )

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Office note.

Officers entitled to make references.

Officers who, Except as  
otherwise provided,  
rule, may alone make  
references to Legal  
Remembrancer

2.15. (1) Unless otherwise expressly permitted by any  
rule, references to the Legal Remembrancer for opinion  
be made by or through the following officers only:-

(a) The chief Secretary, the Secretary and the Deputy Secretary to the  
Government of the Punjab.

(b) the Financial Commissioners of the Punjab;

(c) the Heads of any Department of the Government; but in

Regard to matters relating to arbitration, attention is

(2) Superintending Engineers of Irrigation and Buildings  
and Roads Branches and Sanitary Engineers in Building and  
Roads Branches are authorized to send security deposit  
agreements of irrigation and Buildings and Roads Depart-  
ments employees to the Legal Remembrancer for scrutiny-  
(Paragraph 498 of the Buildings and Roads Manual).

Drawn to  
Chapter 24 of  
this manual.

Cases in which  
other officers  
may make  
references.

2.16. In the following cases officers other than the above  
may refer direct to the Legal Remembrancer:-

Firstly—when the matter is urgent and communication through  
the usual channel would be prejudicial to the interests  
of the Government.

Secondly-- in reply to a reference from the Legal Remembran-  
cer;

Thirdly-- when upon receipt of notice of intended suit aga-  
inst the Government there is any doubt on any legal  
question connected with the action to be taken thereon

References in  
case actually  
pending in  
Court.

2.17. When a case by or against or affecting the Government  
is actually pending in any Court, any officer of the depart-  
ment to which it relates, who is concerned in the conduct  
thereof, may communicate direct with the Law officer, Legal  
practitioner or other person who is engaged in conducting  
the proceedings on behalf of the Government.

References in  
Criminal  
matters before  
the High Court.

2.18. Commissioners and District Magistrate when the latter  
are in agreement with the officer in charge of the prosecuti-  
on are authorized to refer direct to the Advocate-General

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In cases falling under Divisions I, II and III of the rules relating to the representation of the Crown in the High Court in Chapter 8 of this manual: and to the Legal Remembrancer, in cases falling under Division IV of the same rules and in matters affecting Public Prosecutors, or Government Pleaders arising under this Manual.

District Magistrates may refer to Legal Remembrancer in certain cases.

2.19: A District Magistrate may refer, through the Commissioner, to the Legal Remembrancer (In this capacity Of Provincial Public Prosecutor) for advice or assistance In any criminal case pending in any Criminal Court, in the district or in the Session Court, in which it be deemed advisable so to do.

References to be Made through Financial Commissioners in all Other cases.

2.20: In cases not otherwise expressly provided for, references should invariably be submitted through the Financial Commissioners.

References by Central Departments.

2.21 (1) Arrangements have been made by the following Central Departments for obtaining the advice of the Legal Remembrancer:-

- (a) the Defence Department, on matters of civil law arising within the limits of the Punjab.
- (b) the Postal and Telegraph Department, on matters arising within the limits of the Punjab or in cases in which a Post or Telegraph Office in the Punjab is concerned;
- (c) the North-Western Railway, on matters arising in the Punjab or Delhi.

(2) The following officers only have been authorised to make references:-

- (a) The Military Officers mentioned in Rules 2.22.
- (b) The Agent, North-Western Railway and the Consulting Engineer for Railways, Punjab; and
- (c) the Postmaster-General, Punjab.

(3) The Legal Remembrancer is primarily the Legal adviser of the Punjab Government and he is permitted to act as legal adviser to the North-Western Railway and to certain Central Departments only to such an extent as will not interfere with his work for the Punjab Government. In the event of a case occurring in which the Punjab Government and the North-Western Railway or one of the Central Departments, for which he acts as legal adviser, had rival interest, the Punjab Government would expect the Legal Remembrancer to act for them, and in any case in which such a conflict of interest seemed likely to arise it would be the duty of the Legal Remembrancer to inform the North Western Railway or the Central Department concerned that he was unable to advise them. (Home Secretary's letter No. 615-J.40/4808, dated 31<sup>st</sup> January, 1940).

References by  
Military  
Officers.

2.22.(1) The Military Officers who are entitled to consult the Legal Remembrancer in matters of civil law are as follows ( Regulations for the Army in India, Rules 389):-

- (a) The Commanders, Northern Command and Rawalpindi District, in respect of matters arising in the Punjab.
- (b) The Commanders, Lahore District, in respect of matters arising within that District.
- (c) The Commanders, Eastern Command, and Delhi (Independent) Brigade Area, in respect of matters arising in the Punjab or the Delhi Province.
- (d) Deputy Director, Military Lands and Cantonments, Northern Command, in matters relating to Military Estates in the Punjab.

(2) (a) References for legal opinion regarding claims or suits in respect of lands under their control may be addressed by the Military Estates Officers direct to the Government Pleader of the district within which the land is situated.

(b ) Fees for such opinion or advice are payable by the Military Estates Officers according to the terms of the Punjab Law Department Manual.

PART-II-CRIMINAL BUSINESS.

CRIMINAL PROCEEDINGS.

BY OR ON BEHALF OF OR AFFECTING THE CROWN.

CHAPTER-3-AGENCY (GENERAL).

Advocate-General Responsible For Crown Criminal Business in the High Court

3.1 The Advocate-General will be directly responsible for the conduct of the criminal business of the Crown in the High Court and is ex-officio the Public Prosecutor\* and Standing Counsel for the Crown in that Court.

(\*Punjab Government Notification Home/Huld.No. 1224-J-37/13344, dated 3<sup>rd</sup> April, 1937).

Procedure When Advocate-General is Unable to Appear.

3.2. It will rest with the Advocate-General to determine (upon the recommendation of or after reference to the Commissioner, or otherwise) whether the Crown should or should not be represented in any such case, and, if it is to be so represented, to arrange accordingly:

Provided, that he shall so arrange-

- (a) if the Governor, in any case, so directs; or
- (b) if in any case, the High Court intimates that the Crown should, in its opinion, be represented:

Provided, also, that if in any case in which the Commissioner of the High Court has recommended that the Crown should be represented, the advocate-General decides that it should not be represented, that officer shall, as soon as possible forward the papers to the Legal Remembrancer, stating the reasons for his decision.

Quasi-Criminal proceedings.

3.3.(a) The Advocate-General will, in any case in which the Government may so direct, conduct the prosecution in proceedings held under the provisions of the Public Servants (Inquiries) Act, 1850, or the Legal Practitioners Act, 1879.

(b) He will also appear in proceedings under the Legal Practitioners Act, 1879, or in cases of contempt, when directed

to do so by the High Court, unless he considers it necessary to refer to the Governor for orders.

Sanction of the Governor required for the Advocate-General to appear in any Criminal court other than the High Court.

3.4. The Advocate-General will not ordinarily in any Court other than the High Court, without the special order of the Governor. The Legal Remembrancer has power so to appear when he deems it necessary to do so, or, with the previous sanction of Government, instruct one of the Law officers to appear.

Procedure in obtaining services of Law Officers in cases in such Courts.

3.5.(a) If, in any case, it is considered necessary that The services of one of the Law Officers should be obtained to conduct the proceedings on behalf of the Crown in any Court other than the High Court, a report will be made to the Legal Remembrancer, explaining the facts of the case, and the reasons which render it desirable to employ one of the Law Officers, instead of the ordinary local agency, to conduct the case. It is essential that this report should be submitted as promptly as possible, and if it is not submitted in good time, the reason for the delay should be explained.

(b) If the Legal Remembrancer thinks (1) that the appearance of a Law Officer is unnecessary, or (2) that the Advocate-General or one of the other, Law Officers should be instructed to appear, or (3) that a private legal practitioner should be specially retained in any case reported under the preceding clause, he will submit the report, with an expression of his own opinion thereon, to the Governor or the Government, for orders. If the Legal Remembrancer decides to himself appear, he will inform the officer making the report of his intention to appear and will act accordingly.

(c) The sanction of Government is to be obtained before a Law Officer is instructed to defend any public officer



against whom criminal proceedings may have been instituted in respect of his official acts, or to institute proceedings to vindicate his official character.

(d) The Law Officers for the purpose of this rule include the Assistant Legal Remembrancers and the Assistant to the Advocate-General.

Provincial  
Public  
Prosecutors.

3.6 (1) The Legal Remembrancer and the Deputy Legal Remembrancer are each ex-officio Provincial generally in regard to all Court also, when it is necessary for either of them to appear therein under these rules or the orders of the Government. (Punjab Government notifications No. 698, dated the 18<sup>th</sup> may, 1899, and No. 893-J-40/7367, dated the 14<sup>th</sup> February, 1940).

(2) The two Assistant Legal Remembrancers and the Assistant to the Advocate-General are Public Prosecutors generally for the Punjab (Punjab Government notification (1) No.3727-J-39/21757,dated the 23<sup>rd</sup> June,1939,(2) No.3727-J-39/21798, dated 23<sup>rd</sup> June, 1939 and (3) No. 5148-J-37/28885, dated the 7<sup>th</sup> August, 1937.

Local Public  
Prosecutors will  
ordinarily be  
employed  
direct be  
District Mag-  
istrates.

3.7. District Magistrates will ordinarily employ and instruct the local Public Prosecutors direct to appear for the Crown in criminal cases and proceedings in Courts other than the High Court, but may refer to the Legal Remembrancer, through the Commissioner, for advice in any case in which it may be desirable so to do.

Employment  
Of private  
Legal practi-  
tioners.

3.8 (1) When the services of the Public Prosecutor are not available for the conduct of the prosecution in any case and the District Magistrate is of opinion that it is necessary that the Prosecution should be conducted by a legal practitioner he may, with the previous sanction of the Legal Remembrancer, engage any private practitioner for the purpose, subject to the condition that such private practitioner consents to accept

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the remuneration which may be permissible under the rules in Chapter II.

(2) The engagement of private practitioners to do work for which the Public Prosecutor is responsible should be resorted to very sparingly and only under the most exceptional circumstances when it is quite impossible for the Public Prosecutor to act.

(3) Cases have occurred from time to time in which Deputy Commissioners have, when engaging the services of a special practitioner to conduct cases for the Crown, promised to pay them a certain fixed amount as remuneration. No fees should be promised to a practitioner before the commencement of the case, but he should be informed that the fee will be settled at the conclusion of the case in accordance with the Rules regulating the conduct of business in the Law Department.

Employment of Private legal Practitioners By Agents and Engineers-in-Chief of State Railways to Prosecute In certain cases.

3.9. Agents and Engineers-in-Chief of State Railways may institute criminal proceedings against Railway servants or others, for breaches of the Railway Act, and may employ private legal practitioners when the services of a law Officer of Government are not available (Government of India, No.290-B-E., dated 2<sup>nd</sup> May, 1892, Director-General of Railways, No. 801-E, dated 12<sup>th</sup> May, 1892).

Legal Remembrancer may himself conduct proceedings in certain cases.

3.10. The Legal Remembrancer may himself conduct the prosecutions in any criminal case or proceedings in any Court other than the High Court and in that Court also, when the Advocate-General is not prepared to support fully the brief for the Crown, or the Government may, in any case, so direct.

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CHAPTER-4-PUBLIC PROSECUTORS.

Classes of Public prosecutors.

4.1 (1) Public Prosecutors are of two kinds:-

- (a) Public Prosecutors appointed by Government under Section 429 of the Code of Criminal Procedure, and
- (b) Public Prosecutors appointed by a District Magistrate Or a Sub-Divisional Magistrate under section 492 of the code.

(2) In addition to such Public Prosecutors, any person acting under the directions of a Public Prosecutor and may person conducting a prosecution on behalf of the Crown in the High Court in the exercise of its original jurisdiction are included in the definition of Public Prosecutor contained in section 4 (t) of the Code of Criminal Procedure.

(3) Further, under section 495 of the code, a Magistrate may permit the prosecution of a case to be conducted by the persons mentioned therein, and any such person has the powers conferred on Public Prosecutors by section 494 of the Code.

Public Prosecutors appointed by Government.

4.2. Public Prosecutors appointed by Government may again be divided into three classes:-

- (a) Public Prosecutors for District who are dealt with in rules 4.5 to 4.23 below.
- (b) Public Prosecutors appointed by Government for special cases who are dealt with in rules 4.24 to 4.26.
- (c) Public Prosecutors ex-officio, such as the Legal Remembrancer, who is Public Prosecutor for the Province.

Public Prosecutors locally appointed.

4.3. Public Prosecutors appointed by a District Magistrate or a Sub-Divisional Magistrate under section 492 (2) of the code of Criminal Procedure can be appointed only as an interim measure when the regular Public Prosecutor is absent from duty, or no Public Prosecutor has been appointed. Such vacancies are in practice, however, normally filled by the Legal Remembrancer under the following rule.

Appointment by  
the Legal Remembran-  
cer.

4.4 (1) When additional assistance is required during the absence of the regular Public Prosecutor in the District, and arrangements are made under rule 3.8 or rule 4.21 for the engagement of a private legal practitioner, the legal practitioner so engaged acts under the direction of the Legal Remembrancer as Public Prosecutor for the Province, and thus acquires the powers of a Public Prosecutor under section 4(t) of the Code.

(2) Similarly, when arrangements have to be made for the performance of the duties of the regular Public Prosecutor during his absence under rule 4.20 (3) below, the legal practitioner engaged to do his work will be treated as acting under the direction of the Legal Remembrancer as Public Prosecutor for the Province.

Public Prosecutors for Districts.

Areas for which  
Public Prosecutors will be  
appointed.

4.5. There will be one or more Public Prosecutors for each of such district or groups of districts as the Punjab Government may from time to time direct. The number of Public Prosecutors sanctioned at present is fourteen, namely, two each for the districts of Amritsar and Ferozepur, and one each for the districts of Gurdaspur, Hoshiarpur, Karanal, Ludhiana, Ambala, Hissar, Jullundur, Rohtak, Kangra and Gurgaon.

Remuneration

4.6. Such Public Prosecutors will be remunerated either by fees on a fixed scale for each class of work or by a consolidated monthly payment intended to cover all classes of criminal work, as the Punjab Government may direct. For the present the remuneration will be by means of a Consolidated monthly payment in one of six grades, the salary of and the number of posts in each grade being

as under:-

Grade.	Rate of pay	Number of Posts.
I	Rs.1,050	1
II	900	1
III	750	3
IV	650	3
V	500	4
VI	400	2

Appointment

4.7.(1) All appointments will be made by the Punjab Government.

(2) Public Prosecutors will ordinarily be engaged either from persons already on the list of persons considered suitable for Crown work (Rule 1.21) or from among persons who are already working as Public Prosecutors in other districts; but Government reserves to itself the right of appointing the person best qualified to discharge the duties of the particular appointment.

(3) All appointments under this rule will be regarded as individual appointments to posts requiring special qualifications; and work done in the capacity of a Public Prosecutor in one grade will not be regarded as giving any right or claim to be appointed as Public Prosecutor in a higher grade, though good work done in such capacities will naturally be one of the considerations influencing the choice of the person best qualified to fill a particular vacancy.

Recommendations  
for filling  
vacancies

4.8. Whenever a vacancy occurs, or is likely to occur, the Deputy Commissioner will send up his proposals for filling it from the Crown list for his district to the Commissioner who will consult the Sessions Judge before forwarding the proposals to the Legal Remembrancer with his own comments and those of the other officers concerned. If the Commissioner considers that the interests of Government will be better served thereby, he is at liberty to make recommendations from the Crown list of any other district in his division. The Legal Remembrancer will then make his own proposals to Government suggesting

the manner in which the vacancy should be filled.

Termination  
of engagement.

4.9.(1) The engagement of any Public Prosecutor may be terminated on cause shown to the Government by the Legal Remembrancer.

(2) the engagement of any Public Prosecutor may, without the assignment of any cause, be terminated upon the expiry of three months' notice in writing, given to his under the authority of the Punjab Government of its intention so to do.

Nature of  
appointment

4.10.(1) Subject to the provisions of the preceding rule the engagement of every Public Prosecutor shall, in the absence of any special condition to the contrary made at the time of his appointment, be for a period of four years only whether such period is specified in the order of his appointment or not.

(2) Upon the expiry of four years from the date of the appointment of any Public Prosecutor, the post will be regarded as vacant. Government may either re-appoint the same person to be Public Prosecutor for a further period of four years, subject to the provisions of rule 7, or without assigning any reason for not re-appointing him, may appoint any other person to be the Public Prosecutor for the same district. Since the appointment of a Public Prosecutor for the district is in the nature of the engagement of a legal practitioner for conducting criminal Litigation on behalf of the Government, the Punjab Government reserves to itself the absolute liberty of engaging any legal practitioner to perform that function whenever it wishes to do so, and the tenure of an appointment for four years cannot be regarded as giving any right or claim to re-appointment.

(3) Every appointment of a Public Prosecutor is made further subject to the condition that his engagement will be regarded as on probation for the first eighteen months. The Deputy Commissioner should watch the working of this rule, and the Legal Remembrancer should call for a special report on the work of a Public Prosecutor who has not previously held a four years appointment.

Age limit.

4.11(1) No person will be appointed to be a Public Prosecutor for the first time if the period of engagement would extend beyond the date on which he attains the age of fifty-five years; and no re-appointment will be made which would have the same effect, except on special conditions. When the re-appointment of a Public Prosecutor for the ordinary term of four years would have this effect, the appointment should ordinarily be made for such shorter period as would bring the appointment up to the date on which the age of fifty-five years will be attained.

(2) In order to secure the working of this rule, Deputy Commissioner recommending re-appointment must invariably state the age of the person proposed for re-appointment.

Work covered by remuneration

4.12.(1) The consolidated monthly pay provided by rule 4.6 will cover all the duties specified in these rules or any other business of a criminal or quasi-criminal nature which may be assigned to Public Prosecutor by the Deputy Commissioner of the district to which they are attached. They will not be entitled to any additional remuneration for criminal work except as provided by these rules.

(2) In particular, a Public Prosecutor who is appointed to work continuously on a special case, either in his own district or outside it, will not be entitled to any additional fee as compensation for any loss of private practice which may entail.

(3) Public Prosecutors have no monopoly of the criminal work on behalf of Government in their districts, they will be ordinarily instructed to appear for the Crown, but the work may be given to anyone else whenever this is thought to be advisable.

Work which the Public Prosecutors are required to refrain from doing

4.13(1) Public Prosecutors shall not, without the previous permission must be obtained through the Legal Remembrancer-s to appear in a private capacity in a criminal case on a private complaint when it is quite certain that their services will not be required by the Government at any stage of the case. For this purpose, the Deputy Commissioner should be consulted before any engagement is accepted and the engagement should be accepted only on the understanding that the permission may be withdrawn at any time

(3) The nature of the civil work which Public Prosecutors may do will depend upon whether they have been appointed as Government Pleaders or not. If they have not been appointed as Government Pleaders there is no restriction on their civil work, provided that it does not interfere with their duties as Public Prosecutors and does not involve their appearance against the Crown in any suit relating to matters with which they have had to deal as Public Prosecutors.

Duties

4.14. As Public Prosecutors they will be required to appear on behalf of the Government in all the following cases:-

- (a) All Sessions cases.
- (b) All section 30 cases at headquarters where the Public Prosecutor practices.



- (c) All Section 30 cases in out-stations when required to appear by the District Magistrate.
  - (d) all commitment cases at headquarters except ordinary Section 75 cases where appearance is unnecessary.
  - (e) All similar commitment cases in out-stations when required to appear by the District Magistrate.
  - (f) All criminal appeals where on or after the admission of the appeal the Sessions Judge notes that he considers appearance necessary, and in all criminal appeals which the District Magistrate considers of sufficient importance to require representation of the Government.
  - (g) Subject to time being available, all original cases which the District Magistrate considers of sufficient importance to require representation.
- They will also be required to furnish opinions in all criminal cases when required by the District Magistrate, and by a Sub-Divisional Officer through the District Magistrate.

It shall be the duty of Public Prosecutors, when required by the Legal Remembrancer so to do, to appear on behalf of Government Servants who wish libellous or scandalous remarks appearing against them expunged from the records of courts.

(Punjab Government U.O.No. 5900/2350.S-J-41, dated the 8<sup>th</sup> October, 1941).

Work outside district

4.15 (1) Public Prosecutors may also be required under the orders of the Legal Remembrancer to act as special Public Prosecutors for particular cases in other districts.

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When a Public Prosecutor is required to work in a district other than that to which he is attached, he will be entitled to receive under the authority of Legal Remembrancer an additional fee calculated at the rate of one-fifth of the amount of his consolidated monthly payment, subject to a minimum of Rs. 200 per mensem for the actual period during which he is required to remain outside his district.

4.16(1) A brief diary must be maintained by each Public Prosecutor showing Crown work on which he has been engaged during the month.

(2) This diary must be submitted to the Legal Remembrancer at the end of each month through the District Magistrate

(3) When Public Prosecutors are engaged to work on a consolidated month payment, it has been noticed that there is sometimes a tendency for them to do considerably less work than when they are engaged on separate fees, Deputy Commissioners must therefore keep a watch on the work of Public Prosecutors in order to see that they are doing all the work that they may be reasonably required to do, On the other hand, if Public Prosecutors are engaged on fees in individual cases, it has to be seen that unimportant and unnecessary work is not taken up by them.

4.17(1) The appointment of a Public Prosecutor carries with it no right of any kind to any gratuity or pension or other privileges not expressly stated in these rules.

(2) A Public Prosecutor will not be provided with an orderly.

4.18 (1) For any journeys which they may be required to make away from headquarters or on transfer, Public Prosecutors will be entitled to additional fees calculated at the rates for travelling allowance prescribed in Punjab Financial Handbook No. 2 Volume III (Travelling Allowance Rules).

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(2) The bill should be sent to the Legal Remembrancer for countersignature after it has been signed by the District Magistrate, who should satisfy himself that the entries made in the bill are in every respect correct and in order.

(3) If the journey is made in connection with work done at the request of a department of the Central Government, the bill should be submitted to that department for payment.

4.19 Public Prosecutors will ordinarily be permitted to absent themselves from their duties during the period for which the court of the Sessions Judge is closed for the summer vacation, up to a maximum of one month if the state of work permits; but such permission may be withdrawn by the Legal Remembrancer when the work so requires. In this case, it should not be necessary to appoint any other person to perform the duties of the Public Prosecutor, who will be permitted to draw his consolidated monthly fees for the period of his absence.

Absence at other times

4.20(1) when a Public Prosecutor is refused permission to absent himself from duty during the period of the Sessions Court's Vacation, he may with the sanction of Government, be permitted to absent himself from duty at some other time of the year for a period not exceeding one month, during which time he will continue to his consolidated monthly fees.

(2) Apart from the concession in sub-rule(1) a Public Prosecutor may be permitted by the Legal Remembrancer to absent himself from his duties at any time of the year up to a period of three months, or for a longer period with the sanction of the Punjab Government, during which time he will not be entitled to any

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remuneration other than that provided in sub-rule (5) below,

(3) During the absence from duty of a Public Prosecutor under the provisions of any of the above sub-rules arrangements may be made by the Legal Remembrancer for the discharge of his duties by another legal practitioner.

The Legal Remembrancer may engage a private practitioner either on fees for individual cases at the rates fixed by Government for the employment of private practitioners for criminal case work, or on consolidated fees not exceeding Rs. 400 per month, whichever alternative is in the opinion of the Legal Remembrancer most economical and conducive to efficiency. Such appointment will be made by the Legal Remembrancer in consultation with the local authorities.

(4) If no suitable legal practitioner is willing to do the work on Rs. 400 per mensem or if the appointment of a private or economical, the Deputy Commissioner should refer the matter with his recommendations to the Legal Remembrancer for the orders of Government.

(5) If the period of absence (others than any period during which the Public Prosecutor is entitled to draw full fees) does not exceed one month, the Public Prosecutor may be allowed to draw the difference, if any, between the rate fixed for his fees and the sum paid to his substitute or substitutes.

(6) Permission for absence from duty for not more than four working days at a time twice in the year may be granted by the Legal Remembrancer to a Public Prosecutor provided suitable arrangements can be made to carry on his work and no extra expense is caused to Government.

The Legal Ramembrancer may delegate this power to District

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Magistrates generally or in any particular case.

(7) When the same Public Prosecutor is attached to more districts than one, the Deputy Commissioner of each district concerned must be consulted.

(8) Public Prosecutors are not wholetime Government servants and they, therefore, cannot be detained when there is no duty to which they should attend. It follows that leave of absence when no service is needed is not required.

But Public Prosecutors leaving their stations on Sundays or other gazette holidays when the courts are closed should invariably notify the Deputy Commissioner in writing of their intention beforehand, stating the period of their absence and giving addresses at which they can be found, should any duty arise during their absence for which their attendances is required, they must be prepared to return immediately, if so required by the Deputy Commissioner.

(9) A Public Prosecutor who for any reason is unable to attend to his duties, should report at once to the District Magistrate. The District Magistrate should himself arrange for the conduct and distribution of Crown work after obtaining sanction of the Legal Remembrancer as provided by rule 3.8 of the Law Department Manual, 1938 edition. Public Prosecutors are themselves forbidden from distributing their work.

Temporary  
appointments

4.21(1) When the state of work so requires, a temporary Additional Public Prosecutor may be appointed for Districts on terms similar to those given above.

(2) The pay of a temporary Public Prosecutor will ordinarily be Rs.400 per mensem.

(3) When a temporary appointment is to be made of More than the appoints duration of this particular will be

more than three months duration the procedure will be the same as in the case of a four years appointment; but if the appointment is to be made for three months or less the Legal Remembrancer will make arrangements under Rule 4.4.

General supervision and control

4.22(1) Public Prosecutors will discharge their duties under the direct orders and supervision of Deputy Commissioners and under the general control of the Legal Remembrancer.

(2) All references relating to the appointment, removal, remuneration, permission of absence, duties, conduct and the like of Public Prosecutors will be made through the Legal Remebrancer.

Rules.

4.23 (1) All appointments as Public Prosecutors are made on the understanding that the persons appointed will accept and abide by all existing rules, as well as rules that may hereafter be made and be for the time being in force, under sub-rule(1) above.

(2) Every Public Prosecutor shall on appointment signify in writing that he has read to these rule and is prepared to abide by them; and no payment of any kind shall be made to any Public Prosecutor unless a declaration in this form is attached to the first bill submitted by him.

(3) Public Prosecutor must also comply with any other direction which may appear in the Punjab Law Department Manual or which may be communicated to them from time to time by the appropriate authority.

Special Public Prosecutor .

Appointments for particular cases

4.24. Special Public Prosecutor may be appointed for the conduct of particular cases or groups of cases which the Public Prosecutor for the district is enable to conduct in the ordinary course of his duties.

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Fees.

4.25. Special Public Prosecutor may be engaged either on a special fee for the case, to be fixed either by the Punjab Government or in accordance with rules made by Government for this purpose, or on a monthly Consolidated rate of fee. Which will ordinarily not exceed Rs 400 per mensem.

Bonus and travelling allowances

4.26. (1) if a Special Public Prosecutor is employed in a case tried by a Magistrate with jurisdiction over more than one Sessions Division he may be allowed a bonus equivalent to the amount allowed to a Public Prosecutor as travelling and halting allowance.  
(2) When a Special Public Prosecutor is engaged on a monthly rate. He will be treated in the same way as a Public Prosecutor for the district under the Traveling Allowance Rules.

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CHAPTER-5 ORIGINAL CRIMINAL TRIALS.

Procedure in Original trials Conducted by Law officers in Courts other than the High Court.

5.1. In all original criminal cases which are conducted by the Advocate-General or other Law Officer in any court, other than the High Court, the Superintendent of Police should invariably consider himself immediate charge of the case under the Law Officer's directions, should Endeavour to supply all information asked for, and to carry out the directions of the Law Officer during the preparation and progress of the prosecution as thoroughly as possible, the same rule will be apply to Departmental Officers when the Prosecution is one arising in a Department.

Production of Medical evidence at sessions trial

5.1 (a) In cases where the cause and manner of death is a material issue the re-summoning of medical witnesses before the Sessions Court should be the rule rather than the exception.

In every case committed to sessions, where a medical witness has been examined, the record of the committing Magistrate should be carefully examined on its receipt with the object of deciding whether the re-summoning of the medical witness is necessary. In every such case, where the evidence of the medical witness is not clear the witness should be recalled for the purpose of clarification of his evidence. In cases where the cause and manner of death is a material issue, the medical witness should ordinarily be re-called unless his evidence before the Committing Magistrate is so closer as to leave no possible doubt.

It is the duty of the Public Prosecutor to



Examine the records of all cases committed to sessions and to point out to the judge those cases in which it is advisable to re-summon the Medical witnesses.

(Extract from High Court circular No. 11899.R./XII-D.2, dated 21<sup>st</sup>, December, 1937, to all District and Sessions Judges in the Punjab and Delhi.)

No officer to interfere in cases taken over by the Advocate General or other Law officer.

5.2 When once a Law officer of Government has received - orders to undertake a case in any Court what ever, no District or Departmental Officer should make any application in the case to the Court without the previous concurrence of the Law officer concerned.

Papers to be supplied to the Advocate-General or other Law Officer specially instructed to appear under the preceding rule.

5.3 Should a Law Officer be ordered to undertake the case he shall, if his appearance is required in any Court other than the High Court, be supplied, as soon as practicable, with the following paper, according to the stage which the proceedings may have reached:-

(a) in original trials and inquiries before a Magistrate,

(1) a list of the witnesses for the prosecution, with a note of the evidence each is expected to give,(2)copies of any documents material to the case which are available,

(b) in original trials before Court of Sessions. A complete copy of the record of the committing Magistrate, except formal papers which do not affect the merits of the case.

(c) in appeals before a Magistrate or Court of Sessions, a complete copy of record of the Lower Court, except formal papers not affecting the merits of the case.

(d) copies of the police papers whenever, in the opinion of the officer applying for the services of the Law officers, they are likely to help materially to a proper understanding of the case,

In addition to the above , any papers and records, including copies of depositions of witnesses recorded by the trying Courts, which may be required by the Law officer, shall be supplied as soon as possible after receipt of his requisition.

Supply of copies to officers conducting cases for the Crown.

5.4.(a) copies of records including deposition of witnesses required by Local public prosecutors or the Legal Remembrancer should be supplied and their cost met by District Magistrates or the Courts concerned.

(b) Public prosecutors should, so far as possible, in the interest of economy, abstain from applying for copies. Except in cases of unusual difficulty, a public prosecutor should be able to obtain from an inspection of the record the material which he needs.

5.5(a) where Government sanction is required before criminal proceedings are instituted against any judge or public servant in regard to whom such sanction is required by Section 197 of the code of Criminal procedure, 1998, Government is to be consulted and the powers to sanction are not delegated to the Legal Remembrancer.

(b) Proceedings under section 108 of the code of criminal procedure, 1898, against the editor, Proprietor, printer, or publisher of any publication, require the previous sanction of the Punjab Government

5.7.(a) For the instructions issued by the Government as to the exercise of criminal procedure code, Should be conducted by the public prosecutor unless investigation has been made by the police ad hoc in the original cases in which it should be conflicted by the Courts Inspector.

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be made to Punjab Government Consolidated Circular No. 36, Military-Criminal jurisdiction. (b) or instructions issued by the central Government for prosecutions under Sections 6 and 7 of the Indian Merchandise Marks Act, 1889, of offences relating to the short reeling of yarn in Indian Mills, see Government of India Resolution (customs) No. 2843-2853-4, dated 14<sup>th</sup> April, 1906, in the Department of Commerce and Industry.

Advocate-General to receive notice in the case of persons committed by the High Court.

5.8 In exercise of the powers conferred on him by sub-section (1) of section 218 of the code of Criminal Procedure, 1898, the Governor of the Punjab has been pleased to appoint the Advocate -General to be the person to receive notice of commitment in the case of persons committed for trial by the High Court of Judicature at Lahore-(Punjab Government Notification, Home Judicial, No. 1224-J-37-13341, dated 3<sup>rd</sup> April , 1937).

#### CHAPTER-6-PROCEDURE TO BE FOLLOWED IN REFERENCES FOR SECTION TO PROSECUTION AN APPROVER TO PERJURY

Application; when to be made.

6.1. Any application to the High Court under section 339 Criminal procedure code, cannot precede the proceedings required by section 476, Criminal Procedure Code, and the preparation of the necessary complaint, It is of course true that under section 339(3), Criminal procedure code, no prosecution for giving false evidence can be entertained without the sanction of the High Court but section 195(b), Criminal procedure code, lays down that no Court shall take cognizance of an offence under section 193, Indian penal Code , except on the complaint in writing of the Court concerned , Under Section 47 -Criminal Procedure code, as amended in 1923, the Court concerned is required to make a complaint signed

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Procedure

By the presiding officer of the Court after such preliminary enquiry, if any, as he thinks necessary.

6.2. The correct procedure in such cases is for the District Magistrate in consultation with the public prosecutor to decide whether the approver should be prosecuted (1) for his original offence or (2) under section 193 or section 194, Indian penal code. Prima facie in cases where the charge against the co-accused was under section 302, Indian penal code, the prosecution of the approver would be under section 194, Indian penal code, and not under section 193. After decision of this point the following procedure is necessary:-

- (a) The public prosecutor must give the necessary certificate under section 339, Criminal procedure code. Care should be taken to see that, as far as possible, the exact wording of the section is used.
- (b) The public prosecutor should then present a petition to the sessions Judge or other Court concerned praying that a complaint may be signed.
- (c) On this petition the court should then pass a proper order under section 476, Criminal procedure code, mentioning in particular whether any preliminary enquiry is necessary or not and recording a clear finding as required by the section coupled with an order that a complaint shall be made. It is the usual practice for the order to state that the complaint, when made, is to be sent to the District Magistrate for action after sanction of the High Court has been obtained under section 339, Criminal Procedure code.

(d) The sessions Judge or presiding officer should then sign the necessary complaint which should be drawn up by the public prosecutor and should recite the tender and acceptance of pardon by the accused and the various statements of the accused on oath with their respective dates and the name of the Magistrate or Court before whom they were made. The complaint should then recite the main respects in which one statement differs from another and finally and by asking for the trial of the accused on the ground that one or other of such statements is false and stating the section or sections under which the trial is to take place.

(e) The complaint should be accompanied by a calendar of witnesses, also signed by the Judge or presiding Officer.

(f) The District Magistrate should then forward to the Legal remembrancer all the necessary papers together with the request that an application be made to the High Court.

The necessary papers are as follows:-

- (i) Certificate of Public prosecutor in original
- (ii) Certified copy of order of Court under section 476, Criminal Procedure code.
- (iii) Complaint by the Court in Original.
- (iv) Calendar of witnesses in Original.
- (v) Certified copies of tender and acceptance of pardon, of the statement of accused under section 164, Criminal procedure code, and of all statements on oath made before the committing Magistrate and the Sessions Judges an uncertified copy of each of the above Statements should be supplied for use in the Advocate-General's office after filling the originals in Court.

After this procedure is complied with by the authori-

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ties concerned, the necessary application under section 339, Criminal Procedure code, to the High Court will be made by the Advocate-General.

Channel of  
Communication.

6.3. As to the channel of communication in such cases, the District Magistrate should not submit such references through the commissioner but should forward them to the Legal Remembrancer direct. When once the Court has passed orders under section 476 Criminal Procedure code, the District Magistrate has merely to perform a formal act in submitting the complaint for presentation to the High Court by the Advocate-General who appears in the High Court on behalf of the Court on concerned (and not in the Punjab Government) as complainant . No useful purpose would be served therefore by the passage of such references through the commissioner.

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CHAPTER -7 APPEALS (GENERALS)

Opinion as to Representation

7.1. In all police in cases in which a Magistrate of the Ist class or a Magistrate exercising power under section 30, Criminal Procedure Code imposes a sentence on an accused person of fine, exceeding Rs. 50 or of imprisonment exceeding one month, the court inspector shall obtain from the Magistrate at the time of sentence his opinion in writing (in Form A annexed) whether in case of appeal the Crown should be represented. Such opinions should be made over at once to the Head Vernacular Clerk, and should be destroyed After the period of appeal has elapsed. Meanwhile If a notice of appeal is received, it should be sent direct to the Head Vernacular Clerk who will lay it before the District Magistrate for orders, with the Magistrate's opinion. If representation is directed, a printed form of letter to the public prosecutor should be filled up and issued in Form B annexed.

Form A

Opinion of Magistrate regarding representation of Crown In criminal cases in Appellate court.

.....District of

.....

Court of Magistrate class opinion of Magistrate.

.....

In the event of an appeal from Magistrate's

Order ....., dated.....

193, in Criminal case No. ....

V.

Charge under section.....

Is It desirable that the Crown should

be represented in the Appellate Court? Magistrate Class

.....

Form B

Judicial.....193 ..... Department

From

The Deputy Commissioner,

.....District.

To

The Public Prosecutor,

.....

No.....

Dated the .....193.

Versus

Offence-

Sir,

I have the honor to request that you will kindly represent the Crown in the appeal noted above, fixed for hearing in the Court of Sessions Judge.

at.....on.....

Yours faithfully,

Deputy Commissioner.

Copies.

7.2.(a) Rule 5.4 applies to copies required for appeals, revision and similar purposes.

(b) copies of judgments or orders convicting, acquitting or discharging Government officers of Criminal offences will be supplied, free of charge, to the Heads of Departments concerned.

(c) English translations of vernacular judgments in Such cases will also be supplied free of charge.

Notice.

7.3. The Government of the Punjab has been pleased to direct that in the case of appeals other than those which lie to the District Magistrate or other Magistrate empowered to hear appeals under section 407 of the code of Criminal Procedure, the Appellate Court shall cause notice of the time and place of hearing to be given :-



- (a) to the Advocate-General, Punjab, in all Cases which the sentence is one of death, transportation for life, or transportation or imprisonment for a term not less than ten years:
- (b) to the District Magistrate in other cases -(Punjab Government Notification, Home/ Judicial, 0,1110-J-37 -13020, dated 1st April, 1937).

## CHAPTER -8 REPRESENTATION OF THE CROWN IN THE HIGH COURT.

General Rules. 8.1. Extract from a letter No.625( Home-Judl.), dated 11<sup>TH</sup> May, 1914, from the Revenue Secretary to Government Punjab, to all Commissioners and Deputy Commissioners in the Punjab.

- (a) I am directed to say that the Lieutenant -Governor thinks that the Crown should be represented in all appeals and revisions in the High Court on which it is important to uphold the conviction unless the case is simple that it can safely be left to spent for itself his Honour thinks that it would be advisable for District Magistrates as a general rule to procure copies of the grounds of appeal or revision in the High Court, and I am to request that this may be done in future.
- (b) The copies of the grounds of appeal and of the Court's order admitting the appeal will be supplied free of cost, and will be prepared by a copyist entertained for the purpose under the orders of the High Court.
- (c) Crown representation in criminal appeals in the High Court should not be pressed for in cases in which no real question of law or fact is at issue and where the real question is simply one of confirmation.

Of a long sentence given in accordance with the provisions of section 75 of Indian Penal Code”.

Detailed Rules.

8.2. Detailed instructions regarding the arrangements for crown representation in each class of case will be found in rules 8.6. to 8.18 following, and in chapter 9( appeals against acquittal and applications for revision on behalf of the crown).

Arrangements in the High Court.

8.3 In order to prevent the recurrence of cases for crown representation in which owing to inadvertence on the part of District Magistrate , proper steps have not been taken to secure the representation of the crown in the High Court the Judges have agreed to the following arrangement:-

In Criminal cases in which important questions are involved, and in regard to which it is especially desirable that the Government, should be represented, the judges of the High Court will cause notice to be served on the Advocate- General, informing him of the time and place of the hearing of the appeals On receipt of every such notice the Advocate-General will communicate with the District Magistrate to concerned. and will, if necessary, inspect the record,

He will then arrange to appear himself or will arrange for some other Law officer or other person to appear before the High Court, for the Crown, at the hearing.

Cases falling under Excise and Forest Laws.

8.4. (a) In cases arising under the Forest Law, the District Magistrate will inform the local Forest Officer of the receipt of the notice of the hearing

of any case in the High Court, and that officer will take the orders of the conservator of Forests as to the action (if any) to be taken for the purpose of having the crown represented in the High Court.

(b) In cases arising under the Excise Law, the District Magistrate will upon receipt of notice from the High Court, refer for orders to the Financial Commissioner.

(c) In cases relating to matters (such as Excise) in the charge of the Financial Commissioner when that officer thinks that the crown should be represented in the High Court, and the Advocate -General concurs in this opinion, no reference need be made to Government.

Local Public  
Prosecutors not  
ordinarily to  
appear in the  
High Court.

8.5. Public prosecutor should not be instructed by District Magistrates to appear in the High Court, either on appeal or revision, without the permission of Government proceedings in the High Court will be conducted by the Advocate-General or other legal practitioner in accordance with these rules.

Division I- Confirmation of death sentences and appeals by person sentenced to death of transportation for life or to transportation or imprisonment for not less than ten years.

8.6(a) In every case in which a sessions Judge has convicted a prisoner and sentenced him to transportation for life or to transportation or imprisonment for a term of not less than ten years, a copy of the sessions Judge's order should be obtained as soon as possible by the officer charged with the conduct of the prosecution before the Court of Sessions without waiting for intimation that an appeal has been

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lodged : and a memorandum should be prepared by him setting forth the theory of the prosecution, the importance which in his opinion attaches to the case, and whether he thinks that the crown, should be represented in the reference or appeal proceedings before the High Court, and if so for what reasons.

(b) The crown will be represented in the High Court in all cases in which a death sentence has been imposed and it is not, therefore, necessary to consider the question of representation or for the officer charged with the conduct of their prosecution before the court of sessions to submit a memorandum.

8.7. This memorandum, with a copy of the sessions judges order attached to it, should be forwarded as soon as possible to their District Magistrates. In cases where the District Magistrate supports the recommendation of the officer-in-charge of the prosecution for the representation of the crown in appeal before the High Court he shall forward the papers to the Advocate-General direct, but in cases where the District Magistrate disagrees with the office -in-charge of the prosecution as to representation of crown in appeal before the High Court he shall forward the papers through the commissioner to the Advocate -General. For the purpose of this rule it should be assumed that appeals should be lodged in all cases of the classes under consideration and will not be summarily rejected by the High Court and action should be taken without waiting to ascertain that appeals have actually been lodged.

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8.8. The Advocate General has been appointed under section 420 of the Criminal procedure code to receive notice of appeal in every case in which a prisoner has been sentenced to death or to transportation for life, or to be transportation or imprisonment for a term of not less than ten years. On receipt of any such notice in a case in which he has not received the papers referred to in the last foregoing rule, the Advocate -General will at once communicate with the District Magistrate to ascertain whether that officer thinks that the Crown should be represented, and if so, to obtain from him the papers aforesaid . If time does not permit of such a reference and if the Advocate General has reason to think that the Crown ought to be represented, he will make arrangements accordingly without communicating with the District Magistrate.

8.9. It will rest with the Advocate -General to determine whether the Crown should or should not be represented in any case in which the commissioner recommends its representation:

Provided---

- (a) That if the Punjab Government may in any case order that the Crown be represented before the High Court.
- (b) That if the Judges, when communicating notice to the Advocate-General , express an opinion that the Crown should be represented, arrangements must be made accordingly.
- (c) That if the Advocate-General is unable for any reason himself to represent the Crown in any case before the High Court in which he thinks that the Crown ought to be represented , or in which the Crown is to be represented , or in which

the Crown is to be represented under clause(a)  
or (b) he should at once communicate with the Legal  
Remembrancer in order that other suitable arrange-  
ments may be made;

(d) That if any case in which further  
proceedings take place before the High Court  
and the commissioner has recommended that the  
Crown should be represented, Advocate  
General decides that it should not be repre-  
sented, the Advocate- General should, as soon  
as possible, forward the papers to the Legal  
Remembrancer.

8.10. If the District Magistrate or commissioner  
considers that an application for enhancement of  
sentence should be made to the High Court, a note  
explaining the reasons for such an application should  
be sent with the papers forwarded to the commissio-  
ner or the Advocate-General as the case may be.

Division II-Appeals by persons sentenced to terms  
of transportation or imprisonment not amounting  
to ten years or to fine.

8.11. The appeals to which the rules in this division  
refer will be appeals--

(a) against sentences awarded sessions  
judges of transportation or imprisonment  
for terms less than ten years.

(b) against sentences awarded by Magistrates  
of transportation or imprisonment exceeding  
four years.

(c) By persons convicted by a Magistrate under  
section 124-A of the Indian penal code.

8.12. in any such case if application is made by or

On behalf of the accused for a copy of the judgment, the copy of the judgment will be prepared in duplicate by the copying Department, and one copy will be sent to the District Magistrate.

8.13. The District Magistrate has been appointed, under section 422 of the Criminal procedure code, to receive notice of appeals in every case of the class referred to in this division of the rules. With the notice of appeals will be sent a copy of the grounds of appeal and a copy of the Court's order admitting the appeal- if the District Magistrate contemplates an application for the services of the Advocate - General he will send the notice, with its enclosures, and the copy of judgment, to the officer who was charged with the conduct of the prosecution, or to an officer who is otherwise qualified for the purpose, and will call upon to prepare a memorandum showing the theory of the prosecution and the importance of the case, and recommending whether steps should be taken to have the Crown represented and why the memorandum should also deal with any points in the grounds of appeal or admitting order which call for special remarks.

8.14. For the purpose of the representation of the Crown in the High Court the procedure should be than laid down in rules 8.7 and 8.9 of the first division of these rules ( Punjab Government letter No. 18802-Judl, dated 14<sup>th</sup> June, 1928).

8.15. If the District Magistrate or Commissioner considers that an application for enhancement of sentence should be made to the High Court, a note

explaining the reason for such an application should be sent with the papers forwarded to the commissioner or the Advocate-General, as the case may be.

DIVISION III-APPLICATIONS FOR REVISION ON BEHALF OF PERSONS CONVICTED.

8.16. The applications to which the rules in this division refer will be applications on behalf of---

- (a) Persons sentenced to fine only or whipping only or imprisonment not exceeding one month by Magistrate of the first class, in whose cases no appeals lies:
- (b) Persons sentenced by third class and second class Magistrate in cases upheld on appeal by the District or specially empowered Magistrate:
- (c) Persons on whom sentences have been passed by Magistrates of the first class and District or Additional District Magistrate and maintained wholly or in part by the sessions judges on appeal.

8.17. Intimation of the filing of applications for revision is given by the High Court to the District Magistrate. When such applications refer to orders other than those which have been maintained wholly or in part by the sessions judge on appeal, the District Magistrate will ordinarily not take any steps to consider the desirability of the representation of the Crown before the High Court. On receiving intimation of applications for the revision of orders which have been maintained on appeal by the Sessions Judge or of similar applications in other cases which he considers for some reasons to be of special



Importance, the procedure should be laid down in rules numbers 8.12 and 8.13 of the second division of these rules, and number 8.9 of the rules in the first division will thereupon apply.

**DIVISION IV- CASES SUBMITTED BY DISTRICT MEGISTRATES TO THROUGH COURT UNDER SECTION 438 OF THE CRIMINAL PROCEDURE CODE.**

8.18. If a District Magistrate should decide to exercise his power of referring a case direct to the High Court under section 438 of the Criminal procedure code, he should at the same time separately apply to the Advocate -General for representation of the Crown in the High Court.

The Advocate-General will have complete discretion either to support the application or if he considers it cannot be supported to obtain the orders of the legal Remembrancer with a view to all allowing the recommendation to go unrepresented by the Crown in the High Court.

CHAPTER -9- APPEALS AGAINST ACQUITTAL ON APPLICATIONS  
FOR REVISION ON BEHALF OF THE CROWN.

Cases in which an  
appeal may be  
filed.

9.1. The Government will not ordinarily recommend the filing of an appeal against an order of acquittal (under section 417 of the code of Criminal procedure ) in the following cases, namely:-

- (a) Where the case is, in itself, not one of special Importance and does not involve an erroneous view Of any important legal principle, the correction of Which is of public importance;
- (b) Where the record does not disclose that there has been a clear miscarriage of justice, or mistake on an important point of law.
- (c) Merely on account of the discovery of fresh evidence after the acquittal.
- (d) Where the probability of success is not clear And distinct.

The principle which governs the exercise of its powers Under section 417 of the code of Criminal procedure may be deduced from the above statement or cases in which an appeal will not ordinarily be sanctioned . It must be shown that the record discloses good grounds for believing that there has been a miscarriage of justice or an important misconception or misstatement of the law, and that an appeal is desirable in the interest of the proper administration of justice and is likely to succeed.

The Government will not consider itself necessarily precluded from preferring an Appeal solely on the ground that the case does not come within the terms of conditions above stated; these conditions are intended merely as a general guide to officers making references.

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Of any reasonable doubt, and the Court has considered  
It with impartially, intelligence and care, an  
appeal would not ordinarily be permitted by the  
Government .

Principles governing appeals against acquittals.

Rule observed from 1904 to 1931 in the Punjab—

(1) Chattar Singh, 7 P.R. 1904 cr.

(2) Mozaffar Khan, A.I.R. 1931 L.465. position  
analysed in 1931.

(3) Bhai Khan, A.I.R. 1931 L. 18. Rule enunciated  
By the privy council in 1934.

(1) Sheo Sarup, I.L.B.56-A,645 P.C. Rule observed  
since the privy council decision.

(1) Chatturbhuj Narain, I.L.R.15 P. 108.

(2) Nga Mya Maung, A.I.R.1936 R.90.

(2) In considering whether to recommend an appeal  
against an acquittal District Magistrate are asked to  
bear in mind the contents of the following rulings which  
explain the principles generally followed by the courts  
in dealing with such appeals.

7.P.R. 1904 Criminal (case of Chattar Singh)

A.I.R. 1931.L.465(case of Mozaffar Khan)

A.I.R.1931.L.18( case of Bhai Khan)

I.L.R.56-A,645 P.C.(case of Sheo Sarup)

I.L.R.15 P.108(case of Chattubhuj Narain)

A.I.R.1936.R.90(case of Nga Mya Maung)

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Submissions Proposals.

9.2(a) Then it is decided to recommend an appeal Against acquittal or an application for revision on Behalf of the state, such proposals will be submitted by the District Magistrate. They should always be accompanied by the judicial files and an attested copy of the order which it is sought to set aside or modify, together with a copy of the first court's order, in cases where the order assailed is the order of an appellate court, and also by a full statement of the reasons for the application. The District Magistrate will forward them with a memorandum of the case prepared by the public prosecutor to the Advocate General, who will transmit then to the Legal Remembrancer after recording his own opinion. The Legal Remembrancer will then transmit them to Government with an expression of his own opinion there on. (Punjab Government Memorandum No. 214-J-53/77760, Dated the 28<sup>th</sup> September, 1953).

(b) Commissioners need not send on recommendations from District Magistrates for filing appeals against orders of acquittals if they themselves are unable to support the proposals.

Early Submissions.

9.3. The proposals referred to in rule 9.2 must be submitted so as to reach the Advocate-General within six Weeks of the date of the pronouncement of the order of acquittal at latest.

9.4. The Government will not ordinarily recommend the filing of an appeal from an order of acquittal after 2\*months subsequent to the date of such order. The Intention is to preclude any tendency to leisurely Procedure apt to be created by the statutory period of 3\*months. There are good grounds for ensuring

the speedy disposal of a case while the facts are fresh in mind, and it is only fair to the accused that the charge should not be kept hanging over him for longer than is necessary. If all concerned are aware that anything to be done by way of appeal must be completed within 2 months. It should be quite possible to expedite the examination of the papers without endangering the thoroughness of the scrutiny of them. It is merely a matter of ensuring that the case is not delayed in transit between different authorities and that it is regarded as urgent. (\* Punjab Government endorsement No. 8228-J-(C)-56/1385, dated the 12th January 1356).

Private applications.

9.5 When applications for the institution of appeals against orders of acquittal are submitted by private persons direct to Government, as not infrequently happens they will be returned to the senders with instructions that the Punjab Government do not act in such cases on petitions received direct from private persons and that if they think that there are grounds for a Crown appeal their proper course is to make a representation to the District Magistrate of the district.

Sentence of transportation in murder case.

9.6. In all cases in which an accused person charged with murder receives a sentence of transportation for life a spare copy of the judgement of the Sessions Court is forwarded to the Advocate-General with a view to his taking, if necessary proper steps to have the sentence enhanced to the capital penalty. Sessions Judges should send this spare copy direct to the Advocate-General, as soon as possible after the judgement is delivered. Another spare copy should be submitted to the High Court along with the Sessions record in accordance with the instructions contained

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In Mr. Ferguson's letter No. 416-G, dated 14th January, in cases in which a sentence of over 7 years rigorous imprisonment or transportation has been passed. (Punjab Government Letter No. 5222/1719-3-J, 41/45144, dated the 19th August, 1941.

CHAPTER-10 DEFENCE OF ACCUSED PERSONS

Legal Assistance when offence is punishable with death.

10.1. The Government considers that every person charged with committing an offence punishable with death should have legal assistance at his trial either in a court of Sessions or in the High Court. With this object the Magistrate committing any person for trial to a court of Sessions or to the High Court shall report whether the accused was represented by counsel in the proceedings before him, and, if not, whether the accused can afford to engage one for his trial in the Court of Sessions or the High Court.

Arrangement To be made By Sessions Judge.

10.2. If the accused is unrepresented and cannot afford to engage counsel, the Sessions judge shall make arrangements to employ counsel at Government expense, and he may be also appoint counsel, if he thinks fit, even when the committing Magistrate considered that the accused has means enough to engage counsel himself. Counsel in such cases should be appointed in time to enable him to study the necessary documents will ..... be which should be supplied free of cost. These documents will ordinarily be copies of :-

- (a) the evidence recorded by the committing Magistrate, the charge and the order of commitment;
- (b) the police record including, not the zimnis, but such documents as the first information report, the inquest report and the plan of the spot.

Fees.

10.3. The Legal Practitioner thus engage by the Court trying the case shall receive the same fees as private practitioners engaged under the rules in chapter 11, and the fees shall be entered in the same register and drawn in the same manner as is prescribed for such practitioners.

Fees how  
Calculated.

10.4. The counsel should be engaged in such cases on the understanding that he will be paid only for the days on which he works and not for a specific period: Provided that if a counsel has already been engaged for a poor accused and he is required to retire before the commencement of the trial owing to the engagement of counsel by the accused himself, he will be entitled to get one day's fee by way of compensation.

High Court  
Rules.

10.5. For Rules regarding defense of accused in High Court see High Court Rules and Orders, Volume V, Chapter 4-.... pages 14 to 15.

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#### CHAPTER 11-FEES IN CRIMINAL CASES. LAW OFFICERS .

Advocate-  
General.

11.1. The Advocate-General will receive the following fees in criminal cases:-

(1) Opinion work for the Punjab Government and criminal cases in the High Court including cases of contempt of Court-No fees, this work being covered by his fixed retaining salary.

(2) Criminal cases outside the High Court-fee of Rs. 200 in respect of every day's attendance in each case, in addition to travelling allowance.

(3) For quasi-criminal cases such as cases relating to the present or Legal practitioners-Fees as for miscellaneous Court.

Assistant Legal  
Remembrancers.

11.2. The Assistant Legal Remembrancers will receive the following fees in criminal cases:-

(1) For opinion work- No fees, this work being covered by their fixed retaining salaries.

(2) For criminal cases in the High Court other than cases in which they appear during such ..... as may be



allotted to them by the Legal Remembrancer Fees at the rates permissible for private legal practitioners.

(3) For cases outside the High Court- A fee of Rs. 100 for every day's attendance in addition to travelling allowance, when permissible, according to the provisions of the Punjab Financial Handbook No. 2, Volume III.

Assistant to the  
Advocate-General.

11.3. For the criminal work done by the Assistant to the Advocate-General in the High Court, over and above the allotted period mentioned in Rule I.18(2), he will be paid fees on the following scale:-

(i) For cases before a D.B. -Rs. 50/- per case per diem.

(ii) For cases before a S.B.-Rs. 32/- per case per diem.

Provided that the A.A.G. shall not be entitled to earn fees in excess of Rs. 75/- for anyone day's work. (vide H.S.'s letter No. 1174-J-39/8819, dated 9.3.39).

All such sanctions shall be at once ..... by A.G. to Government.

#### Public Prosecutors and Private Practitioners.

Public  
Prosecutors.

11.4. The Criminal work done by Public Prosecutors will be covered by their fixed retaining salaries, except as provided below.

Note- 1:- For the purposes of this rule, criminal work includes proceedings under Section 15 of the Payment of Wages Act, 1936. (Punjab Government letter No. 6828-A-Judicial/32873 dated the 4th October, 1938)

Note- 2:- For the purposes of this rule, appeals under section 476-B of the Code of Criminal Procedure, in whatever type of court (whether civil, revenue or criminal) they may be taken, are of a quasi-criminal nature, if indeed they are not criminal business; and in terms of rule 4.12 of the Punjab

Law Department Manual the appearance of a Public Prosecutor in such an appeal must be regarded as covered by his consolidated monthly salary. (Home Secretary's U.O.No. 1143-J.40, dated 21st February, 1940.)

Fees in criminal Cases to private Legal practitioners for appearance in High Court.

11.5. (1) When the Advocate-General of the Legal Remembrancer appoints any private legal practitioner to represent the Crown in the High Court in the absence of the Advocate-General he may sanction the payment of a fee not exceeding Rs. 75 a case per day subject to a maximum of Rs. 100 a day for any one practitioner: Provided that the Advocate-General or the Legal Remembrancer may sanction a bonus, not exceeding one hundred rupees, in addition to a fee allowed by this rule, in any single case which in his opinion, involve a greater expenditure of time and labour than is involved in the majority of cases of a similar nature.

(2) A Legal Practitioner employed to defend an accused person in the High Court shall receive a fee of Rs. 50, or if the hearing lasts more than a day, a fee not exceeding Rs. 50 per day. This payment shall be made by Advocate-General on the production of a certificate signed by the Judges or by one of the Judges hearing the case, in which the total amount of fees allowed to the legal practitioners by the Judges hearing the case shall be stated-- (High Court Rules and Orders, Vol. V, Chapter 4- , pages 14-15.)

11.5 (A)(a) Notwithstanding anything contained in rule 11.5, the Advocate-General or the Legal Remembrancer shall appoint a senior and a junior counsel to represent the Crown in the following classes of cases, provided that it has been decided that Crown representation is necessary, viz :

- (a) murder references;

(b) appeals from sentences of transportation for life; and

(c) appeals against acquittals or charges of sentences punishable with death or transports for life.

(2) Counsel appointed under sub-rule(1) shall be entitled to remuneration as under, per day,viz;

(a) for one case.. Senior Counsel ..Rs. 50

Junior Counsel .. Rs. 30

(b) for two cases.. Senior Counsel ..Rs. 90

Junior Counsel .. Rs. 30

(c) for three cases. Senior Counsel ..Rs. 120

Junior Counsel .. Rs. 40

(d) for four cases.. Senior Counsel ..Rs. 150

Junior Counsel .. Rs. 50

(Vide Punjab Government letter no. 4901/2229-

S.J-45/43163, dated 26th October, 1945).

Ordinary scale of fees in criminal cases to private legal practitioners for appearance for in Subordinate Courts.

11.6 The ordinary fee payable to a private practitioner for conducting each case as Public Prosecutor shall be subject to a minimum of Rs. 16 per day and a maximum of Rs. 32 per day or Rs. 100 (Rupees One Hundred for the entire, cases which ever may be less, according as the presiding officer of the Court recommends in each case to the Legal Remembrancer whose decision thereon shall be final:

Provided that the maximum fee paid to a legal practitioner shall not exceed Rs. 50 for work done on one day.

Detailed arrangements.

11.7. (1) District Magistrate should so arranged that it will be possible for one practitioner to appear in a reasonably large number of cases on same day for the composite fee prescribed in the provisions above.

(2) No fee is done when a case is adjourned without any proceedings being taken, provided that if a case is adjourned at the first hearing without any proceedings being taken the counsel shall be entitled the fee if he does not appear on that day.

in any other case on that day and has not already a fee in the case-

(3) The signature of the Deputy Commissioner at the foot of the fee bill will be taken as sanction within the meaning of the proviso to rule 11.6.

11.8.(Omitted by Correction slip No. 16)

Fees for defending poor accused.

11.9. The fee of a legal practitioner engaged by the court of Sessions to defend an accused person shall be at the above rated and shall be drawn in the same manner as is provided for private practitioners.

Travelling Allowances not permissible for private practitioners.

11.10. A Private legal practitioner is not entitled to any travelling allowance. The existing scale of fee cover such travelling allowance.

11.11(1) In special cases the Legal Remembrancer may add to the ordinary fee allowed by the above rules a bonus not exceeding Rs. 200.

(2) In any case in which the fee authorized in sub-rule (1) is manifestly inadequate the Punjab Government may grant a special fee and bonus up to a maximum of Rs.5,000/- per case. Recommendations for the grant of such special fee and bonus should be made through the Legal Remembrancer.

Fee for preparing memorandum.

11.12. No fee shall be paid to public prosecutors drawing fixed monthly salaries for preparing a memorandum on a case. But a fee not exceeding Rs. 16 (except with the sanction of the Commissioner) may be paid to a legal practitioner employed on terms laid down in Rule 11.6 when required to prepare such a memorandum.

11.13(1) At the conclusion of each day on which the private legal practitioner is engaged in any court other than the High Court he will prepare and submit for countersigned by the presiding officer of the Court a register containing the following

details fully set out:-

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Date	Name of case	From what hour	To what hour	Name of persons appearing	Signature or presiding for Crown. officer.	Remarks,
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(2) The bill will be prepared by the private Legal practitioner and produced with the counterfoil for verification and comparison to the Magistrate of the district, or such officer as the District Magistrate may appoint for the purpose. The copy shall be certified as correct or amended, when necessary and returned to the practitioner, who will forward it to the Legal Remembrancer for audit and countersignature.

(3) Private Legal Practitioners' entitled to claim Fees or other expanses from Government on account of the conduct of a particular criminal case on behalf of the Crown, are required to submit their bills within one month of the completion of the case in the original or appellate court, as the case may be. Any delay in this respect is likely to prejudice the Claim.

Audit of fees.

11.14. The Legal Remembrancer is the controlling officer for the audit of all fees due to private practitioners appointed under rules 11.5 and 11.6 above on account of criminal work conducted by them.

Consultation fees.

11.15. Public Prosecutors are not entitled to consultation fees in criminal cases but where an opinion has been given on matters of special difficulty or complexity the Legal Remembrancer may sanction a fee on the scale laid down in rule 25.13 and 25.15 of the rules regarding fees in civil cases.

General.

11.16. When costs are awarded a criminal or quasi-criminal case, they must be credited to the Crown through the treasury.

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#### CHAPTER.12-DEFENCE OF GOVERNMENT SERVANTS.

12.1- The Punjab Government have laid down the following Principles as to the conditions in which they will pay the cost of defending servants of Government in criminal proceedings, and regarding the procedure to be followed by such servants as may desire to secure the assistance of Government in their defence:-

I. Government will ordinarily meet the reasonable Cost of the defence of a Government servant in Criminal cases brought against him for acts arising Out of the performance of his public duty, Provided that they are satisfied that he acted in Good faith.

ii. Government will also meet the reasonable cost, of defence in cases where, although the complaint does not arise directly out of the performance of his public duty, they are satisfied that the Government servant has acted in good faith, and that the complaint has been brought against him with the object of deterring him from, or harassing him in, the performance of his public duty.

III. When Government come to a preliminary decision to meet the reasonable cost of defence of a Government servant, such decision will be subject to revision if, as a result of the criminal proceedings, Government are satisfied that he did not act in good faith.

IV. In case covered by paragraph I above, even when Government decline in the initial stages to meet the cost of defence, they will nevertheless ordinarily meet if the government servant is honorable acquitted by courts.

V. When it comes to the notice of a Government Servant that a criminal case has been filed against him in the conditions stated in paragraphs I and II above, he shall report the fact, through the usual channel, to the district executive head of the Department in which he is serving, or, if he is himself the executive head, to this superior officer. He shall similarly report the result of the case.

VI. If a Government servant applies to be defended at public cost, or if his superior officer considers that he should be so defended, the case shall be reported forthwith, through the normal channel, to the head of the Department with a suitable recommendation. The Head of the Department, after consulting the Legal Remembrancer, if the considers after this to be necessary, will submit the case to Government for their orders with his recommendation.

VII. When it is not possible to obtain the orders of Government before the commencement of proceedings

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concerned may ask the deputy commissioner To make arrangements for the defence of the Government servant. The deputy commissioner shall ordinarily do so if the departmental officer has made a recommendation to that effect but any arrangements made shall be subject to the condition stated in paragraph III above. Such action does not absolve the departmental officer from sending a full report to Government as early as possible in the manner stated in paragraph VI above.

VIII. A Government servant will defray from his own pocket any amount expended in a excess of what is held to be reasonable cost of his defence.

IX. If compensation is awarded to a Government servant in any case which has been defended at public expense he will be liable to refund the expenditure incurred by Government in his defence up to the limit of the compensation awarded.

X. If in any case a Government servant is convicted and seeks the help of Government in prosecution an appeal against the decision, the procedure to be followed will be similar to that laid down above in connection with original prosecutions.

XI. The Public Service Commission shall be consulted on any claim by or in respect of a person who is serving or has served his Majesty in a civil capacity in the Punjab, that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the revenues of the province. (Punjab Govt. U.O. No. 6287-J-43, dated 26.11.1943).

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Note-(1) :- The maximum amount for which Government will ordinarily accept liability as pleaders fee will be the rates prescribed in rules 11.6,11.10 and 11.11. of the Manual.

Note.(2) :- Nothing in these instructions is intended to mean that Government will themselves appoint counsel or conduct the defence. Every accused person is entitled to be defended by a pleader of his own choice. If the official who is to be defended so desires, the Legal Remembrancer will be ready on a reference from the head of department to suggest the names of suitable counsel and to give advice as to the line of defence; but it should be clearly understood that any suggestions which he may make are in the nature of advice and that the ultimate decision as to the particular counsel to be engaged must rest with the official himself.

The principle mentioned in the proceeding paragraph must always be borne in mind by the head of any local office who may decide to ask the Deputy Commissioner under instruction VII to make arrangements for the defence of a Government Servant. Before making such a reference he should satisfy himself that the official to be defended is prepared to entrust the choice of counsel to the Deputy Commissioner. The reference should make it clear that this is so, and that the official concerned is ready to pay any fees which the Deputy Commissioner may settle with the legal practitioner, chosen by him.

When a Deputy Commissioner receives such a reference, he should normally select a suitable

Lawyer from the crown list of his district. It is not desirable that the Public prosecutor should be briefed for the defence of a criminal case in which an official is accused. (Punjab Government Circular No. 2368-J.39/19390 (II.Judl.), dated 30<sup>th</sup> May, 1939).

Note- (3):- Whenever sanction is accorded to the defence of an officer or official of the State at public expense, it shall be subject to the condition that in the event of such officer or official being found to have acted otherwise than in good faith, he shall be liable to refund to the Government, the amount spent by the State on his defence. (Punjab Government, Circular No. 66 (58)-S.J-65/6067, dated the 15<sup>th</sup> May, 1965)

#### CHAPTER 12-A-APPOINTMENT OF COUNSEL IN DEPARTMENTAL INQUIRIES;

12.A.(1) Rule 6(2) Punjab Subordinate Services, Punishment and Appeal Rules, 1930; contemplates that in certain cases when departmental proceedings are being taken against an official, or when an appeal in departmental proceedings is being heard, counsel may be engaged to represent the department concerned. The same principles are ..... followed in departmental inquiries against members of the superior services, and the following instructions have been issued laying down the procedure to be followed when it is desired to have the Crown represented by counsel in any kind of departmental proceedings.

(2) In such cases the Crown case will ordinarily be conducted by the Public Prosecutor for the district; or by a private legal practitioner specially chosen for the purpose under the orders of the Legal Remembrancer. The standard rate of fee for the Public Prosecutor

or other legal practitioner engaged for this purpose will be 25 rupees per diem in an original case before any authority other than the High Court, and 50 rupees per diem for appearances in any appellate proceedings or in original departmental proceedings taken before the Honourable Judges, subject to a maximum of eight hundred and fifty rupees for any one month. When the head of a department or the head of a local office decided that a legal practitioner ought to be appointed to conduct the Crown case in any departmental proceedings, he should approach either the Deputy Commissioner concerned or the Legal Remembrancer as he may find convenient, but if the reference is made in the first instance to the Deputy Commissioner, it will be a rule that the latter should obtain the Legal Remembrancer's approval before ordering counsel to appear.

(3) The Legal Remembrancer is authorized, without reference to Government to allow fees in such cases not exceeding the maximum mentioned above. In special cases where the Legal Remembrancer consider that a higher fee should be paid, he should make special reference to Government.

(4) These instructions will be applicable to ordinary departmental proceedings only and not to inquiries under the Public Servants (Inquiries) Act, 1850. In the case of inquiries under the latter Act, the orders of Government regarding the presentation of the Crown case should invariably be taken.

(5) These instructions should not be taken as implying that counsel should be engaged for the Crown in departmental cases with freedom in the future than in the past. Except in cases of unusual complexity, there should be no need for Crown representation in departmental proceedings, and counsel, should not be engaged unless the need is clear.

(Vide Punjab Government Letter No. 3422.J.40/22947, dated the 17<sup>th</sup> May, 1940).

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## SUIT RULES

As contained in the Punjab Law Department Manual (1938 Edition).

### PART III-Civil Business

#### CHAPTER 13.-Agency (General)

13.1. The Legal Remembrancer is primarily responsible for the proper conduct of all civil suits, appeals and proceedings affecting the Punjab Government, including the execution of decrees passed in favour of Government and the recovery of all sums due to Government, whether as costs in pauper suits or otherwise, under the decrees or order of Civil Courts: except in so far as the conduct of the proceedings has, under these rules or the special orders of the Governor, passed into the hands of the Advocate-General.

Legal Remembrancer responsible for conduct of civil litigation.

<sup>1</sup>[13.2.] The Advocate-General will ordinarily appear or arrange for appearance for the Punjab Government in civil suits, appeals and proceedings affecting it, in the High Court. <sup>2</sup>[\* \* \* \*].

Advocate general will ordinarily appear in the High Court.

<sup>3</sup>[ (b) Omitted ].

<sup>4</sup>[13.3 The Legal Remembrancer, the Deputy Legal Remembrancer, the Assistant Legal Remembrancers, the Advocate-General, the Additional Advocate-General, the Senior Deputy Advocate-General, the Deputy Advocate-General, and the Assistant Advocate-Generals have been appointed Government Pleaders' for purposes other than those specified in Order XXVII, Rule 4, and Order XXXIII, Rule 6, of the Code of Civil Procedure :-

Government pleaders for the State.

(Punjab Government notifications No. I-C, dated the 1<sup>st</sup> January, 1909, No. 5248-J-37/2884, dated the 7<sup>th</sup> August, 1937, No. 893- J-40/7368, dated the 14<sup>th</sup> February, 1940, No. 880-J-(C)-57/7490, dated the 26<sup>th</sup> April, 1957, No. 6080-J-59/13942, dated the 25<sup>th</sup> June, 1959, No. 5061-J-60/18794, dated 26<sup>th</sup> May, 1960, 5128-4 J-60/20803, dated the 11<sup>th</sup> June, 1960, No. 5125-4 J-60/20211, dated the 11<sup>th</sup> June, 1960. No. 5124-4 J-60/18771, dated the 25<sup>th</sup> May, 1960 and No. 5124-4 J-60/18778, dated the 25<sup>th</sup> May, 1960).].

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<sup>1</sup> Sub-rule (a) of rule 13.2 renumbered as rule 13.2, *vide* Punjab Government memorandum No. 72-2J-61/1446, dated the 18<sup>th</sup> January, 1961 *see* Punjab Law Department Manual Correction Slip No. 104.

<sup>2</sup> The words "and in any civil courts, subordinate to the High Court, sitting at Lahore" omitted by *ibid*.

<sup>3</sup> Sub-rule (b) omitted by *ibid*.

<sup>4</sup> Substituted by *ibid*.

Conduct of civil proceedings in District and in Subordinate Courts.

13.4 In regard to civil suits, appeals and proceedings other than those falling under Rule <sup>1</sup>[13.2] above the Legal Remembrancer will proceed in the following manner:-

(a) in cases which he deems to be of sufficient importance (Whether in respect of the amount at stake, or of the legal principles or public interests involved, or of the intricacy of the proceedings) for the adoption of that course, he will, with the sanction of the Governor, previously obtained, make over the conduct of the case to the Advocate-General;

(b) in other cases, he will ordinarily employ local legal practitioners (and usually, but not necessarily, the Government Pleader, if his services are available), to conduct the proceedings on behalf of the <sup>2</sup>[State] under his general supervision.

Legal Remembrancer may himself conduct the proceedings in certain cases.

13.5 The Legal Remembrancer may, if he thinks fit, himself conduct the <sup>2</sup>[State] cases in any civil suit, appeal or proceeding for the conduct of which he is responsible.

Legal Remembrancer may visit any place for purposes of supervision.

13.6 The Legal Remembrancer may, at any time, visit any place for the purpose of supervising the conduct by local agency of the civil business of the <sup>2</sup>[State], or of watching the conduct of, or of himself conducting, any civil suit, appeal or proceeding on behalf of the <sup>2</sup>[State].

Duty of Legal Remembrancer in connection with Civil Court business.

13.7 The Legal Remembrancer is required to supervise the entire conduct of every civil case for which he is responsible. He will furnish to the legal practitioner or other person appointed to conduct or defend a civil suit on behalf of the <sup>2</sup>[State], his instructions, which will include-

- (1) the Departmental statement of the case;
- (2) The opinion of the Legal Remembrancer;
- (3) the order of the appropriate authority, to sue or defend.

Local agency.

13.8. The local agency in Civil and Revenue matters comprises-

- (a) The Deputy Commissioner, as a "Government Pleader," for the purposes of Order XXVII, Rule 4, and Order XXXIII, Rule 6, of the Code of Civil Procedure, for his district;
- (b) The Deputy Commissioner, or any Assistant or Extra Assistant Commissioner empowered by him in that behalf, or, in the absence of Deputy commissioner, the Senior Assistant or Extra Assistant Commissioner, at headquarters as the "recognised agents" of Government ;

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<sup>1</sup> Substituted for the figures, brackets and letter "13.2 (a)" by *ibid*.

<sup>2</sup> Substituted for the word " crown,"- *vide* Punjab Government memorandum No. 72-2J 6111446, dated the 18<sup>th</sup> January, 1961: *see* Punjab Law Department Manual' Correction Slip Nos. 104 and 105.

- (c) The Government Pleader or any local legal practitioner specially instructed and authorised by the Legal Remembrancer;
- <sup>1</sup>[(d) District Nazirs, Assistant District Nazirs and Assistants attached to the offices of Sub-Divisional Officers.].

*Note 1.-* The Deputy Commissioner of each district is appointed to be the Government Pleader, for the purposes of Order XXVII, Rule 4, and Order XXXIII, Rule 6. Of the Code of Civil Procedure: for his district. (Punjab Government Notification No. 1-C., dated 1<sup>st</sup> January, 1909).

*Note 2.-* (1) In accordance with the provisions of Order XXVII, Rule 2 of the First Schedule of the Code of Civil Procedure, 1908, the Governor of the Punjab has been pleased to authorise all Deputy Commissioners in the Punjab, in virtue of their office to act for the <sup>2</sup>[State], in respect of all judicial proceedings in which the Punjab Government is concerned and in which they may receive instructions from the Financial Commissioners or the Legal Remembrancer to Government.

(2) In the absence of the Deputy Commissioner from his headquarters, the Senior Assistant Commissioner or Extra Assistant Commissioner there present is hereby authorised to exercise the power hereby conferred on the Deputy Commissioner. ( Punjab Government Notification No. 1073-J-37/13015, dated 1<sup>st</sup> April, 1937).

*Note 3-* Attention is drawn to the provisions of Order XXVII of the Code of Civil Procedure, relating to suits by or against the Government. Every notice of suit under section 80 of the Code of Civil Procedure must be left with the Deputy Commissioner or a Secretary to Government. Summonses, notices and other processes under the Code must, to have effect in law, be served on the Deputy Commissioner as the Government Pleader for that purpose.

*Note 4-* Under Order XXVII, rule 1 of the Code of Civil Procedure, 1908, it has been ordered that in all suits by or against the, Punjab Government, plaints or written statements on behalf of the Punjab Government shall be signed and verified by the Deputy Commissioner for the time being of the district in which the cause of action in whole or in part arises or by any other gazetted officer of the department, who is acquainted with the facts. (Punjab Government Notification No. 1073-J-37/13017, dated 1<sup>st</sup> April, 1937).

<sup>2</sup>[*Note 5.-* All District Nazirs and Assistant District Nazirs have been appointed to be Government Pleaders for the purpose of filing and prosecuting execution petitions in the civil districts to which they are attached. (Punjab Government Notification No. 1940-J37/18103, dated 27<sup>th</sup> April, 1937 and No. 3864/501-S.J.41/33300, dated the 17<sup>th</sup> June. 1941).].

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<sup>1</sup>Clause (d) substituted by Punjab Law Department Manual Correction Slip No. 99.

<sup>2</sup>Substituted for the word "Crown" by Punjab Government memorandum No. 72-2J-61/1446, dated the 18<sup>th</sup> January, 1961; see Punjab Law Department Correction Slip No. 105.

<sup>3</sup>Note 5 substituted by Punjab Government Memorandum No. 7898-J-54/38084, dated the 20<sup>th</sup> December, 1954. See Punjab Law Department Manual Correction Slip No. 99.

<sup>1</sup>[Note 6- In pursuance of clause (a) of rule.8-B. of. Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, the Central Government has appointed all Government Pleaders in Punjab to be Government Pleaders for all Courts in the State <sup>2</sup>[ and Shri Shankar Nath, M.A., LL.B, Advocate and Notary Public, Rock Point, Simla, to be Government Pleader for Courts in Simla (other than the High Court)] for the purposes of the said Order in relation to any suit by or against the Central Government other than a suit relating to :-

- (i) the Northern Railway,
- (ii) the North-Eastern Railway,
- (iii) the Eastern Railway,
- (iv) the Western Railway,
- (v) the Central Railway,
- (vi) the Southern Railway or,
- (vii) the Chittaranjan Locomotive Work(Chittaranjan)or against a public officer in the service of the Central Government.

(Vide Government of India, Ministry of Law, Notification No. S.R.O. 1035, dated the 2<sup>nd</sup> June, 1953).

The Central Government has pointed out that in view of the definition of "Government Pleader" given in Order XXVII, Rule 8-B(a), only Pleaders as defined in section 2 (15) of the Code of Civil Procedure, 1908, can be Government Pleaders in relation to Central Government suits and that the Deputy Commissioners cannot perform the functions of the Government Pleader under Order XXVII, Rule 4, in relation to such suits.

(Vide Government of India, Home Department letter No. 204/37-Juld., dated of 25<sup>th</sup> May, 1939).]

<sup>2</sup>[Note 7- In pursuance of rules 2 and 8 read with clause (a) of rule 8-B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908, the Central Government has authorised the officers appointed as Government Pleaders under clause (a) of rule 8-B of the said Order to act in any Court in Punjab for which they have been so appointed--

(a) for the Central Government in respect of any judicial proceeding by or against the Central Government not relating to the Railways and Locomotive Works mentioned in Note 6 above, and

(b) where the Central Government undertakes the defence of a suit against a public officer in the service of the Central Government for such officer.

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<sup>1</sup>Substituted by Punjab Government letter No. 667-J-53/82646, dated the 21<sup>st</sup> October, 1953; see Punjab Law Department Manual Correction Slip No. 93/ (Note 6 was added by Punjab Law Department Manual Correction Slip No. 1 and was subsequently amended by Punjab Law Department Manual Correction Slips No. 32, 48, 61, 69, 70 and 75.

<sup>2</sup>Inserted by Punjab Government Memorandum No. 7898-J-54/38084, dated the 20<sup>th</sup> December, 1954; see Punjab Law Department Manual Correction Slip No. 98.

<sup>3</sup>Substituted by Punjab Government letter No. 667-J-53/82646, dated the 21<sup>st</sup> October, 1953; see Punjab Law Department Manual Correction Slip No 93. (Note 7 was added by Punjab Law Department Manual Correction Slip No. 48),



[*Vide* Government of India, Ministry of Law, Notification No. S.R.O 1036, dated the 2<sup>nd</sup> June, 1953].

<sup>1</sup>[Note 8.- Assistants attached to the offices of the Sub-Divisional Officers have been appointed to be Government Pleaders for the purpose of filing and prosecuting execution petitions in the civil courts at the Headquarters of the Sub-Division. (Punjab Government Notification No. 10301-J-55/13876, dated 20<sup>th</sup> May, 1955).].

13.9. Under Rule 2 of Order XXVII all Government Pleaders are authorised to act for Government without a Power-of-Attorney-(Notifi-cation No. 22963-Judl., dated 10<sup>th</sup> December, 1917).

Government Pleaders  
may act without  
Power of Attorney.

13.10. The Legal Remembrancer has been authorised to conduct civil proceedings on behalf of the Central Departments mentioned in Rule 2.21, and may act on behalf of other Central Departments when so authorised by the Central Government.

Central Departments

<sup>2</sup>[13.11] Under section 17-A of the Indian Divorce Act (IV of 1869) the Legal Remembrancer has been appointed to exercise within the jurisdiction of the <sup>3</sup>[Punjab] High Court the like right of showing cause why a decree for dissolution of marriage should not be made absolute or should not be confirmed, as is exercisable in England by the King's Proctor. -(Government of India Notification No. F. 928/27-Judl., dated the 28<sup>th</sup> July, 1928).

Duties of King's  
Proctor.

<sup>4</sup>[13.12.] The Director of Industries, Punjab, has authorised Government Pleaders in the Punjab to produce the declaration issued by him under the Punjab State Aid to Industries Act in the principal civil courts of original jurisdiction within the local limits of whose jurisdiction any of the property liable for the debt due, is situate, in the same manner as a decree of which execution is sought. (Industries Department notification No. L/1/16/15300, dated the 27<sup>th</sup> October, 1937.)).

Declarations issued by  
the Director of  
Industries,  
Punjab.

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<sup>1</sup>Note 8 added by Punjab Law Department Manual Correction Slip No. 99.

<sup>2</sup>Rule 13.11(a) omitted and rule 13.11(b) renumbered as rule 13.11 by Punjab Government memorandum No. 72-2J-61/1446, dated the 18<sup>th</sup> January, 1961; see Punjab Law Department Manual Correction Slip No. 106.

<sup>3</sup>Substituted for the word "Lahore" by *ibid*.

<sup>4</sup>Added by Punjab Law Department Manual Correction Slip No. 33.

CHAPTER 15.-*Suit Rules –Definitions*

Definitions.

15.1 Throughout the Suit Rules (Chapters 15 to 21 the expression-

Controlling Authority.

(a) <sup>1</sup>["Controlling authority" means an officer} empowered to authorize, (1) the institution of a suit on behalf of the <sup>2</sup>[State], (ii) the defence of any threatened suit to which the <sup>2</sup>[State] has been made a party, (iii) intervention by the <sup>2</sup>[State] in any suit in which the <sup>2</sup>[State] is interested, or (iv) the institution or defence of a suit by or against a public officer in his public capacity. \*<sup>3</sup>[In those classes of cases for which no officer is specifically empowered to act as 'controlling authority' these functions will be discharged by Government which will itself regarded as the controlling authority.]

Officer-in-charge.

(b) "Officer-in-charge---of the case" means the law officer, legal practitioner, or Government officer appointed to conduct the proceedings on behalf of the Government or of a public officer in any suit.

Head of Department.

(c) "Head of Department" shall be deemed to mean the authority specified in Appendix D of the Punjab Budget Manual, in all cases to which the Punjab Government is a party.

Suit.

(d) "Suit" means a suit by or against, or affecting the Government or a public officer in his official capacity or which is brought or defended by a public officer at the public expense, and includes an appeal, and application for revision or review or execution of decree, and any civil judicial proceeding in which the Government or a public officer in his official capacity is a party or has any interest.

*Note 1.-* References to courts made under the Land Acquisition Act, 1894, fall in the definition.

*Note 2.-* Petitions under sections 5(1) and 10(1) of the Sikh Gurdwaras Act, 1925, also come within the definition of "suit" and the rules regarding the conduct of suits should be complied with as far as is practicable.

*Note 3.-* The provisions of these rules apply to all suits, by or against district boards and municipal committees in respect of nazul land and other Government pro-perty of which the management and control has been entrusted to such boards or committees.

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<sup>1</sup>Substituted by Punjab Law Department Manual Correction Slip No. 23.

<sup>2</sup>Substituted for the word "crown" by Punjab Government memorandum No. 72-2J-61/1446, dated the 18<sup>th</sup> January, 1961: see Punjab Law Department Manual Correction Slip No. 109.

<sup>3</sup>Added by Punjab Law Department Manual Correction Slip No. 23.

*Note 4.*- Rules relating to suits with respect to lands within the limits of Cantonments <sup>1</sup>[ \* \* ] in India or in a Military Station or in an abandoned Cantonment before its disposal as such are to be found in "Instructions regarding suits in connection with Military Lands."

<sup>2</sup>[15.2. In respect of suits in the civil courts and the revenue courts-

(i) by or against the Punjab Government,

<sup>a</sup>[(ii)] by or against a public officer serving under the Punjab Government not being suits by or against a public officer, <sup>4</sup>[\* \* \*] in which tortuous conduct is imputed to a public officer in the execution of his official duties, the following officers have been appointed to be controlling authorities:-

Controlling authorities in Suits affecting the Punjab Government.

(a) Chief Engineer of the Public Works Department, Punjab, Buildings and Roads and Irrigation Branches, in respect of all cases affecting their departments; Chief Engineers, Punjab, Public Works Department, Electricity Branch in respect of cases affecting his Department not exceeding Rs. 10,000 in value or amount; and Superintending Engineers, Buildings and Roads, Irrigation and Electricity Branches, in respect of cases not exceeding Rs. 2,500 in value or amount and subject to such limitation a to class of suit as their respective Chief Engineers may fix.

(b) The Principal of the Punjab Veterinary College with the consent to be previously obtained of the Director Veterinary Services, Punjab, for the recovery of debts not exceeding Rs. 500 in amount in any one case.

(c) The Deputy Commissioner, Criminal Tribes, and the Reclamation Officer, Punjab, in respect of cases not exceeding Rs. 100 in value.

(d) The Superintendent of a Jail, with the consent, to be previously obtained, of the Inspector-General of Prisons, for the recovery of debts due to Jail manufactories, not exceeding Rs. 50 in amount in any one case.

(e) The Chief Conservator of Forests, Punjab, in respect of cases affecting his Department, not exceeding Rs. 2,500 in value of amount.

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<sup>1</sup>The word "British" omitted by Punjab Government memorandum No. 72-2J-61/1446, dated the 18<sup>th</sup> January, 1961; see Punjab Law Department Manual Correction Slip No. 109.

<sup>2</sup>Substituted by Punjab Law Department Manual Correction Slip No.

<sup>3</sup>Clause (ii) omitted and clause (iii) renumbered Punjab Department Manual Correction Slip No. 109.

<sup>4</sup>The word "or against the Secretary of

[Clause (f) and (g) cancelled by C.S. No. 96].

1[ (gg) The Excise and Taxation Commissioner in respect of suits not exceeding ten thousand rupees in value affecting the administration of his departments.].

(h) The Financial Commissioners, in respect of cases arising in the departments under their control.

(Note:- Nazul cases are not now dealt with by the Financial Commissioner).].

2[ (i) All disputes to which Government is a party and which are referred to arbitration, including suits which are stayed under section 34 of the Arbitration Act, 1940, shall be submitted by the Controlling authority or Head of the Department concerned to the Legal Remembrancer to Government.].

Controlling authority  
for central Government.

15.3. <sup>3</sup>[Omitted.].

Defence Department

15.4. <sup>a</sup>[Omitted.].

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<sup>1</sup>Clause (gg), inserted by Home Secretary's U.O. No. 6552-J-46, dated the 21<sup>st</sup> October, 1946; *see* Punjab Law Department Manual Correction Slip No. 77.

<sup>2</sup>Clause (i), added by Punjab Law Department Manual Correction Slip No. 54.

<sup>3</sup>Rules 15.3 and 15.4 omitted by Punjab Government memorandum No. 72-2J-61/1446, dated the 18<sup>th</sup> January, 1961, *see* Punjab Law Department Manual Correction Slip No. 110.

CHAPTER 16.- *Suit Rules-General*

16.1. (a) No person with whom any suit is pending or there is any likelihood of any suit arising, and person action for, or concerned with, any such person shall, without the express sanction of the controlling authority, be allowed access to, or be supplied with, copies of any document in the possession of the Government in any way connected with, or relating to, matters out of which such suit may arise or has arisen.

Restrictions as to supply of copies and production of confidential papers, and necessary sanction before access is allowed to documents in the possession of the Government.

(b) When notice to produce documents in charge of a head of a department of public officer is received by him, he shall consider whether they include communications made in official confidence, the production of which would be injurious to the public interest. To the production of such documents he shall make definite objection direct to the court or through the officer in charge of the case.

(c ) All correspondence with, and resolutions and orders of the Government are strictly confidential. No officers shall grant copies of any such documents, during the pendency of any dispute or suit to which they in any way relate, to any person other than to a proper officer of the Government or to the officer incharge of the case; and no such copies shall be granted at any time after the final decision of the suit without the previous sanction of the head of the department concerned.

16.2. When in complying with the requirements of any of these rules, it is thought necessary to transmit any document, in original, to any officer of the Government or to the officer in charge of the case, a certified copy thereof is to be retained in the office of issue, and the original document is to be sent by registered post.

Original document, when sent, to be so sent by registered post, and a certified copy retained.

16.3 All communications made to the opposite party, on the subject of matters in respect of which it is possible that a suit may ensue, shall be headed "without prejudice" and if made orally, shall be stated to be made "without prejudice."

Communications to the opposite party to be made "without Prejudice".

*Note:-* No admission is relevant or can be proved in evidence, if it is made upon the express or implied condition that evidence of it is not be given, but there must be no mistake as to the intention of the party making it.

16.4 (1) When the subject of the suit to be brought or defended is connected with district administration and belongs to no particular department, the report shall be prepared by the Deputy Commissioner and shall be submitted by him to the Financial Commissioner in respect of cases exceeding Rs. 10,000 and to the Commissioner of the Division in cases of less value. When the suit is connected with any particular department, the report shall be prepared by the proper officer of such department, and shall be submitted, through the head of that department, to the proper controlling authority.

By whom report to be submitted to controlling authority and opinion of reporting officer.

(2) In each case the officer submitting the report to the controlling authority shall (1) satisfy himself, before forwarding it, that these rules have been fully complied with, and (2) state his own opinion on the matter, with his reasons for that opinion.

Documents to be supplied with reports, and precautions in regard thereto.

16.5. (1) All copies or translations submitted should be absolutely accurate and complete, reproducing every particular contained in the originals, whether of a formal nature or not.

(2) When a map or plan would be calculated to elucidate any point reported on, it should be supplied.

<sup>1</sup>[*Note*:- In cases where the controlling authority or Head of Department (referred to in Rule 15.2 above) may be called upon to act as arbitrator, strict attention should be paid to Chapter 24 of this Manual.].

Suits with which the Defence Department is concerned.

16.6. <sup>2</sup>[Omitted.].

Orders of controlling authorities and instructions to Legal Remembrancer.

16.7. (1) Upon the reports so received, controlling authorities will after consulting the Legal Remembrancer, when that course appears to be desirable decide whether the particular suit is to be instituted or defended, and will instruct the Legal Remembrancer accordingly in all cases in which it is proposed to place the conduct of the proceedings in Court in the hands of the Law Department of the Government.

(2) In civil cases and proceedings affecting Government, the Legal Remembrancer is the only authority competent to select and instruct counsel on behalf of Government in each case.

<sup>3</sup>[(3) The procedure provided above for obtaining the Legal Remembrancer's advice regarding the institution of suits by Government will apply *mutatis mutandis* to proposals to refer disputes (between Government and its grantees, contractors, etc.), to arbitration (*vide* Chapter 24 of this Manual.)].

Land Acquisition cases

16.8. Cases which are referred by Land Acquisition Officers to the District Court under Part III of the Land Acquisition Act, 1894, fall within the definition of "suit" and are subject to the provisions laid down in the Suit Rules. The Collector should proceed in such cases in the manner provided for the defence of civil suits and shall submit his report in accordance with the provisions of Rule 16.4 to the proper controlling authority. Rules 20.1 and 20.2 apply to such cases.

Deputy Commissioners to provide necessary funds for suits instituted on behalf of the Government.

16.9. (a) When sanction has been given to institute or defend a suit at the public expense, the Deputy Commissioner will provide the necessary funds for stamps and other expenses in the same way as he provides for his ordinary contingencies.

Expenditure in excess of Rs. 500 to be referred to controlling authority for sanction.

(b) Further items that may arise will be dealt with in the same way. All expenditure in excess of Rs. 500 in one suit will be referred to the controlling authority for sanction.

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<sup>1</sup>Added by Punjab Law Department Manual Correction Slip No. 55.

<sup>2</sup>Rule 16.6 omitted by Punjab Government memorandum No. 72-2J-6/1446, dated the 18<sup>th</sup> January, 1961; *see* Punjab Law Department Manual Correction Slip No. 111.

<sup>3</sup>Sub-rule (3) added by Punjab Law Department Manual Correction Slip No. 56.

(c) All such items, whether sanctioned separately or included in contingent bills, will be denoted as on account of "Law charges" of the department concerned.

16.10. All recoveries made, whether on account of the principal sum sued for or costs, will be credited to the department concerned.

All recoveries to be credited to the department concerned.

16.11. In urgent cases, where money may have been advanced from other sources, the earliest opportunity should be taken for adjusting such advances in accordance with these rules.

Earliest opportunity is to be taken to adjust advance.

## SUI TS

CHAPTER 17.- *Suit Rules- Institution of Suits*

Suits by the Government only to be brought in the last resort.

17.1. (a) No suit is to be brought on behalf of the Government except in the last resort, when all other means of obtaining satisfaction have failed.

(b) The institution of a suit on behalf of the Government is not to be recommended or authorised until the proposed defendant has had ample opportunity given him of stating his view of the case and of coming to some agreement for the settlement of the Government claim out of court. While it is the duty of officers of the Government to enforce the just rights of the Government and to protect its interest, the law should not be appealed to until all efforts have been made to effect an amicable adjustment, and the case for the Government has been inquired into departmentally and evidence secured on all points which are likely to be contested.

Sanction to bring a suit on behalf of the Government or public officer.

17.2. No suit on behalf of the Government or a public officer as such shall be instituted without the previous sanction of the proper controlling authority.

Report to be submitted by officer who considers that suit should be instituted on behalf of the Government.

17.3. Any officer, who considers that a suit should be instituted on behalf of the Government shall submit a clear and detailed report, as provided in Rule 16.4 showing:-

- (a) The circumstances which in his opinion, render the institution of the suit necessary, and precisely when and where they each occurred.
- (b) The subject of the claim and the relief sought.
- (c) The steps which have been taken to obtain satisfaction of the claim without bringing a suit.
- (d) The pleas or objections (if any) which have been urged by the proposed defendant against the claim.
- (e) The evidence, both oral and documentary, which is believed to be obtainable and which it is proposed to adduce in support of the claim.
- (f) Whether the documents (if any) referred to in sub-clause (e), are registered or not.
- (g) Whether or not the circumstances of the person against whom it is proposed to institute the suit are such as to render it likely that execution will be obtained of any decree that may be given against him.
- (h) The evidence, both oral and documentary, which so far as is known, the proposed defendant will be able and is likely to adduce in his defence.
- (i) Whether the documents (if any) referred to in sub-clause (h) are registered or not.



- (j) Any other fact which the officer considers material, e.g., whether there are any special reasons for the institution of the suit apart from the amount actually claimed; whether other similar claims will hinge its decision or the like.
- (k) Whether the amount required for stamp or other expenses is likely to be above Rs. 500.

17.4 Copies of all documents referred to in clauses (e) and (h) of the preceding rule, and of all correspondence and written proceedings, whether in English or in the Vernacular (together in the latter case, with translations), connected with the proposed suit, should accompany the report, with an exact list of the same wherever this is reasonably possible. If these copies cannot be supplied for any reasons the originals should be submitted. The controlling authority will, thereupon, consult the Legal Remembrancer and decide upon the course to be adopted. If legal action is decided on, the controlling authority will, ordinarily, instruct the Legal Remembrancer to proceed accordingly, and shall communicate his decision to the Deputy Commissioner or head of the department concerned.

Copies.

17.5. Further action will be in accordance with the procedure laid down in Rules 16.4 to 16.6.

#### INTERVENTION

17.6. (a) If it appears advisable to a Deputy Commissioner or to the head of any department, on the representation of any subordinate officer or otherwise, to intervene in any suit to which the Government has not been made a party, an application for a postponement of the case shall, if necessary, be made to the Court, by or through the Deputy Commissioner of the district in which the Court has jurisdiction. The Deputy Commissioner or other officer concerned shall then submit a full report to the controlling authority, showing clearly his reasons for considering such intervention necessary, and, in particular, stating how the decision of the suit is likely in his opinion to affect the interests of Government.

Procedure when intervention is deemed necessary.

(b) The controlling authority will decide, whether the Government shall intervene or not, and, if so, will arrange as to the person by whom the necessary action shall be taken.

(c) If the controlling authority decides that it is necessary to intervene and the Government be made a party to the suit, all the rules for the conduct of Government suits shall, so far as may be, be deemed applicable to the case.

#### *Revision under the Punjab, Alienation of Land Act, 1900.*

17.7 When a Deputy Commissioner considers it necessary to apply Procedure. revision under section 21 of the Punjab Alienation of Land Act, 1900-

- (a) if the application lies to a local court, he may instruct the Government Pleader direct; and
- (b) if the application lies to the High Court, he may address the Advocate-General direct, and the Advocate-General will decide whether appearance is necessary or not.

CHAPTER 18.- *Suit Rules- Defence of Suits*

No person having a just claim against Government to be compelled to sue.

18.1. (a) No person having a just claim against the Government should be compelled to resort to litigation to enforce it.

(b) When any person threatens to bring a suit against the Government it is incumbent on the proper departmental officers and controlling authorities to satisfy themselves without delay of the justice or otherwise of the whole and every part of the claim made, all reasonable efforts being made to bring about an amicable adjustment, without an appeal to the law, so far as this can be done without sacrificing the just rights of the Government.

(c) The object of the notice prescribed by section 80 of the Code of Civil Procedure is to allow ample time to the Government to enquire into the justice or otherwise of all claims and to affect settlement of all just claims before a suit is brought, and the best use should be made of the opportunity thus given by the law towards equitably and amicably adjusting claims.

Sanction.

18.2. The sanction of the authority empowered to sanction the institution of a suit of any kind shall be obtained for the defence of a suit of such kind.

*Procedure on Receipt of Notice.*

Endorsement to be made on "notice" and action thereupon.

18.3. (1) When notice of an intended suit is given, under the provisions of section 80 of the Code of Civil Procedure, the officer to whom it is delivered or the head of the office at which it is left shall forthwith endorse, or cause to be endorsed, on the notice-

- (a) the date of receipt,
- (b) the manner of delivery,
- (c) the date of endorsement, and
- (d) the signature of the officer making the endorsement, and shall thereupon proceed as hereinafter provided.

(2) If the notice is served upon an officer other than an officer specified in section 80 of the Civil Procedure Code, that officer shall forthwith transmit it, in original, to the Deputy Commissioner or head of the department concerned.

(3) If the notice is served on a Secretary to the Punjab Government, that officer shall forward original, to the Legal Remembrancer who will in turn forward it to the Deputy Commissioner or head of the department concerned.

(4) If the notice is served on or forwarded to the Deputy Commissioner under the provisions of sub-rule (2) of this rule that officer shall-

- (a) *if the subject-matter of the threatened suit is connected with district administration and within his control, or is unconnected with any particular department-* proceed in the manner herein after in these rules provided.

(b) if the subject matter of the threatened suit is connected with a department not within his control-forward the notice in original, to the head of the department concerned, in order that he may so proceed.

(5) In every case in which the officer on whom a notice is served, transmits it, in original to any other officer, he shall retain a certified copy of the notice and of the endorsement made thereon, and place the same on record.

18.4 (a) The district or departmental officer concerned shall, immediately on receiving any notice of an intended suit, proceed to enquire into the matter and to consider the claim put forward and to decide, or move the proper authority to decide, whether any and, if so, what steps should be taken to adjust the claim (whether in whole or in part) or whether the claimant should be left to take such legal action as he may deem proper.

Departmental Officer to consider whether the claim is, in whole or in part, to be admitted and adjusted or contested.

(b) When the claim is in respect of property forfeited to Government the officer should note whether it is made within one year from the date of the attachment of seizure (*Vide* proviso to section 20 of Act IX of 1859).

(c) If any officer is in doubt, at this stage, as to any legal point, he should submit the case, in due course, to the Legal Remembrancer, for opinion.

<sup>1</sup>[(d) The Procedure provided above for obtaining the Legal Remembrancer's advice regarding the defence of suits shall apply *mutatis mutandis* to any application for stay of suit under section 34 of the Arbitration Act, 1940, and to proposals to defend references to arbitration of disputes between Government and its grantees contractors, etc., (*Vide* chapter 24 of this Manual).].

18.5 When notice of the intention of any person to sue the Government or public officer has been given, under section 80 of the Code of Civil Procedure, no communication should ordinarily be made to such person otherwise than under the advice of the Legal Remembrancer or other Law officer of the Government.

Communication to be made only under legal advice.

18.6 (1) When, after receiving any such notice and enquiring into the matter, the controlling authority proposes to-

Actions taken claim should be admitted.

(a) tender any amount admitted to be due to the claimant;

(b) offer terms of adjustment or suggest reference to arbitration;

the legal Remembrancer Should ordinarily be consulted as to the form or terms of the proposed tender, adjustment or reference, as the case may be, before they are communicated to the opposite party, and when once a suit has been instituted, no sum should be tendered, terms of adjustment offered or reference to arbitration suggested, otherwise than through the officer in charge of the case.

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<sup>1</sup> Clause (d), added by Punjab Law Department Manual correction Slip No. 57.

(2) When the departmental authority, having power to deal with the case, is clearly of opinion that the whole or any part of the claim put forward is justly due he should (if the controlling authority has accorded sanction thereto) proceed to Endeavour to effect a settlement thereof accordingly.

(3) Any amount held to be justly due to the claimant should, before the suit is brought, be formally and unconditionally tendered to him, without prejudice and without requiring him to give an acquaintance in full adjustment of his claim and upon a receipt for the sum tendered. No tender of payment or payments should be made, after the suit has been brought, otherwise than through the officer in charge of the case on behalf of the Government. In making any tender, the person to whom it is made should be informed that if the tender be declined the fact of its having been made will be stated and, if necessary, established in court.

(4) A controlling officer shall not take any action such as tendering money or agreeing to compromise the case or to admit it to arbitration which will involve financial liability unless he has funds appropriated for the purpose, provided that if the case is urgent and it appears that a loss would be involved by delay he may take such action: but must report it immediately to Government in order that funds may be appropriated for the purpose.

Action when claim should be contested.

18.7. When the controlling authority decides that the claim is, in whole, to be contested, no communication should be made to the person by whom the notice of the intended suit was given. When the same authority decides that any part of the claim made should be admitted and the rest contested, action should (after consulting the Legal Remembrancer, when that course appears to be desirable) be taken accordingly.

*Procedure after receipt of summons*

Action when the "summons" is served on an officer other than the Deputy Commissioner.

18.8 When a suit against the Government has been instituted and the summons is issued to or served on any officer of the Government other than the Deputy Commissioner of the district in which the suit is filed, such officer whether he be the head of the department concerned or not, shall-

(a) endorse thereon the date of receipt, and sign and date the endorsement;

(b) return the summons to the court from which it has been received with a letter intimating that such officer is not empowered, under Rule 4 of XXVII (First Schedule) of the Code of Civil procedure, to receive service on behalf of the Government. He should in no way recognize the service as effectual, nor should he attend the court on the date specified in the summons.

Note.- In this state the Deputy Commissioner is the only officer empowered by the Government to receive service of process in suits against the Government.- (Notification No. I.C. dated 1<sup>st</sup> January 1909).

18.9 (a) When the summons has been duly served on the Deputy Commissioner, and a date has been fixed for the first hearing of the suit, if such date is less than two months distant, he shall at once apply to the Court, under Rule 5 of Order XXVII (First Schedule) of the Code of Civil procedure, for an extension of the time to not less than two months, and in support of his application shall quote the Instructions contained in Volume I, High Court Rules and orders, Chapter 8, 1930 edition.

Action when summons is served on the Deputy Commissioner.

(b) If the Court decline to grant an extension of time applied for, the Deputy Commissioner shall forward, as soon as possible, a special report to the controlling authority or, in emergent cases, to the Legal Remembrancer direct, in order that further steps may be taken to protect the interests of the Government.

(C) The Deputy Commissioner shall in every case forthwith apply for certified copies (a) of the plaint (Where only a concise statement of it has been received with the summons) (b) of all documents filed with the plaint, as well as of the list of same prescribed by the High Court, (c) of any list of further documents relied on or referred to in Rule 14 of Order VII (First Schedule) of the Code of Civil Procedure, filed with the Plaint.

18.10 (a) In suits falling under section 45 of the Punjab Land Revenue Act in which the Government is a formal defendant, the procedure to be observed is the same as prescribed for Civil suits in Standing Order No. 59 of the Financial Commissioners. The Tahsil or District Kanungo will ordinarily be empowered by the financial commissioner to represent the Government in such cases. In case of special importance the Legal Remembrancer can be communicated with.

Suits under section 45, Punjab Land Revenue Act.

(b) In any other case, if the suit is one connected with district administration and within his control, or one unconnected with any particular department, the Deputy Commissioner will proceed in the manner in the rules next following prescribed.

18.11 If the suit is one connected with any department not within his control, the Deputy Commissioner shall, as soon as the necessary copies have been obtained, forward-

Procedure of Deputy Commissioner when summons relates to a suit affecting a department not connected with district administration or within his control.

(a) the summons, duly endorsed with the date of receipt thereof; and

(b) copies of the plaint, documents (if any) filed with the plaint, and list (if any) of further documents relied on, to the head of the department concerned.

(b) The head of the department concerned shall thereupon proceed in the manner prescribed in rule next following.

(c) In complying with the provisions of the preceding clause the Deputy Commissioner shall, if he has received no notice of the suit as required by section 80 of the Code of Civil Procedure, mention this fact.

Report for defence of a suit on the ground that no valid notice has been given.

18.12 If no such notice of action as is required by section 80 of the Code of Civil Procedure has been received the Deputy Commissioner or the head of the department (not being a controlling authority) concerned (as the case may be) shall, immediately on the receipt of the summons, copies, etc., as aforesaid, forward the same, with a brief report to that effect, to the controlling authority by whom arrangements will be made for the defence of the suit upon the ground for want of notice.

Collection of information as to the facts of the case to be begun on receipt of notice of intended suit.

18.13 If notice of suit (whether it appears to be an adequate notice or not) has been received, the Deputy Commissioner or the head of the department concerned shall proceed to collect, with the least practicable delay, all the information regarding the facts of the case which are immediately available and shall as soon as possible send a précis thereof to the Legal Remembrancer.

Report recommending the defence of a suit.

18.14 (1) He shall then, as soon as possible, submit to the controlling authority the following documents together with an exact list of the same.-

(a) the notice of suit, summons and a copy of the plaint;

(b) a second copy of translation of the plaint written in English, on half margin, each statement therein being marked with a letter (A, B, and C), and notes being added in the margin, stating whether each statement of fact made therein is correct or not, and, if not, in what respect it is not so;

*Note.-* when the requisite explanation cannot be thus compressed reference should be made to a paragraph of an accompanying statement in which the matter should be fully discussed.

(c) copies of documents and lists of documents, if any, filed with the plaint;

(d) copies of all other documents procurable, which are believed to bear on the case, either for the plaintiff or defendant, together with as accurate a description as may be of other documents (if any) which are believed to be relevant, but of which the contents cannot be precisely ascertained except through the Court;

(e) all the correspondence and written proceedings, whether in English or in the Vernacular, connected with the subject of the suit.

These documents shall be accompanied by a clear and detailed report, stating.-

(f) the circumstances which led to the suit, mentioning precisely when and where they each occurred; the course which it is proposed to adopt, namely whether to admit, compromise or defend the suit, all the reasons for the same, and the steps (if any) which have already been taken to adjust the matter out of court;

(g) if it is proposed to defend the suit, the proposed defence, written on half margin, showing clearly and fully how each of the allegations in the plaint is to be met, and the evidence which it is proposed to adduce for that purpose;

(h) whether the documents referred to in (c) and (d) are registered or not;

(i) the date fixed by the Court for the first hearing.

(2) An English translation of every document, which is not in that language, shall be supplied with the report, wherever this is reasonably possible.

18.15. Further action will be in accordance with the procedure laid down in Rule 16.4 to 16.6.

18.16. A number of notices are received under section 80 of the Code of Civil Procedure on the ground that some officer of Government has wrongfully seized private property, or has wrongfully confined some person. The reports accompanying such notices, complete as they may be in other respects, seldom mention one of the points which Government has to take into consideration in deciding how the suit should be met, which is whether the officer in question was supposed to be acting under any statutory authority or not. When a report is supplied in future under rule 18.13 in respect of any action which is alleged to constitute a wrongful interference with private property or private liberty, it should invariably be stated whether the officer concerned believed himself to have any statutory or other authority for his action. The controlling authority should also state whether in his opinion the action was covered by such authority or not. For the purposes of such a report it is not sufficient merely to explain the motive of the action, or to say that the action was taken under the orders of a superior officer, unless the superior officer himself had the necessary authority.

Special instructions  
in cases of tort.

<sup>2</sup>[18.17. When the Punjab Government is sued in the High Court in England, service of the writ of summons or other originating proceeding may be affected on the High Commissioner for India in London by being delivered or sent by pre-paid post in an envelope addressed to him at his London office.

Authority on whom writ  
of summons should be  
served when Punjab  
Government is sued in  
the High Court in  
England.

(Rules of the Supreme Court, England, Order IX, rule 14-A as amended by the Rules of the Supreme Court (No.3), 1937).]

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<sup>1</sup>Rule 18.17, added by Punjab Law Department Manual Corection Slip No. 10.

CHAPTER 19.-*Suit Rules- Suit by or against Public Officers  
suits by Public Officers.*

No suits to be instituted by Public officer without the sanction of the Government procedure in obtaining sanction.

Report.

Transmission of Report.

Instructions.

Procedure to be observed in regard to the defence of suits brought against public officers.

19.1 The Sanction of the Punjab Government shall be obtained before any public officer has recourse to the courts for the vindication of his public acts or of his character as a public functionary.

19.2 When a public officer considers that a suit should be instituted for the vindication of his public acts or of his character as a public functionary, he shall submit a report conformably to the directions contained in Rule 17.3.

19.3 The head of the department, after recording his opinion, will forward the report, together with his opinion thereupon, to the Punjab Government for orders as to whether the suit (1) is or is not to be brought, and (2) if brought is to be conducted at the public expense or at that of the officer concerned.

19.4 If sanction be given by the Punjab Government to the conduct of the suit at the public expense, the controlling authority will instruct the Legal Remembrancer to arrange therefore. If such sanction be not given, the officer concerned shall be informed accordingly, when, if the institution of the suit has been sanctioned by the Punjab Government, he shall be at liberty to make his own arrangements in connection therewith.

*Suits against Public officers.*

19.5 (a) When any suit is threatened to be brought or is brought against a public officer, as such, or in regard to his acts as such, and such officer considers that the suit should be defended at the public expense, he shall submit a report conformably to the directions contained in Rules 16.4 and 18.14.

(b) In the case of a suit intended to be brought against a public officer notice is required by section 80 of the Code of Civil Procedure and the procedure on receipt of such notice, or of a summons, will be similar to that prescribed for suits against the Government, except that the officer concerned will himself receive the notice, take action on the summons (Rule 7, Order. XXVII, First Schedule, of the Code of Civil Procedure) and submit the necessary report.

(c) All officers are reminded that as they must, *prima facie*, be prepared personally to defend themselves in respect of their acts, when such acts are alleged to be illegal, it rests with them to satisfy the Punjab Government that they have used every effort to prevent litigation; also that the acts complained of were done (if done at all) with due care and attention and under circumstances justifying the defence of the suit at the public expense. In their own interests, therefore, it is incumbent on them to observe the provisions of these rules, where applicable to their case, as accurately and promptly as possible.



19.6 The head of the department will forward the report together with his opinion thereupon, to the Punjab Government for orders as to whether the suit is to be defended at the Public expense or whether the officer concerned is to be left to take such measures in the case at his own expense as he thinks fit.

Transmission of  
Report.

19.7 If the defence of the suit at the Public expense is sanctioned by the Punjab Government, the controlling authority will instruct the Legal Remembrancer to arrange therefore. If such sanction is not given, the officer concerned shall be informed accordingly, and will be at liberty, to make<sup>3</sup>

Instructions.

Rule 19.7.- To rule 19.7, add the following notes.-

"Note.- Whenever sanction is accorded to the defence of an officer or official or the State at public expense, it shall be subject to the condition that in the event of such officer or official being found to have acted otherwise than in good faith, he shall be liable to refund to the Government, the amount spent by the state on his defence."

(Punjab Govt., circular No. 66(58)-6J-65/16057, dated 15<sup>th</sup> May, 1965).

In report of the facts of the case. The Government will then determine whether the case is one in which permission should be given. And if so on what (if any) conditions. If permission to employ a legal practitioner at the public expense is refused, it is open to the officer concerned to obtain professional assistance at his own expense; but no application to the Government for contribution towards meeting such expenditure will be entertained unless previous sanction has been obtained.

19.9.<sup>4</sup> [omitted]

Central  
Department.

<sup>1</sup> Rule 19.7-A, added by Punjab Government No. 143 Judl.-43, dated the 15th January 1943; see Punjab Law Department Manual Correction Slip No. 60.

<sup>2</sup> Substituted for the word "Crown" by Punjab Government memorandum No. 72-2J-61 '1446, dated the 18th January, 1961; See Punjab Law Department Manual.

<sup>4</sup> Rules 19.9. Omitted by *ibid.*

CHAPTER 20-*Suit Rules*-Action on the Termination of a suit

Copies to be  
obtained.

20.1 Immediately on the termination of any suit, a copy of the judgment and decree or other final order of the Court shall be procured, [\*\*\*] without delay by the officer in charge of the case.

*Results of suits, etc., by and to whom report to be submitted*

20.2 Immediately on receipt of the copies specified in the last preceding rule, the officer in charge of the case shall submit a report of the result of the suit for the information of the controlling authority. The report shall be submitted through the Legal Remembrancer.

Arrangements for  
payment of decrial  
amount.

20.3 (1) when the result is adverse to the Government and will involve a disbursement of public money, the report should always state when the money will be required for payment though ordinarily the period within which the decree must be satisfied is stated in the order of the court. Immediately on receipt of the report from the Legal Remembrancer, the controlling officer of the Department to which the case relates should make arrangements, in consultation with the Deputy Commissioner of the district to deposit the decretal amount in court within a month, at the most, of the order of the court and the controlling officer shall be responsible to see that the date intimated by the officer in charge of the case or that fixed by the court for the payment is not exceeded. While making the deposit the controlling officer should request the Deputy Commissioner to apply to court that the amount be not paid to the decree holder pending the result of the appeal, where an appeal is filed or proposed to be filed or only on such security as the court may deem reasonable.

(2) When an appeal has been filed before the money has been deposited in court, the order of the appellate court should be obtained to the effect that money may be paid into court, but should not be allowed to be taken by the decree holder without furnishing adequate security to the satisfaction of the court for refund in the event of the success of the appeal.

Report as to  
whether appeal  
should be made.

20.4 (a) When any suit instituted or defended through the Legal Remembrancer has been devided wholly or partially against the Government or the officer concerned, and such officer or the officer in charge of the case is of opinion, on a perusal of the copies of the judgment and decree or other final order of the court supplied to him as hereinbefore provided, that an appeal (or in unappealable cases, an application for revision) should be preferred or that a review of judgment should be applied for, he shall, as soon as possible, prepare a report to that effect, stating the grounds of his opinion, and shall submit it to the Legal Remembrancer, together with the said copies and (id he deems it necessary for a proper decision of the matter) with copies

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<sup>1</sup> The words "Through the Deputy Commissioner" Omitted by Punjab Law Department Manual Correction Slip No. 12

Of the evidence and of all exhibits not previously submitted at an earlier stage, and also with a draft, on half margin of the grounds on which he considers that the appeal or application should be based. If the copies of the evidence and exhibits cannot be procured without considerable delay the report should be submitted without them and they should be forwarded as soon as possible afterwards; if the proper officer considers that no appeal or application should be made he shall submit a report, accompanied as aforesaid to that effect.

(b) As the period within which appeals and applications may be made is limited by law, there should be no delay in submitting reports and recommendations under this rule.

(c) The legal Remembrancer shall on receipt of these documents obtain the order of controlling authority as to whether an appeal or application for revision or review of judgment should be preferred and instruct the Remembrancer may on his own authority order an appeal or application for revision or review of judgment to be preferred. In such cases the controlling authority shall be informed immediately of the action taken. But under no circumstances shall the officer in charge of the case prefer an appeal or application for revision or review of judgment except under express instructions from Legal Remembrancer of controlling authority.

20.5 If the original suit was not instituted or defended through the Legal Remembrancer the report required by the preceding rule should be submitted to the controlling authority.

Report as to whether appeal should be made.

20.6 If an appeal or an application for revision or for review of judgment be preferred by the opposite party in any suit, the officer receiving notice thereof shall, if the original suit was instituted or defended through the Legal Remembrancer, at once forward a copy of the notice to the controlling authority as well as to the Legal Remembrancer. The latter shall thereupon take such measures as may be necessary for defending the case in the appellate or other court. It shall not be necessary for the Legal Remembrancer to apply for fresh instructions except in cases of doubt or difficulty, or unless it appears that for any reason the appeal or application ought not to be opposed, in which case he shall refer to the controlling authority for further instructions. If the original suit was not instituted or defended through the Legal Remembrancer, the notice shall be forwarded to the proper controlling authority, who will decide whether the appeal or application shall be opposed or not, and if it is to be opposed, the person by whom it shall be undertaken.

Appeal by opposite party.

20.7 The provisions of Rules 20.1 to 20.5 shall be applicable to appeals, second appeals, applications for revision or view of judgement and the officer in charge of the case will be required to submit his report to the Legal Remembrancer or the controlling authority, as the case may be, at

Rules applicable to appeals etc.

the conclusion of each stage of the suit, application for revision or review judgment.

Miscellaneous  
Proceedings

<sup>1</sup>[20.8. The procedure laid down in rules 20.1 to 20.6 shall apply *mutatis mutandis* to miscellaneous proceedings including arbitration proceedings to which Government is a party.]

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<sup>1</sup>Added by Punjab Government Memorandum No. 120-J-56/5167, dated 31st January, 1956, See Punjab Law Department Manual Correction Slip No. 101.

## OF PETTY SUMS DUE TO GOVERNMENT.

CHAPTER 21-- *Suits for the Recovery of Petty Sums due to Government*

21.1. (1) Special arrangements are made for the institution of suits for the recovery of petty sums due to Government. Such arrangements are generally made when the administrative department concerned has commercial dealings, but the same arrangements can be extended whenever any department has to recover a large number of petty dues, and the cases are of a routine nature, involving no serious legal difficulties. The object of these arrangements is to eliminate the additional work and delay involved in the institution of proceedings through the Legal Remembrancer.

Special arrangements for the recovery of petty dues.

(2) Should any legal difficulties occur or be expected a reference can still be made to the Legal Remembrancer in the usual way, through the prescribed channel.

(3) The Powers conferred by the following rule must not be extended beyond the classes of cases specified therein. Should any other class of suit be threatened or required to be instituted, sanction to the defence or institution of such a suit must invariably be given by the controlling authority mentioned in Chapter XV and instructions must be issued through the Legal Remembrancer.

21.2. In the following departments, the officers named below may issue instructions for the institution of the suits specified against each, without reference to the Legal Remembrancer, when an agreement has been taken in a standard form, and the amount to be recovered does not exceed five hundred rupees:

Officers empowered to Institute suits direct.

(1) Posts and Telegraphs Department.

*Divisional Engineers of Telegraphs*:-When the suit relates to the recovery of telephone charges.

(2) Public Works Department, Electricity Branch.

*Chief Engineer*:-When the suit relates to the recovery of charges for consumption of electricity service or meter rentals or other miscellaneous charges.

(3) Development Department.

*Collectors*:-When the suit is for the recovery of well-boring dues.

21.3. (1) The conduct of such suits must be entrusted only to such counsel as the Legal Remembrancer may approve, and the Legal Remembrancer has power to appoint counsel by general or special order for this purpose.

Counsel to engaged

(2) The terms on which such counsel are to be engaged will be arranged by the Legal Remembrancer, and must not exceed the fees payable to Government Pleaders for the same class of work.

21.4. Payment of fees will be made on the same form as that used for payment of fees due to Pleaders under the general rules, but the bills will be countersigned by the office ordering the institution of the suit on behalf of the Legal Remembrancer.

Payment of fees.

Registration of  
Proceedings

2.15 All suits instituted under these rules must be entered in a register to be maintained in the office of the officer empowered to institute the suit. The register should show the date on which the order for institution is given, the date of institution, the name of the defendant, the amount to be recovered, and the final result.

Prior  
consultation.

21.6. Before ordering the institution of a suit the officer concerned should invariably hold a consultation with the Pleader specially engaged for this class of cases. The most important point to be borne in mind is whether there is any reasonable likelihood of recovery, if a decree is obtained. The only legal difficulties likely to arise are those which may occur when the agreement purports to be signed in the name of a firm. If departmental officer will take a personal interest in these cases, it will assist them in guarding against such difficulties when agreements are taken.

Execution

21.7 (1) When a decree is obtained in favour of Government, this should be entered in a separate register, so that the process of execution can be watched. No entry should be regarded as closed until either the full amount is recovered or the balance is written off under the orders of the competent authority.

(2) The execution of decrees may either be entrusted to the counsel engaged in the suit, under the supervision of the department, or may be made over to the Legal Remembrancer for prosecution under the ordinary rules; but either one course or the other should be adopted as the regular line of proceeding. Deputy Commissioners should make over the execution of such decrees to '[the District Nazirs, the Assistant District Nazirs or the Assistants attached to the offices of the Sub-Divisional Officer at the head- quarters of the Sub-Division as the may be,] unless any point of legal complexity arises, when the Legal Remembrancer can be consulted.

(3) It is recommended that commercial departments should keep an account in the same register of all expenses incurred in the conduct of the suit, so that the total of these can be compared with the total of the amount recovered, in order to ascertain whether the institution of such suits is resulting in substantial recoveries or not.

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<sup>1</sup> Substituted for the words "their District Nazirs " by Punjab Law Department Manual Correction Slip No.99

CHAPTER 21---A ----*Suits Relating to Public Matters*

21.A (1) The procedure which should be adopted with regard to the institution of suits filling under section 91, 92 and 93 of the Civil Procedure Code is as follows:-

*Procedure*

Hitherto the practice has been for persons, who desire to bring suits of this kind to approach the Collector of the district. The latter has then conducted an inquiry, and if this has established a *prima facie* case he has sought the previous sanction of the State Government under section 93 to enable him to give consent. The position has now been changed by the appointment of an Advocate-General for the State. Legally there are now two district authorities, who could give consent for the institution of such suits in the Punjab: the Advocate-General and (subject to the sanction of Government) the Collector. It is apparent that complications would be likely to ensue if it were left open both to the Advocate-General and to Collectors to take action. Government have accordingly decided that except possibly in an occasional case in which the circumstances are peculiar, they will not in future grant sanction enabling the Collector to act, and that it should be left to the Advocate-General to deal with all cases of the type in question. If, therefore, any applications are made, in future praying for consent to propose suits under section 91 or 92 of the Code, they should be returned to the petitioners with instructions that if they wish to press the matter they should address themselves direct to the Advocate-General.

(2) At the same time it would obviously not be possible for the Advocate - General himself to deal with all applications of this kind, from every district of the State, without the assistance of the local officers. Government have accordingly authorised him to call upon Deputy Commissioners for such assistance as he may require in investigating applications, and it is hoped that Deputy Commissioners will take steps to ensure that in all such cases the inquiries are made with due care. It will be for the Deputy Commissioner, on receipt of communication from the Advocate-General asking for an inquiry to be made, to decide whether he will conduct it himself or will entrust it to an Extra Assistant Commissioner or Tehsildar. In coming to a decision on this point he will naturally be guided by the relative importance of the case. After the inquiry has been completed, the Deputy Commissioner will forward his report direct to the Advocate-General. It will, however, be open to him, in any case, which seems to be of special interest or importance or in which he has strong views as to the proper line to be taken to forward a copy of the report with his suggestions, to Government. The reference to Government, when a Deputy Commissioner decides to make one, should be through the Commissioner. If the latter has any suggestions to make regarding the treatment of the case he will doubtless add them.

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<sup>1</sup>Chapter 21-A inserted by Punjab Law Department Manual Correction Slip No. 13

(3) It is not intended that the Advocate-General should always relay exclusively on the material which he obtains from the Deputy Commissioners. In certain cases he will doubtless consider it advisable to hear the parties, if not some of the witnesses. This would seem particularly necessary if in any case one of the parties or some of the witnesses have shown unwillingness to appear before the local officers.



[CHAPTER 22---*Appeal to the Privy Council ---Omitted*]

CHAPTER 23--*Execution of Decrees*

23.1 Whenever it has been determined not to contest further a decision which is either wholly or partly adverse to the Government, the Legal Remembrancer or other officer concerned shall at once arrange with the Deputy Commissioner for the payment into the Court, whose duty it is to execute the decree, all moneys payable under decree, care being taken that the decree is fully satisfied within the time fixed for that purpose under section 82 of the Civil Procedure Code.

Settlement of decree adverse to Government

23.2 Where the decree is against a public officer, in respect of an act purporting to have been done by him in his official capacity, it will rest with him to satisfy the same within the time fixed.

Decree against a public officer

23.3. Immediately on a decree being given in favour of the Government or of a public officer, when the suit has been brought or defended at the public expense, the Legal Remembrancer or other officer concerned shall proceed to move the Deputy Commissioner to take steps for the recovery of costs and of the amount, if any decreed, unless for special reasons (which shall be reported for the orders of the controlling authority) it is deemed undesirable that any such steps should be taken or that they should be taken immediately.

Procedure when decree is in favour of Government.

23.4 (a) Deputy Commissioner and other officers concerned are required to take all possible measures to ascertain what property of the judgment-debtor exists and is available for attachment and sale in execution of decree, and that, where security is taken from the judgment-debtor on stay of execution, under Rule 5. Order XLI, First Schedule of the Code of Civil Procedure, the security taken by the Court is substantial and sufficient, and that proper action for immediate execution is taken if the required security is not satisfactory.

Measures to be taken to trace out property of judgment-debtor. Action as to Security.

(b) If an appeal is instituted, and the execution of the decree is stayed by order of the Court, the interval before the decision of the appeal should be made use of in making inquiries as to the property of the judgment-debtor.

(c) When the officer concerned is not the Deputy Commissioner or a subordinate of the Deputy Commissioner, he may apply to the Deputy Commissioner to assist him in prosecuting the necessary inquiries as to the property of the judgment-debtor.

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<sup>1</sup>Chapter 22 omitted by Punjab Government Memorandum No. 72-2J-61/1446 Dated the 18<sup>th</sup> January, 1961; see Punjab Law Department Manual Correction Slip No. 113.

Prevention of  
fraudulent alienations

23.5. (a) The provisions of Rule 5, Order XLI of the Code of Civil Procedure, are ordinarily sufficient to prevent any fraudulent disposal of property by the judgment-debtor during the time gained by an appeal, but the Deputy Commissioner, or other officer concerned, in consultation with the Deputy Commissioner, should satisfy himself that the security taken by the Court is sufficient, petitioning the Court to be allowed to execute the decree at once if he considers that the security offered is not good or sufficient.

(b) If such application be refused, the Deputy Commissioner, or other officer in consultation as aforesaid, shall endeavour to keep a watch on the property of the debtor, so as to prevent any fraudulent alienation or concealment of it.

District Nazirs to act as  
Government Pleaders

23.6. All District Nazirs, <sup>1</sup>[Assistant District Nazirs and the Assistants attached to the offices of the Sub-Divisional Officers] have been appointed "Government Pleaders" for the purpose of filing and prosecuting execution petitions (Notification No. 1940-J-37|18103, dated 27<sup>th</sup> April, 1937, <sup>1</sup>[Notification No. 3864|501-S-J-41|33300, dated the 17th June, 1941 and No. 1301-J-55/13876, dated the 20th May, 1955]). But should any legal or other difficulties arise, the Legal Remembrancer should be asked to instruct the District Government Pleader to conduct the execution proceedings.

Cost in Pauper Suits

23.7. (a) The amount of stamp duty and other costs due to the Government in pauper suits is to be recovered by proceedings in execution of decree. Pauper suits are instituted without payment of court-fees and Rules 10 and 11, Order XXXIII, of the Code of Civil Procedure, provide for the recovery of the amount of the fees which should have been paid if the plaintiff had not been allowed to sue as a pauper.

(b) Order XXXIII, Rule 14, directs that where an order is made under Rule 10, 11 or 12, the Court shall forthwith forward a copy of the decree to the Collector. On receipt, of this copy, it is for the Collector to take the necessary action for the recovery of any amount which may be due. Full instructions regarding the method of recovery will be found in the Punjab Stamp Manual, 1934, Part II C, Chapter 7.

Responsibility of Legal  
Remembrancer to re-  
Cover moneys due to  
Government.

23.8 The Legal Remembrancer Shall be responsible that proper action is taken to recover all moneys due to the Government under decrees and orders of Civil Courts in all cases that have been conducted through him and he shall bring to the notice of the controlling authority, for orders, any case in which he considers that the progress made in the recovery of the moneys due to the Government is unsatisfactory.

Recoveries made  
outside Court to be  
certified.

23.9 Any sum due to the Government under a decree may, if the Course is feasible, be recovered otherwise than through the agency of the Court; but the Deputy Commissioner is required, under Rule 2, Order XXI, First Schedule of the Code of Civil Procedure, to certify every such recovery to the Court.

Government servants  
forbidden to bid at  
auctions.

23.10. The practice of deputing Government servants to bid on behalf of the Government at Court auctions, with a view to purchasing the property of judgment-debtors by whom money is due to the Government, is, generally speaking, objectionable, as it is likely to involve the Government in much litigation of a doubtful character, and it should never be resorted to except with the special sanction of the controlling authority to be obtained through the Legal Remembrancer.

<sup>1</sup>Inserted by Punjab Law Department Manual Correction Slip No.99

<sup>1</sup>[CHAPTER 24- *Arbitration*

24.1. Cases are not infrequently forwarded to the Financial Commissioners, etc., in which notices of suit for breach of contract have been given, such contracts containing a clause that in the event of dispute, the matters in dispute shall be submitted for arbitration. Most Government contracts contain this stipulation, and there appears to be general impression prevailing that the mere existence of such a clause in a contract is a bar to a suit in court, and there is some danger that departments concerned, relying on this impression may leave disputes outstanding too long after receipt of notice of suit to allow of resort to arbitration.

24.2. Such a clause is no bar to a suit. Only a valid award, i.e., one granted as the result of proceedings legally conducted and completed prior to the institution of suit, before an arbitrator with jurisdiction over the subject matter of the suit, can be pleaded as a bar to such suit; and then only if such award is duly stamped (under Article 12 of the Indian Stamp Act, 1899) and where Section 17(I)(b) of the Indian Registration Act, 1908, applies, provided such award has been registered; and the provisions of the Arbitration Act, 1940, have been complied with.

The existence, however, of such a clause as is mentioned in Rule 24.1 above does ordinarily enable the defendant in the suit lodged in connection with such contract, to apply to the court (under Section 34 of the Arbitration Act, 1940) to exercise its discretion to stay the suit and to refer the parties to arbitration, in accordance with the agreement (or "submission");

Provided as follows:-

- (i) that such defendant makes that application before lodging his defence on the merits or taking any other step in the court proceedings.
- (ii) that such defendant is able to show that he was ready and willing to submit to arbitration; and
- (iii) that the person referred to in such agreement as arbitrator has not incapacitated himself.

24.3. It is, therefore, of primary importance that as soon as notice of suit is received, if Government desires to avail itself of the arbitration clause, reference should be made, or the other side should be called on to refer, to arbitration. In such cases when proper steps have been taken, if the other side refuses, Government can proceed to an ex parte arbitration and the award given ex parte will be upheld.

24.4 (a) Hence whenever a dispute arises or suit is threatened, in respect of any grant or contract by Government, the Deputy Commissioner, Executive Engineer, or other officer immediately concerned, should promptly examine the grant or contract in order to ascertain whether it contains any clause whereby the parties have agreed to submit to arbitration. If so, prompt steps should be taken to obtain orders for the preparation of a letter of reference which should ordinarily be laid before the Legal Remembrancer before being addressed to the officer referred to in such clause as

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<sup>1</sup>Chapter 24 substituted by Punjab Law Department Manual Correction Slip No. 58.

arbitrator. The later has to avoid expressing any opinion on the dispute save as arbitrator after the receipt by him of formal letter of reference to arbitration and after hearing the opposite party and then only in the form of an award. The ordinary controlling authority will be the authority provided in Chapter 15, unless such authority is mentioned either personally or ex officio as an arbitrator in the contract or grant concerning which the dispute has arisen in which case the controlling authority will be Government in the department concerned. The report and statement or reasons referred to in Rule 16.4(2) and the data necessary in order to draft the letter of reference to arbitration should be submitted promptly to the controlling authority so ascertained.

(b) In those cases where a Financial Commissioner or Chief Engineer is referred to as arbitrator, the Commissioner or Superintending Engineer as the case may be, will if he considers it necessary to refer to Government, take steps to see that the file with the Deputy Commissioner's or Executive Engineer's noting or recommendation, if approved, is sent either To an Under, or Deputy Secretary to Government, with special reference to The fact that the Head of the Department is mentioned as arbitrator and is thus incapacitated from dealing with the file save in that capacity and after complying with Rule 24.9.

(c) On receipt of the report from the local officer, it will be for the Controlling authority ascertained as above, to decide whether an attempt Should be made to settle the case or whether arbitration should be Invoked or accepted. In the later case the controlling authority will decide and state whether in his opinion the case is of sufficient importance or complexity to warrant the appointment of counsel for the drafting of the letter of reference and representation of Government before the arbitrator. As the letter of reference corresponds to the plaint in a suit it is not desirable for one person to draft the letter of reference and another to be brief for the proceedings.

(d) When the appropriate controlling authority has decided that settlement of the dispute otherwise than by arbitration is impracticable, and that it is of sufficient importance or complexity, he will submit the case to the Legal Remembrancer with sufficient data to enable that officer to appoint counsel for the drafting of Government's letter of reference to the arbitrator and to appear before the arbitrator on Government's behalf.

24.5 If the opposite party has already issued such letter of reference consideration should be given to the question whether that letter of reference sufficiently incorporates all points in dispute. If not, steps may be taken for an additional letter of reference completing or amplifying the opponent's letter of reference to be drafted and issued to the arbitrator.

24.6 There is no form prescribed for letters of reference to arbitration. It may be stated broadly (and merely for general guidance) that the contents should be arranged as far as practicable in chronological order and that they will normally be as follows:-

(a) date and general effect of the grant or contract out of which the dispute has been arisen :

(b) a verbatim copy or extract of the clause which Government alleges the opposite party has breached or failed to fulfill or on which the dispute has more particularly arisen;

- (c) Statement of facts and dates arranged chronologically on the strength of which Government alleges breach of non-fulfillment;
- (d) copy or verbatim extract of any clause, or an indication of the law or legal principle, under which Government may have exercised or may claim any, specific remedy;
- (e) Copy or summary of the clause of the grant or contract constituting the "submission", i.e. the agreement between the parties to refer disputes to the officer (to whom this letter of reference is addressed) as sole arbitrator;

and above all

- (f) a statement of the points or issues to be decided by the arbitrator.

24.7 (a) If, notwithstanding the agreement to submit to arbitration, suit is actually lodged against Government, then the officer submitting the report and opinion etc., in compliance with Rule 16.4 (2) and Chapter 16 et seq should bring to the immediate notice of the Legal Remembrancer the agreement to refer to arbitration with a view to an application for stay of suit under Section 34 of the Arbitration Act, 1940, being made.

(b) In that event, unless and until the court stays the suit, the reference to arbitration cannot be issues. If it has already issued, the arbitrator must postpone all further proceedings relating to the subject matter of that suit until the application for stay of suit has been accepted by the Court.

24.8 It should be remembered that reference to arbitration is intended to be an expeditious, inexpensive and decisive method of settling a dispute relating to a contract or grant without resort to the dilatoriness, intricacies and complications of civil litigation. The officer concerned when moved as arbitrator should, keeping these principles in view, do justice to the claims of both sides within the limitations imposed by the clause which empowers him to act, and section 14, and clause 8 of the First Schedule of the Arbitration Act, 1940.

24.9 The points which the officer referred to as arbitrator should bear in mind in that capacity, are as follows :-

- (a) on receipt of notice to arbitrate, he should see that the letter or letters of reference clearly state the points on which he is to arbitrate and where Government is the party moving for arbitration that such letter of reference is signed by an officer competent to bind Government. He cannot of course, refer the point for arbitration to himself. If satisfied that the points are clear and within his jurisdiction as arbitrator, he should then issue to both parties concerned notice of the date, place and time, fixed for the appearance of the parties, or their representatives and for the production of witnesses and documentary evidence and restating precisely the points referred for arbitration and that those matters will be finally determined by him as arbitrator, and that if either party fails to attend, the matter may be decided ex parte.

In such notice it should be explained that if either party requires the other to produce any documents in the possession or power of the other he must inform the arbitrator in good time (not less than seven days) before the date fixed as above.

- (b) he should therefore, before arriving at or, in any case, before recording, any decision, give each side reasonable opportunity to adduce evidence, oral or documentary, which they may wish to bring (in the presence of the other) and he should listen (within reason) to any arguments which they may wish to present at the conclusion of the evidence. These proceedings should be conducted in the presence of both parties to the dispute, or their legal representatives. If, however either of parties is absent and not represented, at any hearing, of which he has had due notice, the arbitrator may proceed ex after recording a formal order to that effect. The arbitrator should keep a note of the proceedings, recording the presence of the parties, before him and the fact of his having conformed to the procedure herein suggested. He should also make a brief memorandum of the main points in the statement of each witness. Subject to these observations, the proceedings may be conducted, without any special formalities but the arbitrator must confine himself to the matters referred to him for arbitration, and the taxing or settlement of costs and fees and charges payable in respect of the arbitration and award.
- (c) the award should be decisive and vagueness of indefiniteness which might render the award incapable of execution should be avoided.
- (d) the law does not expressly require reasons in support of the award to be stated; but it should be based on principles of justice, equity and good conscience. The arbitrator should, as far as possible, abstain from deciding matters outside the scope of the reference.
- (e) If at any time prior to signing the award the arbitrator receives notice that a suit has been lodged relating to matters referred to arbitration, the arbitrator should postpone all further proceedings unless or until the suit is stayed and notify both parties that he has done so.
- (f) If under Article 12 of the Stamp Act the decision of the arbitrator when recorded will require stamp, he should inform the parties of the amount (referring the question if in doubt to the local Collector) and leave the award unsigned until one or other party provides the amount payable. It is for the party claiming under the award to ascertain whether it requires registration (vide Section 17(1) (b) of the Indian Registration Act, 1908).
- (g) It is necessary for the award to be announced to the parties or their representatives. The most convenient course is for notice to be issued to each party of the date, time and place fixed for its completion and announcement.

24.10. In all cases of arbitration in which the amount of the award exceed Rs. 2,000/- a copy of the award should be forwarded to the Punjab Government for information. Intimations regarding awards should in all cases be sent to the Accountant General, Punjab for audit purposes.

CHAPTER 25- *Fees in Civil Cases*  
*Law Officers*

25.1 The ordinary fees payable to the Law Officers for cases conducted by them throughout will be calculated as follows:-

The Ordinary scale of fees for Law Officers.

Value of claims	<i>Advocate-General</i> <sup>4</sup> [ <i>and other Law officers</i> ]	<sup>2</sup> [* *]
On the first Rs. 5,000 of claims	<sup>3</sup> [7½ per cent]	
On the next Rs. 15,000 of claims	<sup>3</sup> [3]	
On the next Rs. 30,000 of claims	<sup>3</sup> [1]	
On the remainder of the claim	<sup>3</sup> [½]	

25.2 (1) The fee calculated according to the table above shall be subject to a maximum limit of Rs. 1,000 for any one case, provided that in any case of great importance making an unusual demand on the time and energy of the Law Officer the Punjab Government may direct that such fee as it considers a suitable remuneration may be granted not exceeding the fixed percentage rate up to a maximum of Rs. 5,000.

Maximum and minimum limits.

(2) In civil cases in any court outside [Chandigarh] conducted throughout by one of the Law Officers, the fee payable shall be subject to a minimum of Rs. 100 for each day of attendance.

Minimum outside [Chandigarh].

<sup>5</sup>[(3) The minimum fee in a civil case shall be not less than Rs. 32 in the High Court and Rs. 10 in any court other than the High Court].

25.3 The ordinary fees for appearances by the Advocate-General <sup>6</sup>[<sup>7</sup>\* \* \*] Or the Assistant to the Advocate-General] in miscellaneous civil cases shall be Rs. 100 for each <sup>\*</sup>[day of attendance]. The Legal Remembrancer is authorized to sanction a special fee of Rs. 200 in any one case of particular difficulty, taking up an excessive amount of time of the counsel employed.

Miscellaneous civil cases.

<sup>1</sup>In second column the words "and other Law officers" added by Punjab Government memorandum No. 72-2J-61/1446, dated the 18<sup>th</sup> January, 1961; see Punjab Law Department Manual Correction Slip No. 114.

<sup>2</sup>Third column omitted, by *ibid*.

<sup>3</sup> Substituted for the figures 5,2,1 and 1/2 by Punjab Law Department Manual Correction Slip No. 76.

<sup>4</sup>Substituted for the word "Lahore", by *ibid*.

<sup>5</sup>Sub-rule(3) added by Punjab Law Department Manual Correction Slip No. 84.

<sup>6</sup>Substituted for the words "or the Assistant Legal Remembrancer" by Punjab Law Department Manual Correction Slip No. 83.

<sup>7</sup>The words "Assistant Legal Remembrancer" omitted by Punjab Government memorandum No. 72-2J-61/1446, dated the 18<sup>th</sup> January, 1961; see Punjab Law Department Manual Correction Slip No. 114.

<sup>8</sup> Substituted for the words "appearance in each case" by Punjab Law Department Manual Correction Slip No. 50.

<sup>1</sup>[Note-Deputed Court-fee stamp references will be treated as miscellaneous civil cases for this purpose.]

Fees for civil writ cases.

<sup>2</sup>[25.3.A. In Civil writ cases, which should not be considered as Civil Miscellaneous cases the fees shall be Rs. 100 per writ.

Fees for occasional appearances.

25.4 For appearances in any case not conducted throughout either by the Advocate-General <sup>3</sup>[<sup>4</sup>\* \* \*] or the Assistant in the Advocate-General], the fee will be Rs. 100 for each <sup>5</sup>[day's attendance]: subject, where the case is one of the <sup>6</sup>[Chandigarh] Courts, to a maximum not exceeding the amount payable under the scale prescribed in rule 25.1 or 25.10.

Consultation Fees.

<sup>7</sup>[25.5. (1) When a law officer has been required to leave his headquarters for the purpose of consultation with an officer of Government in connection with any case which has come or subsequently comes before the courts or before an officer of Government acting in a judicial or quasi-judicial capacity, the Legal Remembrancer may in his discretion allow consultation fees at a rate not exceeding Rs. 100 per consultation. The Legal Remembrancer may also refer for the orders of Government any exceptional case in which he is of opinion that fee should be allowed for consultations that have taken place even at the headquarters of the law officer, if he considers that consultation was essential in the interests of Government and that the Law Officer will not be adequately compensated by the fees which he will be allowed for the conduct of the case in the court.

(2) No consultation fees shall be allowed in any case which does not come before the courts or before an officer of Government acting in a judicial or quasi-judicial capacity, such consultations being covered by the fixed retaining salaries of the law officers.]

<sup>1</sup>Note added by H.S.U.O. No. 2255-J-407, dated the 30th March, 1940; see Punjab Law Department Manual Correction Slip No. 39.

<sup>2</sup>Note 25.3-A inserted by Punjab Government memorandum No. 8678-II-52/30934, dated the 9th December, 1952 ; see Punjab Law Department Manual Correction Slip No. 92.

<sup>3</sup>Substituted for the words "or the Assistant Legal Remembrancer" by Punjab Law Department Manual Correction Slip No. 83.

<sup>4</sup>The words "Assistant Legal Remembrancer" omitted by Punjab Government memorandum No. 72-2J-61/1446, dated the 18th January, 1961; see Punjab Law Department Manual Correction Slip No. 114.

<sup>5</sup>Substituted for the words each appearance by Punjab Law Department Manual Correction Slip No. 49.

<sup>6</sup>Substituted for the word "Lahore" by Punjab Government memorandum No. 72- 2J-61/1446, dated the 18th January, 1961, see Punjab Law Department Manual Correction Slip No. 114.

<sup>7</sup>Substituted by the Punjab Government Letter No. 3804/713-S-A-J-39/20221, dated the 6th June, 1939; see Punjab Law Department Manual Correction Slip No. 25.



<sup>1</sup>[25.5.-A. (1) When legal advice is required in the Court of Wards cases the Financial Commissioners will make the necessary reference to the Legal Remembrancer. Except in the special class of cases mentioned in sub-rule (2) of this rule, fees will be paid for all such references. <sup>2</sup>[\* \* \*]. The normal fee will be Rs. 50 per reference, but the Legal Remembrancer will have authority to raise the amount to a maximum of Rs. 100 in any case involving a large amount of work. <sup>2</sup>[\* \* \* \*].

Court of Ward cases.

(2) In cases where the Financial Commissioner ask for legal opinion in the interests of Government as distinct from those of the estate, no fee will be chargeable.

(3) The Financial Commissioners may permit a Commissioner or Deputy Commissioner to obtain legal advice from a local Pleader in a Court of Wards case. If such a reference is allowed and if in such a case the local Government Pleader is chosen as consultant he will be permitted to receive fees at rates not exceeding those mentioned in paragraphs 25.9, 25.13 and 25.14 of the Punjab Law Department Manual, 1938.

25.5. B. (1) The Law Officers and Government Pleader shall not serve as legal advisors to municipal committees and other local authorities.

Local Bodies.

While the Law Officers and Government Pleaders will be debarred from giving legal advice to local bodies, it will remain open to Government them-selves, in the department of local Government, to make a reference to Legal Remembrancer in regard to any case reported to them by a local body, in the same way as they might consult him in any other matter. Such references to the Legal Remembrancer's Department will, however, be made sparingly. (It is not the intention that local bodies should be permitted to use the department of Local Government as a channel for obtaining free legal advice from the Legal Remembrancer. If a local body were to refer a point of law to the department of Local Government the normal course would be for a reply to be sent suggesting that the local body should consult their own legal adviser. The department of Local Government will make a reference to the Legal Remembrancer only if the point in issue is one in respect of which it appears advisable for Government itself to formulate an opinion or a policy. )

No fees will be payable to the Legal Remembrancer or the Assistant Legal Remembrancer for opinion given on references made by Government under the preceding paragraph.

25.5-C. In regard to references relating to the Punjab Medical Council, the Punjab Advisory Board for Books and similar semi-official organizations, the same principles will apply as in the case of references relating to local bodies.]

References by semi-official bodies.

<sup>3</sup>[25.5.-D. The Chairman of the Provincial Transport Authority is permitted to make references to the Legal Remembrancer, in the same way

References by the Transport Authorities.

<sup>1</sup>Rules 25.5-A, 25.5-B and 25.5-C inserted by Home Secretary's U.O. No. 6001-J-39, dated the 20th September 1939; see Punjab Law Department Manual Correction Slip No. 30.

<sup>2</sup>The words "Assistant Legal Remembrancer" omitted by Punjab Government memo- randum No. 72-2J-61/1446, dated the 18th January, 1961; see Punjab Law Department Manual Correction Slip No. 115.

<sup>3</sup>Rule 25.5-D inserted by Punjab Government letter No. 1595-J-40/13917, dated the 20th March, 1940; see Punjab Law Department Manual Correction Slip No. 43.

as the head of a Government Department, and if the Legal Remembrancer avails himself of the help of either of the Assistant Legal Remembrancers in connection with cases thus referred they will not be entitled to fees.

If any one of the Regional Transport Authorities requires legal advice on any point the Chairman should make a report to the Chairman of the Provincial Transport Authority. The latter will then, if he thinks necessary, make a reference to the Legal Remembrancer. The Regional Authorities will not correspond direct with the Legal Remembrancer.]

Election commission  
Tribunal.

<sup>1</sup> [ 25.6. If in any case the Advocate-General is required to attend before any Election Commission Tribunal he shall be permitted to receive such fees as may be recommended by the Commission in their report.

(This rule is based on rule 7 of the rules relating to the terms of appointment of the Advocate General).]

Central Departments.

25.7.<sup>2</sup>[Omitted.].

25.8 The Legal Remembrancer is not entitled to fees in civil cases.

*Government Pleaders and Private Legal Practitioners.*

The Ordinary scale of  
fees for counsel other  
than Law Officers.

25.9. The ordinary fees payable in civil cases to Government Pleaders and Private legal practitioners will be:-

(1) In the High Court-the scale of fees prescribed in the High Court Rules and Orders, Volume V, Chapter 6H.<sup>3</sup>[\*\*\*].

(2) Outside the High Court- the scale of fees prescribed in the High Court Rules and Orders, Volume I, Chapter 16-B.<sup>4</sup>[\*\*\*].

Provided that <sup>5</sup>[ \* \* \* ],-

(a) the fee shall be subject to a maximum limit of Rs. 1,000 for any one case, but in any case of great importance and difficulty the Punjab Government may grant a suitable remuneration not exceeding the fixed percentage rate up to a maximum of Rs. 3,000;

<sup>6</sup>[(ai) which are decided on preliminary points or which are compromised and in which no evidence is recorded the fee shall be half the fee which is otherwise admissible under the rules;

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<sup>1</sup>Substituted by Punjab Government memorandum No. 72-2j-61/1446, dated the 18th January, 1961, see Punjab Law Department Manual Correction Slip No. 115.

<sup>2</sup>Rule 5.7 omitted by *ibid*.

<sup>3</sup>The words, figures and brackets "(1932 edition)" omitted by *ibid*.

<sup>4</sup>The words, figures and brackets "(1930 edition)" omitted by *ibid*.

<sup>5</sup>In the provision, the words "in the cases outside the High Court" omitted by Punjab Law Department Manual Correction Slip No. 85.

<sup>6</sup>Clauses (ai) and (aia) inserted by Punjab Government memorandum No. 1956-jj52/1358, dated the 17th March, 1952; see Punjab Law Department Manual Correction Slip No. 91.

- (aii) which are heard together and which are disposed of by one judgement, the full fee shall be admissible only in the case in which main judgement is written, but in the connected cases, the fee shall be one half the fee which is otherwise admissible for any one case under the rules:]
- <sup>1</sup>[(b) the minimum fee in a civil case shall not be less than Rs. 32 in the High Court and Rs. 16 in any Court other than the High Court.
- <sup>2</sup>[(c) Where in accordance with the resolutions of the High Court Bar Association, dated the 7th July, 1944, the Advocate, General appoints a senior counsel and a .....

**CORRECTION SLIP NO. 119 TO PUNJAB LAW DEPARTMENT  
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Chapter 25

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*Rule 25.10.- For Sub-rule(1), Substitute the following :-*

- "(1) In cases under Part II of the Land Acquisition Act, 1894, the fees payable to counsel for the Government in cases, conducted throughout by them shall be calculated in accordance with rule 8 of Chapter 16-B of the Rules and Orders of Punjab High Court, Volume 1."

(Punjab Government Home Department Memorandum No. 49(75)-4J-64/BB, dated the 6th January, 1965.)

- (a) In appeals from orders passed by the District Judge, the fees payable to the counsel for Government shall be calculated at the rates laid down in rules 25.1 and 25.9 of the Punjab Law Department Manual, 1938 edition, on the amount of the claim in appeal subject to a maximum of Rs. 1,000 in any one case.
- <sup>6</sup>[(2) Notwithstanding anything contained in sub-rule (1) the <sup>7</sup>[State] Government may direct that in any case of great importance making an unusual demand on the time and energy of the counsel for Government the counsel shall be granted such fees as it considers a suitable remuneration, not exceeding the rates prescribed by this rule up to a maximum of Rs. 3,000].

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<sup>1</sup>Substituted by Punjab Law Department Manual Correction Slip No. 85.  
<sup>2</sup>Clause (c) inserted by Punjab Law Department Manual Correction Slip No. 71.  
<sup>3</sup>Marginal heading inserted by Punjab Law Department Manual Correction Slip No. 86.  
<sup>4</sup>Rule 25.10 renumbered as sub-rule (1) of that rule by Punjab Law Department Manual Correction Slip No. 88.  
<sup>5</sup>Substituted by *ibid*.  
<sup>6</sup>Sub-rule (2) added by Punjab Law Department Manual Correction Slip No. 88  
<sup>7</sup>Substituted for the word "provincial" by Punjab Government Memorandum No. 72-2J-61/1446, dated 18th January, 1961; see Punjab Law Department Manual Correction Slip No. 116.

<sup>1</sup>[25.10-A. In cases under the East Punjab Urban Rent Restriction Act, 1949, for fixation of fair rent and for determination of compensation for the requisitioned property under the East Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1948, the fee payable to counsel for Government shall be calculated on the difference between the annual rent/compensation offered by Government and the amount of an annual basis claimed by the owner of property or other interested person, subject to maximum of Rs. 240 (two hundred and forty) per case, as provided in rule 10 of Chapter 16-B of the High Court Rules and Orders Volume. 1.]

<sup>2</sup>[*Miscellaneous Provisions*]

Powers of Legal Remembrancer as to fees defined.

25.11. The Legal Remembrancer is authorised to sanction a special fee not exceeding Rs. 200 in any one case, but ordinarily he will not sanction a fee in excess of the scale prescribed in the preceding rules unless the conduct of the case has been specially difficult and has taken up an excessive amount of the time of the counsel employed.

In every case in which the Legal Remembrancer sanctions a fee exceeding Rs. 20 for each day's attendance in court under this rule he shall record his reasons for doing so.

Fees ordinarily payable in full.

25.12. The above scale of fees will ordinarily be payable whether the Government succeeds or fails and whether the Court does or does not award costs, to the Government. <sup>3</sup>[The full fee, or any part thereof, may be withheld if costs have not been awarded and if the Legal Remembrancer considers that this is the result of negligence on the part of counsel or that the case has not been properly conducted.]

Consultation fees.

<sup>4</sup>[25.13. (1) Consultation fees may be allowed by the Legal Remembrancer in civil cases conducted on behalf of Government By a <sup>5</sup>[Counsel for Government] at rates not exceeding Rs. 16 for a consultation at the headquarters of the <sup>5</sup>[Counsel for Government] and Rs. 20 for a consultation at any other place.

(2) Consultation fees will be allowed only in cases where the <sup>5</sup>[Counsel for Government] has had to visit an officer of the department concerned and where the Legal Remembrancer is satisfied that the consultation was necessary in the interests of Government.

(3) consultation fees may be allowed irrespective of the question whether the case has come or ultimately comes before a court, but no fee should be payable in respect of a case which comes before the courts.

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<sup>1</sup>Rule 25.10A inserted by Punjab Government Memorandum No. 1956-jj-421358, dated the 17th March, 1952; see Punjab Law Department Manual Correction Slip No. 91.

<sup>2</sup>Inserted by Punjab Law Department Manual Correction Slip No. 89.

<sup>3</sup>Substituted for the words "the full fee, or any part thereof may be withheld if the case has not, in the opinion of the controlling authority, being properly conducted" by Punjab Government U.O. No. 1443-j-39, dated the 4th March, 1939; see Punjab Law Department Manual Correction Slip No. 20.

<sup>4</sup>Substituted by Punjab Government letter no.3804/713-S-A-J-39/20221, dated the 6th June, 1949 see Punjab Law Department Manual Correction Slip No. 26.

<sup>5</sup>Substituted for the words "Government Pleader" by Punjab Law Department Manual Correction Slip No. 87.

or before an officer of Government acting in a judicial or quasi-judicial capacity unless the Legal Remembrancer is satisfied that the <sup>1</sup>[Counsel for Government] will not be adequately remunerated by the fees which he will earn by his appearances in court].

25.14 (1) For preliminary work in connection with cases to be instituted by or threatened against the <sup>2</sup>[State], the Government Pleader or Private practitioner engaged may be allowed a fee of Rs. 16 in ordinary cases and in exceptional cases a fee of Rs. 32 or such higher fee up to a maximum of Rs. 200 as the Legal Remembrancer may consider suitable. Ordinarily no fee will be paid if the case has actually come into court.

Opinion work

25.12 A Government Pleader is entitled to a fee for opinion work whether on behalf of the <sup>2</sup>[State] or on behalf of a Local Body, subject to the limitations prescribed in sub-rule (1) of rule 25.13. Ordinarily, however, the rules required that any reference relating to a suit threatened against Government, or proposed, to be instituted on behalf of Government should be made to the Legal Remembrancer. Opinion fees will only be passed for payment on receipt of a recommendation by the Deputy Commissioner or other officer concerned, accompanied by some explanation why the case could not be referred to the Legal Remembrancer.

#### GENERAL

25.16 Where a single case passes at different stages through more Courts than one, e.g., for original decision, appeal and further appeal, or revision it is to be treated, for the purpose of fees, as a separate case at each such stage.

Separate fee for each stage of case.

25.17 The orders of the authority which administratively superintends the conduct of the litigation concerned (i.e., of the Financial Commissioner or the Administrative Department) will be taken in any case not provided for in paragraph 25.11 in which the ordinary scale is manifestly inadequate.

Special fees in civil cases.

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<sup>1</sup>Substituted for the words "Government Pleader" by Punjab Law Department Manual Correction Slip No. 87.

<sup>2</sup>Substituted for the word "Crown" by Punjab Government Memorandum No. 72-21-61/1446, dated the 18th January, 1961; see Punjab Law Department Manual Correction Slip No. 116.

<sup>3</sup>Substituted for the word "Crown" by Punjab Government Memorandum No. 72-2j61/1446, dated the 18th January, 1961; see Punjab Law Department Manual Correction Slip No. 117.

Fee where suit is incapable of valuation.

25.18. In any case in which the subject matter of the suit is incapable of being assessed in money value reference will be made, through the Legal Remembrancer, to the controlling authority, <sup>1</sup>[who will assess the fee subject to the maximum laid down in rule 25.9 *ibid.*] for orders

Costs.

25.19. The cost of suits, the filing of which is the natural and proper function of the Central as opposed to a <sup>2</sup>[State] Government, will be borne by the Central Government and should be debited to the Department which originates the suit.

Ditto.

25.20. (1) When costs are awarded in favour of the <sup>3</sup>[State] they must in all cases be credited to Government through the Treasury and must not be retained by counsel.

(2) When interim costs are awarded in consequence of an adjournment, and counsel has been engaged to conduct the case on a consolidated fee; the amount paid by way of such costs must still be credited in the Treasury; but counsel may be permitted to add a corresponding amount on his fee bill to the fee fixed in the case.

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<sup>1</sup>Inserted by Punjab Law Department Manual Correction Slip No. 90.

<sup>2</sup>Substituted for the word "provincial" by Punjab Government memorandum No. 72-2J-61/1446, dated the 18th January, 1961: *see* Punjab Law Department Manual Correction Slip No. 117.

<sup>3</sup>Substituted for the word "Crown" by *ibid.*

CHAPTER 14-GOVERNMENT PLEADERS FOR DISTRICTS.

Area.	14.1. Government Pleaders will be appointed for such districts or groups of Districts as the Punjab Government may determine.
Appointment of Public Prosecutors.	14.2. The Public Prosecutor for a district may be appointed to be the Government Pleader for the same district; but this will be done only when the size or nature of the district allows the civil and criminal business to be conveniently combined by one person.
Terms.	14.3. Government Pleaders will be appointed in the same way and on the same conditions as Public Prosecutors, except as otherwise provided in these rules.
Fees.	14.4. Government Pleaders will not be appointed on a monthly consolidated scale of fees. They will be paid fees according to the work done at the rates laid down in the Punjab Law Department Manual.
No monopoly.	14.5. Government Pleaders will usually be engaged to conduct civil proceedings on behalf of the Punjab Government in preference to any other local legal practitioner. They are, however, entitled to no monopoly of the civil business of the Government within the area to which they are attached, and will appear only when instructed to do so. The right to employ any other legal practitioners, whenever thought necessary, is reserved.
Work to be done.	14.6 (a) Government Pleaders are required as a condition of their appointment to undertake all civil suits and civil proceedings by or against or on behalf or affecting the Punjab Government, which may at any time be made over to them, in the absence of such professional reasons in any particular case ..... to do so.

(b) They may also be required by the Legal Remembrancer to undertake other civil work for the State, such as suits affecting the Central Government, at the same rates.

(c) Whenever a Government Pleader receives instructions to institute or defend a suit, it is always his duty to make a thorough examination of the administrative report and the documents sent therewith, in order to see that all the facts have been correctly represented and that all the necessary evidence has been received before the plaint or written statement is put into Court. If any facts have been wrongly stated, or if any evidence is missing, this should at once report to the Legal Remembrancer. No Government Pleader should take up the conduct of a suit which he considers to be radically weak without first consulting the Legal Remembrancer since it is obvious that he is unlikely to do all with a case which he believes himself to be unsound. If the supposed weakness is reported to the Legal Remembrancer, he may either be able to explain the lines on which the suit should be conducted, or he may find that the Government Pleader's report is correct and that the suit should be withdrawn.

Consultations.

14.7. Government Pleaders may be consulted by local officers who have the necessary authority from their department and also have the necessary financial authority to meet the necessary fees out of funds under their own control. They will appear in Court on behalf of the Punjab Government, however, only under the instructions of the Legal Remembrancer.

Appearances  
against the Union  
of India, and  
Punjab Govern-  
ment.

14.8. Government Pleaders shall not, without the previous permission of the Punjab Government appear or advise in any civil proceedings against the 'Union of India, the Railway Administration or the or The Courts of Wards of the Punjab Government.



(b) Permission will be granted only in cases in which it is clear that the services of the applicant are not likely to be needed on behalf of the State at any stage of the case.

Leave of absence.

14.9 (a) Government Pleaders must arrange that the services are available at all times, other than the period of the vacation fixed for subordinate civil courts, unless permission of absence has been given.

(b) Government Pleaders who are not Public Prosecutors may be given permission of absence at any time of the year provided that they can be spared. Such permission must be obtained from the Legal Remembrancer through the Deputy Commissioner.

No diary required.

14.10 No diary need be kept of work done by Government Pleaders required in that capacity. Fees will be drawn for work done in each particular case.

Travelling expenses.

14.11. In addition to the prescribed fees Government Pleaders may also draw additional fees for travelling expenses in the same way as Public Prosecutors.

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Part IV- Conveyancing  
Department.

INSTRUCTIONS TO OFFICERS FORWARDING TITLE DEEDS FOR  
SCRUTINY TO THE OFFICE OF THE LEGAL REMEMBRANCER OR  
LAW OFFICER IN CONNECTION WITH APPLICATIONS FOR LOANS.

Chapter 25-A. Scrutiny  
of Title deeds.

25-A.1. All references involving scrutiny or title deeds should be drawn up in accordance with the following instructions and sent to the Law Officers of the district in which the property offered by the applicant as security is situated. References not so drawn up are liable to be returned for compliance with these instructions:

Provided that the Government may refer any case of importance to the Legal Remembrancer for advice or the Legal Remembrancer may call for and examine any case referred to a Law Officer and give his advice therein.

Explanation- In this chapter the expression Law Officers means-

(i) The District Attorney of the District and where more than one District Attorney is posted in a district, the senior District Attorney,

(ii) In the absence of the District Attorney, the Assistant District Attorney of the District and where more than one Assistant District Attorney is posted in a district, the senior Assistant District Attorney,

(iii) In the absence of the District Attorney and the Assistant District Attorney, the person appointed as temporary Additional Government Pleader for the district.

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25.A.2- Requests for scrutiny of title deeds are generally mean in connection with an application for some form of loan. Information with regard to the application, the amount of the loan and the sureties should be given in Form, attached, particular attention being paid to the information required when the applicant is some kind of association.

25.A.3- When such applications are made, different properties are sometimes offered as security by the applicant himself or by his sureties. For each item of property, a separate statement should be Crown up in Form B, with an index of title deeds attached.

25.A.4- The index should be in strict chronological order, starting with the earliest deed and ending with the latest.

25.A.5- The title deeds relating to each item of property should be arranged in the order shown in the index, and should be placed in a separate envelope, the statement in Form B being attached to the copy.

25.A.6- For each title deed, there should again be a separate abstract in Form C attached. It may be observed that this requirement is made in order to avoid the necessity of having vernacular documents translated into English and is made in the interest of the referring department.

25.A.7- All title deeds should be placed flat in large envelope of fulscape size. The Legal Remembrancer or the Law Officer, as the case may be, is unable to accept responsibility for the custody of title-deeds which are forwarded loose or screwed up in small envelopes, and documents so received are liable to be returned without scrutiny.

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.....iii.....

25.A.8- The responsibility for all entries made in the prescribed statement rests with the referring department, and the Legal Remembrancer or the Law Officer, as the case may be, cannot be responsible for mistakes which arise from incorrect entries therein.

25.A.9- The details to be entered in Form C, etc. (referred to above) are those copied from the old title deeds handed in by the applicant or his surety. The details to be entered, on the other hand, in the draft mortgage deed and schedule and plan thereto are the actual (present) description and boundaries of the properties as now offered to Government as security. Hence, it is for the referring department before referring the case to the Legal Remembrancer, or the Law Officer, as the case may be, either itself or through a reliable draftsman engaged for the preparation of the plan, to ascertain the actual area and the present description (including the present Revenue (Khasra) or Municipal number--if any) of each property offered as security; and also the names of the present holders of property adjoining or bounding each of the properties offered as security; and to insert those details in the schedule to the draft mortgage deed or in the plan to be annexed thereto, respectively, and thereupon to check the identity of property as entered in Form C, etc., with that described in the schedule and plan. For convenience in checking the details, boundaries should invariably be stated clockwise in order, i.e., North, East, South and West.

25.A.10- The intention in sabort, is that Government should before granting the loan, know and have on record the present description and details of the property at the date of granting the loan..... be in a

.....iv.....

.....iv.....

position to prove its identity with property proved by old title deeds, etc., to be owned absolutely by the applicant or his surety. The ascertainment of such details should not be left till default occurs necessitating the institution of proceedings. Hence also, the necessity for obtaining, heking and retaining previous title deeds, if any, failing which other documentary evidence of the absolute and unencumbered title of the applicant or his surety.

25.A.11. As regards ascertainment that there are no prior mortgages or charges, it is to be noted that the Sub-Registrar's register of mortgages and charges contains no record of mortgages created by deposit of title deeds. Hence, if the applicant or his surety does not produce original title deeds, or fails to give a satisfactory explanation for his omission to do so, his application for loan on such surety should be refused.

25.A.12. AS regards the mortgage deed proposed for cases under the State Aid to Industries Act, forms of mortgage are prescribed (with or without surety as the case may be). The Director of Industries, and Other departments referring similar transactions for scrutiny, should use the prescribed printed form for the purposes of such reference indicating thereon any modifications arising in the particular case, or, by attaching type-written slips, any amplifications proposed. (Punjab Government U.O.No.1758-J.39, dated 11th March, 1939).

#### FORM A

Statement to accompany any reference for scrutiny of title deeds in connection with a loan.

1. Name, address and parent age of description of :-

- (a) the applicant ;
- (b) sureties, if any.

.....v.....

..... v) ...

2. If the applicant or surety is a firm state--
  - (a) the names of all the partners of the firm as furnished by the applicant; and
  - (b) whether all those persons are shown as partners in the latest returns with the Registrar of Firms at Lahore.
3. If the applicant or surety is a company or registered society, state under what Act such-applicant or surety is registered and where and on that date.
4. If the applicant or surety is a firm, society or company, state whether or articles of association provide by whom mortgage deeds may be signed; if so, attach extract.
5. Name of person or persons by whom it is proposed that the deed should be signed, ---
  - (a) for applicant;
  - (b) for surety;and state whether the executant falls within the category last above referred to.
6. If not, or if the deed is to be signed by an agent, or otherwise than by all the partners in the case of a firm, state what powers of attorney have been obtained and are added hereto and to what effect.
7. If the applicant or surety is a company or registered society, state further whether there is any resolution of the Board or governing body approving the mortgage. If so, this should be attached.
8. What is the amount of the loan proposed and what steps have been taken to ascertain that it does not exceed the prescribed proportion of the value of the security.

.....  
**FORM B**

Statement to be filled in with respect to each separate item of property which it is proposed to mortgage.

1. State from inspection thereof or enquiries on the spot :-
  - (a) the place where the property is situate; viz. District, Town or Tehsil.
  - (b) by what name, description, or municipal or other number, etc., the property is known, what is its nature ; and
  - (c) by what landmarks or streets or other properties the property

.....

.... vi) ...

or site is at the present date

bounded, viz., on these

North :

East :

South :

West :

2. Have all the details referred to above been checked and reconciled with applicant's or surety's title deed.

Have those title deeds been produced in original, and

Whether certified copies of relevant entries in Revenue or Municipal Records have been produced.

If so, enumerate and attach those documents.

3. State whether comparison of the title deeds and/or copies with enquiries made on the spot disclose discrepancies in the boundaries or other details above referred to.

4. If there is any such discrepancy, state whether the referring department is nevertheless satisfied that the property now offered is the same as that referred to in the title deeds or Revenue or Municipal Records as owned absolutely by the applicant or surety.

5. State who has been in possession for the last twelve years (if the property has been let out to tenants during the last twelve years, any lease deed or receipts for rent should be attached).

6. If the applicant does not claim the property by virtue of any title deed in his own favour, state exactly on what ground he claims ownership and what evidence there is to support his claim.

7. State whether local enquiry has been made with regard to the existence of any encumbrance or dispute over title and if so, with what result.

8. Attach certificate of non-encumbrance as the result of search in the local Sub-Registrar's Register of mortgages and charges, and state what encumbrances, if any, are thereby disclosed.

9. State the alleged value of the property above referred to and what steps have been taken to ascertain that it is of the value alleged.

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10. State whether buildings are insured against fire, give details of the policy and amount thereof and state whether owner is prepared to endorse the same over to Government, but to continue to pay premiums and comply with its terms during the subsistence of the mortgage (if accepted).

FORM C

Schedule No. \_\_\_\_\_ Property of \_\_\_\_\_ Mortgagor/Surety \_\_\_\_\_

The following form is to be completed and filled in respect of each of the title deeds lodged by the mortgagor or by the Surety as evidence of ownership :-

1.	2.	3.	4.	5.
Nature of Deed and amount shown as Price, Rent or Debt in respect of which the deed was executed.	(a)Date of Execution. (b)Date of Registration (c)Stamped at (Rs.) _____	Names of (a) Transferor or Executent (b)Transferee or person in whose favour.	Boundaries of property as stated in the Deed. North. East. South. West.	R E M A R K S

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Punjab Government U.O.No.8184-J-40, dated 9th November, 1940.



## CHAPTER 27-DISTRICT MANUAL STATEMENTS.

27.1. The following statements will be submitted by Deputy Commissioners annually on or before the 1st of February in each year ;-

- (1) Statement showing the nature of litigation to which Government was a party in original suits in the districts during the year (Form No. 1).
- (2) Statement showing the nature of litigation to which Government was a party in appeals in the district during the year (Form No. 2).

27.2. The following instructions should be observed by Deputy Commissioner while preparing and submitting the above statements :-

(1) The statement should furnish information regarding all litigation, excluding Revenue Court suits, to which Government has been a party during the calendar year, but not concerning the litigation of Municipalities, Court of Wards and District Boards.

(2) The cases that remain pending at the close of year should be shown in the statements. In such cases columns 1, 2, 3, 5, 6, 10 and 11 should only be filled in, and in the column of Remarks it should be stated that the case is pending when preparing the statements, for the next year the cases pending at the close of the previous year should be brought forward and shown in red ink.

(3) The costs decreed should be included in the amount decreed by the Court either for or against Government and should be shown in columns 13 and 15 of the statement. The cost of litigation, besides court-fee stamp and fee to counsel, should include bhatta to witnesses and section-writing charges, & c.

\*\*\*

During the Year \_\_\_\_\_  
ORIGINAL

1.Name Of Court	Name of the Case Government (Defendant).																			
	2.Plaintiff.	3.Defendant.	4.Pending from last year.	5. Received during the year.	6.Total for disposal	7.Decided in favour of Government.	8.Decided against Government.	9.Total decided.	10.Pending.	11.Amount involved in claims	Amount Decreed for Govern ment	Amount Decreed Against Govern ment	Cost of litigation							
												16.Court fee stamp and Judicial paper.	17. Fees to special Counsel and Government pleader	18. Bhatta to witnesses.	19. Section writing charges, etc.	20. Total.				

And 11 should be filled in and in column 10 it

Should be remarked that the case is pending.

Deputy Commissioner.

1.Name Of Court	Name of the Case																			
	Government (Appellant).																			
2.Appellant.																				
3.Respondent.																				
4.Pending from last year.																				
5. Received during the year.																				
6.Total for disposal																				
7.Decided in favour of Government.																				
8.Decided against Government.																				
9.Total decided.																				
10.Pending.																				
11.Amount involved in claims																				
12. Principal.																				
13.Costs.																				
14. Principal.																				
15.Costs.																				
16.Court fee stamp and Judicial paper.																				
17. Fees to special Counsel and Government pleader																				
18. Bhatta to witnesses.																				
19. Section writing charges, etc.																				
20. Total.																				
21. Remarks .																				

Note: The Cases that are pending during the year should also be shown in the column 10 it should be remarked.

-----District.

Dated the -----193.

(Form No. 2)

Statement showing the nature of Litigation to which

Part II

Government was a

Party in the \_\_\_\_\_ District During the year \_\_\_\_\_

APPEALS.

1. Name Of Court	NAME OF THE CASE											GOVERNMENT (RESPONDENT)							
	2. Appellant.	3. Respondent.	4. Pending from last year.	5. Received during the year.	6. Total for disposal	7. Decided in favour of Government.	8. Decided against Government.	9. Total decided.	10. Pending.	11. Amount involved in claims	Amount Decreed for Government	Amount Decreed Against Government	Cost of litigation				21. Remarks .		
												16. Court fee stamp and Judicial paper.	17. Fees to special Counsel and Government pleader	18. Bhatta to witnesses.	19. Section writing charges, etc.	20. Total.			

Statement. In Such cases columns 1, 2, 3, 5, 6, 10 & 11 Should be filled in a in that the case is pending.

Deputy Commissioner.

## Chapter-28 ANNUAL REPORT OF LEGAL AFFAIRS.

28.1:- The legal remembrance will submit an annual report reviewing the entire conduct of the legal affairs of the Government for the year ending on the 31<sup>st</sup> December, to the Secretary to the Government of the Punjab.

The Advocate General is required to submit for incorporation in the annual report by the 15<sup>th</sup> February each year an annual report with appropriate headings with regard to the extent and progress of work connected with "Suits relating to Public Matters" falling under sections 91, 92 and 93 of the Civil Procedure Code. He will himself decide the most convenient form for this report, which should contain inter alia figures showing the number of applications made to him during the year and the number of pending cases, together with notes regarding the more important case, decided and pending.

28.2 The portion of the report dealing with civil litigation will be submitted, in the first instance, for such remarks as he may think fit to make, to the Financial Commissioner on or before the first day of March in each year.

28.3 The entire report will be submitted to the Government on or before the first day of April in each year, together with the remarks(if any) made by the Financial Commissioner on the portion thereof relating to civil litigation.

28.4. The report, together with the annual statements reviewed in it, will be printed and circulated to:-

- (1) The Financial Commissioner;
- (2) Commissioners and Deputy Commissioners;
- (3) Heads of Departments;
- (4) Others local Governments;

.....2.....

And other persons mentioned in the list for the time being prescribed in that behalf.

28.5. The report will contain a brief review of the work arranged under the following heads, namely:-

- I. Staff of Law Officers and changes therein.
- II. References for opinion and other references.
- III. Civil business.
- IV. Criminal business.

28.6. The Report on Civil Litigation should review all suits and proceeding by or against or affecting the Government or a public officers, as well as such as are conducted by the Law Officers, Themselves, excluding Revenue Courts suits and decrees.

28.7. The report on Criminal Business should review the whole of the work done by the Law Officers as well as such as is disposed of by Government Pleaders (Public Prosecutors) and special counsel (if any) under the supervision of the Legal Remembrancer.

28.8. The following annual statements, will accompany the annual report of the Legal Remembrancer, namely:-

CIVIL.

I. Statement showing the nature of litigation to which Government was a party in original suits during the year (Form No.3).

II. Statement showing the cost of litigation wot which Government was a party in original suit during the year (Form NO.4).

III. Statement showing the nature of litigation to which Government was a party in appeals during the year (Form No.5)

IV. Statement showing the Cost of litigation to which Government was a party in appeals during the year (Form No.6).

Criminal.

V. Statement Showing the number of persons dealt with in the High Courts in its criminal appellate and revisional jurisdiction during the year (Form No.7)

VI. Abstract statement showing criminal cases conducted under the control of the Law Department in Courts subordinate to the High Court's (including original cases, appeals, applications for revision and miscellaneous applications) during the year (Form No.8).

(Form No.3)

Statement No. 1.

Statement showing the nature of litigation to which Government was a party during the year.

(Prescribed by the Government of India resolution no. 258-69, dated 27<sup>th</sup> February,1901).

Part-I ORIGINAL SUITS.

Government (Plaintiff)										Government (Defendant).										
1.Classes of Courts.																				
2.Pending from previous year																				
3.Received during the year.																				
4.Total for disposal.																				
5.Decided in favour of Govt.																				
6. Decided against Govt.																				
7.Total decided.																				
8.Pending.																				
9.Percentage of cases decide in a favor of Government.																				
10.Percentage of cases decided against Government.																				
11. Pending from previous year.																				
12. Received during the year.																				
13. Total for disposal.																				
14. Decided in favour of Govt.																				
15 Decided against Government.																				
16. Total decided.																				
17. Pending.																				
18. Percentage of cases decided in favour of Government																				
19. Percentage of cases decided against Government																				
20. Remarks.																				
Total:-																				

(Form No.4.)

Statement No. II.

Statement showing the cost of litigation to which Government was a party during the year.

(Prescribed by the Government of India resolution No.258-69,dated 27<sup>th</sup> February, 1901)

Part-I—ORIGINAL SUITS.

Classes of Courts.	Amount involved in claims.	(Government (Plaintiff				Government(Defendant).			
		Amount Decreed.		Amount Involved in claims.	Amount Decreed.		Remarks		
For Government	Against Government	Costs of litigation	For Government.		Against Government.	Cost of litigation			
1.	2.	3.	4.	5.	6.	7.	8.	9.	10
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Total									

(Form No.5) STATEMENT No. III.

Statement Showing the nature of litigation to which Government Was party during the year.

(Prescribed by the Government of India resolution No.258-69,dated 27<sup>th</sup> February, 1901)

Part-II-Appeals.

	Classes of Courts.	Pending from previous year.	Received during the year.	Total for disposal.	Decided in favour of Government.	Decided against Government.	Total decided.	Pending.	Percentage of appeals decided in favour of Government.	Percentage of appeals decided against Government.	Pending from previous year.	Received during the year.	Total for Disposal.	Decided in favour of Government	Decided against Government.	Total decided.	Pending.	Percentage of appeals decided in favour of Government.	Percentage of cases decided against Government.	Remarks
1,	2.	3,	4,	5,	6,	7,	8,	9,	10.	11,	12,	13,	14,	15,	16,	17,	18,	19,	20	
Total:-																				



(Form No.6)

Statement No.IV.

Statement showing the cost of litigation to which Government was a party during the year.

(Prescribed by the Government of India resolution No.258-69,dated 27<sup>th</sup> February, 1901)

Part-II-APPEALS.

Classes of Courts	GOVERNMENT(APPLENT )				GOVERNMENT(RESPONDENT)				Remarks
	Amount involved in claims.	Amount decreed		Against Cost of litigation	Amount involved in claims.	Amount decreed		Cost of litigation	
		For Government	Against Government			For Government.	Against Government		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Total:-									

(Form No.7)

Statement No. V.

Statement showing the number of persons dealt with in cases conducted by Law Officers in the High Court in its Criminal, Appellate and Revisional Jurisdiction during the calendar year.

1. Classes of Courts	2. For Disposal		3. How Disposed off				4. Pending at end of year.	5. By Whom Conducted.				6. Remarks.
	Pending from last year.	Received during the year	Lower courts Order			Legal Remembrancer.		Assistant Legal Remembrancer	Government Advocate	Other Agency.		
			Confirmed.	Varied	Sot a side						Remanded	
Against Crown.												
<u>Appeals.</u>												
<u>Revisions.</u>												
<u>Miscellaneous.</u>												
<u>B-BX CROWN.</u>												
<u>Appeals.</u>												
<u>Revisions.</u>												
<u>Miscellaneous.</u>												
Total:-												

(Form No. 8)

STATEMENT NO. VI.

Abstract statement showing Criminal Cases conducted under the control of the Law Department in Courts subordinate to the High Court's (including Original cases, Appeals, Applications for Revision and Miscellaneous Applications) during the year.

1	2	3	4			5	6				7
Classes of cases.	Names of Courts	For disposal.	Disposed off			Percentage at the close of the year.	By whom conducted.				Remarks.
			In favour of Crown.	In favour Against Crown.	Total.		Government advocate.	Assistant Legal Remembrancer.	Legal Remembrancer.	Public Prosecutor.	

Original Cases (Sessions Courts (and Additional Sessions Courts ( District Magistrates (and (Additional District Magistrates (Courts (Other Courts. (

Appeals. (Sessions Courts (or Additional Sessions Courts. (District Magistrates (or (Additional District Magistrate (courts (

Miscellaneous Out Application (Sessions Court. (District Court. (

Total:-
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CHAPTER-29-RETURNS

29.1. The other annual Statements, the departments and periods to which they relate, and the dates prescribed for their submission are as follows:-

List of return required to be submitted by the  
Legal Remembrancer

Name of the return	Date of submission to Government.	Date of submission to Financial Commissioner	Date of submission to Accountant General.	Date of submission to the Controller of Printing and Stationery.	Date of submission to the Superintendent, Government Printing, Punjab,
1.	2.	3.	4.	5.	6.

Yearly.

Effect of Legislation.	January	..	..	..	..
Return showing new titles Granted and the casualties Among title-holders.	15 <sup>th</sup> February.	..	..	..	..
Acknowledgement of Permanent Advance.	..	..	11 April.	..	..
Statement showing action taken against corrupt officials.	April	..	..	..	..
List of permanent establishments it stood on 1st April.	..	..	15th May	..	..
Return of expenditure on stores.	1st. June	..	..	..	..
Return of estimates of Stores.	1st. October	..	..	..	..
Leave and deputation Allowances.	1st. September	..	..	..	..
List of Major Works.	1st. October	..	..	..	..
Miscellaneous expenditure.	Ditto	..	..	..	..
Stationery Indent.	..	..	..	1 <sup>st</sup> April	..
Indent of account forms	..	..	..	..	1 <sup>st</sup> Novemeber.
Statement Showing proportion Ate representation of various Communities serving in The Law Department	31 <sup>st</sup> March	..	..	..	..
	31 <sup>st</sup> March.				

List of returns required to be submitted by the Legal Remembrancer Concluded

1. Names	2. Date of submission to Government.	3. Date of submission to Accountant General.	4. Paragraph Of Manual Budget.
Yearly			
Annual Budget Estimate.	10 <sup>th</sup> October each year.	10 <sup>th</sup> October each year	3.5 and 3.6
Estimates of commuted value Of pensions(45-Supernannual-tion Allowances and Pensions).	10 <sup>th</sup> November, each year.	..	5.32
Estimates under head			
47-Miscellaneous-Books and Periodicals-Cost of			
Survey Maps.	25 <sup>th</sup> September.	..	..
Estimates under head			
47-Miscellaneous(Reserved) Books and Periodicals-Cost of Books and Publications.			
	20 <sup>th</sup> October each year		5.33
46-Stationery and Printing			
Stationery supplied from Central Stores.	1 <sup>st</sup> August each year		9.3
Schedule of New Expenditure.	20 <sup>th</sup> September each year		7.6 9.3
Schedule			
Supplementary Schedule of New Expenditure.			
	20 <sup>th</sup> October .	..	..
List of Excesses and Surrenders.	November 20 and		10.1
Surrenders.	January 15 each . year.		10.3
Statement of Grants and Expenditure	10 <sup>th</sup> of each month.	20 <sup>th</sup> of each month.	14.10 14.13
List of late Sanctions.	20 <sup>th</sup> November each year.	..	6.1
45-Superannuation Allowances. And Pensions-Gratuities to Cover cost of fares and Passages to officers retiring Or proportionate pensions.			
	10 <sup>th</sup> November	10 <sup>th</sup> November	..
List showing clerks available For temporary military duty As clerks in the event of Operations on the Frontier.			
	31th march.	..	..
List of Non-Confidential Publications			
	15 <sup>th</sup> January.	..	..

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