

LEGAL DEPARTMENT

No. 239-1L- The following Law Officers (conditions of Service) Rules and the Rules for the Conduct of the Legal Affairs of Government have been made by the Government of Sindh in supersession of the Rules referred to in Government notification No. 1778, dated the 31st August, 1923 and are published for general information:-

Law Officers (Conditions of service) Rules.

In exercise of the powers conferred by section 55 and clause (b) of sub-section (2) of section 241 of the Government of India Act, 1935, the Governor of Sindh is hereby pleased to make the following rules regulating the conditions of service of Law Officers, namely:-

1. Short title – These rules may be called the Sindh law Officer (Conditions of Service) Rules, 1940.
2. Definitions – In these rules unless there is an express provision to the contrary or unless a contrary intension appears from the context:-
 - (a) “Day” means any portion of time between midnight and midnight;
 - (b) “Government” means the Government of Sindh ;
 - (c) “Government Pleader” includes Government Pleader in the Chief Court and his Assistants, District Government Pleaders and their Assistants and Subordinate Government Pleaders but shall not include Honorary Assistants to District Government Pleaders;
 - (d) “Public prosecutor” means any person appointed by Government under section 492, Criminal procedure code, to be a Public prosecutor of Assistant Public Prosecutor for a district or a division of a District or for specified class of cases in a District or Division of a District and shall include the Public Prosecutor for Sindh;
 - (e) “Special Counsel” means any Advocate or Pleader specially appointed for any case, civil or criminal, and includes a law Officer when so appointed.
 - (f) “Solicitor” means Solicitor to Government.
3. Law officers to whom the rules apply-
These rules apply to the following Law Officers of Government:-
 - (a) The Advocate- General;
 - (b) The Assistant to the Advocate -General;
 - (c) The Public Prosecutors, Government Pleaders and their Honorary Assistants.

3-A. Method of appointment of Assistant Public Prosecutor/Assistant Government Pleader-

- (1) Appointments of Assistant public Prosecutors/Assistant Government Pleaders shall, be made by the Government on the recommendations of a Committee consisting of not less than three members, with one of them as Chairman, as Government may constitute in this behalf.

i.	Solicitor to Government of Sindh.	Chairman
ii.	Nominee of the Advocate-General.	Member
iii.	Nominee of the Law Department.	Member

- (2) Where any post of Assistant Public Prosecutor Assistant Government Pleader has fallen vacant in any District, the Solicitor shall invite applications from lawyers of that district.
- (3) A lawyer with not less than five years standing at the Bar shall be eligible for appointment as Assistant Public Prosecutor/ Assistant Government Pleader.
- (4) The Solicitor shall ascertain the views of the District Judge and the Public Prosecutor as regards the suitability of the applicants for the appointment.
- (5) The Committee shall then interview the applicants and after considering the views called for under sub-rule (4), select suitable persons from amongst the applicants.

3-B. Appointment of Public Prosecutor/Government Pleader-

- (1) Appointment of Public Prosecutor/ Government Pleader shall as far as possible, be made by Government by promotion from amongst Assistant Public Prosecutors/Assistant Government Pleaders with not less than eight years standing at the Bar;
- (2) Where no suitable Assistant Public Prosecutor/Assistant Government Pleader is available for the appointment of public Prosecutor / Government Pleader, the appointment shall be made on the recommendations of the committee referred to in rule 3-A in accordance with the procedure mentioned therein; provided that a lawyer with not less than eight year standing at the Bar, shall be eligible for the appointment.

⁸[3-C. Appointment of Additional Advocate General. The appointment Additional Advocate General shall be made by the Chief Minister from amongst the Lawyers with not less than seven years standing as an Advocate of High Court.]

⁸[3-D. Appointment of Assistant Advocate General. The appointment of Assistant Advocate General shall be made by the Chief Minister from amongst the Lawyers with not less than five years standing as an Advocate High Court]

4. Period of Appointment-

- (1) All Law Officers hold office during the pleasure of Government.
- (2) Except the Advocate General, no Law Officer shall ordinarily be continued in office after he has attained the age of 60 years.
- (3) Subject to the other provisions contained in this rule person appointed as Assistant to the Advocate General, a Government Pleader or a Public Prosecutor shall hold office for a term of 3 years in the first instance and thereafter during the pleasure of Government.
- (4) A Law Officer shall be liable to be removed from his office at any time, if he is guilty of any act or conduct which, in the opinion of Government, is incompatible with his duties

⁸ Subs by the Notification No. SO. REG. 4 (07)/2018, dated 09-04-2018.

⁸ Added by., ibid.

as such Law Officer. The decision of Government in such cases shall be final.

- (5) Ordinarily the term of appointment of an Honorary Assistant shall be 3 years and on the expiry of this period the appointment will ipso facto cease unless, for special reasons, an extension is granted by Legal Remembrancer.
 - (6) Save as otherwise provided in sub-rule (4) and subject to the provisions of sub-rule (1), the appointment of a Law Officer shall not be terminated except by three months' notice.
5. May not appear, act or advice against Government or on behalf of accused persons-
- (1) Except with the special sanction of Government or except as hereinafter provided in this rule, Law Officers or any of their partners shall not hold any brief against Government, or advise, appear or act in any case against Government or give advice to private parties in cases in which they are likely to be called upon to advise Government or any Government Officer. If a partner of a law Officer had advised, appeared or acted in any case against Government, he shall stop doing so as soon as Government intimates to Law Officer that, in view of possible conflict of interest, his partner should not so advise, appear or act.
 - (2) Law Officers shall not act or appear on behalf of a plaintiff in any suit in which the plaintiff has applied for permission to sue in formapauperis until the application for permission to sue in formapauperis has been decided by the Court.
 - (3) A Public Prosecutor while conducting a prosecution on behalf of the Crown shall not hold a brief for any other person interest in the case.
 - (4) (i) Except as Provided in sub-clause (iii) of this sub-rule, the Public Prosecutor for Sindh shall not appear for an accused person in any case arising in the Karachi and Thatta Judicial Districts; provided that this restriction shall not apply in cases when the advocate-General appears for the prosecution.

(ii) The Public Persecutor for Sindh may appear for an accused person in any case arising out side the Karachi and Thatta judicial Districts without any permission.

(iii) The Public Prosecutor for Sindh may appear for any accused person on the appellate side of the Chief Court after consulting the Advocate General in each case.

(iv) A District Public Prosecutor shall not appear for an accused person in any case arising within his own district.

(v) A District Public Prosecutor may, without obtaining any permission, appear for an accused person in any case outside his own District whether in the same Sessions Division at his own District or in any other Sessions Division.
- (5) An Assistant Public Prosecutor, after consulting the Public Prosecutor to whom he is an Assistant, may act on behalf of an accused person with in his district, subject to the following conditions, viz. :-
- a) That is hall not do so in any case in which it shall appear to the District Public Prosecutor that his services will probably be required for the prosecution;
 - b) That if his services are required for the prosecution in any case in which he has already appeared or been engaged for the prosecution; satisfaction of the District Magistrate, who will be winning to conduct the prosecution on the same terms as to

remuneration that apply to him self.

(6) The restrictions contained in sub-rules (4) and (5) apply to the partners of a Public prosecutor, or of an Assistant Public Prosecutor an every such prosecutor shall, before his appointment, obtain from his partners, if any, an acknowledgement of their acceptance of the rules.

6. Not to take parts in Politics—

(1) A Law Officer shall not take part in, subscribe in aid of, or assist in any way any political movement in Pakistan or relating to Pakistan affairs.

Explanation The expression “political movement” includes any movement or activity tending directly or indirectly to excite disaffection against, or to embarrass, the Government as by law established, or to promote feelings of hatred or enmity between different classes of nationals of Pakistan, or to disturb the public peace.

7. Not to be members of local Bodies—

(1) No Law Officer shall stand for election to any Local Body;

(2) If a Law Officer is a member of any local body at the time of his appointment, he shall resign his membership immediately after his appointment.

8. Not to accept Directorship of any company—

A Law officer shall not accept appointment or continue as a director in any company without the sanction of Government.

9. Not to disclose information—

Save as may be required for the purpose of any case in which a Law Officer appears on behalf of Government, he shall not, without a permission of the legal remembrancer communicate directly or indirectly which has come in to his possession in the course of his duties.

10. Duties and remuneration of the Advocate-general—

(1) The Advocate-General shall give advice to Government upon such legal matters and perform such other duties as are or may from time to time be specified in the law officers Rules or as may from time to time be assigned to him by Government.

(2) The salary of advocate-General shall be Rs.1000/- per Month.

(3) The Advocate-General of Sindh should be paid the following scale of fees in addition to his salary.

(1) For Criminal work on the appellate side of the Chief Court _____Rs.
120/- per diem.

(2) For civil appeals in the Chief Court, such fees as may be allowed by the Court subject to the minimum fee of Rs.50/- per each mater;

<p>(3) In cases other than those covered by sub-clauses (1) and (2), such fees as Government may determine in each case.</p> <p>(4) The Advocate-General shall be entitled to a fee of Rs. 50/- for every case of confirmation of decree of dissolution of marriage under the divorce Act, 1869, when he is asked by the Chief judge to appear in such cases in the Chief Court in its High Court Jurisdiction.</p> <p>(5) The Advocate-General shall not be entitle to any fee for consultation by the Legal Remembrancer under Rule 82.2 of the Law Officers Rules,1940.</p> <p>(6) In cases, other than those covered by sub-rule (3), (4) and (5) the Advocate-General shall be paid such fees as Government may determine in each case.</p> <p>(7) The Advocate-General shall be entitled to such leave and on such conditions as are prescribed by Appendix L-I-A to the Sindh Civil Services Rules.</p>	
<p>10-A Remuneration of the Assistant to the Advocate-General –</p> <p>The Assistant to the Advocate-General should be paid the following scale of fees :-</p> <p>(i) for criminal work on the appeals in the Chief Court, Rs. 100/- per diem;</p> <p>(ii) for civil suits and appeals in the Chief Court, such fees as may be allowed by the Court subject to the minimum fee Rs. 50/- per each matter;</p> <p>(iii) for cases other those covered by sub-clauses (i) and (ii) such fees as Government may determine in each case.</p>	
<p>11. Duties of the Public Prosecutors and Government Pleaders –</p> <p>The duties of Public Prosecutors and Government Pleaders shall be such as may from time to time be specified in the Law Officers Rules or as may from time to time be assigned to them by Government.</p>	
<p>12. Salaries of Public Prosecutors and Government Pleaders –</p> <p>The Salaries of the District Government Pleaders and Public Prosecutors shall be as follows :-</p>	
<p>Public Prosecutor for Sindh, Government Pleader in the Chief Court and District Government Pleader, Karachi.</p>	<p>Per mensem Rs. 500/-</p>
<p>Note: The posts of Public Prosecutor for Sindh, Government Pleader in the Chief Court and District Government Pleader, Karachi are held by one officer. In addition to his salary, the office receives an office allowance of Rs. 200 and an additional allowance of Rs. 100 per mensem as remuneration for the increased work required of him as adviser, on matters of civil law, to the local military authorities.</p>	

District Government Pleader and Public Prosecutor, Hyderabad	200/-	
District Government Pleader and Public Prosecutor, Larkana	100/-	
District Government Pleader and Public Prosecutor, Larkana	200/-	
District Government Pleader and Public Prosecutor, Dadu	100/-	
District Government Pleader and Public Prosecutor, Sukkur	200/-	
District Government Pleader and Public Prosecutor, U.S.F	100/-	
District Government Pleader and Public Prosecutor, Tharparkar	100/-	
District Government Pleader and Public Prosecutor, Thatta	100/-	
District Government Pleader and Public Prosecutor, Jacobabad	100/-	
District Government Pleader and Public Prosecutor, Sanghar	100/-	
District Government Pleader and Public Prosecutor, Khairpur	150/-	
13. Fees in Criminal cases to the Public Prosecutor for Sindh –		
(1) The Public Prosecutor for Sindh entitled for every criminal case in which he appears in the Chief Court, or for any case in which he appears in the Court of Admiralty Jurisdiction at Karachi under instructions from the officers appointed under the provisions of the Merchant Shipping Act, 1923, to a fee calculated as follow :-		
	Rs.	
If only one accused person is involved	30/-	
In respect of each additional accused Person involved	15/-	
Provided that a higher fee than that Rs. 150/- shall not be granted in respect of any one proceeding without the special sanction of Government		
(2) The Assistants of the Public Prosecutor for Sindh are entitled to a fee of Rs. 40/- for every criminal case in which they appear in the Court of the Admiralty Jurisdiction at Karachi, under instructions from the Officer appointed under the provisions of the Merchant Shipping Act, 1923.		
(3) The Public Prosecutor for Sindh is entitled to a fee of Rs. 50/- per diem for every day that he is actually engaged as Public Prosecutor in any Magisterial or Sessions Court at Karachi. The fee admissible to any of his Assistants for appearances in such cases is Rs. 25/- : Provided that :-		
a) No fee shall be paid when a case is adjourned without any proceedings being		

<p>taken, provided that if a case is adjourned at the first hearing without any proceedings being taken, the Counsel shall be entitled to a fee if he does not appear on behalf of Government in any other case on that day and has not already earned a fee in the case;</p> <p>b) No fee shall be paid for the day on which judgment only is pronounced;</p> <p>c) Separate fees shall not be paid in respect of appearance in more than one Court, whether at the headquarters, or outside the headquarters on the same day, unless the District Magistrate, in consultation with the Court or Courts concerned, is satisfied that separate fees have been fairly earned.</p>	
<p>14. Fees if the Public Prosecutor for Sindh and Government Pleader in the Chief Court for appearance in the mofusil. –</p> <p>If the Public Prosecutor for Sindh and Government Pleader in the Chief Court is required under rule 22 (3) of the Law Officers Rules to appear in any case in the mofusil, he shall be entitled to such fee as may be determined by Government in each case.</p>	
<p>15. Fee payable to Public Prosecutor and Assistant Public Prosecutor shall be entitled to a fee of Rs. 50/- and 40/- respectively per diem for a day that they are actually engaged in criminal business either in Sessions court or in any Court of Magistrate; provided that :</p> <p>(a) no fee shall be admissible if a case is adjourned without any proceedings being taken except when the case is adjourned at the first hearing in which case fee shall be admissible if he Public Prosecutor or Assistant Public Prosecutor, as the case may be, does not appear on behalf of the state in any other case on that date and has not already earned a fee in that case;</p> <p>(b) no fee shall be admissible for the day on which only judgement is announced;</p> <p>(c) separate fees shall not be admissible in respect of appearance in more than one court, whether at headquarters or out side the hedquarters on the same day, unless District Magistrate, in consultation with court or Courts concerned is satisfied that separate fees have been fairly earned.</p> <p>(2) Nothing contained in proviso (a) to sub rule (1) shall apply to District Public Prosecutor or Assistant Public Prosecutor who goes out of headquarter for conducting any case.</p>	
<p>16. Fees of Government Pleaders in civil case –</p> <p>(1) Subject to the provisions hereinafter contained all Government Pleaders are entitled to the usual fees allowed by the Court according to law as costs in each Civil case in which they are engaged.</p> <p>(2) In reference to a Civil Court under the Land Acquisition Act, 1894, if the amount of compensation is in dispute, the fees shall be calculated on the difference between the amount of compensation awarded by the Collector and the amount of compensation claimed in the reference to the Court : Provided that when the claim made by the claimant in any reference exceeds three times the award of the Collector, no fee shall be paid on the excess. If, for instance, the Collector's award is Rs. 1000/- the fees will be calculated on the difference vetween the claim and Rs. 1000/- if the claim is under Rs. 3000/- and on Rs. 2000/- if the claim is Rs. 3000/- or more. In other cases, including cases not decided on merits, the Government Pleader is entitled to the usual fee allowed by the Court according to law as costs.</p> <p>(3) A Government Pleader required to appear and oppose a pauper application made under Order XXXIII, rule 2, of the Code of Civil Procedure, 1908, is entitled to a fee of Rs.</p>	

<p>15/- only.</p> <p>(4) In enquiries under the Treasure Trove Act, 1878, a Government Pleader who appears on behalf of Government is entitled to the usual fees calculated on the value of the share of the treasure to which Government may lay claim, subject to any increase that may be sanctioned by Government in particular cases.</p> <p>(5) A Government Pleader employed by the Conservator of Forests in an appeal under section 17 of the Forests Act, 1927, shall receive, for each case, a fee of Rs. 10/- subject by order of the Legal Remembrancer, to diminution to a sum of not less than Rs. 5/- or to increase to a sum of not more than Rs. 30/-.</p> <p>(6) Whenever two or more officers of Government are parties to the same suit, they shall ordinarily all be represented by the Government Pleader, who shall alone conduct the suit, and shall receive but one fee for it; but if special circumstances render it expedient to appoint more than one Pleader for the conduct of any such case; and whenever it seems necessary to adopt pleadings involving several lines of defence, or separate answers differing in substance, a second pleader may be appointed with the approval of the Legal Remembrancer, or a separate fee may be awarded to the Government pleader by the Legal Remembrancer for each separate defence.</p> <p>(7) In cases where no costs have been allowed by the Court or the costs allowed are insufficient remuneration for the work done, the Legal Remembrancer is authorized to grant a fee not exceeding Rs. 30/- to a Government Pleader whose employment may have been necessary.</p> <p>Provided that the Government Pleader in the Chief Court of Sindh will be entitled to a minimum fee per each matter.</p> <p>(8) Where the Solicitor is satisfied that the costs have not been awarded due to negligence of the Government Pleader or that the case has not been properly conducted by him, the Solicitor may withhold payment of fee in full or in part.</p> <p>(9) Where the Solicitor is satisfied that the work put in by the Government Pleader does not justify payment of full fee, the Solicitor may pay such part of the fee as he considers reasonable.</p>	
<p>17. Fees of district Government Pleaders and District Public Prosecutors when employed away from their headquarters-</p> <p>(1) If a Government Pleaders and District Public Prosecutor is required by rule 28 proceed on duty to a place away from his headquarters, he shall be entitled to the following out-station fees for each day of necessary absence from the headquarters :-</p> <p>(a) Rs. 25/- for days spent within the district;</p> <p>(b) Rs. 35/- days spent outside the district;</p> <p>Provided that no out-station fee shall be payable for any day of which the absence from headquarters does not exceed 6 hours.</p> <p>(2) If during his absence from headquarters a Government pleader or a Public Prosecutor appears in a case in any Court, he shall also be entitled to a daily fee at the rate prescribed in rule 15 or in the case of the Public Prosecutor of Sindh and as Assistant Public Prosecutor for Sindh at the rate prescribed in rule 13 subject to the limitation and provisions regarding enhancement contained in that rule; Provided</p>	

<p>that who daily fees shall not be allowed for one attendance if a Government Pleader or Public Prosecutor continued to conduct a case or cases in any court after 6 p.m.</p> <p>(3) If during his absence from headquarters, a Government Pleader or Public Prosecutor does not appear in a case in any Court he shall not be entitled to any daily fee unless his absence on any day reckoned from 6 p.m, is for 24 hours or more.</p> <p>(4) For the purpose of sub-rule (1) and (2) “day” means any portion of a day between 6 a.m and 6p.m.</p> <p>(5) A Government Pleader or a Public Prosecutor shall also be entitled to draw travelling allowance at the rates laid down in the manual of the Sindh Civil Services Rules.</p> <p>Explanation – For the purposes of this rule—</p> <p>i) the headquarters of the district for which a Government Pleader or Public Prosecutor has been appointed shall be his headquarters except in the case of Government Pleaders and Public Prosecutors mentioned in column 1 of the Table given below whose headquarters shall be at the places mentioned against them in column 2. The out-station fee payable to these Government Pleaders and Public Prosecutor when they go for conducting any case at the headquarters of the district for which they are appointed shall be Rs. 7.50 per day.</p> <p>ii) Where the headquarters of a Sessions Court having jurisdiction over any district are situated outside the district, the place at which such headquarters are, shall be deemed to be a place within the district and the out-station fee payable for conducting any case in the headquarters shall be Rs. 7.50 per day.</p>		
TABLE		
Column 1	Column 2	
The District Government Pleader and District Public Prosecutor, Tharparkar and his Assistants	Mirpurkhas	
The Assistant Government Pleader and Assistant Public Prosecutor, Dadu.	Dadu	
The Assistant Government Pleader and Assistant Public Prosecutor, Larkana.	Larkana	
The Assistant Government Pleader and Assistant Public Prosecutor, Sukkur.	Sukkur	
The Assistant Government Pleader and Assistant Public Prosecutor, Thatta.	Sujawal	
The Assistant Government Pleader and Assistant Public Prosecutor, Sanghar.	Nawabshah	
The Assistant Government Pleader and Assistant Public Prosecutor, Sanghar.	Tando-Adam	

The Assistant Government Pleader and Assistant Public Prosecutor, Nawabshah.	Naushahro- Feroze	
<p>18. Fees for during legal documents and for conveyancing work –</p> <p>A Government Pleader who is asked to draft legal documents or to do any conveyancing work shall be entitled to such remuneration not exceeding Rs. 100/- for each case as the Legal Remembrancer may see fit to grant :</p> <p>Provided that no remuneration shall be allowed for drafting complaint or for filing it in court.</p>		
<p>19. Special fees –</p> <p>(1) In cases not provided for in these rules, or in cases of unusual importance or difficulty, or in which marked industry or ability has been displayed, Government may sanction the payment of such special or enhanced fees as they deem fit.</p> <p>(2) Applications for special or enhanced fees shall be made with as little delay as possible and should be accompanied by a certificate (in original) of the dates of attendance in court and a copy of judgement or order in the proceeding.</p>		
<p>19.A. Fees payable in criminal cases to Public Prosecutors and Assistant Public Prosecutors and fees payable to Government Pleaders and Assistant Government Pleaders in Civil cases may, in special cases, be enhanced upto 50 per cent above the fixed rates by the Solicitor, and upto 100 per cent above the fixed rates by the Law Secretary.</p>		
<p>20. Travelling allowances -</p> <p>The travelling allowances payable to Law Officers shall be regulated by the Sindh Civil Services Rules.</p>		
<p>21. A government Pleader may be granted leave as follows :-</p> <p>a) Leave with salary attached to the post during the vacation of the district Court, provided that no extra expense is thereby caused to Government (i.e. no officiating arrangements are made) and satisfactory arrangements are possible for the disposed of work in the absence of the officer. Such leave shall be counted as duty.</p> <p>b) Leave on half salary for not more than six months once only in his service after six years of duty.</p> <p>c) On medical certificate, leave on half salary upto a maximum of 20 months provided that three years of duty must intervene between any two periods of such leave.</p> <p>d) Extraordinary leave on the conditions prescribed in Rule 752 of the Sindh Civil Services Rules Manual.</p>		
<p>22. Leave under any one of the clauses of Rule 21 may be Rule 752 of the Sindh Civil Service Rules Manual.</p>		
<p>23. The Power to sanction leave under Rule 21 (a), and leave upto one month under Rule 21 (b), (c) or (d) shall rest with the Legal Remembrancer. An application for such leave should be addressed to him through the District Magistrate. In all other cases, leave shall</p>		

	be sanctioned by Government and the application should be sent to the Secretary to Government, Legal Department, through the District Magistrate, the Sessions Jdge and the Chief Court.	
24.	A leave account for the Government Pleader shall maintained by the Legal Department.	
25.	The Assistant to the Advocate-General or an Assistant Government Pleader may be granted leave upto any period subject to the following conditions :- a. that the leave is required for a bonafide personal purpose; and b. that the grant of leave will not interfere with the satisfactory disposal of Crown work.	
26.	The power to grant leave under rule 25 shall be exercised by Legal Remembrancer in consultation with as the case may be, the Advocate-General or the Government Pleader and the District Magistrate.	
27.	Leave to an Assistant Government Pleader, when the conditions laid down under Rule 25 cannot be satisfied and when the grant of leave will necessitate the appointment of a substitute; may, in special circumstances, be granted by Government and the applications for such leave should be submitted to the Secretary to Government, legal Department, through the Government Pleader, the District Magistrate, the Sessions Judge and the Chief Court.	
28.	Every application for lave should mention – (a) the period for which and the date from which the leave is required; (b) the reasons for leave; (c) the period of leave; if any previously enjoyed; and (d) The number of civil and criminal matters in hand together with dates fixed for their next hearings.	
29.	When a Government Pleader proceeds on leave under clause (b), (c) or (d), of Rule 21, his first Assistant shall perform the duties of the Government Pleader and shall be entitled to the salary and fees of the Government Pleader.	
30.	When the Public Prosecutor of Sindh Proceeds on leave of any kind, his first Assistant shall be entitled to the fees payable, to the Public Prosecutor for such cases as are left to him by the Public Prosecutor and such other new cases as he conducts on the absence of the Public Prosecutor.	
31.	No Government Pleader or Assistant Government Pleader or Assistant to the Advocate-General shall accept any private brief while on leave.	

By order of the Government of Sindh
H. B. HINGORANI

Deputy Secretary to Government
Legal Department
RULES FOR THE CONDUCT OF THE LEGAL AFFAIRS OF GOVERNMENT

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Rules for the conduct of the Legal Affairs of Government.

CHAPTER – I

GENERAL

1. Short title- These rules may be called the Law Officers Rules.
2. Definitions - In these rules :-

- (a) "Government" save where the context otherwise indicates, means the Government of Sindh.
- (b) "Government Pleader" includes the Government Pleader in the Chief Court and his Assistants, District Government Pleaders and their Assistants Subordinate Government Pleaders and Honorary Assistants to the Government Pleader in the Chief Court or to the District Government Pleaders, and Assistant to the Advocate-General.
- (c) "Public Prosecutor" means any person appointed under section 492, Criminal Procedure Code, to be a Public Prosecutor or Assistant Public Prosecutor for a District or a Division of a District or for specified class of cases in a District or Division of a District and shall include the Public Prosecutor for Sindh.
- (d) "Special Counsel" means any advocate or pleader specially appointed for any case, civil or criminal, and includes a Law Officer when so appointed.

3. Law Officers –

The Law Officers of Government (hereinafter referred to as the Law Officers) are the following :-

- i) The Advocate-General
- ii) The Solicitor to the Government of West Pakistan, hereinafter referred to as the Solicitor.
- iii) The Government Pleader and the Public Prosecutor.
- iv) Honorary Assistant to the Government Pleaders.

4. (1) The Advocate-General is under the administrative control of the Secretary, Legal Department. All references to Government concerning the Advocate-General should be addressed to the Secretary, Legal Department.

(2) The Law Officers mentioned in clauses (iii) and (iv) of rule 3 are under the administrative control of the Legal Remembrancer. All references to Government concerning them should be addressed to him.

5. To perform duties for officers of central Government –

(1) The Law Officers shall perform the same functions for the following officers of the Central Government as they perform on behalf of the Sindh Government and its officers :-

- (a) The General Officer Commanding the Baluchistan and Sindh.
- (b) The Deputy Director of Stocks, and the Officers Incharge Supplies at Karachi and Quetta.
- (c) All heads of Departments of the Central Government in the Province of Sindh.

(2) Reference by the officers mentioned in sub-rule (1) may be made to the Law Officers direct:

<p>Provided that all references to the Legal Remembrancer as regards matters effecting the revenue of the Government of Sindh or in which Government of Sindh might also be concerned or interested shall be made through that Government in the administrative department concerned.</p>
<p>6. To perform duties for other Government – The Law Officers shall also perform on behalf of other Provincial Governments such duties of a legal character as they may be directed to perform by the Government of Sindh.</p>
<p>7. A Law Officer may also be consulted and his services requisitioned in cases in which Government not directly interested –</p> <p>(1) In any case in which it is proposed to requisition the services of a Law Officer on behalf of some third person not directly identified in interest with Government, Government will determine whether the case is one in which they have such an interest as to render it advisable that it should take the assistance of such Law Officer, and when it has been so determined, it is the duty of such Law Officer to afford his services, as he would, if Government were directly a party to the case.</p> <p>(2) Government may also consult any Law Officer in any case of matter not falling within his ordinary duties.</p>
<p>8. Procedure to be followed in references made to Law Officers.</p> <p>In any reference made to a Law Officer only the documents necessary for the proper consideration of the point on which his opinion or advice is required should be sent. The facts of the case and also the point on which the advice or opinion is required should be stated as precisely as possible. If the Law Officer to whom the reference has been made finds that the real point has been missed or incorrectly stated, or that the facts stated do not afford sufficient material for forming an opinion, he may return the case for being sent back in proper form, and point out at the same time in what respect the reference is deficient.</p>
<p>9. Law Officers to use their own discretion in conducting cases—</p> <p>Law Officers shall use their own discretion as to the manner in which the cases should be conducted by them but they shall be guided by any instructions that may be issued to them by the Legal Remembrancer unless otherwise directed by the Legal Remembrancer, their arguments need not however be limited to those stated in his instructions.</p>
<p>10. Special directions or orders may be given in particular cases—</p> <p>Notwithstanding anything contained in these rules, Government may in any particular cases issue such special directions or orders as they deem fit and it shall be the duty of the Law Officers concerned to comply with such special directions or orders.</p>
<p>CHAPTER-II THE ADVOCATE-GENERAL</p>
<p>11. Duties as adviser of Government –</p> <p>The Advocate-General is the Chief Legal Adviser of Government. He is bound to give his</p>

<p>opinion in any matter upon which Government may think fit to consult him, including projects of legislation. He is not responsible for the correct preparation of the drafts of Bills, but when called upon to advise upon Bills which are under the consideration to Government, it is his duty to indicate any defect he may detect in the drafting thereof and so suggest such modifications as he may deem necessary therein, as well as to advise generally upon the proposed measures.</p>
<p>12. To attend meetings of the Sindh Legislature and Committees thereof—</p> <p>When so required, the Advocate-General shall attend the meetings of the Sindh Legislative Assembly and the Committees thereof.</p>
<p>13. Officers entitled to consult the Advocate-General –</p> <p>(1) The following may consult the Advocate-General on any matter they deem necessary to refer to him :-</p> <ol style="list-style-type: none"> i) The legal Remembrancer, ii) The Public Prosecutor for Sindh, and the Government Pleader in the Chief Court. <p>(2) References from the Secretariat Departments to the Advocate-General shall ordinarily be sent through the Legal Remembrancer.</p>
<p>14. Copies of opinions of Advocate-General to be supplied to Legal Remembrancer –</p> <p>In cases where Government or any officer entitled to consult the Advocate-General makes a reference for the opinion or a advice of the Advocate-General either directly or through the Legal Remembrancer, a copy of the opinion or advice given by the Advocate-General shall (except in secret or confidential cases in which the Legal Remembrancer was not previously consulted) to the Legal Remembrancer by the department or officer concerned. Also, in case in which the Legal Remembrancer was not previously consulted, and the exact point on which the Advocate General has given his opinion or advise is not sufficiently clear from such opinion or advice, a note stating the point of reference shall be similiary supplied to the Legal Remembrancer.</p>
<p>15. Duties as Advocate –</p> <p>It is the duty of the Advocate general :</p> <ol style="list-style-type: none"> (a) to appear for the Crown in all criminal cases on the appellate side of the Chief Court; (b) to appear on the appellate side of the Chief Court in every suit or other civil matter to which Government is a party or in which it is interested; (c) to appear, if required by Government, in any criminal case pending before a Magistrate in Karachi. (d) To undertake any legal business within the range of an Advocate’s functions which Government may desire him to undertake in Karachi. (e) To appear in all matters coming before the Chief Court of Sindh or the Federal Court of Pakistan, which involve a substantial question to Law as to the interpretation of the Government of India Act, 1935, or any Order in Council made thereunder, or as to validity of a Provincial enachment. <p>(2) The Advocate-General may in suitable cases transfer his work to the Public Prosecutor for Sindh.</p>
<p>16. Statutory duties –</p>

The Advocate-General shall also discharge the duties imposed on him by law for the time being in force.

CHAPTER – III LEGAL REMEMBRANCER

16.A Duties in respect of litigation in the Province –

It is the duty of the Legal Remembrancer to superintend and advise on the conduct of all litigation arising in the Province of Sindh, in which Government or Government Officers are concerned or interested, in accordance with the rules prescribed in this behalf. It is also the duty of the Legal Remembrancer to advise Government regarding proposals to appeals, under section 417 of the Criminal Procedure Code, 1898, against the acquittal of accused persons and regarding proposals to apply to the Chief Court to exercise powers or revision in criminal matters which District Magistrates are not authorized to refer direct to that Court under section 438 of the criminal Procedure Code.

17. Duties as Government Adviser –

The Legal Remembrancer is bound to advise Government on all legal questions in connection with the administration of public affairs, or arising out of the acts of Government Officers or public servants which may be referred to him by Government. This duty extends to Government business of all kinds and in all departments, whether under the Central or Provincial Government.

18. Direct Reference by Government Officers to him for opinion or advice not ordinarily permitted –

Heads of Departments (and in regard to contracts and other matters relating to the Supply and Transport Corps, the General Officer commanding, Quetta, and in regard to contracts and matters relating to Supply Depot, the Deputy Director of Stock, and the Officers Commanding, Supply references to the Legal Remembrancer for advice or opinion in respect of suits or other civil proceedings which are actually pending, and in which Government is concerned or interested, and of criminal proceedings which are actually pending. Reference other than the above should be submitted to Government who may call for the opinion of the Legal Remembrancer, provided that in cases of emergency, Heads of Departments stationed in Karachi may make such references direct to the Legal Remembrancer and, while doing so, shall also inform their respective administrative departments of the Secretariat about it.

19. Local Authorities not ordinarily entitled to the advice except on certain conditions –

- (1) Local Authorities must, as a general to the advice defend the legality of their own proceedings and are not entitled to the advice of the Government Law Officers. But in cases which involve merely questions of the interpretation of statutes or rules, or in which there is a dispute between a Local Authority and a third party and in which Government not in any way interested to or likely to be interested, a Local Authority may apply to the Collector for the opinion of the Legal Remembrancer. If the Collector considers that the interests of Government are not likely to be affected in any way and that the Local Authority is not likely to be involved in any immediate litigation he may refer the request to government, who, if they think proper, may obtain the opinion of the Legal Remembrancer and communicate it to the Collector. The purport only of the opinion will be communicated by the Collector to the Local Body concerned.
- (2) The Legal Remembrancer may charge such fee as he deems fit for giving his opinion. Ordinarily a fee of Rs. 80/- shall be charged, but if the case is complicated or of special importance, the Legal remembrance may charge such higher fee as he deems proper. The decision of the Legal Remembrancer as to the amount of the fee to be charged in any case

<p>shall be final.</p> <p>(3) In either case Government will not be responsible in any way for the correctness of the opinion.</p>
<p>19.A. Fees payable in criminal cases to Public Prosecutors and Assistant Public Prosecutors and fees payable payable to Government Pleaders and Assistant Government Pleaders in Civil cases may, in special cases, be enhanced upto 100 percent above the fixed rates by the Law Secretary.</p>
<p>20. His duty to draft Bills – It is also duty of the Legal Remembrancer to draft Bills embodying such proposals for legislation as may be sent to him for the purpose from any of the Executive Departments of Government.</p>
<p>21. Drafting of rules, notifications, etc. – The Legal Remembrancer is also bound on receipt of the necessary instructions to draft all such rules, orders, bye-laws or notifications as it may be necessary to issue under any new enactment. And all rules, orders, bye-laws or notifications, which it is at any time proposed to issue in the name of Government in virtue of any power derived from any enactment should, where necessary, be forwarded to the Legal Remembrancer in order that he may revise the same before they are issued with a view to legal precision and correctness.</p>
<p>*****</p> <p style="text-align: center;">CHAPTER-IV GOVERNMENT PLEADERS AND PUBLIC PROSECUTORS</p>
<p>22. Cases in which the Public Prosecutor for sindh should appear for the prosecution –</p> <p>(1) The Public Prosecutor for Sindh is liable to appear for the Crown in the Chief Court-</p> <p>(a) in all criminal case, in that Court excepting cases on the High Court Side;</p> <p>(b) in any criminal case, in which he may be specially instructed to appear by the District Magistrate, the Legal Remembrancer or Government;</p> <p>(c) in any criminal case in which the Chief Court desires him to appear or intimates its opinion that he ought to appear.</p> <p>(2) The Public Prosecutor for Sindh will conduct in person or through his Assistants all the duties of Public Prosecutor for the Karachi District.</p> <p>(3) The Public Prosecutor for Sindh may be required to appear in any mofussil Court.</p>
<p>22.A. Duties of the Assistant to the Advocate-General – The Assistant to the Advocate-General shall appear for the Crown—</p> <p>(a) in all civil and criminal appeals in the Chief Court which are entrusted to him by the Advocate-General.</p> <p>(b) In civil suits in the Chief Court in which Government of Sindh is a party, and</p> <p>(c) in such others cases as the Government, or the Advocate-General, may from time to time, direct.</p>
<p>23. Duties of Public Prosecutor, Sindh and Government Pleader in the Chief Court as adviser of Government Officers –</p> <p>(1) It is the duty of the Public Prosecutor for Sindh and Government Pleader in the Chief Court in addition to his duties as District Government Pleader Karachi, to advise without fee all</p>

Heads of Civil Departments in Sindh, the General Officer Commanding, Sindh and the Inspector-General of Police for Sindh on all legal matters which such officers may refer to him concerning Government business of any kind or in any department, whether such department be under the Central or Provincial Government.

- (2) Where a direct reference is inadmissible under the provision of sub-rule (1) and in the case of reference from Heads of Civil Departments not stationed in Karachi District, the reference should be submitted through Government. In cases submitted by officers not stationed in Karachi District, where under rule 29 the opinion of the local District Government Pleader can be obtained, a reference should not be made to the Government Pleader in the Chief Court unless a second opinion is required.

24. Ordinary duties of Government Pleader –

- (1) It is the duty of Government Pleaders to act, make application and appear on behalf of Government, or of any Government Officer, in any suit or other civil proceeding to which Government are a party, or the institution or defence of which is undertaken by Government, or in any suit or other civil matter, in which Government require their services, whoever the nominal party on whose behalf they are called on to appear may be, if Government determine that the case is one in which they have such an interest as to render it advisable that it should be conducted on their behalf and also appear :-
- (a) When so directed by the District Judge, in support of an order imposing a fine on, or directing the arrest of, a witness under the provisions of the Code of Civil Procedure, 1908, and appealed against to the District Court, or in any proceedings in the District Court or Sessions Court regarding the alleged improper conduct of a Pleader, or in any inquiry under section 36 of the Legal Practitioners Act, 1879, into the question whether a person is a tout, pending in the District Court or Sessions Court or in any Court subordinates to it to which it has been sent under sub-section (2-A) of that section when for any sufficient cause the District or Session Judge is of opinion that a Government Pleader should be heard in support of the order or appear in the proceedings or inquiry;
 - (b) When so directed by the Collector, in applications made by the Collector, under section 10 of the Guardians and Wards Acts, 1890, or section 10 of the Sindh Court of Wards Act, 1905; and
 - (c) When a notice is served on him by any court of competent jurisdiction, in all matters which involve a substantial question of law as to the interpretation of the Government of India Act, 1935, or any Order-in-Council made thereunder, or as to the validity of any Provincial enactment.
- (2) It is the duty of the Government Pleader in the Chief Court to appear in the Chief Court in cases of the nature referred to in clause (a) above when so required by the Chief Judge or any other Judge of the said Court or by Government.

25. Duties of District Public Prosecutor –

- (1) Notice of commitment under section 218 of the Code of Criminal Procedure, 1898, is in accordance with Government notification (Judicial Department, No. 1321, dated the 23rd February, 1863), given to the District Public Prosecutor who will ordinarily conduct the prosecutor in every trial before the Court of Sessions in accordance with section 270 of the

said Code and should at the earliest opportunity examine the records of the proceedings before the committing Magistrate, and see that any defect (such as the omission to summon a necessary witness) is, if possible, remedied before the date fixed for hearing in the Court of Session. The District Public Prosecutor shall also appear for the prosecution at the hearing before the Session Court of any appeal against a conviction heard by it under revision 423 of the said Code or application for the revision of sentence or order (not being one of discharged or acquittal, or one wherein Government are in no way concerned or interested*) against which no appeal lies, when counsel or a pleader appears for the appellant, or applicant, or when he is specially requested by the Sessions Judge or instructed by the District Magistrate so to appear. When so required by the Session Judge, the District Magistrate or the Legal Remembrancer, or Government, it is his duty also to conduct the prosecution in any trial before a Magistrate.

- (2) It shall also be the duty of the District Public Prosecutor to appear, when a notice is served on him by any court of competent jurisdiction in all matters which involve a substantial question of law as to the interpretation of the Government of India, Act, 1935, or any Order-in-Council made there under, or as to the validity of any Provincial enactment.

26. District Government Pleader, Public Prosecutor or Subordinate Government Pleader to appear when instructed by District and Sessions Judge or District Magistrate—

- (1) It shall also be the duty of the District Government Pleader and Public Prosecutor and of the Subordinate Government Pleaders to appear, when instructed so to do, either by the District and Sessions Judge or by the District Magistrate, in any proceedings before a Civil, Criminal or Revenue Court under section 195 or section 476 or section 478 of the Code of Criminal Procedure, 1898.
- (2) It shall be the duty of the Government Pleader in the Chief Court to appear in any insolvency proceedings when instructed to do so by the Chief Judge or by the Insolvency Judge.

27. A District, Assistant, Additional or Special Prosecutor shall not, except upon a suggestion of the Court, or for other special reasons which will rest on him to substantiate, and save after, the material evidence in the case has been recorded, withdraw from a prosecution under section 494 of the Criminal Procedure Code, 1898, without first consulting the District Magistrate. If necessary, in any particular case, an application should be made to the Court for a short adjournment of the hearing to permit of such consultation.

28. District Government Pleaders and Public Prosecutors may be required to proceed to Karachi or to appear in other Courts than those at the headquarters-

The duties of a District Government Pleader are ordinarily restricted to the court at the headquarters of the district for which he is appointed, and the duties of a Public Prosecutor are ordinarily restricted to the Court of Session to which he is appointed, but when so required by the Collector or District Magistrate, or by the Legal Remembrancer or by Government, they will appear in any case in any court in the said district or if necessary in any other district, or proceed to Karachi or elsewhere beyond their own districts in connection with any case :

Provided that –

- (a) in the case of Public Prosecutor such requisition shall be confined to criminal cases;
- (b) a Public Prosecutor or a Government Pleader in the mofussil shall not be required to proceed to Karachi to assist the Advocate-General in the hearing of any case on the High Court side

of the Chief Court, unless the Advocate-General specially asks for such assistance and the District Magistrate in consultation with the Advocate-General is satisfied that owing to the importance or the difficulty of the case such assistance is essential.

29. Duties of District Government Pleader as advisers of Government officers –

It is the duty of the District government Pleaders to advise without fee all local officers not only in respect of any proceedings, whether civil or criminal, which they have to conduct on behalf of Government or of any such officer, but also to the best of their ability, on all legal matters which any such officer may refer to them concerning any Government business of any kind or in any department, whether such department be under the Central or Provincial Government.

30. Duties of subordinate Government Pleader –

The Duties of Subordinate Government Pleaders are ordinarily limited to appearing on behalf Government in the Courts for which they are respectively appointed in any suit or other civil matters in which the District Government Pleader would appear if such suit or matter arose in any court at the headquarters of the district or in the execution of any commission for the examination of witnesses, or other legal proceedings in which they may be directed by the District Government Pleader to appear, or to appearing, when so required by the District Magistrate, in the Court of any Magistrate at or near the headquarters of the Courts for which they respectively appointed. They are subordinate to the respective District Government Pleader appears in any court in which there is a Subordinate Government Pleader, the latter will appear with him as junior Pleader.

**CHAPTER – V
HONORARY ASSISTANTS TO GOVERNMENT PLEADERS**

31. (1) Any person who is –

- (a) A graduate in Law of a recognized University or a person who has passed the High Court Pleader's Examination, and
- (b) Is not less than 21, and not more than 27 years old, and is desirous of being appointed as Honorary Assistant, shall apply in writing to the Government Pleader stating –
 - (i) his exact age,
 - (ii) the date on which he graduated in Law or passed the above examination.
 - (iii) How long (if at all) he has been practising as a pleader, and, if so, in what Court or Courts, and
 - (iv) That he has read these Rules and is willing, if appointed, to abide by the conditions of service as Honorary Assistant.
- (2) Every such application shall be forwarded by the Government Pleader to the Collector (except in the case Government Pleader, in the Chief Court, who will forward it direct to the Legal Remembrancer) with his opinion thereon. The Collector after consulting the District Judge, will forward it with his opinion to the Legal Remembrancer.
- (3) Every person appointed by the Legal Remembrancer to be Honorary Assistant will receive a certificate to that effect over the Legal Remembrancer's signature.
- (4) Government Pleader should note that Honorary Assistants are placed under them not so much for the purpose of relieving them of any of the duties of their office, as in order that the said

Assistants may receive some training. While, therefore, they should avail themselves of their assistance in and out of Court to the fullest extent, it just be understood that the transfer of work to an Honorary Assistant shall, in no case, extend to the abandonment by the Government Pleader of the actual conduct of a suit, or other proceeding. The Government Pleader's aim should be to entrust to an Honorary Assistant only such duties as will give him experience in the practice of the Court, and acquaint him with the working of the various laws, which regulate the procedure and govern the decisions of the Courts.

- (5) Subject to the above restrictions a Government Pleader should use his best endeavours to prevent the appointment of Honorary Assistant from degenerating into a mere form, or from its being created by the person holding it as a convenient short cut to some post, without any corresponding obligation on his part to assist the Government Pleader in his work and receive the contemplated training. Real and willing assistance will, therefore, be required for an Honorary Assistant in performing, such work as may be entrusted to him by the Government Pleader but, subject to this, there is nothing to prevent an Honorary Assistant from practising as a Pleader on his own account in any case which does not trench on his functions as such assistant.
- (6) Every Government Pleader who has an Honorary Assistant under him shall submit a report to the Legal Remembrancer, on the 1st January of each year stating the general nature of the duties he has entrusted to such Honorary Assistant, and whether the latter has given him the requisite assistance during the past year. This will not, however, prevent a Government Pleader from immediately reporting any refusal or neglect on the part of an Honorary Assistant to carry out his duties properly, and any such refusal or neglect will render such Assistant liable to have his appointment forthwith cancelled.
- (7) Any Honorary Assistant who accepts Government service, unless the appointment is purely temporary and the Legal Remembrancer's consent to his remaining an Honorary Assistant is obtained will *ipso facto* cease to be an Honorary Assistant; and the Government Pleader should report the fact to the Legal Remembrancer.
- (8) Ordinarily only two Honorary Assistants may be appointed in any district but this number may be increased by the Legal Remembrancer in the case of any specially important district.
- (9) In making recommendations Collectors and District Judges should give due consideration to the claims of the backward communities.

CHAPTER – VI

PROCEDURE AS REGARDS FILING APPEALS OR REVISION APPLICATIONS IN CRIMINAL CASES

- 32.** Duties in respect of appeals against acquittals in criminal cases and of applications to Chief Court to exercise powers of revision –
 - (1) All proposals regarding a appeals under section 417 of the Criminal Procedure Code against the acquittal of accused persons and regarding application to the Chief Court to exercise power of revision in criminal matters which the District Magistrates are not authorized to refer direct to the Court under section 438 of the said Code shall in the first instance be forwarded to the District Magistrate. If the District Magistrate supports the proposal he shall submit it with his opinion direct to the Legal Remembrancer stating in the case of an appeal

against an acquittal whether the accused person is in prison or not, and if so, where. In all such cases the District Magistrate shall forward with the proposal copies of all material parts of the evidence and record (or, if in Sindhi, translation of such parts). The copy of the judgement should bear the endorsement required by the Sindh courts Criminal Circulars, and should be certified in the manner required by section 76 of the Evidence Act, 1872. Original record of the case should not be records be accepted as a substitute for the copies of the evidence or record.

- (2) The Legal Remembrancer, as Secretary to Government in the Legal Department will submit such proposals for the order of Government, Before recommending an appeal against an acquittal he should invariably consult the Advocate-General. If the Advocate-General is not in favour of an appeal and the Legal Remembrancer considers that Government should prefer an appeal, he should refer the matter for orders. If it is decided to file an appeal or application, such copies or papers, as may be necessary, will be sent by the Legal Department to the Advocate-General, with the Government Resolution authorizing the appeal or application.
- (3) The appeal or application will then be drawn up by the Advocate-General after consultation with the special counsel, if any, whom Government authorize him to retain for the purpose. The officer presenting the appeal should inform the Chief Court whether the accused person is in prison or not, and if so, where.
- (4) Neither the grounds of appeal or application nor the arguments used in support of the same at the hearing need be limited to those stated in the Legal Remembrancer's opinion. The Advocate-General or other counsel will be at liberty to exercise his own discretion as to the manner in which the appeal should be conducted or the application supported, subject only the Government Resolution sanctioning the appeal or application.
- (5) As soon as the appeal or application has been disposed of, the Advocate-General will inform the Secretary, Legal Department, of the result. If a written judgement is recorded by the Court, he will obtain with as little delay as possible two copies of it, and forward one to the Secretary in the Secretary in the Legal Department and one, with the papers, to the officer who proposed the appeal or application.
- (6) The result of the appeal or application will thereupon be communicated to Government by the secretary, Legal Department. The Officer who proposed the appeal or application need not do so.

33. Proposals should be submitted to Government within six weeks –

Government will not ordinarily file an appeal or a revision application in the Chief Court after the expiry of three months from the date on which the case was decided. Proposals for filing such appeal or application should, therefore, be made as soon as possible and, except in special cases, not later than six weeks after the cases are decided. The District Magistrate should send to the Advocate-General a copy of his proposal to appeal against an acquittal and copies of the papers sent to the Legal Remembrancer.

34. Papers to be submitted to Government when a Government servant charged with an offence acquitted –

In every case in which a Government servant, who is prosecuted for any offence in relation to his official duties is acquitted, the head of the Department shall, as soon as possible, after the case is decided, submit a report to the Legal Remembrancer, stating the facts of the case and whether in his opinion an appeal should be filed against the order of acquittal. He should forward alongwith

such report, copies of the material parts of the evidence (including translations in English of any papers which are in Sindhi Language) and a copy of the judgment or order of the court.

**CHAPTER – VII
SPECIAL COUNSEL**

35. Save as otherwise provided in these rules, no Special Counsel on behalf of Government shall be engaged in any case civil or criminal without the sanction of the Solicitor. The fees and travelling allowances of such counsel shall be settled by the Solicitor –

Provided that :

- (i) where the Solicitor is satisfied that the costs in civil case have not been awarded due to negligence of the special counsel or that the case has not been properly conducted by him, the Solicitor may withhold payment of the fees in full or in part, and
- (ii) where the Solicitor is satisfied that the work put in by the special counsel does not justify payment of full fee, the Solicitor may pay such part of the fee as he considers reasonable.

36. Power of District Magistrate to appoint Special Prosecutor—

- (1) If in any case no Public Prosecutor has been appointed or where his services are for any reason, not available, or if owing to his previous connection with the case, the Public Prosecutor finds it embracing to appear in it, the District Magistrate may appoint a suitable person under section 492(2) of the Criminal Procedure Code, to be Public Prosecutor for the purpose of conducting that case, subject to the condition that the fees to be paid to the person so appointed do not exceed those which would be payable to the Public Prosecutor for conducting such case, each such appointment shall be reported without delay to the Legal Remembrancer. In making such appointments, preference shall be given to the Subordinate Government Pleaders, if the place of trial be at or near their headquarters.
- (2) Any person appointed under sub-clause (1), shall be entitled to the same remuneration as would be payable under rule 13 or rule 15 of the Law officers if for special reasons a higher rate of remuneration is deemed necessary, sanction of Government must be obtained through the Legal Remembrancer before any Liability is incurred.

37. Procedure in Forest cases-

- (1) In forest cases, the Conservator of Forests, or, if the authority has been delegated by the Chief Conservator of Forest to the Divisional Forests Officer, the Divisional Forests Officer may sanction the employment of special counsel to conduct a prosecution on behalf of Government, subject to the following conditions, namely:-
 - (i) The service of the Public Prosecutor are not available;
 - (ii) The fees payable to the special counsel do not exceed those which Would be payable to the public Prosecutor for appearing in such Case, and
 - (iii) The charge incurred by such employment do not exceed Rs. 250/- When the employment is sanctioned by a Conservator if forest and Rs. 100/- when the employment is sanctioned by Divisional Forest Officer.

<p>(2) The Conservator of forests or Divisional Forest Officer concerned shall, as soon as may be, inform the Legal Remembrance of the appointment so made, the communication by the Divisional Forest officer being sent through the Conservator.</p>
<p>38. Engagement of pleader for defence for soldiers charged with criminal offence ----</p> <p>In cases where arrangements are to be made for the defence of soldiers (including non-commissioned officers), who are charged with criminal offences in accordance with Army Regulations, India, Vol. II, Appendix IX, the Brigade Commander should arrange with the District Magistrate for the selection of a pleader and he should be paid by the military authorities.</p>
<p>39. Procedure in other cases when special counsel has to be employed –</p> <p>(1) If in any case, civil or criminal not provided for in these rules, it is considered desirable to engage special counsel, the Government Officer or the Law officer concerned should forthwith communicate with the Legal Remembrance and inform him of the nature of the case, of the evidence to be brought forward, of the date and place of the hearing or trial, how long the case is likely to last, and what pleader or other counsel is proposed to be employed and at what rate is proposed to remunerate him. If there is no sufficient time for this communication to be made before the date fixed, or likely to be fixed, for the hearing or trial of the cases the Court or Magistrate should be asked to adjourn it or to fix a date in the first instance at a sufficient distance of time, to enable the officer concerned to obtain sanctions for the employment of special counsel. The Legal Remembrance, if the special counsel, will a fit one for the employment of special counsel on such terms as he deems fit.</p> <p>(2) Ordinarily the fees of special counsel will be inclusive of travelling and all other expenses but in special cases the Legal Remembrance is authorised to allow travelling and other allowances on the same scale as would be admissible under these rules to the Government pleader or Public Prosecutor of the District in which the case arise.</p>
<p>40. Retaining and instructing of special counsel –</p> <p>Wherever special counsel is employed by the Legal Remembrance under rule 35 or rule 39, the counsel's brief will be prepared, by the Government pleader of the district or by the Public Prosecutor of the district or division in which the case is to be tried.</p>
<p>41. Employment of counsel for the defence of persons accused of offences punishable with death. ----</p> <p>(1) in all cases tried before a Criminal Sessions of the Chief Court or a Sessions Judge and in confirmation cases, references from the verdicts of Jury, appeals from acquittals and enhancement proceedings in revision in which any person is liable to be sentenced to death, the accused shall be informed by the Committing Magistrate at the time of committal or, if the case, has already been tried, by the trial Court, that, unless he intends to make his own arrangements for legal assistance, the higher court (i.e., the Chief Court or the Session Court, as the case may be) will engage a legal practitioner at the Government expense to appeal before it on his behalf. If it is ascertained that he does not intend to engage a legal practitioner shall be engaged by the higher court concerned to undertake the defence and his remuneration shall be paid by Government.</p> <p>(2) The fees of the advocate or Pleader engaged shall be –</p>

- (a) in the Session Court at Karachi (Chief Court) on the scale to the Assistant Public Prosecutor under rule 13(3) of the Law Officer (Condition of Service) Rules except that which a senior pleader is engaged for the defence the fees payable to him shall be on the scale laid down for the Public Prosecutor for Sindh;
 - (b) on the appellate side of the Chief Court, on the same scale as is prescribed for the Public Prosecutor for Sindh for appearing for the Crown in Such cases,. Such fees shall be calculated according to the number of accused persons for whom the pleader is engaged;
 - (c) In Sessions Court at places other than Karachi such fees as are payable to the Public Prosecutor for conducting the prosecutor in such cases.
- (3) Recommendations for higher fees in any particular case may be made to Government by the Court which decides the case.
- (4) The appointment of a counsel or pleader for the defence should not be deferred until the accused has been called upon to plead. The counsel or pleader should always be appointed in sufficient time to enable him to take copies of the depositions and other necessary papers which should be furnished free of cost before the commencement of the trial or other proceeding. If after the appointment of such legal practitioner the accused appoints another counsel or pleader, the counsel or pleader appointed by the court may still in the discretion of the Registrar of the Chief Court or the Session Judge, as the case may be, be allowed his fee for the case, but the copies already prepared should be made available upon payment for the use of counsel or pleader privately appointed by the accused.

41-A Employment of Counsel for the defence of accused persons suffering from mental disorder –

(1) In all proceedings under Chapter XXXIV of Cr. P.C or trial under Section 341 Cr. P.C, where accused cannot be made to understand the proceedings because of mental disorder but his cases is not covered by Chapter XXXIV of Cr. P.C and in references, revisions and appeals arising out of orders passed in such proceedings or trials, unless the accused intends to make his own arrangements for legal assistance, the court shall engage a legal practitioner at Government expense to appear before it on his behalf.

(2) The Counsel appointed as aforesaid shall be entitled to the fees in accordance with rule 41.

42. Employment of Counsel for he accused when an appeal or revision applications is filed by Government –

(1) When Government has filed in the Chief Court an appeal against an acquittal, the trial court, on receipt of an intimation that an appeal has been admitted, shall, in cases of poverty, inform the accused person, whether In custody or not, that unless he intends to make his own arrangements for legal practitioner at Government expense to appear before it on his behalf. In such cases, i.e., in case of poverty, the

accused should be asked whether he intends to engage a legal practitioner at his own expense, and if not, whether there is any particular practitioner whom he wishes to be engaged for him by the higher court and his reply should be reported to the Registrar of the Chief Court. Any particular practitioner named by him should be engaged by the Registrar, if possible; otherwise, some other practitioner should be engaged by the Registrar.

- (2) The fee of such legal practitioner should be Rs.30/- for such cases, which amount may in the discretion of the Registrar be increased to Rs.50/-
- (3) No elaborate enquiry into the accused's poverty is necessary. Assistance should be offered to any person who cannot easily afford the cost of the journey or of his own defence, as the case may be.
- (4) The provisions of sub-rules (1) to (3) apply equally to applications for enhancement of sentence under section 439 of the Criminal Procedure Code and to references under section 307 of the Criminal Procedure Code, 1898 (a) in which the accused has not been found guilty of any offence by the jury, but the Session Judge considers him to have committed an offence, and (b) in which some more serious offence than that of which the jury have found him guilty.

CHAPTER - VIII

RULES FOR THE INSTITUTION AND DEFENCE OF SUITS, APPEALS AND OTHER CIVIL PROCEEDINGS.

A. INSTRUCTION OF SUITS ON BEHALF OF GOVERNMENT

43. Report to be submitted before a suit is instituted –

- (1) Any officer wishing to institute a suit shall submit a clear and detailed report, through the ordinary channel of communication, to the head of his department, showing :-
 - (a) the circumstances which render the suit necessary;
 - (b) The exact nature of the claim for which it is to be instituted;
 - (c) The steps, if any, which have been already taken to obtain satisfaction of the claim;
 - (d) What objection or excuse, if any, the defendant (i.e., person against whom it is proposed to institute the suit) has urged against the claim;
 - (e) The evidence, both oral and documentary, which it is proposed to adduce in support of the claim;
 - (f) The evidence which, so far as is known, the defendant will be able to

adduce in his defence; and

(g) Whether the circumstances of the defendant are such as to render it likely that satisfaction will be obtained of any decree that may be passed against him.

(2) All documents relied upon and all the correspondence and other papers whether in English or in Sindhi, connected with the subject matter of the proposed suit should accompany the report. Translation of important Sindhi papers should also be furnished, and if files of papers are being sent with the report, distinguishing marks should be used so as to indicate the papers to which attention is to be directed.

(3) The probability of the recovery of a sum at least equal to the cost should be ascertained before recommending the institution of any suit; unless for reasons which should be explained it is considered that the suit should be brought notwithstanding that the recovery of costs is doubtful.

44. Report to be referred by head department to the legal remembrance –

The head of the department, if he thinks that all the necessary preliminary steps have been taken and that there is, prima facie, sufficient cause for the institution of a suit on behalf of Government shall forward the report with his opinion to the Legal Remembrance.

45. Legal Remembrancer's duty on receipt of report –

(1) The legal Remembrancer shall then consider all the circumstances of the case, call from the head of department such further information or additional papers as he thinks necessary, and communicate his opinion to Government in detail as to the advisability of instituting a suit.

(2) Such report shall be accompanied by the report of the officer who proposed the institution of the suit and the opinion of the head of the department and by such other documents as the Legal Remembrancer considers it necessary to bring to the notice of Government.

46. Orders of Government on the report –

If Government sanctions the institution of the suit, a copy of the Government Resolution authorizing such institution shall be sent to the Legal Remembrancer.

47. Preparation of plaint –

After the institution of the suit is sanctioned the Government Pleader of the district in which the suit is to be instituted, shall prepare a draft of the plaint in consultation with the officer who proposed its institution and shall submit the draft direct to the Legal Remembrancer, for approval. After the Legal

Remembrancer has accorded his approval thereto, the plaint shall be signed, verified and presented by the said Government Pleader. True copies of the plaint, as actually presented in Court, of any written statement filed by a defendant, and of the issues framed

in such suit, as well as of any subsequent amendments of the issues or additional issues under rule 5 of the Order XIV of Schedule I to the Code of Civil Procedure, 1908, shall also be sent without delay by the Government Pleader to the Legal Remembrancer.

B DEFENCE OF SUITS

48. Notice of suit how to be dealt with --

Where notice of a suit against the Provincial Government under section 80 of the Civil Procedure Code is received by a Secretary to Government or the Collector, or other officer, he shall forward the same immediately to the officer principally concerned with or cognizant of the matter in respect of which the suit is threatened.

49. Action to be taken on the notice –

- (1) The officer to whom the notice is forwarded under rule 48 shall give It his immediate and careful attention Where the statements made in the notice are vague, he shall endeavor to obtain, if possible in writing a clear statement of his grievance. From the plaintiff, i.e., the person who gave such notice.
- (2) Where upon a consideration of the relevant circumstances it appears to such officer that the act or conduct complained of b the plaintiff is wholly indefensible, he shall at once proceed to redress the grievance or make a report to the proper authority to obtain such redress and take such other action in that behalf as may be required.
- (3) Where it is doubtful whether or not the act or conduct complained of is justifiable, the doubt arises as to the real intention of the Government r of a superior authority in any order, the carrying out of which has occasioned the complaint, he shall immediately refer the matter for orders to Government or such authority. Where the double is as to the legality of the act or conduct complained of, though it may have been done in pursuance of a rule or order issued by a superior authority, he shall send a clear statement of the case to the Legal Remembrancer and obtain his opinion in the matter. If as a result of the reference the officer finds that the act or conduct complained of is indefensible, he shall proceed in the manner stated in sub-rule(2);
- (4) If the complaint is plainly groundless, of if the threatened action is one which must undoubtedly be defended, if it is brought, no further notice need be taken of the complaint, but the officer concerned should at once proceed, as far as possible, the collect the information and papers which will be afterwards required under rules.
- (5) In cases failing under sub-rules (2) and (3) the plaintiff should be informed that some time will elapse before the orders are passed in the matter and that the orders passed will be communicated to him as soon as possible. Every endeavor should however be made t have the mater disposed of within the period of two months from the delivery of the notice allowed by Civil

Procedure Code before the threatened suit can be instituted.

50. Step to be taken after service of summons –

When a summons of a suit instituted against Government is served on the Government Pleader he shall at once procure an uncertified copy of the plaint and also of documents, if any, annexed to it and forward them and the copy of the summons received (with the date of its receipt noted on the back) to the officer, who, himself, or by his subordinate, is alleged to the plaintiff's cause of action.

If the plaint relates to the acts of two or more officers, the above papers shall be sent the principal of such officers.

51. Steps to be taken when summons is served on an officer personally –

If owing to the suit being against an officer in his official capacity the summon is served on that officer personally, he shall at once take steps to procure an uncertified copy of the plaint and also of any documents annexed to the plaint.

52. Officer concerned to collect information –

The officer to whom papers are sent under rule 50 and any officer who is used in his official capacity, and who desires that Government should undertake the defence of the suit, shall collect, with the least practicable delay, all the information regarding the facts of the case which he can procure.

53. Papers to be submitted to Head of Department –

Such officer shall then within two months from the date of his being first apprised of the institution of the suit, submit the following papers through the ordinary channel of communications, to the head of his department, namely:-

- (a) a copy of the plaint in Sindhi together with copy of any documents or list of document annexed to the plaint;
- (b) a translation of the same into English in half margin, the more important of the statements therein being distinctly marked with letter (a), (b) and (c) and notes being added in the margin stating whether such statements are correct or not, and if not, in what respect they are inaccurate (when the requisite explanation cannot be thus compressed, reference should be made to the paragraph of the accompanying statement in which the matter should be fully discussed).
- (c) a full and detailed statement—
 - (1) of the circumstances which led to the suit;
 - (2) of the course which it is proposed to adopt, namely, whether to admit, compromise or defend the suit and of the reasons for the same;

and

- (3) If it is proposed to defend the suit, of the grounds on which it is proposed to base the defence, and of the evidence to be adduced;
- (d) If the case turns on documentary evidence, copies of the documents (or the originals) relied on by the plaintiff (if procurable) and by the defence;
- (e) All the correspondence and written proceedings, whether in English or in Sindhi connected with the subject matter of the suit together with translations of important papers written in Sindhi connected with the subject matter of the suit, and if files of papers are being sent, distinguishing marks should be used so as to indicate the papers to which attention is to be directed. The papers mentioned in (b) and (c) above should be sent in duplicate.

The forwarding report should state distinctly (1) the number of the suit, (2) the date on which, and the court in which it was instituted, (3) the names of all the parties, (4) the amount of value of the claim, (5) the date fixed by the court for the first hearing, and (6) whether notice of the action has been given under section 80 of the Civil Procedure Code, and if so, the date of delivery of such notice.

54. Head of the department to forward the report the Government---

The head of department shall forward to Government the report received by him under rule 53 through the Legal Remembrancer.

55. Applications for adjournments pending receipt of orders ----

If the suit is against an officer in his official capacity, he shall instruct the Government Pleader to move the court, from time to time to grant an extension of the time for hearing he claim, under Order XXVII, RULE 7, of the Civil Procedure Code, until the orders of Government are received. In the case of suits against Government, Government Pleader shall make the necessary applications to the Court for time, under Order XXVII, Rule 5, of the Code, without express instructions. If in any instance the Court is likely to decline to grant further time, it is the duty of the Government Pleader to inform the officer concerned in the defence of the suit, and in emergent cases, the Legal Remembrancer.

56. Procedure where two or more officers are jointly concerned in a suit—

If two or more officers belonging to different department are sued conjointly, or if the plaint in a suit against Government relates to the acts of two or more such officers, they should with the least possible,

delay, communicate one with the other, and after, If possible, mutual consultation with a view to a common line of defence, arrange for the preparation of a joint report, When a joint report is not sent, a separate report should be submitted simultaneously by each officer, care being taken by the officer principally concerned that all the requirements of the rule 53 are complied with.

57. Applicability of rules 44 and 45---

The provisions of rule 44 and 45 relating to the institution of suits on behalf of Government shall apply, mutatis mutandis to reports submitted under rule 53.

58. Duty of Government Pleader when defence of suit is sanctioned---

If the defence of a suit against Government is sanctioned, or if Government undertakes the defence of a suit against an officer in his official capacity, a draft of the written statement to be filed in answer to the plaint shall be submitted by the Government Pleader to the Legal Remembrancer for Approval and the written statement, as approved or revised by the Legal Remembrancer, shall be subscribed and verified by the Government Pleader, whose duty it is under Order XXVII, RULES 5 AND 8(1), of the Civil Procedure Code, to "answer to the plaint". In the case of a suit of the latter class the Government Order sanctioning the defence is to be deemed to the Government Pleaders "authority to appear and answer to the Plaintiff" and he shall at once on receipt thereof move the Court to cause a note of his authority to be entered in the register, but shall not produce such Resolution in Court. When sending the draft written statement for approval, the Government pleader should state the date fixed for filing it in Court.

59. Procedure in case of another suit based on same or similar cause of action ----

- (1) Sanction to the defence of a suit, the plaint in which is not accepted for want of jurisdiction but returned for presentation to the proper Court having jurisdiction, or which is dismissed on account of some technical objection such as want of due notice, shall for the purpose of rule 58 be held to include sanction to the defence of any subsequent suit based on the same or a similar cause of action, that may be brought by the same plaintiff unless, in the opinion of the legal Remembrancer, there are special reasons when render it desirable to obtain further orders from Government in the matter.
- (2) In any such case the report, under rule 53 should be confined to forwarding such papers and information as are necessary to enable the Legal Remembrancer to consider whether any modification of his previous opinion, or addition to, or alteration in the grounds on which it was proposed to defend the former suit, is requisite. If the Legal Remembrancer considers there are no special reasons which render it desirable to obtain further orders from Government in the matter, he shall communicate his instruction for the defence of the new suit to the officer submitting the request under rule 53 and the Government Pleader, who shall thereupon proceed In accordance with rule 58.

60 Preparation of defence ----

1. The written statement and the issues sought on behalf of Government are ordinarily to be in strict accordance with the opinion of the Legal Remembrancer so far as concurred in by Government but the Government Pleader is responsible, in communication with the officer concerned in the suit, for the correctness and exhaustiveness of the details of the defence.
2. A true copy of the issues framed in each suit, as well as of any subsequent amendments

of the issues or additional issues under rule 5 of order XIV of Schedule I to the Civil Procedures Code, should be sent without delay by the Government Pleader to the Legal Remembrancer.

C. CONDUCT OF SUITS.

61. Government Pleader's duties whilst a suit is under trial----

(1) The responsibility for the conduct of a suit in accordance with the opinion of the legal Remembrancer so far as concurred in by Government, shall rest with the Government Pleader unless special counsel is appointed on behalf of Government; and it is the duty of the Government Pleader, during the progress of the suit, to consult the legal Remembrancer on all matters connected with it as to which he experiences any difficulty or doubt, and especially in respect of any interlocutory order made by the Court on any application of the opposite party, which seems to require particular instructions.

(2) If special counsel is appointed, it is the duty of the Government Pleader, subject to the orders of the Legal Remembrancer, to instruct him, and, when necessary, to prepare his brief, and

generally to aid him in the conduct of the case.

(3) When in any suit, in which Government is a defendant, or a Revenue Officer is a defendant and the defence is undertaken by Government, there is any great delay in the taking up and hearing of such suit after the issues have been framed, the facts should be reported to the Legal Remembrancer, with the Government Pleader's opinion whether a certificate should be obtained under section 16 of the Sindh Jurisdiction Act.1876.

62. Collector or other officer to furnish information and prepare evidence—

In cases connected with the departments under the control of the Collector and District Magistrate, it is his duty, or that of any subordinate whom he may specially depute for the purpose, and in cases connected with any other department, it is the duty of the officer who proposed the institution, or who sought the sanction of Government for the defence of the suit (as the case may be) to ascertain that the Government Pleader or special counsel, is thoroughly acquainted with the facts of the case, and with the evidence to be adduced in support of the claim and to see that the necessary evidence, whether oral or documentary, is ready by the proper time. The Government Pleader must keep the Collector or other officer, informed on all points on which his co-operation is necessary, and report, with the least possible delay, if any, further evidence or information is required, moving the court if necessary, from time to time, to postpone the case or adjourn the hearing.

63. An officer to be present at the trial to assist the Government Pleader---

When a suit is under trial, some intelligent officer thoroughly conversant with the facts of the case should be deputed to be present to instruct the Government Pleader as to the truth concerning matters which may arise unexpectedly, and to direct his attention to the documents or other

evidence, that become important,, at each stage of the trial In important cases, and in every case in which special counsel is retained, an Assistant or Deputy Collector, or an officer of similar rank should be deputed from this purpose.

64. Settlement of Difference of opinion:---

Should there be a difference of opinion between the Government Pleader or special counsel and the Collector or other officer at whose desire the suit has been instituted or defended, as to the manner of conducting the case or should the opinion of the legal Remembrancer prove open to objection, the Legal Remembrancer shall at once be communicated with in order that the difficulty may be settled. Should there eventually be an irreconcilable difference of opinion between the Collector or other officer and the Legal Remembrancer, a reference shall forthwith be made by the latter to Government.

65. Important points respecting the conduct of suits ---

The following important points relating to the conduct of all suits should be carefully attended to by Government Pleader and all officer concerned, namely :-

(a) No averment should be made in a written statement unless it can be proved from the evidence with is or which may be available;

(b) The evidence whether oral or documentary on which it is intended to rely should be carefully scrutinized by the Government Pleader before it is adduced, and he should advise as to its admissibility, and probable importance or unimportance for the purpose of the suit, and suggest what evidence, if it be forthcoming may with advantage be substituted for any which, in his opinion, would be weak or inadmissible;

(c) All the available evidence should be assiduously collected and made ready for being produced on the day of hearing. The necessity of making applications for adjournment should, as much as possible, be avoided, and such applications on behalf of the opposite party should, unless they are made for sufficient reasons, be resisted as tending to prolong the litigation, and to give opportunities for the fabrication of false evidence.

(d) All documentary evidence should be ready and should be produced at the first hearing of the suit (i.e., the day fixed, fixed for the settlement of issues), as required by Order XIII, rule (1), of the Civil Procedure Code and when a suit is instituted, the documents sued upon should be produced in court when the plaint is presented, together with copies thereof as required by order VII, RULES 14 AND 17 of the Code and the list of other documents relied upon as evidence, which is required by order VII, rule 14 to be annexed to the plaint, should be very carefully prepared. Applications to the Court to accept any documents in evidence, at any subsequent stage of the trial, should, unless under special circumstances, be avoided as such applications cannot be granted without the grant of similar indulgence to the opposite party, which may place Government at a disadvantage and should be resisted as providing occasion for forgery;

(e) Documents filed or disclosed by the opposite party should be carefully examined at the earliest opportunity by the Government Pleader in order to raise such objections as to their admissibility as may be proper. They should also be compared with originals in the Government records or with other papers which may tend to establish or disprove their authority;

(f) If a request is made for the production of any documents in the possession of Government or of any Government officer the question whether privilege should be claimed in respect of such document under sections 123 and 124 of the Evidence Act should be carefully considered and if necessary, orders of Government obtained in the matter; and the question of admissibility of the documents when produced should be carefully considered and argued, it being borne in mind that the opinion of individual officers contained in official correspondence (which is so often called by persons engaged in litigation with Government in order to establish their case) are, as a rule, not admissible in evidence;

(g) In every suit against Government or a Government Officer want or insufficiency of notice, as the case may be, should be urged as a preliminary objection, and the court should be requested to frame an issue and try it as a preliminary issue.

66. Decision to be reported at once by Government Pleader----

As soon as suit is decided, the Government Pleader shall communicate the nature of the decision to the Collector, or other officer concerned, giving, in important or interesting case, a brief statement of the grounds thereof and shall at once forward a duplicate of the report direct to the Legal Remembrancer.

67. Government Pleader to obtain and forward copies of judgment and decree-----

The Government Pleader shall then obtain with as little delay as possible two copies, one certified and the other uncertified, of the Court's judgment and of its decree. He should forward the uncertified copies to the Collector or other officer concerned; and the certified copies to the Legal Remembrancer direct.

Note: No remuneration shall be allowed for drafting a complaint or for filing it in court.

68. Procedure when decision is entirely in favour of Government-----

(1) If the decision is entirely in favour of Government, the copies may be forwarded by the Government Pleader according to the last rule without comment, and the Collector or other officer shall communicate the result of the suit to the head of his department, sending him a copy of the judgment, or not, as under the circumstances of the case, he thinks fit.

(2) The Legal Remembrancer shall communicate the result of the suit to Government, together with a copy of the written judgment. The result of any such suit need not be communicated by the head of the department to

Government, unless he is of opinion that for special reasons it is desirable to do so, in which case he shall submit his report to Government through the Legal Remembrancer.

D. APPEALS

69. In Case of adverse decision Government Pleader to report whether he recommends appeal----

If the decision is either wholly or partially adverse to Government, the Government pleader when forwarding copies of the judgment and decree under rule 67 to the Collector or other officer concerned, shall state his opinion, with reasons, as to whether an appeal should be made. His report should be accompanied by exhibits or the relevant portions thereof as he deems necessary, to explain the grounds on which the decision is based or on which in his opinion an appeal should be made. In important cases copies of all the material exhibits or the relevant portions thereof should be sent.

70. Collector or officer to report to the Legal Remembrancer----

The Collector or other officer shall then forward the papers received from the Government Pleader with a report stating his opinion as to whether the decision should be acquiesced in or appealed against, direct to the Legal Remembrancer.

71. Time within which report must be made -----

This report must be dispatched so as to reach the Legal Remembrancer within fifteen days, after the date of the decree in cases in which an appeal lies to the District Judge, and within one month after the said date in cases in which an appeal lies to Chief court.

72. Duty of Head of Department -----

A copy of the report shall be sent simultaneously to the head of the department, who, if he concurs in it will merely file it, but if he differs from it, or considers it otherwise necessary to address Government shall submit a separate report on it without delay to Government through the Legal Remembrancer.

73. Legal Remembrancer to refer to Government -----

(1) The Legal Remembrancer after calling for such further information, or additional papers, as he thinks necessary, shall communicate, his opinion to Government as to whether an appeal should be made or not, or as to what other course should be pursued. This must be done in time to enable the orders of Government upon it to be acted upon, if necessary, within the period prescribed by law for filing an appeal.

(2) If an appeal is sanctioned, the Legal Remembrancer shall send the papers received by him in accordance with rule 70 direct to the Government Pleader in the court in which the appeal is to be filed or to the Advocate-General if the appeal is to be filed

in the Chief Court. In the later case it shall be the duty of the Collector or other officer concerned in

consultation with the District Government Pleader, to send to the Advocate-General with the least practicable delay a statement of the numbers of the exhibits or portions thereof which should be relied upon in support of the case on behalf of Government.

74. Preparation of memorandum of appeal –

(1) Appeals are ordinarily to be based strictly on the grounds, recommended by the Legal Remembrancer and concurred in by Government; but when an appeal is sanctioned generally against a decision, the Government Pleader or the Advocate-General, as the case may be, is responsible for availing himself of all legitimate grounds on which the decree may be open to objection, notwithstanding that any of them may have escaped the notice of the Legal Remembrancer or not have mentioned by him.

(2) In important or intricate cases, the memorandum of appeal should be submitted to the Legal Remembrancer for approval before being filed in Court.

75. Procedure when an appeal is brought by opposite party---

If an appeal brought by the opposite party against a decision either entirely or partly in favour of Government, a notice of the appeal will be served by the Court either on the Advocate-General or the Government Pleader or on the officer concerned. In the first two cases, the Advocate-General or the Government Pleader shall at once obtain an uncertified copy of the memorandum of appeal and forward it and the notice received by him (with the date of its receipt noted on the back) to the Collector or other officer concerned, or to the principal of the officers concerned. In the last case the officer concerned shall at once send the Advocate-General or the Government Pleader a Vakalatnama (unless the Advocate-General or the Government Pleader already holds a general power-of-attorney from him), and obtain from him an uncertified copy of the memorandum of appeal.

76. Collector or other officer to report as to the defence-----

The collector or other officer concerned shall then carefully compare the grounds of appeal with the Court's judgment, and after consultation, if necessary with the District Government Pleader, report

His opinion as to whether the appeal should be defended, and make any explanations or remarks that may be needed with reference to the grounds of appeal. His report should be submitted to the head of his department and accompanied by the same documents as are required to accompany a report under rule 70.

77. Report to be referred by head of department to Legal Remembrancer.—

The head of department shall refer the report with his own opinion to the Legal Remembrancer and the provisions of Rules 73 and 74 shall then apply mutatis mutandis, to the said report and to the legal Remembrancer with regard to his duty in respect thereof, and to the instructions to the Advocate General or the Government Pleader, if the defence of the appeal is sanctioned by Government.

78. Applicability of Rules 61, 62, 63 and 64 to appeals.----

The provisions of rules 61, 62, 63 and 64, apply equally to the conduct of appeals as to the conduct of original suits except:-

(a) that a discretion must be exercised by the Advocate General by the Advocate-General or the Government Pleader, as the case may be, in meeting new points raised for the first time in appeal, but that he should apply for an adjournment to enable him to consult with the officer concerned, or with the Legal Remembrancer, if necessary, on any such points in which he may not have been fully instructed, or to which he is not able to furnish an immediate reply:

(b) that it is only necessary to depute an officer to be present to assist the Advocate General when express orders are received from Government to that effect, or in emergent cases, on a requisition from the Advocate General.

79. Procedure when two or more officers are concerned in an appeal case.---

When two or more officers of different departments are concerned in a case in which an appeal is desired on behalf of Government, or in which an appeal is brought by the opposite party, the foregoing duties will devolve on the principal of such officers, subject as far as may be, to the provision of rule 56.

80. Applicability of rules 66, 67 and 68 to decisions in appeals.---

When an appeal has been decided by a District Court, the provisions of the Rules 66, 67 and 68 shall be observed so far as they are applicable, just as in the case of the decision of an original suit.

E. SECOND APPEALS.

81. Procedure when an appeal has been decided adversely by a District Court-----

When an appeal from an original decree has been decided by a District Court, either wholly or in part adversely to Government, the same course is to be pursued with respect to the bringing of a second appeal as in the case of an appeal from an original decree, provided that if the Legal Remembrancer is clearly of opinion that the case is one in which the law allows no second appeal, it shall not be necessary for him to refer it for the orders of Government, and the result of the first appeal need not be communicated to Government unless the head of the department, or the Legal Remembrancer, is of opinion, for special reasons, that it should be. If the head of department communicates the result of an appeal to Government under this rule, he shall submit his report to Government through the Legal Remembrancer.

82. Procedure when a second appeal is brought against an appellate decree in favour of Government -----

When a second appeal is brought against an appellate decree either wholly or partly In favour of Government, the same course shall be pursued as when an appeal is brought in the Chief Court against a similar original decree.

83. Chief Court's decision in an appeal how to be reported ----

(1) When an appeal, whether against an original or appellate decree, has been decided by the Chief Court, the Advocate-General shall communicate the nature of the decision, as soon as it is pronounced, to the legal Remembrancer.

(2) The Advocate-General shall at once obtain an uncertified copy of the court's written judgment, if any, and forward the same as soon as it is ready to the Legal Remembrancer. He shall also

obtain, with as little delay as possible, two certified copies of the same and of the decree, and forward one to the Legal Remembrancer, and the other, with the papers in the case, to the collector or other officer concerned. The collector, or other officer, shall inform the head of his department of the result of the case, sending him a copy of the written judgment, if any, or not, as he deems necessary.

(3) The Legal Remembrancer shall communicate the result of the appeal to Government, submitting a copy of the written judgment also, if any has been recorded. The result of any such appeal need not be communicated to Government by the head of the department unless the decision appears to him to be specially inconvenient, or to affect the administration in some unusual manner, in which case he shall forward his report to Government through the Legal Remembrancer.

F. APPEALS IN THE FEDERAL COURT.

84. Applications for permission to appeal how to be dealt-with ----

Applications under Order XLV of the Civil Procedure Code, 1908, for permission to appeal in the Federal Court whether on behalf of or against Government shall be dealt with generally under the same rules as are applicable to appeals to the Chief Court.

85. When permission has been granted selection of exhibits for transcript of record to be made by the Advocate-General---

When the Chief Court has granted a certificate that a case is fit one for such appeal, the Advocate-General shall take steps for selecting the exhibits to be included in the transcript of the record in accordance with the rules of the Chief Court referring for instructions in all matters of doubt to the Legal Remembrancer.

86. Preparation of transcript of record to be supervised by the Advocate-General ----

When the Chief Court has declared the appeal admitted under Order XLV, rule 8 of the Civil Procedure Code, 1908, the Advocate-General shall at once inform the Legal Remembrancer, and so far as may be permitted by the rules of the Court, shall give his careful attention to the preparation of the transcript of the record and see that it contains

copies of all the documents necessary on behalf of Government and that it is conveniently arranged and indexed.

87. Statement of case to be prepared by the Legal Remembrancer ----

On receipt of intimation that an appeal has been declared admitted-

(a) the Legal Remembrancer shall immediately appoint an Attorney and communicate the preliminary instructions stating generally the nature and importance of the appeal and any wishes of Government as to the retainer of any particular counsel before the Federal Court.

(b) the Legal Remembrancer shall then prepare a statement –

(i) embodying the facts of the case;

(ii) explaining, the reasons on which further prosecution of the suit is recommended;

(iii) setting out the principal points insisted upon for Government in the courts of the country;

and

(iv) adding such observations upon the past conduct of the case and upon the judgments of the courts in the country as will conduce to an understanding and proper representation of the government case at the hearing of the appeal.

88. Statement to be submitted to the Advocate-General for the opinion—

If the Advocate-General has appeared in the case before the Chief Court on behalf of government, the above statement shall be signed by him as well as by the legal Remembrancer, and shall contain their joint opinion as to the precise legal grounds on which the appeal should be argued. If the Advocate-General has not appeared in the case, the Legal Remembrancer shall forward the statement to him for his opinion as to the soundness of arguments relied upon for Government and for his advice generally.

89. Statement to be printed ---

The said statement together with the opinion of the Advocate-General

if it is recorded separately, shall them be printed without any delay under the superintendence of the Legal Remembrancer and five copies sent to the Attorney, if possible, before or at the same time that the transcript of the record is likely to be transmitted by the Chief Court to the Federal Court. The Advocate-General shall keep the Legal Remembrancer informed as to when the transcript will probably be transmitted.

90. Duty of Advocate-General when transcript record has been transmitted to the Federal Court ---

As soon as the Advocate-General has ascertained that the transcript of the record has been transmitted by the Chief Court to the Federal Court, he shall inform the Legal Remembrancer and at the same time forward to him 12 printed copies of the transcript record, if the same is printed under the provisions of Order XLV, rule 7, of the Civil Procedure Code.

G. SUITS, ETC. BY PAUPERS.

91. Proceedings under Order XXXIII, rules 6 & 9 of the Civil Procedure Code by whom to be taken ---

Notices of the day fixed by any court under Order XXXIII, RULE 6 OF THE Civil Procedure Code for receiving evidence as to an applicant's alleged pauperism, and applications under Order XXXIII, rule 9, of the Code for dispaupering a plaintiff should be respectively received and made by the District Government Pleader in the case of any Court situated at his headquarters and by the Subordinate Government Pleader appointed for the Court in the case of any other Court.

92. Government Pleaders how to proceed under XXXIII, rule 6 ---

(1) The Government Pleader, on a notice under Order XXXIII, rule 6, being served on him, shall forthwith forward the same to the Mukhtiarkar of the Taluka wherein from his description in the application the applicant appears to reside, and if necessary, shall also request the Court for an adjournment of the hearing of the application for a period sufficient for the completion of the enquiry mentioned below.

(2) The Mukhtiarkar, on receipt of the notice from the Government Pleader, shall cause an inquiry to be made as to the truth and bona fides of the statements contained in the application and shall forward the papers together with his own recommendation which should be based as far as possible, on the documentary

evidence collected by him, to the collector.

(3) The Collector shall thereupon decide whether the application should be opposed, and shall communicate his decision to the Government Pleader concerned. If the decision be that the application should be opposed, the Collector shall also forward

to the Government Pleader all the papers relating to the inquiry made by the Mukhtiarkar.

(4) The Government Pleader shall oppose the application only if instructed by the Collector to do so and in that event, he shall lead such evidence as appears to him necessary with the assistance of the Mukhtiarkar.

(5) IN THE EVENT OF THE Collector instructing him not to oppose the application, the Government Pleader shall inform the court by letter that Government do not wish to oppose the application.

(6) No application to dispauper a plaintiff shall be made by a Government Pleader, except under express instructions from the Collector. The Government Pleader shall, however, communicate to the Collector any fact which at any time comes to his notice which appears to him to render it desirable that such an application should be made.

H. EXECUTION OF DECREES.

Note: In this part “decree” includes an “order“ of a Civil Court, as defined in section 2 of the Code of Civil Procedure.\

93. Settlement of adverse decrees ---

Whenever it has been determined not to contest further a decision which is either wholly or partly adverse to Government, the Collector, or other officer concerned, shall at once instruct the Government Pleader to pay into the Court, whose duty it is to execute the decree, all moneys payable under the decree, care being taken that the decree is fully satisfied within the time fixed for its satisfaction under section 82 of the Civil Procedure Code.

94. Procedure in case of decrees under which any amount is due---

When a Government Pleader receives a copy of a decree under which any amount is due to Government he shall in the absence of any special instructions to the contrary proceed as follows :-

(a) if the person from whom the amount is due or his Pleader is known to the Government Pleader and is readily accessible to him, the Government Pleader shall endeavor to recover the amount from him.

(b) if there is reason to think that the amount due cannot be recovered under clause (a) and the Government Pleader knows of any property of the judgment debtor from which the amount due or part of it may be realized (e.g., immoveable property, securities, money deposited in Court or the subject matter of a suit on which Government have a first charge under Order XXXIII, rule 10, of the Civil Procedure Code), he shall at once, or as soon as any necessary information has been obtained, make an application for execution by attachment, etc., of such property.

In order to be in a position to make such an application without delay, the Government

Pleader shall, in any suit or other case where he appears on behalf of Government or a Government Officer and where he has reason to think that there may be difficulty Government, in executing a decree in favour of obtain from the Collector before the suit or case is decided, instructions in writing as to how he shall proceed in the event of a decree being passed in favour of Government or the Government Officer, as the case may be and detailed information as to any property for the attachment, etc., of which such an application might be made.

- (c) Where action is not taken under clause (a) or (b), the Government Pleader shall without delay send the copy of the decree to the Collector with a report stating inter alia-
- (i) the reasons for not taking such action;
 - (ii) the date on which the period of limitation for the execution of the decree will expire; and
 - (iii) any information which has come to his knowledge and the possession of which is likely to facilitate the recovery of the money due to Government.
- (d) Where action is taken under clause (a) or (b), the Government Pleader shall as soon as possible and at any rate within one month of the date of his receipt of the copy of the decree report his proceedings to the Collector, and send him the copy of the decree, if no longer required by him He shall also report the result of his proceedings on their completion and, if they have not been successful in recovering the whole of the amount due, furnish the information specified in items (ii) and (iii) of clause (c).

95. *Enquiries to be made by Revenue authorities, -*

In cases where the whole amount due has not been recovered by the Government Pleader under rule 94, the Collector shall (through the Mukhtiarkar or otherwise) make inquiries as to the property and means of the person liable and endeavour to recover from him the whole or such portion of the amount due as may be possible.

96. *Manner of conducting such inquiries and expenses –*

For the purposes of obtaining information as to the property and means of the judgement debtor, the Collector may or (employ such trust worthy agency as he may think fit, and may pass bona fide travelling expenses incurred by the officer deputed to make the enquiry.

97. *Procedure in regard to recovery of the amount due. ---*

- (1) The Collector may pass such orders for the making of an application in Court for the recovery of any amount due, or for the recovery there of by other lawful means, as he may think fit.
- (2) Where any sum due to Government under a decree is recovered otherwise than through the agency of the Courts, the Government Pleader should be instructed to certify such recovery to the

court under order XXI, rule 2, of the Civil Procedure Code.

- (3) As soon as a Government Pleader, or Mukhtiarkar recovers any money on behalf of Government in execution of a decree, he shall at once pay the amount into the treasury to the credit of the department concerned, and report the fact to the Collector.

98. *Care to be taken as to limitation.—*

Orders under rule 97 shall be passed on all cases in sufficient time to admit of an application to the Court, if such application is directed, being made within the period prescribed by the law of limitation; and if the Collector sends the case to the Mukhtiarkar for further inquiry or any other purpose, he shall ordinarily fix a time limit within which, if the amount due is not previously recovered, he should submit his report.

99. *Procedure in case of appeal—*

- (1) If any 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 employed in making inquiries as to the property of the judgement debtor.
- (2) The provisions of Order XLL rule 5, of the Civil Procedure Code, are ordinarily sufficient to prevent any fraudulent disposal of property by the judgement debtor during the time gained by an appeal but the Government Pleader, in consultation with the Collector, or other officer concerned, should see that the security taken by the Court is sufficient, and should petition the Court if he considers that the security offered is not valid or sufficient, to be allowed to execute the decree at once.
- 3) If such application is refused, the Collector or other (3) officer should endeavour to keep a watch on the property of the judgement debtor, so as to prevent any fraudulent alienation or concealment of it.

100. *General duties of Government Pleader in respect of the recovery of amounts due to Government –*

- (1) If a decree under which court fees or pauper costs are recoverable awards to the person liable for the same any money or other property, the Government Pleader shall carefully watch the execution of such decree, and at the proper time enforce the prior right of Government in respect of any such money or other property.
- (2) It shall also be the duty of the Government Pleader at all times to furnish the Collector with any information which comes to his knowledge and the possession of which is likely to facilitate the recovery of the moneys due to Government, and when the period of limitation for the execution of any decree is nearly expiring without such decree having been fully satisfied, he shall specially report the fact to the Collector.

101. *Arrangements for identification of property to be attached-*

Upon the Court issuing orders for the attachment of the debtors property, the Government Pleader shall at once apply to the Collector to depute some one to accompany the attaching officer, and to point out the property.

102. Procedure in cases where claims are made to attached property-

In cases claims are made by third parties to the property attached, the officer on whose report the property attached shall collect the evidence, by which it is proposed to show that the property belongs to the judgement debtor, and he shall, if possible, be present in court and instruct the Government Pleader when the Court is inquiring into the claim.

103. Grant of rewards for special exertions in the recovery of dues –

When the realization of the amount of a decree is due to the special exertions of any officer, the Collector may sanction the disbursement of a sum not exceeding 20 percent of the amount recovered, as a special reward for such officer. Any officer who considers that he has claim for this special reward shall make an application to the Collector, stating the grounds upon which the application is based.

104. Writing off of irrecoverable sums –

If it appears altogether improbable that the person liable will be able to pay what is due by him under the decree, or the balance of what is so due by him within the period of limitation, or if for any reason the Collector thinks it inexpedient that such person should be further pressed, he may at once write off the amount still due, if it is due in respect of Court-fees or is due to Government in a pauper suit or appeal, and in other cases apply to Government through the Legal Remembrancer for sanction to write it off; but as general rule steps for the recovery of such dues should be unremittingly continued until the period of limitation expires when, if necessary, steps should be taken by the Collector as aforesaid.

105. Register to be kept by Collector—

- (1) The Collector shall keep in his office register of amounts due to Government under decrees in the following form, and shall have the necessary particulars entered therein on receipt of the copy any such decree and from time to time as occasion requires.
- (2) This register should be kept in separate parts I and I. for entries in respect of (I) amounts due to Government under decrees in suits, appeals or applications to which Government or a Government officer is a party, and (II) Courts fees and pauper costs payable to Government under Order XXXII or XLIV of the Civil Procedure Code.

LAW

Serial No. of case	Name of court which passed the decree	No. And Year of suit or Application	Name s of parties	Date of Decree	Date on which the period of limitation expires	Judgement debtor			Amount due to Government	
						Name	Residence	Occupation	On what accounts	Amount
1	2	3	4	5	6	7	8	9	10	11

Steps Taken for Recovery		Recoveries Effected			Written off As Irrecoverable			
Nature of step	Date of taken step	How Recovered	Date	Amount	No. & Date of Government resolution or collectors order	Amount	Net Balance to be recovered	Remarks (here enter any information available us to judgement debtors pecuniary circumstances what property if any he owns etc. etc
12	13	14	15	16	17	18	19	20

106. Register to be kept by the Mukhtiarkar—

If the Collector so directs, a similar register shall be kept by the Mukhtiarkar as regards any such decrees in cases in which the Judgement debtor resides or has property within his taluka.

107. Superintendence by Collector of recovery of dues

The Collector may prescribe such progress or other reports as he thinks fit to be submitted by the Government Pleader Jure or Mukhtiarkar in regard to decrees which have been sent to him for taking steps for the recovery of the amounts due, and shall generally supervise and control the steps taken for the recovery of moneys due to Government under decrees relating to his district.

108. Reference to Legal Remembrancer in regard to recovery of dues-

Should the collector consider the progress made in the recovery of moneys due to Government under decrees unsatisfactory, or require advice in regard to the steps to be taken for such recovery, he shall bring the matter to the out notice of the Legal

Remembrancer.

I. MISCELLANEOUS

109. Orders as regards costs to be scrutinized by the Government Pleaders--

- (1) It is the duty of Government Pleader in all suits and applications in which they appear on behalf of Government, and especially in pauper suits and applications to sue in *forma pauperise*, to scrutinize carefully the Court's order of costs and see that their costs are duly assessed and entered in the decree, together with an order specifying the party from whom they are to be recovered. If the order does not properly provide for the Government costs, they should at once bring the fact to the notice of the Legal Remembrancer in order that the desirability of applying for a review or, if necessary filing an appeal or application for revision may be considered.
- (2) In some cases a Court returning a plaint in suit against Government for presentation to the proper court under order 7, rule 10 of the Civil Procedure Code, instead of awarding Government costs, orders that the costs should abide the result of the suit, although it holds that the objection as to want of jurisdiction taken on behalf of the Government is valid. Such an order is directly against the ruling in *Moshingan vs. Mozari Sajad*, I.L.R. 12 Cal. 271 at p. 272; and in any such case the Government Pleader should draw the attention of the Court to this ruling and section 35 of the Civil Procedure Code, and ask it to award costs to Government who have been wrongly sued in such Court.

110. Cost of paper-books to be deposited in Court --

In cases in which a first appeal has been filed in the chief court by Government, the Advocate-General shall, when called upon to do so, deposit in the Chief Court the estimated cost of preparing the paper books.

111. Copies of papers --

When the exhibits in an original suit, or other proceedings, are so numerous or so important, as to necessitate a best Government Pleader's obtaining copies thereof for his own use, or for that of special counsel and whenever a Government Pleader for any reason whatever obtains copies of any such exhibits, he shall take care to have them legibly written on one side only of the paper, with a quarter margin the paper being of the ordinary foolscap size in use in official correspondence), so that they may be afterwards used without any difficulty in every subsequent stage of the case, and the expense of procuring fresh copies from time to time, may be thus avoided.

It should be borne in mind that correct uncertified copies (which need not bear any Court-fee stamp) are for all purposes except for filing in Court, as good and as useful as certified stamped copies and copies of the latter kind should therefore only be obtained when they are required for filing in Court, or when these rules expressly state that certified copies should be procured.

112. Recovery of documents filed on behalf of Government --

It shall be the duty of the Government Pleaders to take back from the Court all exhibits filed on behalf of Government which are liable to be destroyed under the rules made under section 3 of the Destruction of Records Act, 1917 (V of 1917), but which may be of use in future, and forward the documents so obtained to the Collector or other officer concerned.

113. *Monthly return to be sent by the Government Pleaders to the Legal Remembrancer -*

- (a) All Government Pleaders shall send a return to the Legal Remembrancer on the first of every month in the following form. When there are no cases to be entered in the return it shall be sent blank.
- (b) The Government Pleader shall also before 31st January of each year send a similar return giving the requisite information for the preceding year.

Return of original suits, appeals and other civil Proceeding

Instituted in the District _____ during the Month of 19
Year

In which Government or any Government Officer _____ is concerned.

Court in which instituted	Nature of Case i.e. Whether an original suit, appeal or other civil Proceeding & amount and description of claim	Number of case	Date of instituted	PARTIES		Date fixed For the hearing
				Plaintiff, Appellant or Petitioner	Defendant, Respondent or Opponent	

(Sd.) A.B.
 Government Pleader

114. *List to be sent by Government Pleader and Collectors for de brining on record legal representatives of deceased defendants or respondents --*

- (1) In suits, appeals or proceedings in which the Government or a Government Officer is the plaintiff, appellant or applicant, the Government Pleaders shall submit a list on the first day of each month to the Collector of the district in the following form.

FORM OF LIST

List of suits and proceeding (including appeals) pending in which Government or Government officer is plaintiff, appellant or applicant

District

Name of Court	Number on file of court	Parties and their addresses	Are all the defendants, respondents or opponents still alive	If any of the said parties is dead, state date of death and also, state name, age residence and occupation of legal representative and relationship to deceased
1	2	3	4	5

Submitted by the Government Pleader to the Collector of _____ with reference to rule of _____ the Law Officer's Rules.

Dated

Government Pleader

Returned completed to the Government Pleader

Dated

Collector

- Note:
1. Columns 1 to 3 should be filled in by the Government Pleader.
 2. Columns 4 and 5 should be filled in by the Government Pleader so far as actual knowledge permits.
 3. Columns 4 and 5 shall be filled in by the Collector so far as the required information has not been entered by the Government Pleader.
 4. The report of the death of a party will be made by the Government Pleader to the Legal Remembrancer on return of the list duly completed to the Government Pleader.

- (2) The Government Pleader concerned shall carefully fill in the first three columns of the list and carefully fill in the first three columns of the list and also so far as his actual knowledge permits, columns 4 and 5 before sending it to the collector. The Collector shall fill in the remaining particulars required and return the list to the Government Pleader without delay. On return of the

list with the required information filled in, if it appears that any defendant, respondent or opponent had died, the Government Pleader shall at once report the fact to the legal Remembrancer in order that if the case is one in which an application is required under rule 4 of Order XXII, steps may be taken accordingly.

CHAPTER-IX
GENERAL RULES APPLICABLE TO SUITS AND OTHER CIVIL PROCEEDINGS.

115. Miscellaneous Civil Proceeding –

If it appears advisable to a collector, or other officer, to intervene in any suit to which Government has not been made a party, or if he deems it necessary to institute, or is called upon to defend, any miscellaneous civil proceedings on behalf of Government, the rules contained in chapter VIII for regular suits shall, mutandis apply:

Provided that in cases of emergency the Collector or other officer may act in anticipation of the orders of Government, but shall at once report the action taken by him to Government.

116. Compromises –

No suit, or other civil proceeding, is to be settled out of court or compromised in court, or permitted to be withdrawn without the express orders of Government to be obtained through the Legal Remembrancer.

117. Proceedings under the Land Acquisition Act –

In their application to proceedings under the Land Acquisition Act, 1894, the rules contained in Chapter VIII shall be deemed to have been modified by the special instructions relating to such proceedings contained in the manual of Land Acquisition.

118. Production of Documents from Governments Records –

(1) The Law relation to the production of unpublished official records as evidence in Courts is contained in section 123, 124 and 162 of the Evidence Act, 1872 (I of 1872) which are reproduced below :-

“123. no one shall be permitted to give any evidence derived from unpublished official record relating to any affairs of state, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

124. No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

162. A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.

The Court, if it sees fit, may inspect the document, unless it refers to matters of State, take other evidence to enable it to determine on its admissibility.

If for such a purpose it is necessary to cause any document to be translated the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence; and, if the interpreter disobeys such direction, he shall be held to have committed an offence under section 166 of the Pakistan Penal Code.

- (2) For the purpose of section 123 of the Evidence Act the expression "officer at the head of the Department" may be held to mean the head of the office in whose custody the document required by the court is, and vis-a-vis the court which demands its production, that officer shall be treated as the authority to withhold or give the necessary permission.
 - (3) When a document is called for from an officer who is not the head of the department, he should refer the matter for orders to the head of his department. The head of the department should then carefully consider whether the production of the document should or should not be objected to
 - (4) In respect of documents emanating (1) from a higher authority, viz., Federal Government or the Provincial Government, or which have formed the subject of correspondence with such higher authority, or (2) from other Governments, whether foreign or Dominion, the head of the department should obtain the orders of Government before agreeing to produce the documents in court, or allowing evidence based on them, unless the papers are intended for publication, or are of a purely formal or routine nature, when a reference to Government may be dispensed with.
- 93
- (5) In the case of papers other than those specified in sub-rule (4) above, the head of the department should not allow the production of any papers which relate to matters which are generally regarded as confidential, or the disclosure of which would in his opinion be detrimental to public interest, or to matters which are dispute in some other connection, or have given rise to a controversy between Government and some other party.
 - (6) The forgetting provisions of the rule apply to all cases, irrespective of the fact whether Government is or is not a party to the suit. In cases in which Government is a party to the suit, much will depend on the legal advice as to the value of the documents, but before they are produce in court, the considerations stated above must be borne in mind and reference to the legal Remembrance made when necessary.
 - (7) The officer who is to attend a court as a witness with official documents should, where permission under section 123 has been withheld, he given an order duly signed by the head of the department in the form given below. He should produce the order when he is called upon to give his evidence , should explain that he is not in a liberty to produce the documents before the court, or to give any evidence derived from them. He should, however, take with him the papers which he has been summoned to produce.
 - (8) The head of the department should abstain from entering into correspondence with the Presiding Officer of the Court concerned in regard to the grounds on which the documents have been called for. He should obey the Court's orders and should appear personally, or arrange for the

before it is finally decided by the highest Court before which it may go in appeal, and no such copies shall be granted at any time after such final decision without the previous sanction of the head of the department.

122. Purchase of judgement debtor's property for Government forbidden -

The practice of deputing Government servants to bid on behalf of Government at Court-auctions with a view to purchase the property of judgement debtors from whom money is due to Government is, generally speaking, objectionable, as it is likely to involve Government in further litigation and it should not, therefore, be resorted to, save with the special sanction of Government, obtained through the Legal Remembrancer.

123. Translation of documents in Sindhi or other Vernacular language to be sent ---

If any papers in Sindhi or other vernacular language are sent to Government or the Legal Remembrancer, English translations of the same should also be sent along with those papers.

124. Legal Remembrancer's record --

The Legal Remembrancer shall keep in his office a record of the correspondence (other than unimportant papers) connected with every suit or other civil proceedings, in which Government or any Government officer is concerned. The records of inquiries made prior to the institution of a suit or other civil proceeding or any other records or papers which are not required to be sent to the Legal Remembrancer under the foregoing rules will be kept in the office of the administrative officer concerned or dealt with in accordance with the rules of that office regarding the preservation of records. It is desirable that copies of plaints, judgements and decrees of Courts and other important documents should be permanently preserved. Papers relating to execution of decrees should be kept till execution is completed.

125. Notices of suits against the Federation how to be dealt with-

Section 179 (1) of the Government of India Act, 1935, gives a party certain circumstances the option of bringing suit against the Federation instead of against the Federation and the Province. In such cases the party has to give under the new clause (d) of section 80 of the Code of Civil Procedure, 1908, simultaneous notice to a Secretary to the Central Government, the Secretary to the Crown Representative and a Secretary to the Provincial Government of the Province where the suit is to be instituted. It is desirable that the three authorities should, on receipt of the notice come to an agreement as to who should defend the suit when it is brought. In all cases, therefore, where any officer receives notice of a suit under clause (d) of section 80 of the Code, he should report the matter immediately to Government, who will communicate to the Central Government as soon as possible their views as to whether the subject matter of the suit falls within the executive authority of the Central government or the Crown Representative or the Provincial Government and as to the arrangements that should be made for defending the suit.

CHAPTER-X

INSTITUTION AND DEFENCE OF SUITS ON BEHALF OF THE CENTRAL GOVERNMENT.

126. Sanction regarding suits by or against central Government –

- (1) The institution or defence of suits on behalf of the central government or its officers (except the Pakistan posts and telegraphs Department) cannot be sanctioned by the Provincial Government. Such sanction must be given by the department concerned of the Central Government. After such sanction has been obtained, the head of the department concerned should inform the legal remembrance and send him a report which shall, as nearly as possible, comply with the requirements of rules 43 to 53 in Chapter VIII.
- (2) The legal remembrance will then issue instructions to the Government pleader concerned in regard to the conduct of the suit.
- (3) The provisions of the rules contained in Chapter VIII shall apply, mutatis mutandis to such suits.
- (4) The fees of the Government Pleader and other law charges will be paid by the department concerned of the Central Government.
- (5) The fees payable to the Government Pleader in such cases will be regulated by the Law Offices (Conditions of service) Rules, 1941.

127. Suits relating to Pakistan Posts and Telegraphs department—

Litigation pertaining to the Pakistan Posts and Telegraphs Department is subject to the control of the Sindh Government, whose sanction has to be obtained for the institutions and defence of suits on behalf of that department. The law charges including Government Pleaders fees are to be provided by the Director General of Posts and Telegraphs.

128. Suits relating to Military land—

The special instruction regarding suits in connection with military lands are printed in the accompaniments to Government Resolution, Revenue Department No. 8368/ 24- Confi., dated 16th May, 1928.

129 Suits relating to State Railways—

Government Pleaders are not entitled to appear as of right in suits against state Railways. Some state Railways have already made their own arrangements for the conduct of suits on behalf of themselves as well as on behalf of the Federation. It is open to the state railway administration to engage if they desire the services of the district Government Pleaders but the latter cannot as matter of right claim to appear in such suits.

130. Crown Pleaders—

By Government of India notification, Home Department No. 204/37-Judl., dated the first April 1938, the Government Pleader, in the Chief Court and District Government Pleader, in the Chief Court and District Government Pleaders and their Assistants have been appointed as Crown Pleaders for the purpose of Order XXVII of the Civil Procedure Code in relation to any suit by or against the Central Government, or against a public officer in the service of that Government in any Court in the Province of Sindh.

Chapter XI

Grant of Assistance to police officers and other Government Servants who have to institute or defend civil or Criminal proceedings in Respect Acts Done by them In The Discharge of Their Official Duties.

131. Assistance to Government Servants —

- (1) Government may grant assistance to its officers who have to institute or defend civil or criminal proceedings in respect of any act done or purported to have been done in the discharge of their duties.
- (2) Government may also grant assistance to an officer who has to defend a civil or criminal case which it has reason to believe is false and which has been filed in consequence of some act done by the officer in the discharge of his duties.
- (3) Such assistance may consist of -
 - (a) engagement of counsel, at Government expenses, to appear in such proceedings on behalf of the officer concerned; or
 - (b) reimbursement to him of the whole or part of the reasonable expenses incurred by him in such proceedings.

(4) Police officers will always be protected when it appears to Government that they have acted in good faith, but Government does not bind itself to undertake their defence when this is not the case.

132. Reimbursement of legal expenses –

Except where an Officer is prosecuted or sued at the instance of Government or Head of the Department for anything done by him in the discharge of his duties, Government will not ordinarily reimburse his legal expenses, unless he had, before engaging a counsel at his expense, asked for assistance under rule 131 (3) (a) and the same has been refused to him.

Reimbursement of expenses under rule 131 (3) (b) will ordinarily be made only in case the officer concerned is honourably acquitted, or has stand in respect of any case under rule 131 (I) is vindicated. It is to be distinctly understood that Government do not undertake to pay any, except reasonable expenses

133. Superintendent to be informed ---

All police officers against whom any criminal prosecution or civil suit is instituted shall at once inform the Superintendent or corresponding superior officer.

Note: No case in which legal assistance is given by Government to a police officer who is accused of an offence should be compounded without the previous sanction of Government.

134. Civil suits or criminal prosecutions against police officers-

In the case of a civil suit or a criminal prosecution against a police officer in connection with the discharge of his official functions, the following course shall be adopted:

(a) Procedure in civil suit --

If any suit is instituted against a police officer for anything purporting to be done in his official capacity without the notice required by section 80, Civil Procedure Code, having been duly served on him, he shall as rule, immediately request the Superintendent of Police or corresponding superior officer to arrange to move the Court through the Government Pleader to dismiss the suit on the ground that it is instituted contrary to the provisions of that section. If, however, such a notice be given, he shall immediately report to his superior officer all the circumstances necessary to the forming of an opinion of the case. When the report reaches the superintendent or corresponding Superior Officer, the latter shall at once collect the required information and report the facts fully with his recommendations to the District Magistrate who shall forward the report through the Inspector General of Police for the orders of Government. The Government will pass orders after consulting the Legal Remembrancer.

(b) Criminal complaints -

Section 197 of the Criminal Procedure Code lays down a special procedure in regard to criminal prosecutions against certain classes of officers. In these cases there will always be ample time to obtain the order of Government as to undertaking the defence of the officer and the same procedure must be followed in clause (a) above. In the case of criminal prosecution against other classes of police officers, it may frequently be impossible to obtain the orders of Government before the commencement of the proceedings in Court. In that case it will rest with the District Magistrate after consulting the Superintendent, to decide whether the defence shall be undertaken by Government or not. In the event of disagreement between the District Magistrate and the Superintendent of Police concerning the defence of the accused police officer, the District magistrate shall instruct the Public Prosecutor to appear for the accused officer in the initial proceedings and request the Court to postpone the case pending a decision by Government as to whether he should be defended at the cost of the State or not. In such cases as in all others, a full report should be sent to Government as early as possible in the manner laid down in clause (a) above stating the course the District Magistrate has decided to adopt.

(c) Clause (3) of section 80 of the Sindh District Police Act, 1890, provides that suits or prosecutions in respect of acts done by police officers in good faith should not be entertained, or should be dismissed, if not instituted within 6 months, and clause (4) of the same section provides for the dismissal of a suit if the person intending to sue a police officer fails to give him one month's notice at least of his intended suit with sufficient description of the subject matter of the suit.

(d) In cases against officers of the Criminal Investigation Department or the Railway Police, the Magistrate of the district in which the case is instituted shall be considered the District Magistrate for the purposes of this rule.

135. Fees and other charges –

If Government or local officers acting on its behalf sanction the defence of an officer, it would ordinarily be sufficient to engage a Government Pleader or a Public Prosecutor at the expense of the State and the incidental expenses, e.g., Court fees and diet money of witnesses, would also be borne by Government. The District Magistrate is empowered to sanction the employment of Counsel without reference to higher authority or to Government in cases in which (I) the counsel engaged is either (a) the Government Pleader in civil cases or the Public Prosecutor in criminal cases, or (b) when the services of the Government Pleader or the Public Prosecutor are not available, any other duly qualified pleader, and (2) the fees proposed to be paid to such counsel do not exceed the fees admissible under rule 13, 14, 15, 16 or 17 of the Law Officer (Conditions of Services) Rules, Whenever it is proposed to pay the counsel at a rate in excess of the fees admissible under the law Officers Rules, the sanction of Government must be obtained before the counsel is employed. Whenever it is proposed to retain Special Counsel, the official superior of the police officer concerned should proceed in accordance with rule 39 of the Law Officer Rules in Remembrancer of Legal Affairs.

If the officer wins the case and the costs or damages or compensation are awarded to him, the expenditure incurred by the Government up to the limit of such costs, damages or compensation shall be refunded by him.

[Note: Police Prosecutors should not be employed in a Criminal Court for the defence of a member of the police force when the charge is in consequence of official action. In such cases the procedure laid down above should be followed.]

136. Procedure in case of appeals --

If in a case in which Government have undertaken the defence of an officer, the decision of the first Court is against him, the question whether an appeal should be filed at the cost of the State or whether the damages awarded to the plaintiff or the fine imposed should be paid by the State, shall be decided by Government either on the application of the officer concerned who should move his immediate superior in the matter or on the representation of his superior officer. The latter should then follow the procedure laid down in rule 134 (a) above.

137. Necessity for speedy disposal of cases -

As legal proceedings against police officers, particularly civil suits, must interfere with the discharge of their public duties and are likely to cause harassment to them, the District Magistrate should impress on the Counsel appearing for the officer concerned that he should request the Court to deal with such proceedings with the utmost possible expedition.

138. Power of the Inspector-General of Police to sanction advance-

The Inspector-General is authorized to sanction an advance upto Rs. 300/- to an officer involved in a case whenever the orders of Government cannot be obtained through the usual procedure in time.

139. Applicability of these rules in case of other Government servant –

These rules shall, so far as may be, be applicable to all Government servants, and a reference to the

Superintendent of Police and to the Inspector General of Police in these rules shall, in the case of any other Department mean a reference to the district and provincial head of such Department.

140. Bills to be countersigned by Legal Remembrancer -

- (1) Every bill of fees of the counsel engaged by a Government servant and every bill for reimbursement of expenses incurred by him should be submitted for the countersignature of the Legal Remembrancer by the officer superior of the Government servant concerned.
- (2) All applications for the reimbursement of legal charges should reach Government within six months of the conclusion of the proceedings.
- (3) The amount of every such bill should be debited to the grant of the Legal Remembrancer under "27_ Administration of Justice - B - Law Officers Contingencies.

CHAPTER-XII

ACCOUNTS

141. Charges in Criminal cases -

- (1) A Public Prosecutor's fees in criminal cases and any incidental charges incurred by him in connection with criminal cases (including travelling allowances) should be drawn on bills submitted by him in the proper form (in English) to the Legal Remembrancer for countersignature. It is only after a bill has been passed and countersigned by the Legal Remembrancer that it may be cashed at the treasury.
- (2) Such bills should be accompanied by a certificate from the Judge or Magistrate concerned as to the accuracy of the date mentioned in the bills as well as by the original authority to appear in all cases where these are required as vouchers in support of the bill.
- (3) The statement of details accompanying the bill should be in duplicate.
- (4) Bills in respect of fees earned and charges incurred in any month should be prepared and submitted in the next following month whether the case to which they relate has been finished or not. If this practice is scrupulously followed there should not ordinarily be more than 12 bills for criminal cases in a year for each Public Prosecutor. Punctual submission of all claims is essential for reasons on account and great difficulty in their disposal is occasioned by delay. If any bill is unduly delayed for which an adequate explanation is not furnished it shall be rejected forthwith.
- (5) Enhanced or special fees should not be included, unless actually sanctioned.
- (6) District and Sessions Judges and District Magistrates should state in the certificates of attendance issued to Government Pleaders or Public Prosecutors for the work done by them whether at their headquarters or outside their headquarters the times when the case was to commence and when it ended on each day of hearing. They should direct the Courts subordinate to them to follow the same procedure while issuing such certificates for attendance in those Courts.
- (7) Public Prosecutors should see that when submitting a bill for payment of copying charges, particulars of the number of pages typed and the rate charged are invariably given.

142. Charges in civil cases -

(1) A Government Pleader should submit his bill for fees and all charges (including travelling expenses) incurred by him in connection with civil cases to the Legal Remembrancer for scrutiny and countersignature.

(2) Such bills must be accompanied by vouchers or by a copy of the Court's decree in support of every item contained in it.

(3) Such bills should be submitted as soon as possible after each case has been decided :

Provided that –

(a) if the balance of the permanent advance allowed to him is insufficient for defraying current expenses, the Government Pleader may submit bills monthly;

(b) the amount of any bill submitted under the preceding proviso shall not, in the case of the Government Pleader in the Chief Court be less than Rs. 50/- and in the case of any other Government Pleader, less than Rs. 35/-;

(c) when, as in the case of a Court fee chargeable on appeal for a large amount, a Government Pleader has to pay a large sum out of pocket at once, he may submit a separate bill for such sum immediately.

(4) Bills submitted on the conclusion of a case must include all the charges incurred by the Government Pleader in connection with the case, and any sums which may have been drawn on its account under sub- rule (3) shall be shown at the end of the bill and deducted.

(5) If the Legal Remembrancer passed any such bill he shall countersign it and return it to the Government Pleader who will then cash it at the treasury.

143. Salaries –

Government Pleader's and Public Prosecutor's salaries should be drawn on bills in the forms prescribed in that behalf. Such bills should be submitted direct to the treasury.

144. Procedure in case of Land Acquisition cases –

In cases of land acquisition where the land acquired is for a department of the Federal Government or for a Railway Company or other body, the fee bill should be submitted to the Remembrancer of Legal Affairs through the Collector of the District who should scrutinize and countersign it. In cases where the land acquired is for a department of the Provincial Government, the bill while being submitted to the Remembrancer of Legal Affairs for countersignature should be accompanied by a statement of the number and date of the notification and the purposes for which the land was acquired. The Remembrancer

of Legal Affairs will return the bill countersigned to the Government Pleader for payment with an order directing how the charge billed for should be met.

145. Procedure when permanent advance is insufficient to meet heavy charges –

In suits in which First Appeals have been filed in the Chief Court by Government the Advocate-General of Sindh should when called upon to do so, deposit in the Court the estimated cost of preparing the paper-books and if the amount is not less than Rs. 35/- should submit a separate bill for the countersignature of the Legal Remembrancer.

146. Advances -.

- (1) Government Pleaders and Public Prosecutors are to defray all charges as they arise. To enable them to meet the minor charges incidental to civil and criminal cases, the Government Pleader in the Chief Court is allowed a permanent advance of Rs. 100/ and such of District and Subordinate Government Pleaders as the Legal Remembrancer authorizes to receive an advance will be allowed a permanent advance not exceeding Rs. 200/-. Only those officers who usually have a large number of Government cases in hand will be authorized by the Legal Remembrancer to receive such an advance.
- (2) District Government Pleaders should arrange to meet the requirements of the Subordinate Government Pleaders who have not been allotted any separate advance under their control from the amount at their disposal.

147. Account Books-

- (1) An account of all receipts and disbursements in connection with his duties should be kept by each Government Pleader in the ordinary form of a day book, with such subsidiary ledgers as may be necessary for ascertaining without difficulty the whole of the charges connected with each case.
- (2)
 - (i) The account books should be closed daily.
 - (ii) The Government Pleader should himself examine the account books from time to time and see that there is no irregularity. The account books should be signed by him from time to time in token of his check.
 - (iii) Accounts of all contingent expenditure should be maintained as contemplated by rule 17 of the Manual of Contingent expenditure.
 - (iv) The procedure laid down in the proviso to rule 142 of the Law Officer's Rules should be followed when the permanent advance is insufficient to meet the current expenditure.

- (v) When handing over charge of his office the Government Pleader should invariably transfer the Permanent Advance along with the account books to his successor.
 - (vi) If the Government Pleader recovers any money on behalf of Government it should be credited in his account books and when he pays it over to the treasury it should be debited to Government in his books.
- (3) The Advocate-General, the Government Pleader in the Chief Court and the District Government Pleader should submit not later than the 10th of every month a statement of expenditure incurred during the previous month in the following form.

Statement showing the expenditure under the heads subordinate to a Primary unit to be submitted to the Remembrancer of Legal Affairs every month.

Major Head
Minor Head
Primary Unit

Name of District
Month and year

Detailed head	Sanct ioned Grant	Subseq uent Addition s or Deduct ion With orders sanctio ning them.	Monthly expendit ure	Treasury Voucher No.	By whom drawn.	Progress ive Expendi ture	Estima ted Expen diture for the remain ing period	Remark
1	2	3	4	5	6	7	8	9
1 . Pay								
2. Fees in civil cases								
3. Fees in criminal cases								
4. travelling allownces								
5. Contingent expenditure in civil case								
6. contingent expenditure in criminal cases								
7. Fees drawn by special public prosecutor								

148. District and Subordinate Government Pleaders not to incur contingent charges --

The Judges of the Courts to which District and Subordinate Government Pleaders are respectively attached are authorized to cause their letters and packets to be franked as if they issue from their own offices, and also to pay any bearing charges on official covers which they may receive, provided that Collectors shall from time to time provide District Government Pleaders with service postage stamps to the value of Rs. 5/- in order to meet urgent cases that may arise whenever the District Judge's Court is closed on account of Government sanctioned holidays and vacations. The Government Pleaders are responsible for seeing that such letters, Packets, and covers, are bonafide despatched or receive, on Pakistan State Service only. District and Subordinate Government Pleaders must not incur any contingent expenses apart from the necessary charges connected with the cases which they have to conduct.

149. Bills of Special Counsel and certain Public Prosecutors -

- (1) Bills of Special Counsel, Pleaders appointed by the District Magistrate in place of a District Public Prosecutor under rule 36 and persons appointed by a District or Sub-Divisional Magistrate under section 492 (2) of the Criminal Procedure Code and rule 36 to be Public Prosecutor for a case in the absence of the Public Prosecutor require the countersignature of the Legal Remembrancer before they are presented for payment.
- (2) Such bills should be submitted on non-contract contingent forms.

150*. Pleaders in murder cases—

In murder cases tried before the Chief Court or in its Sessions Court Jurisdiction or before Sessions Judges in the mofussil, where a Pleader is engaged by pay for legal advice payment of the fees is made by the treasury officer to the District Judge and the bill is not countersigned by the Legal Remembrancer.

151* Deleted vide G.N.L.D. No: S. Legal: 12(5)/71 dated 26.6.71

152. The power to countersign bills conferred by sub-rule (1) of rule 140 and by Chapter XII may be exercised also by the Deputy Secretary or the Assistant Secretary or such other officer of the Legal Department, as may be authorized in writing by the legal Remembrancer in this behalf.