

Ch. 10-E.

PART E.-SPECIAL PROCEDURE IN REGARD TO PARTICULAR
FOREIGN COUNTRIES.

Pakistan

1. Commissions or Letters of Request can be addressed by Courts in India to the following Courts in Pakistan.

I. PROVINCES OF SIND AND BALUCHISTAN

Sind

Registrar, Chief Court of Sind, Karachi.
District Judge,
Hyderabad.
District Judge, Sukkur.
District Judge, Larkana
District Judge, Nawabshah.
District Judge, Thar Parkar, Mirpurkhas.

BALUCHISTAN

Baluchistan.—(1) Court of District Judge in Baluchistan, Quetta.

Baluchistan States Union. (2) Court of the Wazir-i-Azam, Baluchistan State Union.

II. PROVINCE OF EAST BENGAL

District Judges at the following places.—

1. Barisal.
2. Chittagong.
3. Dacca.
4. Faridpur.
5. Jessore.
6. Pabna-Kushtia. (Pabna)
7. Dinajpur Bogra. (Dinajpur)
8. Mymensingh.
9. Noakhali.
10. Rajshahi.
11. Rangpur.
12. Sylhet.
13. Tippera (Comilla).
14. Khulna:

All Sub-Judges' Courts at the following places.

- 1.Barisal.
- 2.Chittagong.
- 3.Dacca.
- 4.Faridpur.
- 5.Jessore.
- 6.Dinajpur.
- 7.Khushtia.
- 8.Pabna.
- 9.Bogra.
- 10.Mymensingh.
- 11.Noakhali.
- 12.Rajshahi.
- 13.Rangpur.
- 14.Sylhet.
- 15.Comilla (Tippera).
- 16.Khulna.

All Munsif's Courts at the following places.

- 1.Barisal Sadar.
- 2.Perojpur.
- 3.Bhola.
- 4.Patuakhali.
- 5.Chittagong Sadar.
- 6.Satkania.
- 7.Patiya.
- 8.North Roazan.
- 9.South Roazan.
- 10.Fatikchari.
- 11.Cox's Bazar.
- 12.Dacca Sadar.
- 13.Narayanganj.
- 14.Munshiganj.
- 15.Manikganj.
- 16.Faridpur Sadar.
- 17.Coalonda.
- 18.Bhanga.
- 19.Gopalganj.
- 20.Madaripur.
- 21.Chikandi.
- 22.Jessore Sadar.
- 23.Narail.
- 24.Magura.
- 25.Jhenidah.
- 26.Pabha Sadar.

27. Serajganj.
28. Kushtia.
29. Choudanga.
30. Dinajpur Sadar.
31. Thakurgaon.
32. Rachagarh.
33. Bogra.
34. Mymensingh Sadar.
35. Netrokona.
36. Iswarganj.
37. Kishoreganj.
38. Sherpur.
39. Tangail.
40. Jamalpur.
41. Bajitpur.
42. Durgapur.
43. Noakhali Sadar.
44. Feni.
45. Lakshmipur.
46. Hativa.
47. Sandw in.
48. Rajshahi Sadar.
49. Na tore.
50. Noagaon.
51. Nawabganj.
52. Rangpur Sadar.
53. Kurigram.
54. Nilphamari.
55. Gaibandha.,
56. Sylnet Sadar.
57. Habihgan
58. Maulvi Bazar.
59. Sunamganj.
60. Comila Sadar,
61. Brahman Barial.
62. Chandpur.
63. Nabinagar.
64. Khulna Sadar.
65. Ragerhat.
66. Satkhira.

III. PROVINCE OF PUNJAB (P).

Name of Court	Judges to whom a Commission or a Letter of Request can be issued
1. District Court, Lahore Sheikhupura.	1. District Judge, Lahore
7.2. District Court, Sialkot.	2. District Judge, Sialkot.
8.3. District Court, Gujranwala and Gujrat.	3. District Judge, Gujranwala.
4. District Court, Shahpur.	4. District Judge, Shahpur at Sargodha.
5. District Court, Jehlum.	5. District Judge, Jehlum.
6. District Court, Rawalpindi.	6. District Judge, Rawalpindi.
7. District Court, Attock.	7. District Judge, Attock.
8. District Court, Mainwali.	8. District Judge, Mianwali.
9. District Court, Montgomery.	9. District Judge, Montgomery.
10. District Court, Lyallpur, Jhang.	10. District Judge, Lyallpur.
11. District Court, Multan, Muzaffargarh.	11. District Judge, Multan.
12. District Court, Dera Ghazi Khan	12. District Judge, Dera Ghazi Khan.

IV. NORTH

Courts	Officer to whom Commission and Letters of Request may be addressed
1. Judicial Commissioner's Court, N. W. F. P. Peshawar.	1. Registrar, Judicial Commissioner's Court, N. W. F. P. Peshawar.
1.2. District Court, Peshawar.	2.2. District Judge, Peshawar.
3.3. District Court, Hazara (Abbottabad).	4. District Judge, Hazara (Abbottabad).
5.4. District Court, Dera Ismail Khan.	6. District Judge, Dera Ismail Khan.

WEST FRONTIER PROVINCE

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V. KHAIRPUR STATE AND BALUCHISTAN STATE UNION

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| 1. Khairpur State. | 1. The Court of the District Judge, Khairpur. |
| 2. Baluchistan State Union. | 2. (i) Wazir-i-Azam, Baluchistan States Union, |
| (ii)The Court of Revenue Commissioner, Baluchistan States Union, | |
| (iii)The Court of Deputy Commissioner, Kalkat District. | |
| (iv)The Court of Deputy Commissioner, MeIran District, Turbat. | |
| (v)The Court of Deputy Commissioner, Lasbela, District Karachi, and | |
| (vi)The Court of Deputy Commissioner, Kharan. | |

V1.-FRONTIER REGIONS AND STATES

I. *Mohamand Agency*.-

- (i) The Court of the Political Agent, Mohamand.

II. *Malakand Agency*.-

- (i)The Court of Political Agent, Dir, Swat and Chitra, Malakand.

- (ii)The Court of the Additional Political Agent, Chitra.

- (iii)The Court of the Assistant Political Officer, Malakand Agency, Chakdara.

III. *Khyber Agency*.—

- (i)The Court of the Political Agent, Khyber.

- (ii)The Court of the Assistant Political Officer, Khyber.

IV. *Kurram Agency*.-

- (i)The Court of the Political Agent, Kurram.

- (ii)The Court of the Assistant Political Officer, Kurram.

V. North Waziristan Agency.—

- (i) The Court of the Political Agent, North Waziristan.
- (ii) The Court of the Assistant Political Agent, North Waziristan.
- (iii) The Court of the Assistant Political Officer, North Waziristan.

VI. South Waziristan Agency.—

- (i) The Court of Political Agent, South Waziristan.
- (ii) The Court of the Assistant Political Officer, South Waziristan.

VII. BAHAWALPUR STATE

- (1) High Court of Judicature at Baghdadul Jadid.
- (2) District and Sessions Judges of Rahimyar Khan and Bahawalpur.

2. Letters of Request issued by Civil courts in India for the examination of witnesses, residing in Pakistan are often returned by the Government of Pakistan for the rectification of some defect or other in their preparation. The return of the documents for that purpose or for the issue of fresh documents instead naturally results in unnecessary delay, apart from causing avoidable work all round. The courts in India issuing the Letters of Request should, therefore, take all necessary care for the correct preparation of these processes intended for execution in Pakistan. Before transmitting these documents to the High Court, the District Judges should see that the following requirements are satisfied by the documents:--

- (i) Letters of Request should be issued under Rule 5 of Order XXVI in the First Schedule to the Code of Civil Procedure, 1908. Commissions should be issued under rule 4 of the said order.
- (ii) The letter of Request should be drawn up in accordance with form No. 8, Appendix H in the First Schedule to the Code of Civil Procedure 1908. The writ of Commission should be drawn up in accordance with form No. 7 in the said Appendix. RR. 5, 11. Ch. 10. F.
- (iii) The date for the return of the Letter of Request, if at all specified should be sufficiently long. Preferably, no such date should be

specified in order to avoid the need for extension of the date by the issuing Court from time to time.

- (iv) The separate Letters of Request or Writs of Commission for examination of witnesses should be drawn up when witnesses reside in different districts.
 - (v) The Letter of Request or the Writ of Commission should be in the name of the Court issuing it and the title of the suit in which it is issued.
 - (vi) The full and correct addresses of the witnesses should be given in the Letter of Request or the Writ of Commission.
 - (vii) The Letter of Request, interrogatories Cross-interrogatories and other accompanying documents should be drawn up in duplicate and signed and sealed by the Presiding Officer of the Court.
 - (viii) All the documents and enclosures should be signed and sealed by the Presiding Officer of the Court.
 - (ix) The interrogatories and cross-interrogatories should also be signed by the parties and their counsel.
 - (x) Letters of Request and other accompanying documents should be sewn together in a parchment paper-cover down the left hand side the ends of the silk, tape or thread with which they are sewn being brought out to the front cover and the ends appropriately sealed.
3. An initial deposit of Rs. 200 may be considered sufficient in ordinary cases and should be sent along with the Commission or Letter of Request by a Bank draft as directed in Rule 19, Ch. 10-F.
4. Diplomatic channels laid down in Rule 20, Ch. 10 F. should be strictly followed.

Canada

It should be remembered that in Canada or other countries where there is federation, the Supreme Court of the federation does not execute letters of Request. Such Letters should be addressed to the President and Judges of the, Supreme Court of the Province in which the

person who is to be examined resides. The parties should be asked to deposit a sum of Rs. 750 as the approximate cost of execution of such commissions or Letters of Request, subject to adjustment later on. Rules 19 and 20 of Ch. 10-F govern the transmission of such documents and fees.

Aden

Aden is now a foreign country. The language of Aden Courts is English. A commission fee of Rs. 60 may be considered sufficient in ordinary cases.

British East Africa

A British possession would now be a foreign country and the diplomatic channels laid down in Rule 20, Ch. 10-F. should be followed.

Japan

Reciprocal arrangements have been made between India and Japan for the execution of letters of request as well as for the service of legal processes. These documents should be forwarded through the High Court and the State Government to the Government of India who will forward them to the proper authority. So far as letters of request are concerned, adequate sums not less than Rs. 200 for the expenses must be recovered from the parties and sent by bank draft (as laid down in Rule 19, Ch. 10-F) along with the covering letter which should state the amount sent. A translation of all documents in Japanese should be sent with the papers. The documents should be drawn up separately for each of the Japanese Courts in whose jurisdiction witness resides and detailed particulars as to name, nationality and residence of witnesses should be given.

Note.—Attention is invited to the instructions contained in letter No. D-7921-CJK 49 dated the 21st December, 1949, from the Government of India, Ministry of External Affairs, which has been endorsed to all District and Sessions Judges in the Punjab and Delhi with High Court endorsement No. 897-Genl/XIX-F. 10, dated the 4th February, 1950. In view of the instruction contained in that letter, an official of the Indian Liaison Mission with Consular Powers is deputed to administer oaths to and obtain evidence from Japanese witnesses, in legal matters utilizing, if necessary, the services of a Translator Interpreter in an appropriate answer. It is essential to furnish the mission with (i) a detailed history of the whole case, and how each one of the witnesses cited would be concerned with the case, etc. (ii) copies of the relevant documentary evidence pertaining to the case, (iii) detailed instructions as to the points in respect of which evidence should be obtained and recorded, what specific questions should be put to the witnesses, what should be the exact nature of the cross-examination and re-examination required, etc. If possible drafts of all the points to be covered and the questions to be asked should be supplied.

Thailand

- (1) Two methods are recognized :- (i) Letter of Request should be addressed to the High Court of the Justice, Bangkok (or other Court having jurisdiction), for the formal taking of evidence on commission. They have to be sent through the medium of His Majesty's Legation of Consulate-General and the Thai Foreign Office and other methods are recorded as irregular. (ii) It is optional with the British Consular Officer in Thailand to accept Letters of Request and to execute commissions by informal hearing of evidence at His Majesty's Consulate-General. The consent of the British Consular Officer (to undertaking this duty) may be presumed.
- (2) When, therefore, it is desired to issue a Letter of Request for the examination of a witness in Thailand, it would be desirable to issue, in addition to a Letter of Request addressed to the Thai Court, an alternative letter addressed to His Britannic Majesty's Consul-General at Bangkok requesting him or such other British Consular Officer as may be appointed by him to summon the said witness and so on as in form No. 7 of Appendix H, of the Code of Civil Procedure, with the omission of the expression "Process to compel the attendance of the witness will be issued by any Court having jurisdiction on your application." The Consul-General would then decide whether to move the Thai Courts to execute the Letter of Request or to arrange himself for the execution of the alternative letter. Prompt return of the testimony might be secured by adopting the second method. This is specially recommended when it is desirable to take the evidence in English and the witnesses are all British subjects and can be called to make their depositions at His Majesty's Consulate-General without the necessity of issuing subpoenas. A commission fee of Rs. 200 should in ordinary cases be remitted by a bank draft as laid down in Rule 19, Ch. 10-F. Both the Letter of Request addressed to the High Court of Judicature, Bangkok, and the alternative Letter of Request should be forwarded through the High Court and the State Government to the Government of India who will forward them to His Majesty's Consul-General at Bangkok.
- (3) The first method is, however, essential when for special reasons the record of a formally constituted Court is desired, or when the issue of summons to, or service of documents on, persons who are not British subjects is involved, as such summonses and documents can

legally by served only through the medium of the Thai Courts. It should be borne in mind that the Court language being Thai, in ordinary circumstances the courts these only receive requests in the Thai language. It is, therefore, advisable that the letter and interrogatories should be accompanied by a translation in Thai although at present there are English Advisers in some of the Thai Courts.

(4)The documents should be drawn up in a proper form, and if not typewritten, should be written in ink. They should be written in English and should be easily legible. Full translations in English should accompany all vernacular documents forming enclosures.

(5)In conformity with the requirements of the Thai Ministry of Justice relative to the Service in Thailand of writs of summonses issued by foreign courts what is required is not the original writ or copy thereof, but a notice or certificate that the writ has been issued,

Netherland East Indies

Full translations in English should accompany all vernacular documents. The documents should be sent through the High Court and the State Government to the Government of India who will forward them to the proper authority. The State Governments except those of Bombay and Bengal have authorised the Consul-General at Batavia to incur the expenses of having the desposition in Dutch translated into English before their transmission to India in the case of the Letters of Request issued by Courts in their respective jurisdiction and executed by courts in the Netherlands East Indies, and to recover the cost from those State Governments. As regards Letters of Request emanating from courts in Bombay unless a specific request is made no English translation is made of such depositions. No translation is made in the case of Letters of Request issued by a court subordinate to the High Court at Calcutta.

Iran

Documents intended for execution in Persia (Iran), should be addressed to the Imperial Iranian Ministry of Justice and forwarded through the High Court and the State Government to the Government of India along with the necessary list of interrogatories for transmission to His Majesty's Minister, Teheran. They should be accompanied by translations into Persian of the Letters of Request or

interrogatories or by translation fees according to the scale specified below :--

Fee 104. For making or verifying a translation of a document for every 100 words or fraction thereof exclusive of fees for certificate (*see* No. 149) annas 7/6 *plus* 25 per centannas 9/6.

Fee 49.—For granting any certificate not otherwise provided for, if not exceeding 100 words, exclusive of fee for drawing (No. 99) annas 10 *plus* 25 per cent=annas 12/6/-.

These fees will be transmitted to the British Legation, Teheran, where the necessary translation will have to be made before they are forwarded to the Iranian Government. The last known address of the person concerned should be clearly indicated in English,

Nepal

Processes for service on persons in Nepal should be sent by the Indian Courts direct to the Nepalese Courts specified in the Schedule annexed to the Home Department Notification No. F-576/24 in judicial, dated the 15th August, 1925.

United States of America

Evidence is only to be obtained by means of commissions addressed in each case to the appropriate British Consular Officer, They are to be addressed to His Majesty's Consul General at New York so far as his Consular district consisting of the States of New York, Connecticut, and the Northern half of New Jersey is concerned. As regards witnesses residing elsewhere in the United States of America, if the court issuing the Commission is unable to ascertain which Consular Officer has jurisdiction in the State where the witness resides the Commission should be addressed to the British Consular Officers for the State concerned. A list of these officers is annexed. In such cases the Government of India are required to forward the Commission to the British Consul-General at New York, requesting him to transmit it to the Consular Officer having jurisdiction. If in any case it is desired to take the evidence of witnesses who reside both within and outside the particular Consular

district, the Commission should be made out substantially in the following terms:

"To His Majesty's Consul (or Consul-General) at..... or his Deputy with power to appoint any other person or persons whom he may deem fit to take the evidence on interrogatories which accompany this commission and *viva voce* of such witness to be examined at..... and/or at....."

For this service the British Consular Officers maintain a scale of fees. A bank draft for Rs. 700 should accompany the papers, as an approximate cost for execution of commissions, subject to adjustment later on (See Rule 19, Ch. 10-F.). Such Commissions should be forwarded through the High Court and the State Government to the government Nadia who will transmit them to the British Consular Officer concerned:

Federated Malaya States

A. With a view to eliminate needless work and avoidable delay the Government of India have decided that Letters of Request and Commissions and other judicial documents may be routed direct from a High Court in India to a High Court in Malaya and that diplomatic channels followed in the case of other Foreign countries should not be insisted upon.

B. A sum of Rs. 200 may be considered as an adequate deposit in ordinary case and should be remitted direct by bank draft drawn in favour of the executing court along with the other papers (Rule 19, Ch. 10-F).

C. The Commission should be written in the English language or, if not so written, should be accompanied by a translation in English.

Iraq

Indian Courts are free to send processes for service to the Iraqi Ministry of Justice direct. Such documents should be accompanied by an English translation. If, for any particular reason, which should be stated in each case--it is considered necessary to transmit the documents to the Iraqi authorities through His Majesty's Embassy at Baghdad, they should be sent through the State Government to the Government of India who will forward them under cover of a despatch to the Embassy.



*List of British Consular Officers in the United States of
America*

Residence			Rank
<i>United States-</i>			
Baltimore (Maryland)	..	..	Consul Vice-Consul
Norfold (Virginia)	..	..	Consul Vice-Consul
Boston (Massachusetts)	..	..	Consul-General Vice-Consul Pro-Consul
Chicago (Illionois)	..	..	Consul-General Vice-Consul
Detriot (Michigan)	..	..	Consul Vice-Consul Pro-Consul
Cincinnati (Ohio)	..	..	Vice-Consul
Cleveland (Ohio)	..	..	Do
Galveston (Texas)	..	..	Consul Vice-Consul
Dellas (Texas)	..	..	Do
Houston (Texas)	..	..	Do
Laredo (Texas)	..	..	Do
Honolulu (Hawaii)	..	..	Consul
Los Angeles (California)	Consul	}	Vice-Consul
	Vice Consul		
	Pro-Consul		
Douglas (Arisona)	..	..	Vice-Cousul
Manila (Philippine Islands)	..	..	Consul General Vice-Consul
Cebu	..	..	Vice-Consul
Davao	..	..	Vice-Consul
Iloilo	..	..	Do
Legaspi	..	..	Do
Zamboanga	..	..	Do
New Orleans (Louisiana)	..	..	Consul-General Vice-Consul

Jacksonville (Florida)	. .	Consul (P)
	. .	Pro-Consul
Miami (Florida)	. .	Vice-Consul
	. .	
New York (New York)	. .	Consul-General
	. .	Consul
		Vice-Consul
		Pro-Consul
Philadelphia (Pennsylvania)	. .	Consul-General
	. .	Vice-Consul
Pittsburgh (Pennsylvania)	. .	Consul
	. .	Vice-Consul
San Juan (Puerto Rico)	. .	Consul
	. .	Vice-Consul
Ponce	. .	Do
	. .	
St. Louis (Missouri)	. .	Consul
	. .	Vice-Consul
St. Thomas and Ste. Croix, Virgin Islands (West Indies)	. .	Consul
Fredericksted	. .	Vice-Consul
	. .	
San Francisco (California)	. .	Consul-General
	. .	Consul
		Vice-Consul
		Pro-Consul
Savannah (Georgia)	. .	Consul
	. .	
Atlanta	. .	Vice-Consul
	. .	
Seattle (Washington)	. .	Consul
	. .	Vice-Consul