

Code of Civil Procedure, 1908

Part X - Rules

The rules in the First Schedule shall have effect as if enacted in the body of this Code until annulled or altered in accordance with the provisions of this Part.

Section 122 - Power of certain High Courts to make rules

[1](#) [High Courts [2](#) [not being the Court of a Judicial Commissioner]] [3](#) [***] may, from time to time after previous publication, make rules regulating their own procedure and the procedure of the Civil Courts subjects to their superintendence, and may by such rules annual, alter or add to all or any of the rules in the First Schedule.

1. Substituted by the A.O. 1950, for "Courts which are High Courts for the purposes of the Government of India Act, 1935".
 2. Substituted by the Adaptation of Laws (No. 2) Order, 1956, "for Part A States and Part B States." Earlier the words "for Part A States and Part B States" were inserted by Act 2 of 1951, section 15 (w.e.f. 1-4-1951).
 3. The words "and the Chief Court of Lower Burma", rep by Act 11 of 1923, section 3 and Schedule II.
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Section 123 - Constitution of Rule Committees in certain States

(1) A Committee to be called the Rule Committee, shall be constituted at [1](#)[the town which is the usual place of sitting of each of the High Courts [2](#)[***] referred to in section 122].

(2) Each such Committee shall consist of the following persons, namely:-

(a) three Judges of the High Court established at the town at which such Committee is constituted, one of whom at least has served as a District Judge or [3](#)[***] a Divisional Judge for three years,

[4](#)[(b) two legal practitioners enrolled in that Court,]

[5](#)[(c) a Judge of a Civil Court subordinate to the High Court, [6](#)[***]

[5](#)[[7](#)[***]]

(3) The members of each such Committee shall be appointed by the [8](#)[High Court], which shall also nominate one of their member to be President:

[9](#)[***]

(4) Each member of any such Committee shall hold office for such period as may be prescribed by the [8](#)[High Court] in this behalf; and whenever any member retires, resigns, dies or ceases to reside in the State in which the Committee was constituted, or becomes incapable of acting as a member of the Committee, the said [8](#)[High Court] may appoint another person to be a member in his stead.

(5) There shall be a Secretary to each such Committee who shall be appointed by the [8](#)[High Court] and shall receive such remuneration as may be provided in this behalf [10](#)[by the State Government].

1. Substituted by Act 13 of 1916, section 2 and Schedule for "each of the towns of Calcutta, Madras, Bombay, Allahabad, Lahore and Rangoon".
2. The words "and of the Chief Court" omitted by Act 11 of 1923, section 3 and Schedule II. These words were again Inserted by Act 32 of 1925, and subsequently omitted by the A.O. 1948.
3. The brackets and words "(in Burma)" rep. by Act 11 of 1923, section 3 and Schedule II.
4. Substituted by Act 2 of 1951, section 16, for clauses (b) and (c).
5. Clause (d) and (e) re-lettered as clause (c) and (d) respectively by Act 2 of 1951, section 16 (w.e.f. 1-4-1961).
6. The word "and" omitted by Act 38 of 1978, section 3 and Schedule II (w.e.f. 26-11-1978).
7. Clause (d) omitted by Act 38 of 1978, section 3 and Schedule II (w.e.f. 26-11-1978).
8. Substituted by Act 104 of 1976, section 44(i), for "Chief Justice or Chief Judge" (w.e.f. 1-2-1977).
9. Proviso Omitted by Act 104 of 1976, section 44(ii), (w.e.f. 1-2-1977).
10. Substituted by the A.O. 1937, for "by the G.G. in C. or by the L.G., as the case may be".

Section 124 - Committee to report to High Court

Every Rule Committee shall make a report to the High Court established at the town at which it is constituted on any proposal to annual, alter or add to the rules in the First Schedule or to make new rules, and before making any rules under section 122 the High Court shall take such report into consideration.

Section 125 - Power of other High Courts to make rules

High Courts, other than the Courts specified in section 122 , may exercise the powers conferred by that section in such manner and subject to such conditions¹[as²[the State Government] may determine]:

Provided that any such High Court may, after previous publication, make a rule extending within the local limits of its jurisdiction any rules which have been made by any other High Court.

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1. Substituted by Act 38 of 1920, section 2 and Schedule 1, Pt. I, for "as the G.G. in C. may determine".
 2. Substituted by the A.O. 1937, for "in the case of the Court of the Judicial Commissioner of Coorg, the G.G. in C., and in other cases the L.G."
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Section 126 - Rules to be subject to approval

1126. Rules to be subject to approval

Rules made under the foregoing provisions shall be subject to the previous approval of the Government of the State in which the Court whose procedure the rules regulate is situate or, if that Court is not situate in any State, to the previous approval of 2[Central Government].]

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1. Substituted by the A.O. 1937, for section 126.
 2. Substituted by the A.O. 1950, for "Governor General".
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Section 127 - Publication of rules

Rules so made and 1[approved] shall be published in the 2[Official Gazette], and shall from the date of publication or from such other date as may be specified have the same force and effect, within the local limits of the jurisdiction of the High Court which made them, as if they had been contained in the First Schedule.

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1. Substituted by Act 24 of 1917, section 2 and Schedule 1, for "sanctioned".
 2. Substituted by the A.O. 1937, for "Gazette of India or in the local official Gazette, as the case may be". Strictly the substitution would read "Official Gazette or in the Official Gazette, as the case may be", but the latter words have been omitted as being redundant.
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Section 128 - Matters for which rules may provide

- (1) Such rules shall be not inconsistent with the provisions in the body of this Code, but, subject thereto, may provide for any matters relating to the procedure of Civil Courts.
- (2) In particular, and without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for all or any of the following matters, namely:
 - (a) the service of summons, notices and other processes by post or in any other manner either generally or in any specified areas, and the proof of such service;
 - (b) the maintenance and custody, while under attachment, of live-stock and other movable property, the fees payable for such maintenance and custody, the sale of such live-stock and property, and the proceeds of such sale;
 - (c) procedure in suits by way of counterclaim, and the valuation of such suits for the purposes of jurisdiction ;

- (d) procedure in garnishee and charging orders either in addition to, or in substitution for, the attachment and sale of debts;
- (e) procedure where the defendant claims to be entitled to contribution or indemnity over against any person whether a party to the suit or not;
- (f) summary procedure
- (i) in suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising
 - on a contract express or implied; or
 - on an enactment where the sum sought to be recovered is a fixed sum of money or in the nature of a debt other than a penalty; or
 - on a guarantee, where the claim against the principal is in respect of a debt or a liquidated demand only; or
 - on a trust; or
 - (ii) in suits for the recovery of immovable property, with or without a claim for rent or mesne profits, by a landlord against a tenant whose term has expired or has been duly determined by notice to quit, or has become liable to forfeiture for non-payment of rent, or against persons claiming under such tenant;
- (g) procedure by way of originating summons;
- (h) consolidation of suits, appeals and other proceedings;
- (i) delegation to any Registrar, Prothonotary or Master or other official of the Court of any judicial, quasi-judicial and non-judicial duties; and
- (j) all forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of Civil Courts.

Section 129 - Power of High Courts to make rules as to their original civil procedure

Notwithstanding anything in this Code, any High Court¹[not being the Court of a Judicial Commissioner] may make such rules not inconsistent with the Letters Patent²[or order]³[or other law] establishing it to regulate its own procedure in the exercise of its original civil jurisdiction as it shall think fit, and nothing herein contained shall affect the validity of any such rules in force at the commencement of this Code.

1. Substituted by the Adaptation of Laws (No. 2) Order, 1956, for "for a Part A State or a Part B State".

2. Inserted by the A.O. 1950.

3. Inserted by Act 2 of 1951, section 17 (w.e.f. 1-4-1951).

Section 130 - Power of other High Courts to make rules as to matters other than procedure

1 [130. Power of other High Courts to make rules as to matters other than procedure

A High Court ² [not being a High Court to which section 129 applies] may, with the previous approval of the State Government, make with respect to any matter other than procedure any rule

which a High Court [3](#) [for a [4](#) [***] State] might under [5](#) [Article 227 of the Constitution], make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of presidency-town.]

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1. Substituted by the A.O. 1937, for section 130.
 2. Substituted by the A.O. 1950, for "not constituted by His Majesty by Letters Patent".
 3. Substituted by the A.O. 1950, for "so constituted".
 4. The word and letter "Part A" omitted by the Adaptation of Laws (No. 2) Order, 1956.
 5. Substituted by the A.O. 1950, for "section 224 of the Government of India Act, 1935".

Section 131 - Publication of rules

Rules made in accordance with section 129 or section 130 shall be published in the [1](#)[Official Gazette] and shall from the date of publication or from such other date as may be specified have the force of law.

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1. Substituted by the A.O. 1937, for "Gazette of India or in the local official Gazette, as the case may be". Strictly the substitution would read "Official Gazette or in the Official Gazette, as the case may be." but the latter words have been omitted as being redundant.