

AMENDMENT TO CRIMINAL RULES OF PRACTICE AND
CIRCULAR ORDERS, 1958.

In the Criminal Rules of Practice & Circular orders 1958, in the chapter containing important circulars, after Section X, the following section shall be added, viz :-

SECTION XI – SERVICE OF SUMMONS ON MEMBERS OF
PARLIAMENT – PROCEDURE – INSTRUCTION.

In communicating a copy of the Government of India's letter No.12/4/66-P.IV, dated 28th July 1966, Ministry of Home Affairs together with copies of their letters dated 14th April 1953 and 30th September 1953, the attention of the Subordinate Courts is invited to the High Court circulars cited and they are directed to strictly adhere to the instructions laid down by the Government of India with regard to service of summons on Members of Parliament and Members of State Legislature both in respect of civil and criminal cases.

Any violation of the procedure will be viewed seriously.

COPY OF LETTER NO.12/4/66-P. IV. DATED 28TH JULY 1966 FROM
GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS, NEW
DELHI – 11, TO ALL STATE GOVERNMENT AND UNION
TERRITORIES.

I am directed to invite attention to this Ministry's circular No.35/2/57-P .iv, dated the 8th February 1958 on the subject mentioned above, and to say that despite clear and specific instructions issued in this Ministry's circulars No.56/53, Judicial dated 14th April 1953 and 30th September 1953, on the above subject, it has been brought to the notice of this Ministry that summons are still being received by the Lok Sabha Secretariat from the Courts for serving on the Members of Parliament, in disregard of the procedure outlined in this Ministry's circulars referred to above.

2. It is requested that the procedure for service of summons on Members of Parliament, as indicated in this Ministry's circular referred to above (Copies of circulars dated 14th April 1953 and 30th September 1953 are again enclosed for ready reference) may again be brought to the notice of all the authorities concerned for strict compliance.

COPY OF CIRCULAR NO.56/53. JUDICIAL DATED 14TH APRIL 1953
FROM GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS, NEW
DELHI -11, TO ALL STATE GOVERNMENTS AND Lt.
GOVERNORS/CHIEF COMMISSIONERS.

I am directed to say that instances have occurred where copies of the summons issued by Magistrates requiring the attendance of the Members of Parliament in courts in certain cases have been forwarded to the Speaker of the House of the People or the Chairman of the Council of States for effecting service on the Members concerned. Article 105 (3) of the Constitution provides the same privileges for Members of Parliament in India as are enjoyed by the Members of the British Parliament. One of the privileges is that no service of summons can be effected upon the Members when they are within the precincts of the Parliament. The Government of India do not consider it a desirable practice that courts should attempt to serve summons through the Presiding Officers or through the Parliament Secretariat. The appropriate procedure would be for the summons to be served direct on the Members concerned outside the precincts of the Parliament, i.e., at their residence or at some other place.

2. It may be pointed out that the same procedure should be followed for effecting service of summons upon Members of the State Legislatures who enjoy the same privilege under Article 194 (3) and Article 238 of the Constitution and section 19 (3) of the Government of Part C States Act, 1951.

3. It is requested that necessary instructions in the matter may be issued by the State Government to all Magistrates in the State explaining the proper procedure for effecting service of summons upon Members of the various Legislatures in the country.

COPY OF CIRCULAR No.56/53, JUDICIAL, DATED 30TH SEPTEMBER
1953, GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS, NEW
DELHI, TO THE CHIEF SECRETARIES TO THE GOVERNMENT OF ALL
PART A AND B STATES, AJMER/BHOPAL/COORG/DELHI/HIMACHAL
PRADESH/VINDHYA PRADESH/TRIPURA, TO THE CHIEF
COMMISSIONER OF BILASPUR/KUTCH/MANIPUR/ANDAMAN AND
NICOBAR ISLANDS.

I am directed to invite a reference to this Ministry's letter No.56/53, Judicial, dated the 14th April 1953 on the subject noted above, and to say that the procedure laid down therein applies *mutatis mutandis* to the service of

summons on Members of Parliament and State Legislatures in civil cases also. It is requested that necessary instructions in the matter may be issued.

[Delete the instruction relating to service of summons on Members of parliament contained at page 421 of the criminal Rules of practice and circular orders, 1958.]

(P.Dis.493/66.)