

CHAPTER XL - OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES

503. When attendance of witness may be dispensed with. (1) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code it appears to a District Magistrate, a Court of Sessions or the

High Court that the examination of a witness is necessary for the ends of justice and the attendance of such

a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

[(2) * * * * *]

[(2-A) When the witness resides in an area in or in relation to which the President has Extra-Provincial jurisdiction within the meaning of the Extra-Provincial Jurisdiction Order, 1949, (G.G.O. No. 5 of 1949)

the commission may be issued to such Court or Officer, in the area as may be recognized by the President,

by notification in the official Gazette as a Court or officer to which or to whom commission may be issued

under this sub-section and within the local limits of whose jurisdiction the witness resides.]

(2-B) When the witness resides in the United Kingdom or any other country of the Commonwealth [...], or

in the Union of Burma, or any other country in which reciprocal arrangement in this behalf exists, the commission may be issued to such Court or Judge having authority in this behalf in that country as may be

specified by the Central Government by notification in the Official Gazette.

(3) The Magistrate or officer to whom the commission is issued, [x x x] shall proceed to the place where the witness is or shall summon the witness before him, and take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of [...] cases under this Code.

[(4) Where the commission is issued to an officer as is mentioned in sub-section (2A) he may in lieu of

proceeding in the manner provided In sub-section (3), delegate his powers and duties under the
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commission to any officer subordinate to him whose powers are not less than those of a Magistrate of
the

first class in Pakistan.]

504. [Commission in case of witness being within Presidency town.] Omitted by A.O., 1949, Schedule.

505. Parties may examine witnesses. (1) The parties to any proceeding under this Code in which a
commission is issued, may respectively forward any interrogatories in writing which the Magistrate or
Court directing the commission may think relevant to the issue and when the commission is directed to a
Magistrate or officer mentioned in section 503, such Magistrate or the Officer to whom the duty of
executing such commission has been delegated shall examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate or officer by pleader, or if not in custody, in
person,

and may examine, cross-examine and re-examine (as the case may be) the said witness.

506. Power of [...] Magistrate to apply for issue of commission. Whenever, in the course of an inquiry
or a trial or any other proceeding under this Code before any Magistrate other than a District Magistrate,
it

appears that a commission ought to be issued for the examination of a witness whose evidence is
necessary

for the ends of justice, and that the attendance of such witness cannot be procured without an amount
of

delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable,
[such

Magistrate if he is a judicial Magistrate, shall apply to the Sessions Judge and if he is an Executive

Magistrate] shall apply to the District Magistrate, stating the reasons for the application; [and the
Sessions

Judge or the District Magistrate as the case may be], may either issue a commission in the manner herein

before provided or reject the application.

507. Return of commission. (1) After any commission issued under section 503 or section 506 has been duly executed it shall be returned, together with the exposition of the witness examined thereunder, to the

Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all

reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in

the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Evidence Act, 1872 may also be received in evidence at any subsequent stage of the case before another Court.

508. Adjournment of inquiry or trial. In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

508-A. Application of this Chapter to commission issued in Burma. The provisions of sub-section (3) of section 503, and so much of sections 505 and 507 as relates to the execution of a commission and its return by the Magistrate or officer to whom the commission is directed shall apply in respect of commissions issued by any Court or Judge having authority in this behalf in the United Kingdom or in any other country of the Commonwealth or in the Union of Burma or any other country in which reciprocal

arrangement in this behalf exists under the law in force in that country relating to commissions for the examination of witnesses as they apply commissions issued under section 503 or section 506.