

REGISTRAR'S CIRCULAR NO. 8 of 1956.

EXHIBITS & EXHIBIT BOOKS - ORDERS FOR FORFEITURE & DESTRUCTION.

Certain recent occurrences have made it necessary to give directions about the keeping of Exhibit Books and safe custody and disposal of exhibits. It is also desired to lay down a procedure satisfactory to the Audit Department, and as simple and practical as possible.

2. Attention is drawn to this Office Circular Letter No. (2) in RSC. 93/54 of 19th May 1954, circulated to all Courts, which gave general instructions with a view to ensuring that, at any particular time, the responsibility for the safe custody of any Exhibit rests in a particular officer. **THIS IS VERY IMPORTANT.** It should be read with the directions given in this Circular.

3. EXHIBIT BOOKS.

- (1) Every Court, (High Court, Sessions Court and Magistrate's Court) must keep an Exhibit Book. Where there are more than one Court of a particular category sitting in the same building, a separate book must be kept for each Court. It can be used for both Civil and Criminal cases and must be kept by the Court Clerk (or Clerks) concerned.
- (2) It is not intended to have a special form of book printed. Any note book of sufficient size is suitable. Obsolete registers, Charge Books, etc., can be used by altering the column headings. There must be columns for (i) Case No., (ii) Date when Exhibit passes into the custody of the Court, (iii) Nature of Exhibit, and (iv) a wide space for record of movement, disposal, and details of forfeiture and destruction as mentioned below. The procedure as to keeping the book must necessarily differ to some extent in High Courts and in Subordinate Courts as hereinafter appears.
- (3) In Subordinate Courts, exhibits almost invariably first come to the custody of the Court at the hearing. If they are tendered in evidence and thus marked as Exhibits, they should then immediately be entered in the book, the numbers being entered in the "Nature of Exhibit" column. If they are merely produced, but not put in evidence, as happens frequently in criminal cases, where there is a plea of guilty, they should be entered in the book, with full details, if they remain in the custody of the Court after the case, or if the Court makes any Order for disposal, forfeiture or destruction. If they are immediately returned to the party producing them, without any such Order, they need not be entered.
- (4) Responsibility for the safe custody of exhibits so accepted by the Court remains with the Court Clerk concerned until he divests himself thereof by handing them over to some other officer or person and obtains a receipt for them. This may occur temporarily, when they are handed over to another officer for temporary safe custody, etc., or permanently when they are finally disposed of.
- (5) In High Courts, exhibits come to the Courts custody in two ways. Sometimes they ~~they~~ are not received until tendered in evidence at the hearing, and in such cases, they must be dealt with by the Court Clerk as in Subordinate Courts. The same responsibility then falls on him. But exhibits also come to High Courts from Lower Courts along with depositions or records

of Appeal. When so received, a copy of the accompanying list must be receipted by the Registrar (or in his absence, the Chief Clerk) and another copy of this list must be kept by the Chief Clerk and further movements of the Exhibits must be recorded thereon. Please see para 7 of the Instructions enclosed with No.(2) in RSC. 93/54 on this, to which is now added:-

- (i) Lower Courts should always enclose such Lists when sending to the High Court whether by post or otherwise, and should send them in duplicate.
  - (ii) One copy must be returned receipted. The other will remain with the Chief Clerk in the High Court, who should keep a file of such Lists. If received by post, the receipt and disposal of these Lists and the Exhibits of value thereon should be recorded in the Mail Register. (F.G.O. 64 as amplified by Try.Cir.3833/50 Pt.1/2).
  - (iii) The Chief Clerk shall be responsible for the Exhibits on the List until they are handed to the Court Clerk for production in Court. When handed back to him by the Court Clerk, they remain his responsibility until returned to the Lower Court.
  - (iv) Change of custody must always be evidenced by receipt, which can be endorsed on the List.
- (6) When a Court Clerk receives exhibits from a Lower Court in this way, he should not enter them in the Exhibit Book unless and until they are put in evidence and marked as Exhibits or unless the Court makes an Order for disposal, forfeiture or destruction.

#### 4. Safe Custody of Exhibits.

All Exhibits are important, but those of value, and of certain special classes are particularly important, and require special care and treatment. These should be described in full detail in Exhibit Books and Lists:-

- (a) Money Exhibits should be described exactly in Exhibit Books and Lists, the denomination of coins and the value and number of notes being recorded.. They should be kept in sealed envelopes, but these must be opened and contents checked when passed to another officer. Money Exhibits must never be treated as money and put on deposit unless or until an Order for forfeiture is made.
- (b) Chandu. This is always a difficult thing to deal with, and requires supervision by a responsible officer. Small amounts should be put into sealed envelopes, and these must be opened for checking when handed from the custody of one officer to another, but this should be done in the presence of a Senior Officer. Arrangements should be made for large amounts to be kept in a place of security, and as soon as possible they should be returned to Police or Customs.
- (c) Jewellery. Whilst in the custody of the Court, this must be kept in a safe. If no safe is available, the Police, Treasury; or District Officer must be asked to assist. Detailed receipts must always be asked for and given when this type of Exhibit passes from hand to hand, and its description in the Exhibit Book or Lists should be as full as possible to avoid allegations of substitution.
- (d) Lottery Tickets. These are sometimes potentially very valuable. Presidents and Magistrates must enter the numbers thereof on the Charge Sheet to avoid substitution.

- (e) It is particularly essential that the provisions of (2) in RSC. 93/54, mentioned above, be carefully adhered to when dealing with Exhibits of intrinsic value, to ensure that responsibility rests on a particular officer.
- (f) All responsible officers, i.e., Presidents, Magistrates, Assistant Registrars, Registrars of Sessions Courts and Chief Clerks should take special steps to see to the safe custody of all these types of exhibits.

5. Orders for Forfeiture and Destruction.

- (1) F.M.S. G.O. 179A prescribes a form for a Forfeiture Book, and this is probably kept by many Courts. It will be more convenient if this is combined with the Exhibit Book, and this should be done in future by all Courts. This will be quite in order, so long as the Instructions hereby given are accurately followed. In the 'wide space' mentioned in para 3 (2) above, there must be recorded:-
  - (i) Date of Order of Forfeiture.
  - (ii) Initials of President or Magistrate making the Order, or in the High Court, the Assistant Registrar.
  - (iii) Date of Sale & Receipt No. if the Court orders sale or,
  - (iv) Department to whom the article is handed and receipt of the accepting officer. He must be a responsible officer.
- (2) When destruction is ordered, a certificate of destruction must be given by the Officer who supervises the destroying. This must be a responsible officer. The Certificate can either be endorsed in the Exhibit Book or kept on a separate file and cross-referenced to and in the Exhibit Book.
- (3) Presidents and Magistrates ordering destruction of obscene pictures or publications should themselves see to their destruction.
- (4) Some articles can effectively be destroyed quite easily by breaking or tearing. Others have to be burned to destroy them effectively, e.g., chandu or large books. It is suggested that this can best be done in a furnace such as in a power station or industrial plant.

6. General.

- (1) It is again emphasized that the care of Exhibits is a matter of considerable importance. Loss thereof owing to negligence and omission to carry out instructions may involve officers concerned in being held liable therefor.
- (2) Exhibit Books and Certificates of Destruction should be made available to Audit Officers when called for.
- (3) All Presidents, Magistrates, Assistant Registrars, Registrars of Sessions Courts and Chief Clerks should ensure that the provisions of this Circular and of RSC.93/54 (2) of 19.5.54 are duly carried out.

(D.H. SHACKLES)  
REGISTRAR.

The Federal Registry,  
Supreme Court, F. of M.,  
Kuala Lumpur, 11th June, 1956.

RSC.39/54/26 & RSC.93/54/6.