

1969/5



**THE WITNESSES AND INTERPRETERS FEES REGULATIONS
1969**

ARTHUR PORRITT, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 21st day of January 1969

Present:

THE RIGHT HON. J. R. MARSHALL, PRESIDING IN COUNCIL

PURSUANT to the Summary Proceedings Act 1957, and to the Public Revenues Act 1953 (so far as these regulations relate to witnesses and interpreters paid by the Crown under regulation 4 hereof), His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Witnesses and Interpreters Fees Regulations 1969.

(2) These regulations shall come into force on the 1st day of February 1969.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Court”, where the fees, allowances, and expenses of a witness or interpreter are fixed by the Registrar, includes the Registrar:

“Courthouse” includes any place where the attendance of a witness or interpreter is required for the purpose of any judicial proceedings:

“Paying officer” means the Registrar of the Supreme Court in respect of witnesses or interpreters paid by him, and in any other case means the officer who authorises payment.

3. Application of regulations—These regulations shall apply to witnesses and interpreters—

- (a) In any proceedings in a Magistrate’s Court in its criminal jurisdiction; or
- (b) Paid by the Crown pursuant to regulation 4 hereof; or
- (c) In any proceedings under any enactment by or under which these regulations are applied.

4. Fees, allowances, and expenses payable by the Crown—(1) Fees, allowances, and expenses may be paid to witnesses and interpreters for the Crown in any judicial proceedings, whether civil or criminal, in accordance with the scales prescribed by these regulations.

(2) Any witness or interpreter for the prosecution at the trial of a criminal case in the Supreme Court, when the trial is conducted by or on behalf of a private prosecutor, may, if so allowed by the Court, be paid fees, allowances, and expenses in accordance with the scales prescribed by these regulations, except where notice has been given on behalf of the Crown to the private prosecutor that the prosecution is not to be conducted by the Crown Solicitor.

(3) The Secretary for Justice, or, as the case may require, the Commissioner of Police, may authorise the amounts payable under this regulation to be increased in any case where he considers that by reason of exceptional circumstances it is desirable to do so.

5. Fees, allowances, and expenses payable to witnesses—The fees, allowances, and travelling expenses payable to any witness shall be in accordance with the appropriate scales specified in the Schedule hereto.

6. Fees, allowances, and expenses payable to interpreters—The fees, allowances, and travelling expenses payable to any interpreter shall be in accordance with the appropriate scales specified in the Schedule hereto.

7. Witnesses under the age of 16 years—Where it is necessary for a witness under the age of 16 years to be accompanied by a parent or guardian, or for a witness, by reason of illness or infirmity, to be accompanied by an attendant, the parent, guardian, or attendant may be paid the fees, allowances, and expenses prescribed by these regulations as if he were himself a witness.

8. Power of Court to disallow or increase amounts—(1) The amounts payable to any person under these regulations shall be subject to such directions as the Court may think fit as to the disallowance of the whole or any part thereof.

(2) Where the amounts payable under these regulations are fixed by the Court, the Court may authorise those amounts to be increased in any case where it considers that by reason of exceptional circumstances it is desirable to do so.

9. Revocations—The Witnesses and Interpreters Fees Regulations 1959* and the Witnesses and Interpreters Fees Regulations 1959, Amendment No. 1†, are hereby revoked.

*S.R. 1959/108

†S.R. 1965/22

SCHEDULE

Regs. 5, 6

SCALE OF PAYMENTS TO WITNESSES AND INTERPRETERS

A. Fees

1. (1) To an interpreter, or to a witness attending to give evidence strictly as an expert,—

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| | \$ |
| (a) For every day when required to be absent from his usual place of residence or business for a period not exceeding 3 hours | 5.75 |
| <p>Provided that the fee prescribed by paragraph (b) of this clause may be allowed in any case where the Court or paying officer is satisfied that the witness or interpreter, because of his attendance at the Courthouse, will be absent from his work for a full day:</p> | |
| (b) For every day on which attendance is required for a period exceeding 3 hours | 11.50 |
| (c) In addition to such fees, there may be paid to an expert witness a qualifying fee for any analysis, preparation of maps, plans, or reports, or other work necessarily undertaken in preparation for giving evidence, being such sum as the Court or paying officer considers fair and reasonable, but not exceeding for every hour engaged | 5.00 |

(2) Notwithstanding the provisions of paragraphs (a) and (b) of subclause (1) of this clause, if the Court or paying officer is satisfied that the witness or interpreter will suffer a loss of earnings as a result of travelling between his usual place of residence or business and the Courthouse for the purpose of giving evidence, the Court or paying officer may allow the appropriate fee under those paragraphs as if that witness or interpreter was in attendance at the Courthouse during the time when he was so travelling.

2. (1) To any other witness, not being a school child or a child under school age,—

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|---|------|
| | \$ |
| (a) For every day when required to be absent from his usual place of residence or business for a period not exceeding 3 hours | 3.25 |
| <p>Provided that the fee prescribed by paragraph (b) of this clause may be allowed in any case where the Court or paying officer is satisfied that the witness, because of his attendance at the Courthouse, will be absent from his work for a full day:</p> | |
| (b) For every day on which attendance is required for a period exceeding 3 hours | 6.50 |

(2) Notwithstanding the provisions of subclause (1) of this clause, if the Court or paying officer is satisfied that the witness will suffer a loss of earnings as a result of travelling between his usual place of residence or business and the Courthouse for the purpose of giving evidence, the Court or paying officer may allow the appropriate fee under that subclause as if that witness was in attendance at the Courthouse during the time when he was so travelling.

3. For a written translation of any document into English from any other language or from English into any other language, the fee payable to the interpreter shall be such fee as the Court or paying officer thinks just and reasonable.

B. Allowances

4. To a witness or interpreter who is necessarily absent overnight from his usual place of residence—

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|--|------|
| | \$ |
| (a) Where the total period of absence does not exceed 24 hours | 6.00 |
| (b) Where the total period of absence exceeds 24 hours, for each 6 hours or part thereof | 1.50 |

Provided that where a fare paid for travelling includes the cost of a sleeping berth on a train or a ship, the period of absence for the purposes of this clause shall not include the time spent on the train or ship; but there may be paid 75c for each meal necessary during that time and not covered by the fare:

Provided also that where the Court or paying officer is satisfied that a witness or interpreter has been reasonably required to pay for accommodation at a rate higher than that specified in this paragraph, the amount paid may be the sum actually paid by the witness or interpreter, but not exceeding the amount payable under the foregoing provisions of this paragraph plus one-third thereof.

5. Where a witness or interpreter is not necessarily absent overnight, the following meal allowances may be paid:

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|---|------|
| | \$ |
| (a) To a witness who is not entitled to the fees prescribed by clause 1 or clause 2 hereof: | |
| For every day when he is able to return to his usual place of residence before 7 p.m. | 0.75 |
| For every day when he is not able to return to his usual place of residence before 7 p.m. | 1.50 |
| (b) To a witness or an interpreter who is entitled to the fees prescribed by clause 1 or clause 2 hereof, for every day when he is not able to return to his usual place of residence before 7 p.m. | 0.75 |

C. Travelling Expenses

6. Travelling expenses shall be allowed as follows:

- (a) The cost of travelling by such mode and class of public transport as the Court or paying officer considers reasonable having regard to the distance travelled, the age and health of the witness or interpreter, and any other relevant circumstances.

Provided that air fares shall not be allowed unless the Court or paying officer is satisfied that any extra expense occasioned by the use of air transport is justified in all the circumstances:

- (b) Where no public conveyance is available, and the distance travelled exceeds 2 miles one way, mileage at the rate of 9½c a mile:

Provided that, in special circumstances, the Court or paying officer may allow the cost of travelling by taxi:

- (c) In any case where a public conveyance is available, mileage may be paid to a witness or interpreter using his own motor vehicle, or a vehicle hired for his personal use, if the total amount of fees, allowances, and expenses payable to that witness or interpreter and any other witnesses or interpreters travelling with him is not more than the total amount that would have been payable if he or they had travelled by public conveyance:
- (d) A medical practitioner using his own motor vehicle or a motor vehicle hired for his personal use, whether a public conveyance is available or not, may be paid mileage at the rate of 9½c a mile:

Provided that, unless in special circumstances the Court or paying officer approves otherwise, the amount of mileage payable to the medical practitioner shall not exceed \$12.

P. J. BROOKS,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are in substitution for the Witnesses and Interpreters Fees Regulations 1959. They prescribe new scales of fees, allowances, and travelling expenses for witnesses and interpreters in criminal cases in Magistrates' Courts, and for witnesses and interpreters for the Crown in any judicial proceedings. Under regulation 3 (c), these scales may also be applied to other proceedings by rules or regulations made under other enactments.

The scales of fees contain a new provision whereby travelling time may be counted as attendance at the Courthouse if the Court or paying officer is satisfied that the witness or interpreter will suffer a loss of earnings as a result of travelling to give evidence.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 23 January 1969.

These regulations are administered in the Department of Justice.