
STATUTORY INSTRUMENTS

2008 No. 1863

The Serious Crime Act 2007 (Appeals
under Section 24) Order 2008

PART 3

Costs of appeals in the Court of Appeal: England and Wales

CHAPTER 5

Costs of witnesses etc: procedure

Determination of rates or scales of allowances payable out of central funds

32. The Lord Chancellor shall, with the consent of the Treasury, determine the rates or scales of allowances payable out of central funds to witnesses or interpreters and a reference in this Chapter to the relevant amount means an amount calculated in accordance with the rates or scales so determined.

Witnesses other than professional or expert witnesses

33.—(1) A witness (other than a witness to whom article 34 or 35 applies) may be allowed—

- (a) a loss allowance not exceeding the relevant amount in respect of—
 - (i) any expenditure incurred (other than on travelling, lodging or subsistence) to which the witness would not otherwise be subject; or
 - (ii) any loss of earnings or of benefit under the enactments relating to National Insurance; and
- (b) a subsistence allowance not exceeding the relevant amount.

(2) Any other person who in the opinion of the Court of Appeal necessarily attends for the purpose of any proceedings otherwise than to give evidence may be allowed the same allowances under paragraph (1) as if that person attended as a witness other than a professional or expert witness.

(3) Paragraph (2) shall not apply to—

- (a) a member of a police force attending the Court of Appeal in the member's capacity as such;
- (b) a full-time officer of an institution to which the Prison Act 1952 applies attending the Court of Appeal in the officer's capacity as such; or
- (c) a prisoner in respect of any occasion on which the prisoner is conveyed to the Court of Appeal in custody.

Professional witnesses

34. A professional witness may be allowed a professional witness allowance not exceeding the relevant amount.

Expert witnesses and interpreters

35.—(1) The Court of Appeal may make an allowance in respect of an expert witness for attending to give expert evidence and for work in connection with its preparation of such an amount as it may consider reasonable having regard to the nature and difficulty of the case and the work necessarily involved.

(2) Paragraph (1) shall apply, with the necessary modifications, to an interpreter as it applies to an expert witness.

Night Allowances

36.—(1) A professional or expert witness who is necessarily absent from the witness's place of residence overnight may be allowed a night allowance not exceeding the relevant amount.

(2) An interpreter who receives an allowance under article 35 may be allowed the same night allowance as if the interpreter attended as a professional or expert witness.

Expenses of subject or party under section 24(2)

37. A person in whose favour an order is made under article 14 or 19 may be allowed the same subsistence allowance and travelling expenses as if that person attended as a witness other than a professional or expert witness.

Travelling expenses

38.—(1) Subject to paragraphs (2) and (3), a witness who travels to or from the Court of Appeal by public transport (including by air) may be allowed the fare actually paid.

(2) Unless the Court of Appeal otherwise directs, only the second class fare shall be allowed under paragraph (1) for travel by railway.

(3) A witness who travels to or from the Court of Appeal by air may be allowed the fare actually paid only if—

- (a) there was no reasonable alternative to travel by air and the class of fare paid was reasonable in all the circumstances; or
- (b) travel by air was more economical in the circumstances taking into account any savings of time resulting from the adoption of such mode of travel and its consequent effect in reducing the amount of allowances payable under the other provisions of this Chapter,

and, where the air fare is not allowed, there may be allowed such amount as the Court of Appeal considers reasonable.

(4) A witness who travels to or from the Court of Appeal by hired vehicle may be allowed—

- (a) the fare actually paid and any reasonable gratuity so paid in a case of urgency or where public transport is not reasonably available; or
- (b) in any other case, the amount of fare for travel by public transport,

(5) A witness who travels to or from the Court of Appeal by private vehicle may be allowed an appropriate private vehicle allowance not exceeding the relevant amount.

(6) Where—

- (a) a witness is in the opinion of the Court of Appeal suffering from a serious illness; or
- (b) heavy exhibits have to be taken to the Court of Appeal,

the Court of Appeal may allow reasonable additional sums in excess of those allowed under paragraphs (1) to (5).

(7) An interpreter who incurs travelling expenses in providing the Court of Appeal with a report otherwise than in writing may be allowed a travelling allowance not exceeding the relevant amount.