
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 1

Introduction

Interpretation and transitional provision

13.—(1) In this Part—

“appeal costs order” means an order under article 14;

“applicant” means—

- (a) in Chapter 3, the person in whose favour an appeal costs order has been made, and
- (b) in Chapter 5, the person who has applied for a third party costs order;

“costs judge” means a taxing master of the Senior Courts;

“expenses” include compensation to a witness for the witness’s trouble or loss of time and out of pocket expenses;

“interested party” means—

- (a) the person who is a party to the appeal benefiting from the wasted costs order or third party costs order; and
- (b) where that person was receiving services funded for that person by the Legal Services Commission, or an order for the payment of costs out of central funds was made in that person’s favour, shall include the authority responsible for determining costs payable in respect of those services or out of central funds as the case may be;

“legal or other representative” means a person who is exercising a right of audience, or a right to conduct litigation, on behalf of any person who is a party to an appeal;

“presiding judge” means the judge that presided at the hearing in respect of which the costs are payable under an appeal costs order;

“proceedings before the Court of Appeal” means any proceedings before the Court of Appeal including an application for leave to appeal and an appeal;

“professional witness” means a witness practising as a member of the legal or medical profession or as a dentist, veterinary surgeon or accountant who attends to give professional evidence as to matters of fact;

“relevant amount” has the meaning assigned to it by article 32;

“third party” means a person who is not a party to the proceedings before the Court of Appeal;

“third party costs order” means an order under article 18;

“wasted costs order” means an order under article 17; and

“witness” means any person properly attending to give evidence, whether or not the person gives evidence or is called at the instance of one of the persons who is a party to the appeal or of the Court of Appeal, but does not include—

- (c) a person attending as a witness to character only unless the Court of Appeal has certified that the interests of justice required the witness’s attendance;
- (d) a member of a police force attending the Court of Appeal in the member’s capacity as such;
- (e) a full-time officer of an institution to which the Prison Act 1952(1) applies attending the Court of Appeal in the officer’s capacity as such; or
- (f) a prisoner in respect of any occasion on which the prisoner is conveyed to the Court of Appeal in custody.

(2) For the purposes of article 14, the costs of the subject of a serious crime prevention order or any party under section 24(2) shall be taken to include the expense of compensating any witness for the expenses, trouble or loss of time properly incurred in or incidental to the witness’s attendance.

(3) Where any person who is a party to an appeal is in receipt of services funded for that person by the Legal Services Commission, then—

- (a) for the purposes of article 14, that person’s costs shall be taken not to include the cost of those services; and
- (b) for the purposes of articles 15 to 20, that person’s costs shall be taken to include the cost of those services.

(4) In the application of this Part before the commencement of section 59(1) of the Constitutional Reform Act 2005(2) (renaming of Supreme Courts of England and Wales), the reference to the Senior Courts is to be read as a reference to the Supreme Court.

CHAPTER 2

Orders as to costs

Award of costs in favour of subject or party under section 24(2)

14.—(1) Where the Court of Appeal—

- (a) allows an appeal by the person who is the subject of a serious crime prevention order;
- (b) dismisses an appeal by the relevant applicant authority;
- (c) hears an appeal by a party under section 24(2); or
- (d) determines an application for leave to appeal to the Supreme Court,

it may make an appeal costs order in favour of the person who is the subject of the serious crime prevention order.

(2) Where the Court of Appeal—

- (a) allows an appeal by a party under section 24(2);
- (b) dismisses an appeal by the relevant applicant authority;
- (c) hears an appeal by the person who is the subject of a serious crime prevention order; or
- (d) determines an application for leave to appeal to the Supreme Court,

(1) 1952 c. 52.

(2) 2005 c. 4.

it may make an appeal costs order in favour of a party under section 24(2).

(3) Subject to paragraphs (4) and (5), an order under this article shall be for the payment out of central funds, to the person in whose favour the order is made, of such amounts as the Court of Appeal considers reasonably sufficient to compensate that person for any expenses properly incurred by that person in the proceedings before the Court of Appeal.

(4) Where the Court of Appeal makes an order under this article but is of the opinion that there are circumstances which make it inappropriate that the person in whose favour the order is made should recover the full amount mentioned in paragraph (3) it shall—

- (a) assess what amount would, in its opinion, be just and reasonable; and
- (b) specify that amount in the order.

(5) Subject to paragraph (4), the amount to be paid out of central funds in pursuance of an order under this article shall—

- (a) be specified in the order, in any case where the Court of Appeal considers it appropriate for the amount to be specified and the person in whose favour the order is made agrees the amount; and
- (b) in any other case, be determined in accordance with Chapter 3 of this Part and article 37.

Award of costs against subject or party under section 24(2)

15.—(1) Where the Court of Appeal dismisses—

- (a) an appeal or an application for leave to appeal by the person who is the subject of a serious crime prevention order; or
- (b) an application by that person for leave to appeal to the Supreme Court under section 24(7) of the Act,

it may make such order as to costs to be paid by that person, to such person as may be named in the order (including the relevant applicant authority or a party under section 24(2)), as it considers just and reasonable.

(2) Where the Court of Appeal dismisses—

- (a) an appeal or an application for leave to appeal by a party under section 24(2); or
- (b) an application by that person for leave to appeal to the Supreme Court under section 24(7) of the Act,

it may make such order as to costs to be paid by that person, to such person as may be named in the order (including the relevant applicant authority or the person who is the subject of a serious crime prevention order), as it considers just and reasonable.

(3) The amount to be paid in pursuance of an order under this article shall be specified in the order.

Unnecessary or improper acts and omissions

16.—(1) Where at any time during any proceedings before the Court of Appeal, the Court of Appeal is satisfied that costs have been incurred in respect of those proceedings by any person who is a party to the appeal as a result of an unnecessary or improper act or omission by, or on behalf of, another person who is a party to the appeal, the Court of Appeal may order that all or part of the costs incurred by that person shall be paid by the other person.

(2) When making an order under paragraph (1) the Court of Appeal may take into account any other order as to costs which has been made in respect of the proceedings before the Court of Appeal and may take the order into account when making any other order as to costs in respect of those proceedings.

(3) The amount to be paid in pursuance of an order under this article shall be specified in the order.

(4) Before making an order under paragraph (1), the Court of Appeal shall allow any person who is a party to the appeal to make representations and may hear evidence.

Wasted costs order

17.—(1) If in any proceedings before the Court of Appeal, costs have been incurred by a person who is a party to the appeal—

- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative; or
- (b) which, in the light of any such act or omission occurring after they were incurred, the Court of Appeal considers it is unreasonable to expect that person to pay

the Court of Appeal may disallow, or (as the case may be) order the legal or other representative to pay, the whole of any wasted costs or such part of them as may be determined in accordance with this article.

(2) When making a wasted costs order, the Court of Appeal may take into account any other order as to costs which has been made in respect of the proceedings before the Court of Appeal and may take the wasted costs order into account when making any other order as to costs in respect of those proceedings.

(3) The amount to be paid or disallowed in pursuance of a wasted costs order shall be specified in the order.

(4) Before making a wasted costs order, the Court of Appeal shall allow the legal or other representative and any person who is a party to the appeal to make representations and may hear evidence.

(5) Where a wasted costs order has been made the Court of Appeal shall notify any interested party of the order and the amount disallowed or ordered to be paid.

(6) Where the person required to make a payment in respect of sums due under a wasted costs order fails to do so, the payment may be recovered summarily as a sum adjudged to be paid as a civil debt by order of a magistrates' court by the person benefiting from the order, save that where that person was in receipt of services funded for that person by the Legal Services Commission or an order for the payment of costs out of central funds was made in that person's favour, the power to recover shall be exercisable by the Lord Chancellor.

Third party costs order

18. If—

- (a) there has been serious misconduct (whether or not constituting a contempt of court) by a third party; and
- (b) the Court of Appeal considers it appropriate, having regard to that misconduct, to make a third party costs order against the third party

the Court of Appeal may order the third party to pay the whole of any costs incurred or wasted by any person who is a party to the appeal as a result of the misconduct or such part of them as may be determined in accordance with Chapter 4 of this Part.

Costs of attendance at any proceedings before the Court of Appeal

19.—(1) The Court of Appeal may order the payment out of central funds of such sums as appear to it to be reasonably sufficient to compensate a person who is a party to an appeal who is not in

custody and who appears before it on, or in connection with, any proceedings before the Court of Appeal.

(2) Article 37 will apply for the purpose of determining the amount of any subsistence allowance or travelling expenses ordered to be paid under this article.

Costs of witnesses etc.

20.—(1) Where, in any proceedings before the Court of Appeal—

- (a) a witness attends at the instance of any person who is a party to the appeal or the Court of Appeal; or
- (b) an interpreter is required because of the lack of English of any person who is a party to the appeal

the expenses properly incurred by that witness or interpreter shall be allowed out of central funds in accordance with Chapter 5 of this Part, unless the Court of Appeal directs that the expenses are not to be allowed out of central funds.

(2) Any entitlement to an allowance under this article shall be the same whether the witness or interpreter attends on the same day in one case or more than one case.

CHAPTER 3

Appeal costs orders: procedure

Person who is to determine costs

21.—(1) Costs under an appeal costs order shall be determined by the registrar in accordance with this Chapter.

(2) The registrar may appoint or authorise the appointment of determining officers to act on the registrar's behalf under this Chapter in accordance with directions given by the registrar or on the registrar's behalf.

Claims for costs

22.—(1) Subject to article 28, no claim for costs shall be entertained unless it is submitted within three months of the date on which the appeal costs order was made.

(2) Subject to paragraph (3), a claim for costs shall be submitted to the registrar, in such form and manner as the registrar may direct and shall be accompanied by receipts or other evidence of the applicant's payment of the costs claimed, and any receipts or other documents in support of any disbursements claimed.

(3) A claim shall—

- (a) summarise the items of work done by a solicitor;
- (b) state, where appropriate, the dates on which items of work were done, the time taken and the sums claimed; and
- (c) specify any disbursements claimed, including counsel's fees, the circumstances in which they were incurred and the amounts claimed in respect of them.

(4) Where there are any special circumstances which should be drawn to the attention of the registrar, the applicant shall specify them.

(5) The applicant shall supply such further particulars, information and documents as the registrar may require.

Determination of costs

23.—(1) The registrar shall consider the claim, any further particulars, information or documents submitted by the applicant under article 22 and shall allow such costs in respect of—

- (a) such work as appears to the registrar to have been actually and reasonably done; and
- (b) such disbursements as appear to the registrar to have been actually and reasonably incurred

as the registrar considers reasonably sufficient to compensate the applicant for any expenses properly incurred by the applicant in the proceedings before the Court of Appeal.

(2) In determining costs under paragraph (1) the registrar shall take into account all the relevant circumstances of the case including the nature, importance, complexity or difficulty of the work and the time involved.

(3) When determining costs for the purpose of this article, there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the registrar may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved against the applicant.

Payment of costs

24.—(1) When the registrar has determined the costs payable to an applicant in accordance with this Chapter, the registrar shall notify the applicant of the costs payable and authorise payment accordingly.

(2) Where the costs payable under paragraph (1) are varied as a result of a re-determination under article 25, an appeal to a costs judge under article 26, or an appeal to the High Court under article 27, then—

- (a) where the costs are increased, the registrar shall authorise payment of the increase;
- (b) where the costs are decreased, the applicant shall repay the amount of such decrease; and
- (c) where the payment of the costs of an appeal is ordered under article 26(14) or 27(8), the registrar shall authorise such payment to the applicant.

Re-determination of costs by the registrar

25.—(1) An applicant who is dissatisfied with the costs determined under this Chapter by the registrar may apply to the registrar to re-determine them.

(2) Subject to article 28, the application shall be made within 21 days of the receipt of notification of the costs payable under article 24(1), by giving notice in writing to the registrar specifying the items in respect of which the application is made and the grounds of objection and shall be made in such form and manner as the registrar may direct.

(3) The notice of application shall state whether the applicant wishes to appear or to be represented and, if the applicant so wishes, the registrar shall notify the applicant of the time of a hearing to hear the applicant or the applicant's representative.

(4) The notice of application shall be accompanied by any particulars, information and documents supplied under article 22 and the applicant shall supply such further particulars, information and documents as the registrar may require.

(5) The registrar shall re-determine the costs, whether by way of increase, decrease or at the level previously determined, in the light of the objections made by the applicant or on the applicant's behalf and shall notify the applicant of the decision.

(6) The applicant may request the registrar to give reasons in writing for the decision and, if so requested, the registrar shall comply with the request.

(7) Subject to article 28, any request under paragraph (6) shall be made within 21 days of receiving notification of the decision.

Appeals to a costs judge

26.—(1) Where the registrar has given the reasons for the decision on a re-determination under article 25, an applicant who is dissatisfied with that decision may appeal to a costs judge.

(2) Subject to article 28, an appeal shall be instituted within 21 days of the receipt of the registrar's reasons by giving notice in writing to the Senior Costs Judge specifying the items in respect of which the appeal is brought and the grounds of objection.

(3) The appellant shall send a copy of any notice given under paragraph (2) to the registrar.

(4) The notice of appeal shall be accompanied by—

- (a) a copy of the written notice given under article 25(2);
- (b) any particulars, information and documents supplied to the registrar under article 25; and
- (c) the registrar's reasons for the decision given under article 25(6).

(5) The notice of appeal shall state whether the appellant wishes to appear or to be represented or whether the appellant will accept a decision given in the absence of the appellant.

(6) The Senior Costs Judge may, and if so directed by the Lord Chancellor either generally or in a particular case shall, send to the Lord Chancellor a copy of the notice of appeal together with copies of such other documents as the Lord Chancellor may require.

(7) With a view to ensuring that the public interest is taken into account, the Lord Chancellor may arrange for written or oral representations to be made on behalf of the Lord Chancellor and, if the Lord Chancellor intends to do so, the Lord Chancellor shall inform the Senior Costs Judge and the appellant.

(8) Any written representations made on behalf of the Lord Chancellor under paragraph (7) shall be sent to the Senior Costs Judge and to the appellant and, in the case of oral representations, the Senior Costs Judge and the appellant shall be informed of the grounds on which such representations will be made.

(9) The appellant shall be permitted a reasonable opportunity to make representations in reply.

(10) The costs judge shall inform the appellant (or the appellant's representative) and the Lord Chancellor, where representations have been or are to be made on the Lord Chancellor's behalf, of the date of any hearing and, subject to the provisions of this article, may give directions as to the conduct of the appeal.

(11) The costs judge may consult the presiding judge, and the registrar or the determining officer who re-determined the costs on the registrar's behalf as the case may be, and may require the appellant to provide any further information which the costs judge requires for the purpose of the appeal and, unless the costs judge otherwise directs, no further evidence shall be received on the hearing of the appeal and no ground of objection shall be valid which was not raised on the re-determination under article 25.

(12) The costs judge shall have the same powers as the registrar under this Chapter and, in the exercise of such powers, may alter the re-determination of the registrar in respect of any sum allowed, whether by increase or decrease, as the costs judge thinks fit.

(13) The costs judge shall communicate the decision and the reasons for it in writing to the appellant, the Lord Chancellor, and the registrar or the determining officer who re-determined the costs on the registrar's behalf as the case may be.

(14) Save where the costs judge confirms or decreases the sums re-determined under article 25, the costs judge may allow the appellant a sum in respect of part or all of any reasonable costs

(including any fee payable in respect of an appeal) incurred by the appellant in connection with the appeal.

Appeals to the High Court

27.—(1) An applicant who is dissatisfied with the decision of a costs judge on an appeal under article 26 may apply to the costs judge to certify a point of principle of general importance.

(2) Subject to article 28, an application under paragraph (1) shall be made within 21 days of notification of a cost judge's decision under article 26(13).

(3) Where a costs judge certifies a point of principle of general importance, the applicant may appeal to the High Court against the decision of a costs judge on an appeal under article 26, and the Lord Chancellor shall be a respondent to the appeal.

(4) Subject to article 28, an appeal under paragraph (3) shall be instituted within 21 days of receiving a cost judge's certificate under paragraph (1).

(5) Where the Lord Chancellor is dissatisfied with the decision of a costs judge on an appeal under article 26 the Lord Chancellor may, if no appeal has been made by the applicant under paragraph (3), appeal to the High Court against that decision and the applicant shall be a respondent to the appeal.

(6) Subject to article 28, an appeal under paragraph (5) shall be instituted within 21 days of receiving notification of the cost judge's decision under article 26(13).

(7) An appeal under paragraph (3) or (5) shall be brought in the Queen's Bench Division, follow the procedure set out in Part 52 of the Civil Procedure Rules 1998(3), and shall be heard and determined by a single judge whose decision shall be final.

(8) The judge shall have the same powers as the registrar and a costs judge under this Chapter and may reverse, affirm or amend the decision appealed against or make such other order as the judge thinks fit.

Time limits

28.—(1) Subject to paragraph (2), the time limit within which there must be made or instituted—

- (a) a claim for costs by an applicant under article 22, an application for a re-determination under article 25, or a request for the registrar to give reasons for a decision on a re-determination under article 25;
- (b) an appeal to a costs judge under article 26 or an application for a certificate under article 27(1); or
- (c) an appeal to the High Court under article 27;

may, for good reason, be extended by the registrar, the Senior Costs Judge or the High Court, as the case may be.

(2) Where an applicant without good reason has failed (or, if an extension were not granted, would fail) to comply with a time limit, the registrar, the Senior Costs Judge or the High Court, as the case may be, may, in exceptional circumstances, extend the time limit and shall consider whether it is reasonable in the circumstances to reduce the costs; provided that the costs shall not be reduced unless the representative has been allowed a reasonable opportunity to show cause orally or in writing why the costs should not be reduced.

(3) An applicant may appeal to the Senior Costs Judge against a decision made under this article by a registrar and such an appeal shall be instituted within 21 days of the decision being given by giving notice in writing to the Senior Costs Judge specifying the grounds of appeal.

CHAPTER 4

Third party costs orders: procedure

Determination of a third party costs order

29.—(1) The Court of Appeal may make a third party costs order—

- (a) subject to paragraph (3), at any time during or after the proceedings before the Court of Appeal; and
- (b) on the application of any person who is a party to the appeal or of its own initiative.

(2) The Court of Appeal shall make a third party costs order during the proceedings before the Court of Appeal only if it decides that there are good reasons to do so, rather than making the order after the proceedings before the Court of Appeal, and it shall notify the persons who are parties to the appeal and the third party of those reasons and allow any of them to make representations.

(3) Before making a third party costs order the Court of Appeal shall allow the third party and any person who is a party to the appeal to make representations and may hear evidence.

(4) When making a third party costs order the Court of Appeal may take into account any other order as to costs which has been made in respect of the proceedings before the Court of Appeal and may take the third party costs order into account when making any other order as to costs in respect of those proceedings.

(5) The amount to be paid in pursuance of a third party costs order shall be specified in the order.

(6) When a third party costs order has been made the Court of Appeal shall notify the third party and any interested party of the order and the amount ordered to be paid.

Procedure for third party costs orders

30.—(1) This article applies where a person who is a party to the appeal applies to the Court of Appeal for a third party costs order or the Court of Appeal decides that it might make a third party costs order of its own initiative.

(2) An application for a third party costs order shall be in writing and shall contain—

- (a) the name and address of the applicant;
- (b) the names and addresses of the other persons who are parties to the appeal;
- (c) the name and address of the third party against whom the order is sought;
- (d) the date of the end of the proceedings before the Court of Appeal; and
- (e) a summary of the facts upon which the applicant intends to rely in making the application, including details of the alleged misconduct of the third party.

(3) The application shall be sent to the registrar and, upon receiving it, the registrar shall serve copies of it on the third party and the other persons who are parties to the appeal.

(4) Where the Court of Appeal decides that it might make a third party costs order of its own initiative the registrar shall serve notice in writing accordingly on the third party and the persons who are parties to the appeal.

(5) At the same time as serving notice under paragraph (4) the registrar shall serve a summary of the reasons why the Court of Appeal might make a third party costs order, including details of the alleged misconduct of the third party.

(6) When the registrar serves copies of an application under paragraph (3) or serves notice under paragraph (4) the registrar shall at the same time serve notice on the persons who are parties to the appeal and the third party of the time and place fixed for the hearing.

(7) At the time notified the Court of Appeal may proceed in the absence of the third party and of any person who is a party to the appeal if it is satisfied that they have been duly served with the notice given under paragraph (6) and the copy of the application or (as the case may be) the notices given under paragraphs (3) and (4), but the Court of Appeal may set aside any third party costs order if it is later shown that the third party did not receive them.

Recovery of sums due under a third party costs order

31. Where the person required to make a payment in respect of sums due under a third party costs order fails to do so, the payment may be recovered summarily as a sum adjudged to be paid as a civil debt by order of a magistrates' court by the person benefiting from the order, save that where that person was in receipt of services funded for that person by the Legal Services Commission or an order for the payment of costs out of central funds was made in that person's favour, the power to recover shall be exercisable by the Lord Chancellor.

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).

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(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.