
STATUTORY INSTRUMENTS

1986 No. 1335

The Costs in Criminal Cases (General) Regulations 1986

PART V

ALLOWANCES TO WITNESSES

Definitions

15. In this Part of these Regulations—

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

“proceedings in a criminal cause or matter” includes any case in which—

- (a) an information charging the accused with an offence is laid before a justice of the peace for any area but not proceeded with; or
- (b) the accused is committed for trial but not tried;

“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;

“private prosecutor” means any person in whose favour an order for the payment of costs out of central funds could be made under section 17 of the Act;

“the relevant amount” has the meaning assigned to it by regulation 17;

“witness” means any person properly attending to give evidence, whether or not he gives evidence or is called at the instance of one of the parties or of the court, but does not include—

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

General

16.—(1) Where, in any proceedings in a criminal cause or matter in a magistrates' court, the Crown Court, a Divisional Court of the Queen's Bench Division, the Court of Appeal or the House of Lords—

- (a) a witness attends at the instance of the accused, a private prosecutor or the court; or
- (b) an interpreter is required because of the accused's lack of English; or
- (c) a medical practitioner makes a report otherwise than in writing,

the expenses properly incurred by that witness, interpreter or medical practitioner shall be allowed out of central funds in accordance with this Part of these Regulations, unless the court directs that the expenses are not to be allowed out of central funds.

(2) Subject to paragraph (3), any entitlement to an allowance under this Part of these Regulations shall be the same whether the witness, interpreter or medical practitioner attends on the same day in one case or more than one case.

(3) Paragraph (2) shall not apply to allowances under regulation 25.

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

17. The Lord Chancellor shall, with the consent of the Treasury, determine the rates or scales of allowances payable out of central funds to witnesses, interpreters or medical practitioners and a reference in this Part of these Regulations to an allowance not exceeding the relevant amount means an amount calculated in accordance with the rates or scales so determined.

Witnesses other than professional or expert witnesses

18.—(1) A witness (other than a witness to whom regulation 19 or 20 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 necessarily attends for the purpose of any proceedings otherwise than to give evidence may be allowed the same allowances under paragraph (1) as if he 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 court in his capacity as such;
- (b) a full-time officer of an institution to which the Prison Act 1952 applies attending court in his capacity as such, or
- (c) a prisoner in respect of any occasion on which he is conveyed to court in custody.

Professional witnesses

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

Expert witnesses etc

20.—(1) The court 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—

- (a) an interpreter, or
- (b) a medical practitioner who makes a report otherwise than in writing for the purpose of section 30 of the Magistrates' Courts Act 1980

as it applies to an expert witness.

Night allowances

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

(2) An interpreter or medical practitioner who receives an allowance under regulation 20 may be allowed the same night allowance as if he attended as a professional or expert witness.

Seamen

22.—(1) A seaman who is detained on shore as a witness may be allowed—

- (a) an allowance not exceeding the relevant amount in respect of any loss of earnings, unless for special reasons the court allows a greater sum; and
- (b) an allowance not exceeding the sum actually and reasonably incurred for his maintenance, for the time during which he is necessarily detained on shore.

(2) No allowance shall be paid under regulation 18 to a seaman who is paid an allowance under paragraph (1).

Prosecutors and defendants

23. A person in whose favour an order is made under section 16, 17 or 19(4) of the Act may be allowed the same subsistence allowance and travelling expenses as if he attended as a witness other than a professional or expert witness.

Travelling expenses

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

(2) Unless the court 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 court 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 Part of these Regulations,

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

(4) A witness who travels to or from court 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 reasonable available; or
- (b) in any other case, the amount of fare for travel by public transport.

(5) A witness who travels to or from court 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 suffering from a serious illness; or
- (b) heavy exhibits have to be taken to court,

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

(7) An interpreter or a medical practitioner who incurs travelling expenses in providing the court with a report otherwise than in writing may be allowed a travelling allowance not exceeding the relevant amount.

Written medical reports

25.—(1) A medical practitioner who makes a written report to a court in pursuance of a request to which section 32(2) of the Criminal Justice Act 1967⁽¹⁾ applies may be allowed a medical report allowance not exceeding the relevant amount.

(2) A medical practitioner who makes a report to which paragraph (1) applies and incurs travelling expenses in connection with the preparation of that report may be allowed a travelling allowance not exceeding the relevant amount.

(3) Nothing in this regulation shall apply to a report by the medical officer of an institution to which the Prison Act 1952 applies.

⁽¹⁾ section 32 was amended by the Courts Act 1971 (c. 23), Schedule 6, paragraph 9(1), Schedule 11 Part III, by the Costs in Criminal Cases Act 1973 (c. 14), Schedule 1, paragraph 4, Schedule 2, by the Powers of Criminal Courts Act 1973 (c. 62), Schedule 5, paragraph 17 and by the Magistrates' Courts Act 1980 (c. 43), section 154, Schedule 7, paragraph 65.