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 STATUTORY INSTRUMENTS
 

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1986 No. 405

## CRIMINAL LAW, ENGLAND AND WALES

**The Crown Prosecution Service (Witnesses' Allowances)  
Regulations 1986**

<i>Made - - - -</i>	<i>4th March 1986</i>
<i>Laid before Parliament</i>	<i>10th March 1986</i>
<i>Coming into Operation</i>	<i>1st April 1986</i>

## ARRANGEMENT OF REGULATIONS

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## SCHEDULES

1. Relevant amounts in relation to allowances under Regulations 4 to 7.
2. Mileage rates etc. in respect of journeys by private motor vehicles.

The Attorney General, in exercise of the powers conferred upon him by section 14(1)(b) and (2) of the Prosecution of Offences Act 1985 (a), and with the approval of the Treasury, hereby makes the following Regulations:—

*Citation and commencement*

1. These Regulations may be cited as the Crown Prosecution Service (Witnesses' Allowances) Regulations 1986 and shall come into operation on 1st April 1986.

*Interpretation*

2. In these Regulations, unless the context otherwise requires —

“appropriate officer” means any member of the Service as may be designated by the Director for any of the purposes of these Regulations; and

“relevant amount” in relation to an allowance means an amount specified in relation to that allowance in Schedule 1 to these Regulations.

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(a) 1985 c.23.

*Scope of the Regulations and general provisions*

3.—(1) Without prejudice to the power of the Director to allow more than the entitlements under these Regulations where he sees fit to do so, these Regulations provide for the entitlements to costs and expenses of a witness who attends court to give evidence at the instance of the Service, whether he gives evidence or not, in any proceedings conducted by the Director in the discharge of his functions under Part I of the Prosecution of Offences Act 1985; but nothing in these Regulations gives an entitlement to a person who when called refuses to give evidence.

(2) Such entitlements shall be the same for a witness whether he attends to give evidence in one case or more than one case.

(3) Where a witness claims an entitlement under the Regulations it shall be for the appropriate officer to satisfy himself of the witness's entitlement before authorising the claim to be met.

*Allowances to professional witnesses for attendance at court*

4.—(1) A witness practising as a member of the legal or medical profession or as an accountant, dentist or veterinary surgeon shall be entitled for attending to give professional evidence on any day to receive a professional witness allowance, which may be either:

- (a) where the witness has necessarily incurred expenditure in providing a substitute professional person to take care of his practice during that day, a locum allowance of an amount equal to actual expenditure incurred; or
- (b) where no claim is made under sub-paragraph (a) above, a compensatory allowance of an amount equal to actual loss arising from his absence from his practice or place of residence during that day:

Provided that, in either case, it does not exceed the relevant amount.

(2) This Regulation does not apply to an expert witness attending to give expert evidence.

*Overnight subsistence allowances to professional or expert witnesses*

5.—(1) A witness who receives an allowance under Regulation 4 above and is necessarily absent from his place of residence overnight for the purpose of attending as a witness shall be entitled to receive an overnight subsistence allowance of the relevant amount in respect of each such night of absence.

(2) This Regulation also applies to an expert witness who attends to give expert evidence as it does to a witness who receives an allowance under Regulation 4 above.

*Allowances to witnesses, other than professional or expert, for attendance at court*

6. A witness who attends to give evidence (other than professional or expert evidence) and thereby —

- (a) incurs any expenditure (other than on travelling, lodging or subsistence) to which he would not otherwise be subject; or
  - (b) suffers any loss of earnings, or of benefit under the enactments relating to National Insurance, which he would otherwise have received,
- shall be entitled to receive a financial loss allowance of an amount equal to

the actual expenditure incurred or loss suffered not exceeding any relevant amount in respect of that expense or loss.

*Subsistence allowances for witnesses other than professional or expert*

7.—(1) A witness whose attendance to give evidence (other than professional or expert evidence) does not make it necessary for him to stay overnight away from home shall be entitled to a day subsistence allowance of the relevant amount.

(2) A witness (other than a witness who receives an allowance under Regulation 5 above) whose attendance to give evidence does make it necessary for him to stay overnight away from home shall be entitled to receive an overnight subsistence allowance of the relevant amount for each such night of absence.

(3) An allowance under paragraph (2) above shall be in respect of a period of 24 hours and a witness who receives such an allowance shall be entitled to a further allowance in respect of any period in excess of 24 hours which is not covered by such an allowance at the rate appropriate to a day subsistence allowance under paragraph (1) above.

*Reimbursement of travelling expenses incurred by witnesses*

8.—(1) Where a witness travels to or from court by public transport (including by air) he shall, subject to paragraphs (2) and (3) below, be entitled to be reimbursed the fare actually paid.

(2) Unless the appropriate officer for special reason authorises otherwise, only the second class fare shall be reimbursed under paragraph (1) above for travel by railway.

(3) Where a witness travels to or from court by air his entitlement under paragraph (1) above to be reimbursed the fare actually paid arises only if, in the opinion of the appropriate officer—

- (a) there was no reasonable alternative to travel by air and the class of fare paid was reasonable in all 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 other provisions of these Regulations).

(4) Where a witness travels to or from court by a hired vehicle, he shall be entitled to be reimbursed in respect thereof—

- (a) in a case of urgency or where no public service is reasonably available, the amount of the fare and any reasonable gratuity paid; and
- (b) in any other case, the amount of the fare for travel by the appropriate public service.

(5) Where a witness travels to or from court by a private motor vehicle other than one in respect of which reimbursement under this paragraph is claimed by another person in respect of the same journey, he shall be entitled to be reimbursed in respect thereof—

- (a) in a case to which paragraph (6) below applies by payment of mileage at the rate specified in Part I of Schedule 2 to these Regulations (the 'standard rate'); and

(b) in any other case, by payment of mileage at the rate specified in Part II of that Schedule (the 'public transport rate');

and in each case there shall also be paid such further sums provided for by that Schedule as are appropriate.

(6) This paragraph applies where a journey to or from court is necessarily undertaken by private motor vehicle or where the use of the vehicle is more economical in the circumstances (taking into account the factors mentioned in parenthesis in paragraph (3)(b) above) or is otherwise reasonable.

*Certain persons not to be entitled to allowances or travelling expenses*

9. Notwithstanding anything contained in these Regulations, in the case of—

- (a) a member of a police force attending court in his capacity as such;
- (b) a whole-time officer of an institution to which the Prison Act 1952 (a) applies attending court in his capacity as such;
- (c) an inmate of such an institution in respect of any occasion on which he is conveyed to court in custody,

there shall be no entitlement to any allowance or reimbursement of travelling expenses provided for by these Regulations.

*Michael Havers,*  
Her Majesty's Attorney General.

4th March 1986.

We approve.

*Donald Thompson,*  
*Michael Neubert,*  
Two of the Lords Commissioners  
of Her Majesty's Treasury.

3rd March 1986.

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(a) 1952 c.52.

## Regulation 2.

## SCHEDULE 1

## RELEVANT AMOUNTS IN RELATION TO ALLOWANCES UNDER REGULATIONS 4 TO 7

In the Table below, in relation to any allowance provided for by these Regulations of a type mentioned in Column 1, the relevant amount shall be the amount shown in the corresponding entry of Column 3 provided any condition specified in Column 2 is satisfied.

TABLE

1 Type of allowance	2 Conditions to be satisfied	3 Relevant amount
Locum allowance payable to professional witness under Regulation 4(a)	Witness necessarily absent from his practice on account of attending to give evidence for a period— (a) subject to paragraph (b) below, not exceeding 4 hours (b) exceeding 4 hours or, although not exceeding 4 hours, where it was not practicable for him to provide a substitute professional person for a period not exceeding 4 hours	£46.10  £92.20
Compensatory allowance payable to professional witness under Regulation 4(b)	Witness necessarily absent from his practice or place of residence on account of attending to give evidence for a period— (a) not exceeding 2 hours (b) exceeding 2 hours but not exceeding 4 hours (c) exceeding 4 hours but not exceeding 6 hours (d) exceeding 6 hours	£30.80 £46.10 £69.10 £92.20
Overnight subsistence allowance payable to professional or expert witness under Regulation 5	Witness necessarily stays overnight— (a) in Inner London (i.e. within 5 mile radius of Charing Cross) (b) elsewhere than in Inner London	£43.25 £35.20
Financial loss allowance payable under Regulation 6(a) in respect of expenditure incurred		£24.00
Financial loss allowance payable under Regulation 6(b)	Witness necessarily absent for a period in any day — (a) not exceeding 4 hours (b) exceeding 4 hours	£12.00 £24.00

## SCHEDULE 1 (Continued)

1 Type of allowance	2 Conditions to be satisfied	3 Relevant amount
Day subsistence allowance payable under Regulation 7(1)	Period necessarily spent by witness travelling to and from the court and attending court to give evidence—	
	(a) not exceeding 5 hours	£1.30
	(b) exceeding 5 hours but not exceeding 10 hours	£2.50
Overnight subsistence allowance payable under Regulation 7(2)	Witness necessarily stays overnight—	
	(a) in Inner London (i.e. within 5 mile radius of Charing Cross)	£48.75
	(b) elsewhere than in Inner London	£40.70

## SCHEDULE 2

Regulation 8(5).

## MILEAGE RATES ETC. IN RESPECT OF JOURNEYS BY PRIVATE MOTOR VEHICLES

## PART I

## Standard rate

1. In relation to a motor vehicle of the type described in the left hand column of the table below, the mileage rate applicable shall be that specified in the corresponding entry in the right hand column:

TABLE

Motor cycle – engine capacity not exceeding 150 c.c.	8p
Motor cycle – engine capacity exceeding 150 c.c. but not exceeding 250 c.c.	12p
Motor cycle – engine capacity exceeding 250 c.c.	16p
Motor car	30.4p

2. Where a passenger whose travelling expenses in respect of the journey would otherwise have been payable under Regulation 8 is carried, the appropriate mileage rate specified in paragraph 1 above shall be increased by 2p for the first such passenger and 1p for each such additional passenger.

3. The witness shall be entitled to be reimbursed any parking fee actually and reasonably incurred.

SCHEDULE 2 (*Continued*)

## PART II

## Public transport rate

1. In relation to a motor vehicle of the type described in the left hand column of the table below, the mileage rate applicable shall be that specified in the corresponding entry in the right hand column:

TABLE

Motor cycle – engine capacity not exceeding 150 c.c.	8p
Motor cycle – engine capacity exceeding 150 c.c. but not exceeding 250 c.c.	12p
Motor cycle – engine capacity exceeding 250 c.c.	13.8p
Motor car	13.8p

2. Where a passenger whose travelling expenses in respect of the journey would otherwise have been payable under Regulation 8 is carried, the appropriate mileage rate specified in paragraph 1 above shall be increased by 2p for the first such passenger and 1p for each such additional passenger.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations provide for the entitlements to costs and expenses of witnesses who attend court to give evidence at the instance of the Crown Prosecution Service in proceedings conducted by the Director of Public Prosecutions under Part I of the Prosecution of Offences Act 1985.

Regulation 4 entitles a witness practising as a member of the legal or medical profession or as an accountant, dentist or veterinary surgeon to a professional witness allowance. This Regulation does not apply to expert witnesses (whose fees are fixed by agreement with the Director). Regulation 5 entitles professional and expert witnesses to an overnight subsistence allowance.

Regulation 6 entitles witnesses, other than professional or expert, who incur expenditure (other than on travelling, lodging or subsistence) to which they would not otherwise be subject, or who lose earnings or benefit, to a financial loss allowance; and Regulation 7 introduces day and overnight subsistence allowances for such witnesses.

Regulation 8 introduces entitlements to reimbursement of travelling expenses incurred by witnesses.

Schedule 1 sets maxima for the allowances under Regulations 4 to 7; and Schedule 2 sets out the mileage rates allowed for journeys by private motor vehicles where an entitlement to reimbursement arises under Regulation 8.

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