

Serial Number 1948/116



THE PAYMENT OF CROWN WITNESSES REGULATIONS 1948

B. C. FREYBERG, Governor-General

By his Deputy,
H. F. O'LEARY

ORDER IN COUNCIL

At the Government House at Wellington, this 21st day of
July, 1948

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Public Revenues Act, 1926, the Justices of the Peace Act, 1927, and to all other powers and authorities him in this behalf in anywise enabling, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make, and so far as he has power so to do the Minister of Justice concurs in making, the following regulations.

REGULATIONS

PART I.—PRELIMINARY

1. These regulations may be cited as the Payment of Crown Witnesses Regulations 1948.

2. These regulations shall come into force on the 16th day of August, 1948.

PART II.—TRIALS AND OTHER PROCEEDINGS IN THE SUPREME COURT

PROSECUTORS AND WITNESSES FEES, ALLOWANCES, AND EXPENSES

Fees

3. (1) In trials of criminal cases in the Supreme Court, fees shall be paid to each prosecutor and witness for the Crown as follows :—

(a) To a medical or other witness attending to give evidence strictly as an expert—

(i) For every day where required to be absent from his usual place of abode or business for three hours or less	£	s.	d.
.. .. .	1	1	0
(ii) For every day where required to be absent from his usual place of abode or business for more than three hours	2	2	0

And in addition to such fees there may be paid to a witness attending to give evidence strictly as an expert a qualifying fee for any analysis, preparation of maps, plans, or reports, or other work necessarily undertaken in preparation for giving evidence such sum as may be certified to be fair and reasonable by the Registrar of the Supreme Court on the recommendation of the Crown Prosecutor, but not exceeding, per hour engaged £ s. d. 1 1 0

(b) To a prosecutor or a witness who is sixteen years of age or over attending to prosecute or give evidence, other than those coming within paragraph (a) hereof—

(i) For every day where required to be absent from his usual place of abode or business for three hours or less 0 12 0

(ii) For every day where required to be absent from his usual place of abode or business for more than three hours 1 4 0

Provided that the Registrar may allow a lesser amount to any witness under the age of twenty-one years if he is satisfied that a lower fee is adequate compensation.

(2) Nevertheless, a person employed by the Government for salary or wages will be entitled to such fees only if he is on annual leave, or leave without pay from such employment.

Allowances

4. (1) In trials of criminal cases in the Supreme Court the following allowances shall be paid to each prosecutor and witness for the Crown who is necessarily absent overnight from his usual place of abode :—

(a) Where the total period of absence does not exceed eighteen hours £ s. d. 0 15 0

(b) Where the total period of absence exceeds eighteen hours but does not exceed twenty-four hours 1 0 0

(c) After the first twenty-four hours, for each subsequent six hours or part thereof an additional 0 5 0

(2) Nevertheless, where a steamer fare payable to or on behalf of the prosecutor or witness includes the provision of sleeping-accommodation the period of absence from his usual place of abode shall not be deemed to include steamer travelling time; but there may be paid 2s. 6d. for each meal necessary during travelling-time and not covered by the steamer fare.

(3) Where a prosecutor or witness is not necessarily absent overnight from his usual place of abode and is not entitled to the fees prescribed by paragraphs (a) or (b) of clause (1) of Regulation 3 hereof the following meal allowances may be paid to him :—

(a) For every day where he is able to return to his usual place of abode before 6 p.m. £ s. d. 0 2 6

(b) For every day where he is not able to return to his usual place of abode before 6 p.m. 0 5 0

Expenses

5. In trials of criminal cases in the Supreme Court expenses shall be paid to each prosecutor and witness for the Crown as follows :—

(a) Except as provided in clause (b) hereof, to a prosecutor or witness residing beyond three miles from the Courthouse or other place at which attendance is required, subject to production of receipts for fares over 5s., except fares by railway trains and similar conveyances, the fares by which are fixed by law or are readily ascertainable—

(i) Second-class rail fares ;

(ii) In ferry steamers and other means of transport where more rates of fare than one are charged, such rate as the Registrar of the Supreme Court shall certify as being fair and reasonable having regard to the class of accommodation available ;

(iii) Where no means of public conveyance are available, mileage at the rate of 1s. a mile one way.

(b) To a medical practitioner using his own motor-car or a motor-car hired for his personal use, whether public conveyances are available or not, mileage at the rate of 1s. a mile one way for every mile not exceeding fifty miles between his usual place of abode and the Courthouse or other place at which his attendance is required.

GENERAL

6. The Minister of Justice, in any case where he considers that exceptional circumstances render such a course advisable, may authorize the sums set out in Regulations 3, 4, and 5 hereof to be increased.

7. The Minister of Justice, in an exceptional case where the attendance of a prosecutor or witness necessitates prolonged absence from his usual place of abode, may direct that such lesser sums as he thinks proper be paid in lieu of the sums set out in Regulations 3 and 4 hereof.

8. If the Registrar is satisfied that the attendance of a witness under the age of sixteen years has resulted in loss of earnings to that witness, the Registrar may allow to that witness as compensation for such loss a fee not exceeding the rate hereinbefore prescribed for a witness sixteen years of age or over.

9. (1) Where it is necessary that a witness under the age of sixteen years be accompanied by a parent or guardian there may be paid to such parent or guardian the fees allowances and expenses hereinbefore prescribed as if he were himself a witness.

(2) Where by reason of the illness or infirmity of a prosecutor or witness it is necessary that he be accompanied by an attendant, the attendant may be paid the allowances and expenses prescribed by Regulations 4 and 5 hereof as if he were himself a witness.

10. Payments to each prosecutor and witness shall be subject to such directions as the Court may think fit to give as to the disallowance of the whole or any part of such payments.

11. A witness for the Crown in proceedings in the Supreme Court under or relating to the Justices of the Peace Act, 1927, whether by way of appeal, certiorari, mandamus, or otherwise, shall, unless the Court directs to the contrary, be paid upon the same scale as in criminal proceedings.

12. A witness and an interpreter for the prosecution at the trial of a criminal case in the Supreme Court when conducted by or on behalf of a private prosecutor, 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, may, if allowed by the Court, be paid on the same scale and in the same manner as if the prosecution had been conducted by the Crown Solicitor.

PART III.—INDICTABLE OFFENCES BEFORE JUSTICES

13. In preliminary investigations of indictable offences before Justices where the accused is committed to the Supreme Court for trial or sentence the sums to be certified by the Justices as being payable as allowances pursuant to section 166 of the Justices of the Peace Act, 1927, shall be in accordance with the fees, allowances, and expenses prescribed in Part II of these regulations.

14. In preliminary investigations of indictable offences before Justices where the accused is discharged allowances shall be made to each prosecutor and witness for the Crown in accordance with the fees, allowances, and expenses prescribed in Part II of these regulations.

PART IV.—SUMMARY CASES

15. (1) In all cases, whether by way of information or complaint, heard summarily allowances shall be made to each prosecutor and witness for the Crown in accordance with the fees, allowances, and expenses prescribed in Part II of these regulations.

(2) In any such case—

(a) The certificate required to be given by the Registrar of the Supreme Court pursuant to Regulation 3 (1) (a) and 5 (a) (ii) of these regulations may be given by the Magistrate, Justice, or Justices hearing the case, and the recommendation of the Crown Prosecutor mentioned in the said Regulation 3 (1) (a) shall not be necessary; and

(b) The fee payable to a prosecutor or a witness under the age of twenty-one years pursuant to Regulation 3 (1) (b) and to a witness under the age of sixteen years pursuant to Regulation 8 of these regulations shall be fixed by the Magistrate, Justice, or Justices hearing the case.

PART V.—INTERPRETERS

16. The following fees shall be paid to each interpreter for the Crown engaged in indictable and summary cases :—

(a) If required to be absent from his usual place of	£	s	d.
abode or business for three hours or less	..	1	1
(b) For every additional hour or portion of an hour	..	0	7
(c) But not exceeding for any one day	..	2	2

17. In addition to the foregoing fees an interpreter shall be paid allowances and expenses in accordance with and subject to the provisions of Regulations 4 and 5 hereof.

PART VI.—REVOCATIONS

18. The respective regulations referred to in the Table subjoined to this regulation are hereby revoked :—

Table of Revoked Regulations

Date of Order in Council.	Short Title.	Published in <i>Gazette</i> .	
		Year.	Page.
19th October, 1931 ..	The Regulations for Payment of Witnesses 1931	1931	2985
		Published in Statutory Regulations.	
		Serial Number.	Page.
29th November, 1939	The Regulations for Payment of Witnesses 1931, Amendment No. 3	1939/260	1025
21st November, 1945	The Regulations for Payment of Witnesses 1931, Amendment No. 4	1945/180	462

T. J. SHERRARD,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette* : 22nd day of July, 1948.
These regulations are administered in the Department of Justice.