STATUTORY INSTRUMENTS

1977 No. 2069

CRIMINAL LAW, ENGLAND AND WALES

COSTS AND EXPENSES

The Costs in Criminal Cases (Allowances) Regulations 1977

Made - - - - 9*th December* 1977

Coming into Operation 31*st December* 1977

In exercise of the powers conferred upon me by section 17(1) and (1A) of the Costs in Criminal Cases Act 1973(**a**), as amended by paragraph 4 of Schedule 2 to the Administration of Justice Act 1977(**b**), I hereby make the following Regulations:—

1. These Regulations may be cited as the Costs in Criminal Cases (Allowances) Regulations 1977 and shall come into operation on 31st December 1977.

2.—(1) In these Regulations—

"the Act" means the Costs in Criminal Cases Act 1973;

"relevant amount" in relation to an allowance referred to in these Regulations means an amount calculated in accordance with rates or scales for the time being determined for that allowance under paragraph (2) of this Regulation;

"witness" means a person properly attending to give evidence, whether or not he gives evidence.

(2) Rates or scales of allowances payable out of central funds under the Act shall be determined by the Secretary of State with the consent of the Minister for the Civil Service.

(3) In these Regulations, a reference to any enactment shall be construed as a reference to that enactment as amended, extended or applied by any subsequent enactment.

(4) The Interpretation Act 1889(**c**) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament, and section 38(2) of that Act shall apply as if these Regulations were an Act of Parliament and the Regulations revoked by these Regulations were enactments repealed thereby.

3. The Regulations specified in the Schedule to these Regulations are hereby revoked.

4. These Regulations shall apply to costs payable out of central funds under the Act.

5. There may be allowed in respect of a witness practising as a member of the legal or medical profession or as a dentist or veterinary surgeon for

(**a**) 1973 c. 14. (**b**) 1977 c. 38. (**c**) 1889 c. 63.

attending to give professional evidence, whether in one or more cases, a professional witness allowance not exceeding the relevant amount.

6. There may be allowed in respect of an expert witness for attending to give expert evidence and for work in connection with its preparation an expert witness allowance of such amount as the court may consider reasonable having regard to the nature and difficulty of the case and the work necessarily involved.

7. There may be allowed in respect of a witness, who attends to give evidence (other than professional or expert evidence), whether in one or more cases, 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,

a loss allowance not exceeding the relevant amount in respect of that expense or loss.

8. There may be allowed in respect of a witness (other than a witness who receives an allowance under Regulation 5 or 6 of these Regulations) who attends to give evidence, whether in one or more cases, a subsistence allowance not exceeding the relevant amount.

9. There may be allowed in respect of a witness, who receives an allowance under Regulation 5 or 6 above and is necessarily absent from his place of residence overnight for the purpose of attending as a witness, a night allowance not exceeding the relevant amount.

10.—(1) There may be allowed in respect of a seaman who is detained on shore for the purpose of attending to give evidence and thereby misses his ship, for the time during which he is, and is likely to be, necessarily detained on shore—

(*a*) an allowance not exceeding, unless for special reason the court allows a greater sum, the relevant amount in respect of loss of wages, together with

(*b*) an allowance not exceeding the sum actually and reasonably incurred for his maintenance.

(2) Nothing in the last five preceding Regulations shall apply to a person in respect of whom an allowance is made under this Regulation.

11.—(1) Where a witness travels to or from court by railway or other public conveyance there may be allowed in respect thereof the fare actually paid:

Provided that, unless for a special reason the court otherwise directs, only second class fare shall be allowed for travel by railway.

(2) Where a witness travels to or from court by a hired vehicle there may be allowed 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.

(3) Subject to paragraph (4) below, where a witness travels to or from court by a private conveyance there may be allowed in respect thereof an allowance not exceeding the relevant amount.

(4) There may be allowed—

(*a*) in respect of travelling expenses of a witness who, in the opinion of the court, is suffering from a serious illness; or

(*b*) in respect of the carriage of heavy exhibits,

such sums, in excess of the sums allowable under the preceding paragraphs of this Regulation, as appear to the court to have been reasonably incurred.

12. There may be allowed in respect of a person employed as an interpreter such allowances as the court may consider reasonable.

13.—(1) There may be allowed in respect of any prosecutor, accused or appellant, or party to proceedings before the Divisional Court, whose costs are ordered to be paid out of central funds under the Act the same travelling and subsistence allowances as if he attended to give evidence other than professional or expert evidence.

(2) There may be allowed in respect of any other person who in the opinion of the court necessarily attends for the purpose of the case otherwise than to give evidence the same allowances as if he attended to give evidence other than professional or expert evidence.

14. Notwithstanding anything contained in the preceding Regulations no sum shall be allowed under 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*) a prisoner in respect of any occasion on which he is conveyed to court in custody.

15.—(1) There may be allowed in respect of a written report made by a registered medical practitioner to a court in pursuance of a request to which section 32(2) of the Criminal Justice Act 1967(**b**) applies—

(*a*) if made for the purpose of determining whether or not to make an order under section 3 of the Powers of Criminal Courts Act 1973(**c**) (probation orders requiring treatment for mental condition), section 60 of the Mental Health Act 1959(**d**) (hospital orders and guardianship orders) or section 12(4) of the Children and Young Persons Act 1969(**e**) (supervision order requiring treatment for mental condition) by a registered medical practitioner who holds an appointment to a post in the consultant grade in the National Health Service or is for the time being approved by a local health authority for the purposes of section 28 of the Mental Health Act 1959, an allowance not exceeding the relevant amount;

(*b*) if made for any purpose referred to in sub-paragraph (*a*) above by a registered medical practitioner other than one referred to in that sub-paragraph, an allowance not exceeding the relevant amount;

(**a**) 1952 c. 52. (**b**) 1967 c. 80. (**c**) 1973 c. 62. (**d**) 1959 c. 72. (**e**) 1969 c. 54.

(*c*) if made for any purpose other than one referred to in sub-paragraph (*a*) above by a registered medical practitioner who holds an appointment to a post in the consultant grade in the National Health Service, an allowance not exceeding the relevant amount;

(*d*) in any other case, an allowance not exceeding the relevant amount.

(2) Where a registered medical practitioner who makes a written report to a court, in pursuance of a request to which the said section 32(2) applies, incurs travelling expenses in connection with the preparation of that report, there may be allowed in respect thereof an 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.

Merlyn Rees,
One of Her Majesty's Principal Secretaries of State.

Home Office.
9th December 1977.

Regulation 3

SCHEDULE

REGULATIONS REVOKED

Regulations	References
The Costs in Criminal Cases (Allowances) Regulations 1975.	S.I. 1975/1026 (1975 II, p. 3569).
The Costs in Criminal Cases (Allowances) (Amendment) Regulations 1975.	S.I. 1975/2067 (1975 III, p. 7569).
The Costs in Criminal Cases (Allowances) (Amendment) Regulations 1977.	S.I. 1977/407 (1977 I, p. 1290).

EXPLANATORY NOTE

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

These Regulations consolidate with amendments the Regulations specified in the Schedule which make provision in relation to allowances where costs are payable out of central funds under the Costs in Criminal Cases Act 1973.

The principal change effected by these Regulations is that they do not prescribe maximum rates and scales of allowances but instead provide, in pursuance of section 17(1A) of the Costs in Criminal Cases Act 1973 (as inserted by paragraph 4 of Schedule 2 to the Administration of Justice Act 1977), that the maximum amounts payable in respect of the allowances are to be calculated in accordance with such rates or scales as may for the time being be determined by the Secretary of State with the consent of the Minister for the Civil Service.

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