1971 No. 490 (S.70)

JUSTICES OF THE PEACE

The Justices Allowances (Scotland) Regulations 1971

Made - - -	*22nd March* 1971
Laid before Parliament	*30th March* 1971
Coming into Operation	*1st April* 1971

In exercise of the powers conferred upon me by section 8(6) and (7) of the Justices of the Peace Act 1949(**a**), as amended by section 31 of the Administration of Justice Act 1964(**b**), and of all other powers enabling me in that behalf, I hereby make the following regulations :—

Citation and Commencement

1. These regulations may be cited as the Justices Allowances (Scotland) Regulations 1971, and shall come into operation on 1st April 1971.

Interpretation

2.—(1) In these regulations unless the context otherwise requires :—

"the Act" means the Justices of the Peace Act 1949 ;

"authority" means any authority responsible by virtue of section 8(5) of the Act, as applied to Scotland by section 8(8) of the Act, for the payment of allowances under that section.

(2) The Interpretation Act 1889(**c**), shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Allowances to Justices

3. The rates of travelling and subsistence allowance payable under section 8 of the Act as amended by section 4 of the Justices of the Peace Act 1968(**d**) to a justice of the peace for any area in Scotland in respect of expenditure on travelling, or, as the case may be, on subsistence, necessarily incurred by him for the purpose of enabling him to perform any of his duties as a justice shall be the rates set out in Schedules 1 and 2 to these regulations respectively.

4. The amount of financial loss allowance payable under section 8 of the Act as amended aforesaid to a justice of the peace for any area in Scotland where for the purpose of enabling him to perform any of his duties as a justice there is incurred by him any expenditure (other than expenditure on account of travelling or subsistence) to which he would not otherwise be subject or there is suffered by him any loss of earnings or of benefit under the National Insurance Acts 1965 to 1967(**e**) which he would otherwise have made or received shall not exceed the rate set out. and shall be subject to the provisions contained, in Schedule 3 to these regulations.

(**a**) 1949 c. 101.
(**b**) 1964 c. 42.
(**c**) 1889 c. 63.
(**d**) 1968 c. 69.
(**e**) 1965 c. 51; 1966 c.6; 1967 c. 73.

5. A justice who claims payment either of travelling or subsistence allowances or of financial loss allowance shall complete and submit to the authority an application in or as nearly as may be in accordance with the forms set out in Schedules 4 and 5 to these regulations respectively.

6. An authority shall keep a record of every payment made by it under section 8 of the Act as amended aforesaid showing the amount and nature of the payment and the name of the justice to whom it was paid.

7. Where any expenditure or loss entitles a person to receive an allowance under section 8 of the Act as amended aforesaid in respect of duties as a justice, otherwise than as a member of a licensing court or court of appeal under the Licensing (Scotland) Acts 1959 and 1962(**a**) and an allowance of the same nature, by whatever name called, under any other enactment in some other capacity—

(*a*) the aggregate amount which that person shall be entitled to receive under the said section 8 in respect of such expenditure or loss shall be reduced by the aggregate amount received by him under such other enactments ; and

(*b*) any claim made under the said section 8 shall contain particulars of any amount so received or claimed, or which it is intended to claim, under such other enactment.

Revocations

8.—(1) The Justices Allowances (Scotland) Regulations 1964(**b**) and the Justices Allowances (Scotland) Amendment Regulations 1970(**c**) are hereby revoked.

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if the regulations revoked by these regulations were Acts of Parliament repealed by an Act of Parliament.

Gordon Campbell,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.
22nd March 1971.

SCHEDULE 1 Regulation 3

RATES OF TRAVELLING ALLOWANCE

1.—(1) The rate for travel by public service shall not exceed the amount of the ordinary, or any available cheap, fare, and where more than one class of fare is available the rate shall be determined, in the case of travel by ship, by reference to first class fares, and in any other case by reference to second class fares, unless the justices for a county in quarter sessions determine, either generally or specially, that first class fares shall be substituted.

(**a**) 1959 c. 51; 1962 c. 51.
(**b**) S.I. 1964/872 (1964 II, p. 1835).
(**c**) S.I. 1970/1097 (1970 II, p. 3446).

(2) The rate payable under the foregoing sub-paragraph shall, if the justice so claims, be increased by supplementary allowances not exceeding the expenditure actually incurred on deposit or porterage of luggage, on reservation of seats, or on Pullman car or similar supplements (other than expenditure on refreshment or sleeping accommodation).

2. The rate for travel by hired motor vehicle shall be—

(*a*) in cases 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 available public service.

3. The rate for travel by a justice's own solo motor cycle, motor scooter, moped or any other vehicle of a similar type, not exceeding a cylinder capacity of 500 c.c. shall not exceed—

(*a*) for the use of a vehicle of cylinder capacity of 120 c.c. or less, 1·15p a mile;

(*b*) for the use of a vehicle of cylinder capacity from 121 c.c. to 150 c.c., 1·46p a mile;

(*c*) for the use of a vehicle of cylinder capacity from 151 c.c. to 500 c.c., 1·67p a mile.

The rate for travel by a justice's own vehicle shall not exceed 1·67p a mile unless the vehicle used is of a category other than the above and, in the opinion of the authority, it is reasonable that the justice should so travel. For travel in these circumstances the rate shall not exceed—

(*d*) for the use of a solo motor cycle of cylinder capacity exceeding 500 c.c., a motor cycle with side-car, or a motor car or tri-car of cylinder capacity of 500 c.c. or less, 2·40p a mile;

(*e*) for the use of a motor car or tri-car of cylinder capacity of—

(i) 501 c.c. to 999 c.c., 4·69p a mile,

(ii) 1000 c.c. to 1199 c.c., 5·31p a mile,

(iii) over 1199 c.c., 5·94p a mile;

Provided that the above rates may be increased by—

(i) not more than 0·21p a mile for the carriage of each additional person to whom an allowance for travelling would otherwise be payable, on journeys qualifying for the rates of allowances set out in sub-paragraphs (*a*) to (*e*) above;

(ii) not more than 0·42p a mile, subject to a limit of 1·67p a mile for four or more passengers, for the carriage of each additional person to whom an allowance for travelling would otherwise be payable, on journeys not qualifying for the rates of allowances set out in sub-paragraphs (*a*) to (*e*) above;

(iii) not more than the amount of any expenditure incurred on tolls, ferries or parking fees;

(iv) in the case of absence overnight from the usual place of residence, not more than 12½p a night for garaging a car or tri-car, or 7½p a night for garaging a motor vehicle of any other type.

4. The rate for travel by air in circumstances which in the opinion of the authority involve a substantial saving in a justice's time or are otherwise reasonable shall be the fare paid by the justice; for such travel in other circumstances the rate shall be that applicable to travel by the available public service together with an allowance equivalent to the amount of any saving in subsistence allowance consequent upon travel by air.

5. In this Schedule "public service" means any service provided for travel by the public by railway, ship, vessel, omnibus, trolley vehicle or tramway.

SCHEDULE 2 Regulation 3

Rates of Subsistence Allowance

1.—(1) The rates of subsistence allowance shall be—

(*a*) for an absence, not involving an absence overnight, from the usual place of residence—

(i) of more than four hours but not more than eight hours, £0·95;

(ii) of more than eight hours but not more than twelve hours, £1·75;

(iii) of more than twelve hours but not more than sixteen hours, £2·50;

(iv) of more than sixteen hours, £2·95.

(*b*) for an absence overnight from the usual place of residence, £5·50.

(2) The rate determined under this paragraph shall be deemed to cover a continuous period of absence of twenty-four hours.

SCHEDULE 3 Regulation 4

Rate of Financial Loss Allowance

The payment which a justice of the peace shall be entitled to receive by way of financial loss allowance in respect of any one period of twenty-four hours shall not exceed—

(i) where the period of time over which earnings are lost or additional expenses are incurred is not more than four hours, the sum of £2·00;

(ii) where the said period of time is more than four hours, the sum of £4·00.

SCHEDULE 4 Regulation 5

FORM OF APPLICATION FOR TRAVELLING AND SUBSISTENCE ALLOWANCE

Date (1)	Place and time of departure (2)	Place and time of return (3)	Description of duties (4)	Mode and class of travel (5)	Number of miles travelled by justice's own private motor vehicle and rate applicable (6)	Fares and other authorised payments (7)	Travelling allowance claimed (8)	Subsistence allowance claimed (9)
						Totals		
Particulars of amounts received or claimed, or which it is intended to claim, from any other body or person by way of travelling allowance or subsistence allowance or any equivalent allowance, by whatever name called, in connection with any journey or absence claimed above.								
						Amounts now claimed ...		

I declare that I have actually and necessarily incurred expenditure on travelling and subsistence for the purpose of enabling me to perform approved duties as a justice of the peace, that I have actually paid the fares and made the other payments shown in column 7 above and that the amounts claimed do not exceed the amounts which I am entitled to receive in accordance with the rates prescribed by the Justices Allowances (Scotland) Regulations 1971. I declare that the statements above are correct. Except as shown above I have not made, and will not make, any claim under any enactment for travelling or subsistence allowances in connection with any journey or absence claimed above.

Date.....

Signature of justice.....

Address .....

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SCHEDULE 5 Regulation 5

FORM OF APPLICATION FOR FINANCIAL LOSS ALLOWANCE

Date (1)	Place and time of departure (2)	Place and time of return (3)	Description of approved duties (4)	Amount Claimed (5)

Particulars of amounts received or claimed by way of financial loss allowance from other authorities or bodies.

Amount now claimed ... ...

I declare that I have actually and necessarily—

(*a*) suffered loss of earnings which I should otherwise have made, or

(*b*) incurred additional expense, other than expense on account of travelling or subsistence,

for the purpose of enabling me to perform approved duties as a justice of the peace and that the amount of such loss and expense is not less than the sum claimed.

I declare that the statements above are correct. Except as shown above I have not made, and will not make, any claim under any enactment for financial loss allowance in connection with the duties indicated above.

Date..... Signature of justice.....

Address.....

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EXPLANATORY NOTE

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

These Regulations consolidate, with certain amendments, the Justices Allowances (Scotland) Regulations 1964 and the Justices Allowances (Scotland) Amendment Regulations 1970. The amendments, which are consequential upon section 4 of the Justices of the Peace Act 1968, provide for the payment to justices, under section 8 of the Justices of the Peace Act 1949 as amended, of financial loss allowances at a prescribed rate. This rate is set out in Schedule 3 to these regulations.