STATUTORY INSTRUMENTS

1971 No. 107

CRIMINAL PROCEDURE, ENGLAND AND WALES

COSTS AND EXPENSES

The Witnesses' Allowances Regulations 1971

Made - - - -	19*th January* 1971
Coming into Operation	15*th February* 1971

In pursuance of the powers conferred upon me by section 12 of the Costs in Criminal Cases Act 1952(**a**), as amended by section 52 of, and Schedule 5 to, the Criminal Appeal Act 1968(**b**), I hereby make the following Regulations:—

1. These Regulations may be cited as the Witnesses' Allowances Regulations 1971 and shall come into operation on 15th February 1971.

2.—(1) In these Regulations the expression "witness" means a person properly attending to give evidence, whether or not he gives evidence.

(2) 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as if these Regulations were an Act of Parliament and the Regulations revoked by these Regulations were enactments repealed thereby.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 local funds under the Costs in Criminal Cases Act 1952 or the Criminal Appeal Act 1968.

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 attending to give professional evidence, whether in one or more cases, a professional witness allowance not exceeding £10 a day:

Provided that if the witness attends on any day to give evidence in one case only and the period during which he is necessarily absent from his place of residence or practice to attend as aforesaid does not exceed four hours, his professional witness allowance shall not exceed £5, unless he necessarily incurs expense in the provision of a person to take care of his practice during his absence.

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 loses remuneration or necessarily incurs expense (other than expense on account of travelling, lodging or subsistence) to which he would not otherwise

(**a**) 1952 c. 48. (**b**) 1968 c. 19. (**c**) 1889 c. 63.

have been subject, a loss allowance not exceeding £4 a day in respect of that loss or expense:

Provided that if the period during which the witness is necessarily absent from his place of residence, business or employment to attend as aforesaid does not exceed four hours, his loss allowance shall not exceed £2 unless he necessarily loses more than half a day's remuneration or the expense necessarily incurred exceeds £2.

8.—(1) 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 an amount calculated in accordance with paragraphs (2) and (3) of this Regulation.

(2) In respect of any period other than a period in respect of which a subsistence allowance is payable under paragraph (3) of this Regulation, the subsistence allowance shall not exceed—

(*a*) if the period on any one day during which a witness is necessarily absent from his place of residence, business or employment for the purpose of attending to give evidence does not exceed four hours, 45p in respect of that day;

(*b*) if the said period on any one day exceeds four hours but does not exceed eight hours, 95p in respect of that day;

(*c*) if the said period on any one day exceeds eight hours but does not exceed twelve hours, £1·75 in respect of that day;

(*d*) if the said period on any one day exceeds twelve hours but does not exceed sixteen hours, £2·50 in respect of that day;

(*e*) if the said period on any one day exceeds sixteen hours, £2·95 in respect of that day.

(3) If a witness is necessarily absent from his place of residence overnight for the purpose of attending to give evidence, the subsistence allowance shall not exceed £5·50 in respect of each period of twenty-four hours or fraction thereof during which he is so absent overnight:

Provided that for such an absence overnight for the purpose of attending to give evidence in the City of London or an inner London borough there may be allowed a supplementary allowance not exceeding 50p a night.

9. There may be allowed in respect of a witness, who receives an allowance under Regulation 5 or 6 of these Regulations and is necessarily absent from his place of residence overnight for the purpose of attending as a witness, a night allowance not exceeding £3·75 a night:

Provided that for such an absence overnight for the purpose of attending to give evidence in the City of London or an inner London borough there may be allowed a supplementary allowance not exceeding 50p a night.

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, £4 a day 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 services.

(3) Where a witness travels to or from court by a private conveyance there may be allowed in respect thereof—

(*a*) in any case where the witness travels by motor vehicle and the court is satisfied that the use of the vehicle results in a substantial saving of time or is otherwise reasonable, a sum not exceeding—

(i) in the case of a vehicle of engine capacity not exceeding 1000 c.c., 3½p a mile each way;

(ii) in the case of a vehicle of engine capacity exceeding 1000 c.c. but not exceeding 1750 c.c., 4½p a mile each way;

(iii) in the case of a vehicle of engine capacity exceeding 1750 c.c., 5p a mile each way; and

(*b*) in any other case, a sum not exceeding 2p a mile each way.

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

14.—(1) Notwithstanding anything contained in the preceding Regulations no sum shall be allowed under these Regulations in respect of—

(*a*) a member of a police force attending court in his capacity as such;

(*b*) a whole-time officer of a prison attending court in his capacity as such;

(*c*) a prisoner produced in court in custody.

(2) In this Regulation "prison" means a prison, remand centre, detention centre or Borstal institution.

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(a) applies, a medical report allowance as follows—

(*a*) in the case of a request made by a court for the purpose of determining whether or not to make an order under section 4 of the Criminal Justice Act 1948(b) (probation orders requiring treatment for mental condition), section 60 of the Mental Health Act 1959(c) (hospital orders and guardianship orders), or section 12(4) of the Children and Young Persons Act 1969(d) (supervision order requiring treatment for mental condition), an allowance not exceeding £5 if the registered medical practitioner 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 or £4·30 in the case of any other registered medical practitioner;

(*b*) in the case of any other request made by a court, an allowance of not less than £5·20 and not exceeding £8 if the registered medical practitioner holds an appointment to a post in the consultant grade in the National Health Service or not exceeding £2·87 if he does not hold such an appointment.

(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 a sum not exceeding 5p a mile each way for each journey, excluding that part of the journey which is within a radius of two miles from the place from which the practitioner practises.

(3) Nothing in this Regulation shall apply to a report by the medical officer of a prison, remand centre, detention centre or Borstal institution in his capacity as such.

R. Maudling,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.
19th January 1971.

(a) 1967 c. 80.
(b) 1948 c. 58.
(c) 1959 c. 72.
(d) 1969 c. 54.

SCHEDULE

Regulation 3

REGULATIONS REVOKED

Regulations	References
The Witnesses' Allowances Regulations 1966	S.I. 1966/10 (1966 I, p. 5).
The Witnesses' Allowances Regulations 1967	S.I. 1967/39 (1967 I, p. 109).
The Witnesses' Allowances (Amendment) Regulations 1967	S.I. 1967/1776 (1967 III, p. 4754).
The Witnesses' Allowances (Amendment) Regulations 1969	S.I. 1969/214 (1969 I, p. 556).
The Witnesses' Allowances (Amendment) Regulations 1970	S.I. 1970/176 (1970 I, p. 757).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate with amendments the Regulations specified in the Schedule. The only amendments of substance are the increases in the allowances (other than the London weighting) payable to witnesses under Regulation 8 (subsistence allowance), Regulation 9 (night allowance), and Regulation 11(3) (travelling allowance when private vehicle is used).