

**ISLE OF MAN  
TO WIT**

By His Excellency SIR RONALD HERBERT GARVEY, K.C.M.G., K.C.V.O.,  
M.B.E., Lieutenant Governor of the said Isle, etc., etc., etc.

# **Witnesses Allowances Order, 1961**

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**Criminal Code Amendment Act 1921  
Constables' Fees and Witnesses' Allowances Act 1947  
Costs in Criminal Cases Act, 1947 and  
Inquests of Death Act, 1960.**

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I, the said Lieutenant Governor, by and with the advice and assistance of the Judges of the High Court in exercise of the powers for this purpose contained in subsection (2) of Section Twenty of the Criminal Code Amendment Act 1921, Section One of the Constables' Fees and Witnesses' Allowances Act, 1947, Section four of the Costs in Criminal Cases Act, 1947, Section two of the Inquests of Death Act, 1960, and of all other powers me in this behalf enabling, DO HEREBY make the following Order and Regulations :

1. Except as provided in Article 2 of this Order, there may be allowed to a professional witness attending a Court or Coroner's inquest to give professional evidence—

**Professional  
witnesses**

- (a) an allowance not exceeding six guineas a day :
- (b) a night allowance ;

Provided that if the time during which the witness is necessarily absent from his home or place of practice for the purpose of giving evidence is not more than four hours, the allowance shall not exceed three guineas unless the witness gives evidence on the same day in two or more separate and distinct cases when he may be paid allowances amounting in the aggregate to more than three guineas but not exceeding six guineas.

For the purpose of this paragraph, a professional witness means a witness who is a practising member of a profession, admission to which is subject to the passing of a qualifying examination, who in the ordinary practice of his profession acquires knowledge of the facts of the case before the court or inquest, and is called upon to give evidence as to these facts, or to express an opinion on such facts based on his general professional knowledge and experience.

2. (1) A medical practitioner who makes a post-mortem examination of a body by the coroner's direction or at the coroner's request and reports the result thereof to the coroner and who is not a witness at an inquest on that body shall be paid a fee of four guineas.

**Post-mortems**

(2) A medical practitioner who makes a post-mortem examination of a body by the coroner's direction or at the coroner's request and reports the result thereof to the coroner and who is a witness at an inquest on that body shall be paid a fee of six guineas in respect of the examination and of the first day on which he attends to give evidence at the inquest and in addition a further fee of three guineas for each subsequent day on which he attends to give evidence at the inquest.

Provided that if he attends to give evidence at more than one inquest held on the same day on the bodies of persons whose deaths appear to have been caused by the same accident or occurrence, he shall be paid a fee of four guineas in respect of the post-mortem examination of each such body made by him and in addition a fee of three guineas in respect of each day on which he attends to give evidence at such inquests.

(3) A medical practitioner who travels to or from a place in connection with a post-mortem examination of a body made by the coroner's direction or at the coroner's request may, in addition to any fee paid to him under the preceding paragraphs of this article, be paid in respect of the journey—

- (a) if he travels by railway or other public conveyance and the journey to or from such place is in excess of two miles, the fare actually paid ;
- (b) if he travels by any other means, an allowance at the rate of one shilling a mile for each mile, other than the first two miles of the journey to or from such place :

Provided that no payment shall be made under this paragraph if in respect of such journey any payment may be made under Article 8 of this Order.

(4) A medical practitioner who is a witness at an inquest shall, for attending to give professional evidence otherwise than in connection with a post-mortem examination made by him by the coroner's direction or at the coroner's request, be paid a fee of three guineas for each day on which he attends to give evidence at that inquest :

Provided that if he attends to give evidence at more than one inquest held on the same day, he shall be paid a fee of two guineas in respect of his attendance at each inquest held on that day other than the first.

**Expert witnesses**

3. There may be allowed to an expert witness

(1) such allowances—

- (a) for attending a court or coroner's inquest to give expert evidence;
- (b) where necessary for qualifying to give such evidence, as the court or coroner may consider reasonable having regard to the nature and difficulty of the case and the work necessarily involved;

(2) a night allowance.

For the purpose of this paragraph an expert witness means a witness otherwise unconnected with the case who because of his special scientific or professional knowledge or other special qualifications is called to give in evidence his expert opinion, either based on facts, or on the result of examination of material or data submitted to him for the purpose.

**Ordinary witnesses**

4. (1) Subject to the provisions of article 5 of this Order there may be allowed to a person attending a court or a coroner's inquest (not being a person referred to in any of the preceding articles of this Order) to give evidence, an allowance not exceeding forty shillings a day for the expense, trouble or loss of time properly incurred or incidental to the attendance and giving of evidence, together with an allowance not exceeding ten shillings a day in respect of subsistence.

(2) Subject to the provisions of article 5 of this Order there may be allowed to a person attending a court or a coroner's inquest to give evidence not being a person referred to in any of the preceding articles or in the foregoing paragraph of this article, an allowance not exceeding ten shillings a day in respect of subsistence.

(3) A night allowance may be allowed in addition to any allowance payable under paragraph (1) or paragraph (2) of this article.

(4) Any sums allowed under paragraphs (1), (2) or (3) of this article to a member of a police force or an officer of a prison shall be paid to the Chief Constable, who shall remit the said sums to the Treasurer of the Isle of Man.

**Ordinary witnesses attending for less than four hours**

5. If the time during which a person is necessarily away from his place of residence or of business or employment for the purpose of giving evidence does not exceed four hours, the maximum allowances payable under the last foregoing article shall be reduced by one half :

Provided that this article shall not apply to a loss allowance in the case of a person to whom paragraph (1) of the last foregoing article

applies if the court or coroner is satisfied that he will necessarily lose more than one half of a day's wages, earnings or other income.

6. Where a night allowance may be allowed to a person under any of these articles, it shall not be allowed unless that person is necessarily away overnight from his place of residence for the purpose of attending the court or coroner's inquest and shall not exceed the expenses reasonably incurred by him for board and lodging for that night, or, in any case, forty shillings.

**Rates and conditions of night allowance**

7. Where a seaman is detained on shore for the purpose of attending a court or coroner's inquest to give evidence and has thereby missed his ship, there may be allowed to him in respect of the time during which he has been, and is likely to be, necessarily detained on shore—

**Seamen**

(a) an allowance not exceeding, unless for special reasons the court or coroner allows a greater sum, forty shillings 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 preceding article shall apply to a person to whom an allowance is made under this article.

8. (1) There may be allowed to a person travelling by railway, road service vehicle or other public conveyance for the purpose of attending a court or coroner's inquest to give evidence the fare actually paid.

**Travelling allowances**

Provided that—

(i) unless for special reasons the court or coroner otherwise directs, only third class fare shall be allowed for travel by railway.

(ii) if in any case return tickets are available for the double journey, only the fare at return ticket rates shall be allowed.

(2) Where no railway, road service vehicle or other public conveyance is available, there may be allowed to a person who necessarily travels by a hired vehicle for the purpose of attending a court or coroner's inquest to give evidence the sum actually paid for the hire of the vehicle or an allowance at the rate of one shilling and sixpence a mile each way, whichever be the less ;

Provided that where two or more persons attend from the same place the allowances made to them under this paragraph shall not in the aggregate exceed a sum calculated at the rate of one shilling and sixpence a mile each way unless the court or coroner is satisfied that it was reasonable to hire more than one vehicle.

(3) There may be allowed to a person travelling on foot or by private conveyance for the purpose of attending a court or coroner's inquest to give evidence a sum not exceeding threepence a mile each way.

(4) There may be allowed—

(a) in respect of travelling expenses to a person attending a court or coroner's inquest to give evidence who, in the opinion of the court or coroner is suffering from a serious illness, or

(b) for the carriage of heavy exhibits, such sums, in excess of the sums allowable under the foregoing paragraphs of this article, as appear to the court or coroner to have been reasonably incurred.

9. There may be allowed to a person employed as an Interpreter such allowances as the court or a coroner may consider reasonable (including night and travelling allowances).

**Interpreters**

10. There may be allowed to any person who, in the opinion of the court or coroner, necessarily attends for the purpose of the hearing, otherwise than as a witness the same allowances (including night and travelling allowances) as to an ordinary witness.

**Persons attending otherwise than as witnesses**

**Police and Prison  
Officers and  
Prisoners excepted**

11. Notwithstanding anything contained in the preceding articles no sum shall be allowed under these articles to—

- (a) a member of the police force attending a court or coroner's inquest in his capacity as such;
- (b) a wholetime officer of a prison attending a court or coroner's inquest in his capacity as such;
- (c) a prisoner produced in the court or coroner's inquest in the custody of an officer of a prison.

**Table of fees to  
Constables  
executing civil  
processes**

12. The following fee shall be payable to constables executing civil processes:

For executing an arrest—for each person arrested including a certificate to the party enforcing the arrest ..... 10/-.

Where the person arrested refuses to walk, the constable to be paid the sum necessarily expended for the conveyance.

**Interpretation**

13. (1) The Interpretation Act, 1865, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Tynwald.

(2) In this Order "court" means—

- (a) a court of Criminal Appeal;
- (b) Her Majesty's High Court of Justice of the Isle of Man;
- (c) a Court of General Gaol Delivery; and
- (d) a court of Summary Jurisdiction.

(3) In this Order "coroner" means a Coroner of Inquests, and includes a deputy Coroner of Inquests.

**Citation  
commencement and  
revocation**

14. (1) This Order may be cited as the Witnesses Allowances Order, 1961, and shall come into operation on the day this Order is approved by Tynwald.

(2) The following Orders and Regulations are hereby revoked—

- (a) Witnesses (Court of Criminal Appeal Summary Jurisdiction and Inquests) Allowances Order 1949.
- (b) Witnesses Allowances Regulations 1949.
- (c) Constables Fees and Witnesses (Civil) Allowances Order 1949.
- (d) Witnesses Allowances Regulations 1959.
- (e) Witnesses (Court of Criminal Appeal Summary Jurisdiction and Inquests) Allowances Order 1959.
- (f) Constable's Fees and Witnesses (Civil) Allowances Order 1959.

(3) Articles 3 and 4 of the Criminal Appeals (Expenses) Regulations 1959 are hereby revoked.

Given under my hand this 13th day of February, 1961.

R. H. GARVEY,  
Lieutenant Governor.

S. J. KNEALE,  
First Deemster and Clerk of the Rolls.

B. W. MACPHERSON,  
Second Deemster.

The above Order was approved by Tynwald on 27th March, 1961.

#### EXPLANATORY NOTE.

(This note is not part of the Order but is intended to indicate its general purport.)

This order consolidates the orders and regulations which are repealed by Article 14 and increases—

- (a) the maximum subsistence allowance for ordinary witnesses from 7/- to 10/- a day.
- (b) the maximum night allowance from 27/6 to 40/- a night and
- (c) the allowance to seamen for loss of wages from 20/- to 40/- a day—bringing the allowance paid to witnesses attending Isle of Man Courts into line with those paid in the United Kingdom.