

Government Circular No. 9/70.
G.O. Reference C.1218/12.

ISLE OF MAN
TO WIT.

By His Excellency Sir Peter Hyla Gawne Stallard, K.C.M.G.,
C.V.O., M.B.E., Lieutenant Governor of the said Isle,
&c., &c., &c.

WITNESSES ALLOWANCES ORDER, 1970.

Criminal Code Amendment Act 1921
Constable's Fees and Witnesses' Allowances Act 1947
Costs in Criminal Cases Act, 1947 and
Coroners of Inquests Act 1961.

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 Thirty-one of the Coroners of Inquests Act, 1961, and of all other powers me in this behalf enabling, DO HEREBY make the following Order and Regulations:

Professional
witnesses

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 an allowance of—

- (a) Ten pounds per day:
- (b) Five pounds for attendance not exceeding four hours:
- (c) A night allowance:

For the purpose of this article, 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.

Post-
mortems

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 six pounds and five shillings.

(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 ten pounds 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 five pounds 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 six pounds and five shillings in respect of each post-mortem examination made by him and in addition a fee of five pounds in respect of each day on which he attends to give evidence at such inquests.

(3) 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 five pounds 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 three pounds and two shillings 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 evidence;
- (b) where necessary for qualifying to give such expert 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 the examination of material or data submitted to him for the purpose.

Ordinary witnesses

4. 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 sixty-five shillings a day for the expense, trouble or loss of time properly incurred or incidental to the attendance and giving of evidence.

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 article 4 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.

Subsistence

6. (1) There may be allowed in respect of a witness (other than a witness who receives an allowance under article 1, 2 or 3 of this Order) 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 article.

(2) In respect of any period other than a period in respect of which a subsistence allowance is payable under paragraph (3) of this article, 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, six shillings in respect of that day;
- (b) if the said period on any one day exceeds four hours but does not exceed eight hours, twelve shillings and sixpence in respect of that day;
- (c) if the said period on any one day exceeds eight hours but does not exceed twelve hours, twenty-three shillings in respect of that day;
- (d) if the said period on any one day exceeds twelve hours but does not exceed sixteen hours, thirty-three shillings in respect of that day;
- (e) if the said period on any one day exceeds sixteen hours, forty shillings 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 sixty-eight shillings in respect of each period of twenty-four hours or fraction thereof during which he is so absent overnight.

(4) A night allowance may be allowed in addition to any sums payable under Articles 4 and 6 (1).

Rates and conditions of night allowance

7. 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, sixty-eight shillings.

Seamen

8. 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—

- (a) an allowance not exceeding, unless for special reasons the court or coroner allows a greater sum, sixty-five 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.

Travelling allowance

9. (1) Where a witness travels to or from a court or coroner's inquest 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 or coroner otherwise directs, only second class fare shall be allowed for travel by railway.

(2) Where a witness travels to or from a court or coroner's inquest 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 a court or coroner's inquest by a private motor vehicle, and the court or coroner is satisfied that the use of the vehicle results in a substantial saving of time or is otherwise reasonable he may be allowed a mileage allowance at the rate payable to Members of Tynwald, Officials and Members of the Civil Service, as amended from time to time.

(4) There may be allowed:—

(a) in respect of travelling expenses of a witness who, in the opinion of the court or coroner 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 Order, as appear to the court or coroner to have been reasonably incurred.

Interpreters

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

Persons attending otherwise than as witnesses

11. 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.

Police and Prison Officers and Prisoners excepted

12. 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.

In this article "prison" means a Prison or Remand Home.

Table of fees to Constables executing civil processes

13. 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 £1.

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

Any sums allowed under this article shall be paid to the Chief Constable who shall remit the said sums to the Treasurer of the Isle of Man.

Interpretation

14. (1) The Interpretation Acts 1949 to 1968 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Tynwald.

(2) In this Order—

(a) "court" means:—

(i) a court of appellate jurisdiction in matters criminal;

- (ii) Her Majesty's High Court of Justice of the Isle of Man;
- (iii) A Court of General Gaol Delivery;
- (iv) a Court of Summary Jurisdiction;
- (b) "coroner" means a Coroner of Inquests, and includes a deputy Coroner of Inquests, and
- (c) "witness" means a person properly attending to give evidence, whether or not he gives evidence.

Citation
commencement
and
revocation

15. (1) This Order may be cited as the Witnesses Allowances Order, 1969, and shall come into operation on the day this Order is approved by Tynwald.

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

Witnesses Allowances Order 1961.

Witnesses Allowances Order 1963.

GIVEN under my hand this 6th day of February, 1970.

P. H. G. STALLARD,
Lieutenant Governor.

G. E. MOORE,
First Deemster and Clerk
of the Rolls.

R. K. EASON,
Second Deemster.

The above Order was approved by Tynwald on 24th March, 1970.

EXPLANATORY NOTE

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

This Order amends the Witnesses Allowances Orders, 1961 and 1963 as follows:—

(a) Article 1 increases the allowances paid to professional witnesses from eight guineas to ten pounds for a whole day and from four guineas to five pounds for a half day.

(b) Article 2 increases the fees paid to medical practitioners:—

- (i) who make post-mortem examinations and report to the Coroner (but who are not witnesses at the Inquest on the body) from five guineas to six pounds five shillings.
- (ii) who make post-mortem examinations, report to the Coroner and attend as witness at an inquest from eight guineas to ten pounds for the first day and from four guineas to five pounds for each subsequent day's attendance, for the purpose of giving evidence.
- (iii) for evidence given at more than one inquest held on the same day, in respect of each post-mortem, from five guineas to six pounds five shillings, and for each subsequent day's attendance for the purpose of giving evidence from four guineas to five pounds.
- (iv) for giving professional evidence other than (iii) above from three guineas to five pounds and from two guineas to three pounds two shillings.

(c) Article 4 increases the maximum loss allowance payable to an ordinary witness from fifty shillings to sixty-five shillings.

(d) Article 6 introduces a scale of subsistence allowance, payable to ordinary witnesses, to amend the old allowance of ten shillings a day.

(e) Article 7 increases night allowance from forty to sixty-eight shillings.

(f) Article 8 increases the allowance payable to seamen in respect of lost wages through attendance at court from forty to sixty-five shillings a day.

(g) Article 9 increases the mileage allowance for the use of private vehicles from threepence a mile to the rate payable to Members of Tynwald, Officials and Members of the Civil Service as amended from time to time.

(h) Article 10 increases the fee payable to a constable for executing a civil process from 10/0d. to £1.