

THE WITNESSES' EXPENSES ACT

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SCHEDULES

THE WITNESSES' EXPENSES ACT

[21st June, 1924.]

Cap. 415.  
Law  
14 of 1959,  
Acts  
6 of 1982,  
2nd. Sch.  
24 of 2013  
3rd. Sch.

1. This Act may be cited as the Witnesses' Expenses Act.

Short title.

2. In this Act—

Interpreta-  
tion.

“legal proceeding” shall mean any civil or criminal proceeding or enquiry in which evidence is or may be given, and includes Coroners' inquests and arbitrations;

“the court” means the Court, Judge, Resident Magistrate, Coroner, Justice of the Peace, Arbitrator, and the person or persons before whom a legal proceeding is held or taken;

“expenses” shall mean the allowance to be made according to the scale fixed under the provisions of this Act, for the expenses of witnesses in attending the court and by way of compensation for the trouble and loss of time incurred by them;

“Medical Officer” means a medical practitioner in the service of the Government of this Island, and who is paid a salary from the public funds.

3. Witnesses attending at any legal proceeding shall be entitled to be paid their expenses according to the scale laid down in the First Schedule.

Payment of  
expenses of  
witnesses.  
First  
Schedule.

4. In cases where, under the provisions of this Act, the expenses of witnesses are payable from public funds, the same shall be paid according to the scale laid down in the First Schedule:

Procedure  
where ex-  
penses are  
payable  
from public  
funds.  
First  
Schedule.

Provided that only the minimum sum mentioned in the said scale of the highest class to which a witness belongs shall be paid by the officer whose duty it shall be to pay the same, unless the court otherwise directs.

Taxation  
and  
payment.

5. Where a witness is entitled to have his expenses paid from public funds, the same shall be taxed and paid by such person or persons and in such manner as the Minister may from time to time by order direct.

Payment of  
a person  
attending as  
a witness at  
any  
Coroner's  
inquest, etc.

6. A person attending as a witness at any Coroner's inquest, or a witness whether for the Crown or the accused in any court of criminal jurisdiction in any prosecution for any criminal offence or for the Crown in any prosecution for any other offence where the information or complaint shall have been laid by the police, shall be entitled to be paid his expenses from public funds only in the following cases—

- (a) if he attends in obedience to a subpoena, or a summons issued at the instance of the Crown, or in pursuance of a recognizance binding him over to appear as a witness; or
- (b) if he attends otherwise than in obedience to a subpoena, summons or recognizance as aforesaid, and gives evidence, and the court certifies that it considers that such evidence was material to the issue, and that the witness has attended in the interests of public justice:

Provided that no witness merely to the character of an accused person, shall in any case be entitled to any expenses from public funds:

Provided further, that in any prosecution for an offence commenced by a private person and not by the police or by any officer on behalf of the Crown, the expenses of witnesses shall not be defrayed from public funds unless the court before which the trial takes place certifies that

the case is one in which such expenses should be paid out of public funds, and that the witness whose expenses it is sought to defray from public funds, was necessary, and that it was proper and reasonable to secure his attendance.

7. In indictable cases where committal proceedings are held witnesses (subject to the provisions of section 5) shall be entitled to be paid their expenses at the proceedings (whether as the result of such proceedings the accused person is committed for trial or not), and also, in case of committal for trial, at the Court where the trial takes place:

Committal Proceedings.  
24/2013  
3rd Sch.

Provided, that where as the result of such proceedings, the accused person is committed for trial, a witness bound over to give evidence at such trial shall not be paid his expenses for the proceedings unless, where there has been a trial, he shall have attended to give evidence in pursuance of his recognizance, or the Resident Magistrate shall, at such proceedings, or at any time thereafter prior to the commencement of the Circuit Court to which the accused person is committed for trial, have directed that the expenses of such witness for the proceedings be paid forthwith.

24/2013  
3rd Sch.

24/2013  
3rd Sch.

24/2013  
3rd Sch.

24/2013  
3rd Sch.

8. When any accused person is committed for trial, the Clerk of the Courts shall attach to the depositions for the guidance of the officer of the court at which such accused person is to be tried, a list showing the number of attendances at the committal proceedings of each person attending as a witness, together with a statement showing the distance that each such person lives from the Court House or place where the committal proceedings were held.

Procedure where any accused person is committed for trial.  
24/2013  
3rd Sch.

9. A witness on behalf of any accused person attending on a subpoena or summons issued on the application of such accused person, or his solicitor, shall not be paid his

Payment of witnesses on behalf of accused persons.

expenses from public funds, unless the court before which the trial takes place, certifies that the attendance of such witness was necessary in the interests of public justice.

Fees of  
Medical  
Officer.

10. Every Medical Officer, save and except a Medical Officer whose whole time is at the disposal of the Government and who is not permitted to engage in private practice, shall be entitled to the fees specified in Class IV of the First Schedule for giving evidence before the court or for making *post mortem* examinations.

First  
Schedule.

Disobe-  
dience of  
subpoenas.

11.—(1) If any person shall, without reasonable excuse to the satisfaction of the court, make default in obeying any subpoena, summons, process or order lawfully issued by the court for his attendance as a witness, or for production by him of any written or other evidence in any legal proceeding, the court may, subject to the provisions of subsection (2) and subsection (3)—

(a) if such subpoena, summons, process or order be issued on the direction of the court or on behalf of the Crown—

2nd Sch.  
6/1982.

(i) impose on such person a fine not exceeding two hundred dollars and, in default of payment thereof, commit such person to prison for a period not exceeding one month, unless the fine shall be sooner paid; and

Second  
Schedule.

(ii) issue a warrant in the form prescribed in the Second Schedule under hand to bring and have such person at a time and place to be therein mentioned before the court, to testify, or to produce the said written or other evidence;

(b) if such subpoena, summons, process or order be issued on behalf of the defence, on proof of a tender of payment of such person's proper travelling expenses under regulations made under

section 15, impose on such person a fine not exceeding two hundred dollars and, in default of payment thereof, commit such person to prison for a period not exceeding one month, unless the fine shall be sooner paid :

6/1982  
2nd Sch.

Provided always that the powers conferred by this section shall be in addition to and not in substitution for any other powers possessed by the court, and any remedies possessed by the party at whose instance the subpoena, summons, process or order is issued.

(2) Whenever any fine is imposed upon any person under the provisions of subsection (1) the proper officer of the court by which the fine was imposed shall forthwith by letter inform the said person of the imposition of the fine and require him within ten days after the date of such letter to forward for submission to the court an affidavit of the cause, if any, of his non-attendance, and such officer shall, upon the receipt of any such affidavit, submit the same to the court and the court shall have power to remit the fine in whole or in part.

(3) No steps shall be taken to enforce the payment of any fine imposed upon any person under the provisions of subsection (1) until—

- (a) the expiration of ten days from the date of the letter informing him of the imposition of the fine; or
- (b) the court has considered any affidavit forwarded by such person; or
- (c) such person has appeared before the court whether any warrant has been issued for his arrest or not,

whichever is the earliest.

12. In all legal proceedings subpoenas shall be issued on the application of any party interested without any affidavit of materiality.

Issue of  
subpoenas.

Power of court to disallow expenses.

13. Notwithstanding anything in this Act contained the court before which a witness appears may disallow the expenses to which but for such disallowance such witness would be entitled.

Keeping in the Island of a material witness.

14. In any criminal case it shall be lawful for the Directors of Public Prosecutions to direct payment by the Accountant-General of any sum of money which may appear to him to be reasonable for keeping in this Island from going abroad any person who shall appear to have been or to be a material witness, and who shall have been or shall be bound under recognizance as such to give evidence.

Travelling expenses.

15.—(1) Every witness who is entitled to have his expenses paid from public funds shall be paid travelling expenses at such rates as may from time to time be prescribed.

(2) The Minister may make regulations prescribing the rates to be paid under this section, and in such regulations may make provision for the payment of railway fares or for the issue of free railway passes.

Subsistence allowance.

16.—(1) Where the taxing officer is satisfied that by reason of—

- (a) the distance between the home of a witness and the place of trial; or
- (b) the state of health of a witness; or
- (c) the means of communication between the home of a witness and the place of trial; or
- (d) the necessity for a witness to attend court upon more than one day,

a witness was necessarily absent from his home for more than one day, for the purpose of giving evidence, the taxing officer may allow, in addition to any sum payable to a witness under section 3, such further sum as he is

satisfied represents any reasonable expenditure actually incurred by the witness for lodging and necessary subsistence during the period between his departure from his home to attend court and his return to his home after so attending court.

(2) For the purposes of this section "taxing officer" means—

- (a) in respect of trials by the Supreme Court while sitting in Kingston, the Registrar of the Supreme Court or an officer deputed by him to act on his behalf;
- (b) in respect of trials by the Supreme Court while sitting elsewhere than in Kingston, the Clerk of the Court so sitting;
- (c) in respect of preliminary enquiries, Coroner's inquests or trials in the Resident Magistrate's Court, the Clerk of such Resident Magistrate's Court; and
- (d) in respect of preliminary examinations or trials in Petty Sessions Court, the Clerk of the Resident Magistrate's Court in which such Petty Sessions Court is held.



## WITNESSES' EXPENSES

(Sections  
3 & 4).  
14/1959  
S. 2.

## FIRST SCHEDULE

For every  
day of  
attendance.

## CLASS I

Proprietors, occupiers or attorneys of estates or pens exceeding 100 acres, merchants, general factors, wholesale dealers, bankers, professional persons, head teachers in Secondary Schools ... \$1.40 to \$2.00

## CLASS II

Proprietors, occupiers or attorneys of estates or pens not exceeding 100 acres, overseers or book-keepers of estates or pens, mercantile clerks, traders (including first-class retailers), commission agents, auctioneers, head teachers in Primary Schools, assistant teachers in Secondary Schools, certified nurses, skilled mechanics and wives of persons falling in Class I ... \$1.00 to \$1.40

## CLASS III

(1) Small shopkeepers, shop assistants, assistant teachers in Primary Schools, skilled workmen, tailors, journeymen, peasant proprietors, barbers, hairdressers, builders, District Constables and Authorized Persons, chauffeurs, stevedores, foremen and wives of persons in Class II ... \$ 0.80 to \$1.00

L.N.  
385/1969.

(2) Servants labourers and the like, pedlars and wives of all persons in this class ... \$ 0.67 to \$ 0.80

## CLASS IV

## REGISTERED MEDICAL PRACTITIONERS—

(a) for giving expert evidence—for each case in addition to any sum payable under Class I ... \$3.15

(b) (i) for examining a body without dissection and making the required report ... \$2.80

(ii) for the same services as in (i) after exhumation ... \$5.60

(iii) for examining and dissecting a body and making the required report ... \$5.60

(iv) for the same services as in (iii) after exhumation ... \$14.00

SECOND SCHEDULE (Section 11 (1)(a)(ii)).

*Warrant where a witness has not obeyed a Summons  
Subpoena, or a Recognizance to appear*

WHEREAS *A.B.* was on the                    day of                    duly served with a summons (*or as the case may be*) directing him to appear on the                    day of                    at                    o'clock in the forenoon to give evidence in (*or as the case may be*) the case of (*or as the case may be*):

AND WHEREAS the said                    hath neglected to appear at the time and place appointed and no just excuse hath been offered for such neglect:

THESE ARE THEREFORE to command you to take the said and to bring him and have him on the                    day of                    at                    o'clock in the forenoon at                    before                    (*as the case may be*) to testify what he shall know concerning the said matter (*or to produce the documents set out in the said summons*) (*or as the case may be*).

GIVEN under my hand this                    day of  
To each and all of the Constables in the parish of  
and to all of the Peace Officers in the parish of