

CONSTABLES' FEES AND WITNESSES' ALLOWANCES ACT 1947

WITNESSES' ALLOWANCES ORDER 1995

Approved by Tynwald: *16th May* 1995
Coming into operation: 1st June 1995

In exercise of the powers conferred on the Deemsters by section 1 of the Constables' Fees and Witnesses' Allowances Act 1947(a) and all other powers enabling them in that behalf, the following Order is hereby made:

Citation, commencement and revocation

1. (1) This Order may be cited as the Witnesses' Allowances Order 1995 and, subject to section 1 of the Constables' Fees and Witnesses' Allowances Act 1947, shall come into operation on the 1st day of June 1995.

(2) The Witnesses Allowance Order 1993 (b) is revoked.

Interpretation

2. In this Order -

"coroner" means a Coroner of Inquests, and includes a deputy Coroner of Inquests;

"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 witness" means a witness other than an expert witness, a professional witness or a qualified medical practitioner;

"prison officer" means any officer employed in the Isle of Man Prison;

"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;

(a) Vol. XVI p.554 (b) S.D. No. 251/93

"post-mortem examination involving additional skills" means an examination determined by the coroner in his absolute discretion to be one of unusual difficulty requiring special experience or skills, or additional work or responsibility beyond that normally expected (in relation, for example, to deaths involving suspected murder, deaths during anaesthesia or deaths involving or likely to involve allegations against hospitals or the medical profession);

"witness" means a person properly attending to give evidence whether or not he gives evidence.

3. Ordinary Witnesses

(a) Subsistence allowance

Where an ordinary witness is necessarily absent from his place of residence, business or employment for the purpose of attending to give evidence on any one day for a period:

(i) up to 5 hours	£2.10
(ii) 5 to 10 hours	£4.25
(iii) over 10 hours	£9.30

(b) Overnight allowance

Where an ordinary witness is necessarily absent from his place of residence overnight for the purpose of attending to give evidence the subsistence allowance in respect of each period of 24 hours or fraction thereof during which he is absent overnight shall not exceed £63.15.

(c) Financial loss allowance

Where an ordinary witness, in consequence of his attendance at a court or inquest, has incurred any expenditure to which he would not otherwise be subject, or any loss of earnings or of social security benefits, which he would otherwise have received he may be paid a sum not exceeding:

(i) where the period of time over which earnings or benefits are lost on any one day does not exceed 4 hours:	£22.40
(ii) where the said time exceeds 4 hours:	£44.80

4. **PROFESSIONAL WITNESSES**

Professional Witness Allowance

Except as provided in article 6 the following allowances may be made to a witness attending to give professional evidence on any one day:

Either

- (a) where he does not employ a person to take care of his practice during his absence:
 - (i) up to 2 hours' absence from place of residence or practice: £52.20
 - (ii) 2-4 hours' absence: £78.30
 - (iii) 4-6 hours' absence: £117.40
 - (iv) more than 6 hours' absence: £156.50

Or

- (b) if the witness necessarily incurs expense in the provision of a person to take care of his practice during his absence:
 - (i) Up to 4 hours' absence: £78.30
 - (ii) over 4 hours' absence: £156.50
- (c) **Overnight Allowance**

Where a professional witness is necessarily absent from his place of residence overnight for the purpose of attending to give evidence an allowance in respect of each such night not exceeding £54.55.

5. **EXPERT WITNESSES**

(a) **Expert Witness Allowance**

An expert witness at a court or inquest may for attending to give evidence and for work in connection with its preparation be paid 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.

(b) **Overnight Allowance**

Where an expert witness is necessarily absent from his place of residence overnight for the purpose of attending to give evidence, an overnight allowance in respect of each such night not exceeding £54.55.

6. **MEDICAL WITNESSES AND POST-MORTEM FEES**

The fees payable to qualified medical practitioners shall be as follows:-

(a) **Post-mortem examination**

For making a post-mortem examination and reporting the result to the coroner: £66.00

(b) **Post-mortem examination involving additional skills**

For making a post-mortem examination involving additional skills and reporting the result to the coroner: £184.60

Note: The decision whether a particular case is potentially one requiring a post-mortem examination involving additional skills is a matter for the coroner.

A medical practitioner attending to give evidence at an inquest in a professional capacity whether in connection with a post-mortem examination or otherwise shall be paid the professional witnesses' allowance.

(c) **In connection with examinations involving additional skills**

(i) For carrying out a special histological examination not exceeding: £117.82

or per block (whichever is less): £12.77

(ii) For carrying out an examination of blood urine or other body fluids for a specified substance: £36.91

(iii) Where two or more such fluids are examined for the same purpose, for each subsequent fluid examined: £25.07

(d) **Travelling Allowances**

(i) In respect of travel by private conveyance to or from a post-mortem examination a mileage allowance at the rate for the time being payable to Members of Tynwald.

(ii) In respect of travel by public conveyance where the journey to or from such place is in excess of two miles, the fare actually paid.

7. TRAVELLING ALLOWANCES FOR ALL WITNESSES

- (a) Where a witness travels to and from a court or coroner's inquest by public conveyance the fare actually paid.
- (b) Where a witness travels to and from a court or coroner's inquest by hired vehicle:
 - (i) in case of urgency where no public service is available the amount of fare paid plus any reasonable gratuity;
 - (ii) in any other case the amount of the fare for the journey by the appropriate public services.
- (c) Where a witness travels to and from a court or coroner's inquest by private conveyance a mileage allowance at the rate for the time being payable to Members of Tynwald.
- (d) The rates specified in paragraph (c) shall be increased:
 - (i) by a supplement of 2p per mile in respect of the first passenger carried to whom an allowance would otherwise have been payable under this Order, and by an additional 1p per mile for each additional passenger so carried;
 - (ii) the amount of any expenditure necessarily incurred on parking fees.
- (e) Where a witness is in the opinion of the court or coroner suffering from a serious illness, or where it is necessary to carry heavy exhibits, such sums as in the opinion of the court or coroner have been reasonably incurred may be paid.

8. INTERPRETERS' ALLOWANCES

There may be allowed to a person employed as an interpreter such allowances as the court or coroner may consider reasonable and according to the Department of Home Affairs prescribed rates.

9. SEAMEN'S ALLOWANCES

- (a) 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:-
 - (i) an allowance not exceeding, unless for special reasons the court or coroner allows a greater sum, £42.81 a day in respect of loss of wages, together with:

- (ii) an allowance not exceeding the sum actually and reasonably incurred for his maintenance.

10. ALLOWANCES PAYABLE TO PERSONS ATTENDING OTHERWISE THAN AS WITNESS

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 as to an ordinary witness.

11. POLICE, PRISON OFFICERS AND PRISONERS

- (a) Subject to paragraph (b) there may be allowed to a police officer attending as a witness at any court an allowance not exceeding £20.68 a day, or if the period when the police officer is necessarily away from his place of residence and duty for the purpose of giving evidence does not exceed four hours a sum not exceeding £10.34

- (b) notwithstanding anything contained in this Order no sum shall be allowed to:-

- (i) a police officer attending, in his capacity as such, the Staff of Government Divison (Criminal Jurisdiction), the Court of General Gaol Delivery, a court of summary jurisdiction (when exercising criminal jurisdiction) or coroner's inquest; or
- (ii) a prison officer attending a court or coroner's inquest in his capacity as such; or
- (iii) a prisoner produced at a court or coroner's Inquest in the custody of a prison officer.

12. FEES PAYABLE TO CONSTABLES EXECUTING CIVIL PROCESS

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 £2.00.

Where the person arrested refuses to walk the constable shall 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 Treasury.

13 April

Made

1995



FIRST DEEMSTER AND CLERK OF THE ROLLS



SECOND DEEMSTER

Explanatory Note

This order is made by the Deemsters under Section 1 of the Constables' Fees and Witnesses' Allowances Act 1947. The fees are increased bi-annually to keep them in line with the same fees payable in the United Kingdom.