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GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 391

11 April 2008

CRIMINAL PROCEDURE ACT, 1977: REGULATIONS PRESCRIBING THE TARIFF OF ALLOWANCES PAYABLE TO WITNESSES IN CRIMINAL PROCEEDINGS

The Minister for Justice and Constitutional Development has, in consultation with the Minister of Finance, under sections 191(3) and 191(4) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), made the regulations in the Schedule.

SCHEDULE

TARIFF OF ALLOWANCES

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned to it and unless the context otherwise indicates-
"court manager" means the person in control of the administration of a magistrate's office;
"registrar" includes assistant registrar;
"the Act" means the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
"witness" means a person who attends a criminal case as a witness for the State.

Subsistence allowance

2.(1) A witness is entitled to the following allowances for each 24 hours or part thereof for which the witness is, for the purpose of the attendance of criminal proceedings, absent from his or her residence or place of sojourn:

- (a) the reasonable actual expenses if it is necessary to hire accommodation for the night;
and
- (b) (i) R20 ; or
(ii) the reasonable actual expenses incurred for meals on submission of proof of the expenses to the satisfaction of the court manager or the registrar.

(2) The allowances provided for in subregulation (1) are payable for the full period for which the witness is absent from his or her residence or place of sojourn for purposes of attending the court.

(3) In calculating the period of absence for purposes of subregulation (1), a witness is allowed 24 hours for each distance of 600 kilometres or part thereof traveled.

(4) The allowance provided for in subregulation (1) is not payable if the fare of a witness includes the cost of meals and accommodation.

Transport and travelling expenses

3.(1) A witness may, subject to subregulation (2), make use of public or private transport and is entitled to the following allowances:

(a) In the case of private transport -

(i) 92c per kilometre in the case of a motorcycle; or

(ii) R1,30 per kilometre in the case of a motor vehicle, calculated along the shortest route; or

(b) in the case of public transport, an amount equal to the fare for the least expensive transport along the shortest route.

(2) A witness may only use air transport at State expense if the court manager or registrar-

(a) is satisfied that the use thereof is warranted; and

(b) has approved that the witness may make use of air transport.

(3) On satisfactory proof having been produced, a witness is entitled to be reimbursed for his or her reasonable actual expenses incurred in respect of parking and toll fees.

Income forfeited

4. The court manager or a registrar may, on satisfactory proof having been produced that a witness has forfeited income as a result of his or her attendance of a criminal case, in addition to the allowance that may be payable to the witness in terms of regulation 2, order the payment of an allowance equal to the actual amount of income so forfeited, subject to a maximum of R1500,00 per day.

Supplementary provisions

5. The Director-General or a person designated by him or her may authorise a deviation from the prescribed tariff in the case of -

(i) a witness claiming more than R1 500,00 per day for income forfeited in terms of regulation 4; and

(ii) in any other case,

if he or she is satisfied that the application of the provisions of these regulations may cause financial hardship.

6.(1) A witness who cannot attend a criminal case without prior financial assistance by the State, may make a request for such assistance at any magistrate's office or High Court.

(2) The court manager or the registrar of the High Court contemplated in subregulation (1) must make the necessary arrangements in respect of a witness contemplated in subregulation (1), including the authorisation for the payment of an advance to the witness.

(3) The financial assistance rendered in terms of subregulation (1) must be taken into account before payment of an allowance in terms of regulations 2 to 4 is made.

7. A witness who attends more than one criminal case as a witness in the same court on the same day, is for the purposes of these regulations deemed to have attended one criminal case only.

8. These regulations do not apply to persons referred to in section 8(1) of the Public Service Act, 1994 (Act No. 93 of 1994).

9. Where the expenses incurred by a witness in connection with his or her attendance at a criminal case are provided for from any other source, no allowance in terms of these regulations is to be paid to him or her.

10. The decision of a court manager or a registrar of a High Court in respect of the amounts payable in terms of regulations 2, 3 and 4 shall be final.

11. The allowances prescribed in this Schedule are also payable to a person who, of necessity, accompanies a witness on account of the youth or infirmity, owing to old age, or any other infirmity of the witness.

12. Government Notice No. R. 2596 of 1 November 1991, is repealed.