

No. R. 394

11 April 2008

**MAGISTRATES' COURTS ACT, 1944, AND
THE SUPREME COURT ACT, 1959:
TARIFF OF ALLOWANCES PAYABLE TO WITNESSES IN CIVIL CASES**

The Minister for Justice and Constitutional Development has, in consultation with the Minister for Finance, under section 51 *bis* of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and section 42 of the Supreme Court Act, 1959 (Act No. 59 of 1959), prescribed the tariff of allowances in the Schedule.

SCHEDULE

Definitions

1. In this Schedule any word or expression to which a meaning has been assigned in the Acts 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 Acts" means the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and the Supreme Court Act, 1959 (Act No. 59 of 1959); and
"witness" means a person who attends a civil case as a witness.

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 a civil case, 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) R50 ; 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 subregulations (1) and (2), a witness is allowed 24 hours for each distance of 600 kilometres or part thereof travelled.

(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 traveling 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 if the court manager, registrar, or taxing master of the High Court of South Africa -

- (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. On satisfactory proof having been produced that a witness has forfeited income as a result of his or her attendance of a civil case, he or she is, in addition to the allowance that may be payable to the witness in terms of regulation 2, entitled to an allowance equal to the actual amount of income so forfeited, subject to a maximum of R1500,00 per day.

Supplementary provisions

5. The court manager, registrar or taxing master of a High Court may approve -

(a) the payment of-

- (i) an allowance not provided for in this Schedule; or
- (ii) an allowance under circumstances not provided for in this Schedule,

to a witness if he or she is of the opinion that fairness so requires but with due regard to the principle that a witness should not be remunerated for the evidence given in a court of law; or

(b) the deviation from the prescribed tariff in the case of -

- (i) a witness residing outside the Republic of South Africa; or
- (ii) in any other case,

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

6. Where the expenses of a witness are provided for from any other source, no allowance in terms of this Schedule shall be paid to him or her.

7. 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.

8. The decision of a court manager, registrar, or taxing master of a High Court in respect of the amounts payable in terms of regulations 3, 4 and 5 shall be final.

9. Government Notice No. R. 2597 of 1 November 1991 is repealed.