

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 969

06 SEPTEMBER 2017

**CRIMINAL PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)
REGULATIONS PRESCRIBING THE TARIFF OF ALLOWANCES PAYABLE TO
PSYCHIATRISTS AND CLINICAL PSYCHOLOGISTS WHO APPEAR AS
WITNESSES IN COURT: AMENDMENT**

The Minister of Justice and Correctional Services has, in consultation with the Minister of Finance, under section 191(3) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R. 392 of 11 April 2008.

Amendment of regulation 1 of Regulations

2. Regulation 1 of the Regulations is hereby amended by the insertion of the following definition before the definition of "court manager":
"Child Justice Act" means the Child Justice Act, 2008 (Act No. 75 of 2008);"

Substitution of regulation 2 of Regulations

3. Regulation 2 of the Regulations is hereby substituted for the following regulation:

"Subsistence allowance

2. (1) A psychiatrist or clinical psychologist who is—

- (a) designated or appointed by or at the request of the court in terms of section 79(1) of the Act to enquire into and report on the mental condition of an accused; or
- (b) ordered to evaluate the criminal capacity of a child in terms of section 11(3) of the Child Justice Act,

and who is not in the full-time service of the State, who must attend court in connection with an accused whom he or she has examined is entitled to the following allowances contemplated in subregulation (2).

(2) The psychiatrist or clinical psychologist contemplated in subregulation (1) who is for the purpose of the attendance of court absent from his or her residence or place of sojourn and—

- (a) is obliged to be absent for longer than 24 hours from his or her residence or place of sojourn, shall be entitled to the allowances as prescribed from time to time for the Public Service; or
- (b) is obliged to be absent from his or her residence or place of sojourn for less than 24 hours, shall be entitled to the reasonable actual expenses incurred if the necessary corroborative documents accompany the claim to the satisfaction of the court manager or the registrar, or to the expenses as prescribed from time to time for the Public Service:

Provided that the allowances provided for in paragraphs (a) and (b) are payable for the full period for which the psychiatrist or clinical psychologist 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 (2)(a), a psychiatrist or clinical psychologist is allowed 24 hours for each distance of 600 kilometres or part thereof travelled."

Amendment of regulation 3 of Regulations

3. Regulation 3 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

"(1) A psychiatrist or clinical psychologist may, subject to subregulation (2), make use of—

- (a) public transport, in which case he or she is entitled to an amount equal to the fare for the least expensive transport along the shortest route; or
- (b) private transport, in which case he or she is entitled to a transport allowance as prescribed from time to time for the Public Service."

Substitution of regulation 4 of Regulations

4. Regulation 4 of the Regulations is hereby substituted for the following regulation:

"Remuneration for court attendance

4. (1) A clinical psychologist who is designated or appointed by, or at the request of the court in terms of section 79(1) of the Act to enquire into and report on the mental condition of an accused or a clinical psychologist who is ordered to evaluate the criminal capacity of a child in terms of section 11(3) of the Child Justice Act and who is not in the full-time service of the State, shall be compensated for giving evidence in court in connection with such enquiry or evaluation from public funds at the following rates:

- (a) R3 825,00 per day;
- (b) R2 295,00 for giving evidence in the morning; or
- (c) R1 530,00 for giving evidence in the afternoon.

(2) A psychiatrist who is designated or appointed by, or at the request of the court in terms of section 79(1) of the Act to enquire into and report on the mental condition of an accused, or a psychiatrist who is ordered to evaluate the criminal capacity of a child in terms of section 11(3) of the Child Justice Act and who is not in the full-time service of the State, shall be compensated for giving evidence in court in connection with such enquiry or evaluation from public funds at the following rates:

- (a) R5 000,00 per day;
- (b) R3 000,00 for giving evidence in the morning; or
- (c) R2 000,00 for giving evidence in the afternoon."

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 969

06 SEPTEMBER 2017

**STRAFPROSESWET, 1977 (WET NO. 51 VAN 1977)
REGULASIES WAARBY DIE TARIEF VAN TOELAES BETAALBAAR AAN PSIGIATERS EN
KLINIESE SELKUNDIGES WAT AS GETUIES IN HOF OPTREE, VOORGESKRYF WORD:
WYSIGING**

Die Minister van Justisie en Korrektiewe Dienste het, in oorleg met die Minister van Finansies, kragtens artikel 191(3) van die Strafproseswet, 1977 (Wet No. 51 van 1977) die regulasies in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1. In hierdie regulasies beteken "die Regulasies" die regulasies soos gepubliseer by Goewermentskennisgewing No. R. 392 van 11 April 2008.

Wysiging van regulasie 1 van Regulasies

2. Regulasie 1 van die Regulasies word hierby gewysig deur die volgende woordomskrywing voor die woordomskrywing van "die Wet" by te voeg: "Child Justice Act" die "Child Justice Act, 2008 (Act No. 75 of 2008);".

Vervanging van regulasie 2 van Regulasies

3. Regulasie 2 van die Regulasies word hierby deur die volgende regulasie vervang:

"Verblyftoelae

2. (1) 'n Psigiater of 'n kliniese sielkundige wat—
- (a) aangewys of aangestel is deur, of op versoek van die hof ingevolge artikel 79(1) van die Wet om na die geestestoestand van 'n beskuldigde ondersoek in te stele n verslag te doen; of
 - (b) beveel is om die strafregtelike vermoë van 'n kind ingevolge artikel 11(3) van die Child Justice Act te evalueer,

en wat nie in die heelstydse diens van die Staat is nie, wat 'n hof moet bywoon in verband met 'n beskuldigde wat hy of sy ondersoek het, is geregtig op die volgende toelaes beoog in subregulasie (2).

(2) Die psigiater of kliniese sielkundige beoog in subregulasie (1) wat vir die doel van sodanige bywoning afwesig is van sy of haar woonplek of die plek waar hy of sy vertoef en—

- (a) genoodsaak is om 24 uur of langer van sy of haar woonplek of die plek waar hy of sy vertoef afwesig te wees, is geregtig op die toelaes soos van tyd tot tyd vir die Staatsdiens voorgeskryf; of
- (b) genoodsaak is om minder as 24 uur van sy of haar woonplek of die plek waar hy of sy vertoef afwesig te wees, is geregtig op die redelike werklike uitgawes aangegaan indien die eis van die nodige stawende dokumente vergesel gaan, of op die uitgawes soos van tyd tot tyd vir die Staatsdiens voorgeskryf:

Met dien verstande dat die toelaes in paragrawe (a) en (b) bedoel betaalbaar is vir die volle tydperk wat die psigiater of kliniese sielkundige vir die doel van bywoning van die hof van sy of haar woonplek of die plek waar hy of sy vertoef, afwesig is.

(3) By die berekening van die tydperk van afwesigheid vir die toepassing van subregulasie (2)(a) word 'n psigiater of kliniese sielkundige 24 uur toegelaat vir elke 600 kilometer of gedeelte daarvan gereis."

Wysiging van regulasie 3 van Regulasies

3. Regulasie 3 van die Regulasies word hierby gewysig deur subregulasie (1) deur die volgende subregulasie te vervang:

"(1) 'n Psigiater of kliniese sielkundige mag, behoudens die bepalings van subregulasie (2), gebruik maak van—

- (a) openbare vervoer, in welke geval hy of sy geregtig is op 'n bedrag gelykstaande aan die reiskoste vir die goedkoopste vervoer langs die kortste roete; of
- (b) privaatvervoer, in welke geval hy of sy geregtig is op 'n vervoertoelae soos van tyd tot tyd vir die Staatsdiens voorgeskryf."

Vervanging van regulasie 4 van Regulasies

4. Regulasie 4 van die Regulasies word hierby deur die volgende regulasie vervang:

"Vergoeding vir hofbywoning

4. (1) 'n Kliniese sielkundige wat aangewys of aangestel is deur, of op versoek van die hof ingevolge artikel 79(1) van die Wet om na die geestestoestand van 'n beskuldigde ondersoek in te stele n verslag te doen, of 'n

kliniese sielkundige wat ingevolge artikel 11(3) van die Child Justice Act beveel is om die strafregtelike vermoë van 'n kind te evalueer, en wat nie in die healtydse diens van die Staat is nie, sal uit staatsgelde vergoed word vir getuielewering in verband met sodanige ondersoek of evaluasie teen die volgende tariewe:

- (a) R3 825,00 per dag;
- (b) R2 295,00 vir getuielewering in die oggend; of
- (c) R1530,00 vir getuielewering in die middag.

(2) 'n Psigiater wat aangewys of aangestel is deur, of op versoek van die hof ingevolge artikel 79(1) van die Wet om na die geestestoestand van 'n beskuldigde ondersoek in te stele n veslag te doen, of 'n psigiater wat ingevolge artikel 11(3) van die Child Justice Act bevel is om die strafregtelike vermoë van 'n kind te evalueer, en wat nie in die healtydse diens van die Staat is nie, sal uit staatsgelde vergoed word vir getuielewering in verband met sodanige ondersoek of evaluasie teen die volgende tariewe:

- (a) R5 000,00 per dag;
- (b) R3 000,00 vir getuielewering in die oggend; of
- (c) R2 000,00 vir getuielewering in die middag."