



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Criminal Procedure Act 51 of 1977
section 344(2)

**Regulations prescribing the Tariff of Allowances
payable to Witnesses in Criminal Cases**

RSA Government Notice R.653 of 1980

[\(RSA GG 6896\)](#)

came into force on 1 April 1980 (regulation 11)

as amended by

Government Notice 34 of 1987 [\(OG 5330\)](#)

came into force on 1 April 1987 (GN 34/1987)

**Note that regulation 10 of these regulations withdraws
RSA Government Notice R.1751/1970, dated 16 October 1970.**

ARRANGEMENT OF REGULATIONS

[The individual regulations do not have headings, but are grouped under parts with headings.]

1. Subsistence allowance
 2. Income forfeited
 3. Travelling expenses and transport
 - 4.-8. Supplementary provisions
 9. Application of these regulations to South-West Africa
 10. Repeal
 11. Commencement
-

REGULATIONS
Criminal Procedure Act 51 of 1977

Regulations prescribing the Tariff of Allowances payable to Witnesses in Criminal Cases

TARIFF OF ALLOWANCES PAYABLE TO WITNESSES IN CRIMINAL CASES

Subsistence allowance

1. (1) Any person who attends any criminal case as a witness for the State shall be entitled to the following allowances for each 24 hours or part thereof for which he is, for the purposes of such attendance, absent from his place of residence or sojourn:

(a) (i) A witness giving expert evidence: R30.

[subparagraph (i) substituted by GN 34/1987]

(ii) A witness giving expert evidence who has to hire accommodation for the night: In addition to the amount in (i) above, his essential and reasonable subsistence expenses subject to a maximum amount of: R48.

[subparagraph (ii) amended by GN 34/1987]

(b) (i) A witness, excepting a witness mentioned in subparagraph (ii), who resides or sojourns eight kilometres or more from the court where he appears: R6: Provided that if a judicial officer or a registrar or assistant registrar of the Supreme Court of South Africa is satisfied that the witness had to incur expenses in respect of such attendance exceeding R6: His essential and reasonable expenses, subject to a maximum amount of: R18.

[subparagraph (i) amended by GN 34/1987]

(ii) A witness who has to hire accommodation for the night: His essential and reasonable expenses, subject to a maximum amount of: R48.

[subparagraph (ii) amended by GN 34/1987]

(c) A witness who resides or sojourns 8 kilometres or less from the court where he appears, if a judicial officer or a registrar or assistant registrar of the Supreme Court of South Africa is satisfied that the witness had to incur expenses in respect of such attendance: His essential and reasonable expenses subject to a maximum amount of: R18.

[paragraph (c) amended by GN 34/1987]

(d) Subject to the provisions of regulation 6 (1), the decision of a magistrate or a registrar of the Supreme Court of South Africa in respect of the amounts payable under paragraphs (a), (b) and (c) shall be final.

(2) A witness shall qualify for the allowance referred to in paragraphs (a)(ii) and (b)(ii) of subregulation (1) for the full period for which he is absent from his place of residence or sojourn for purposes of attending court if, during such absence, he has to hire accommodation for a night or spend a night on a train.

Income forfeited

2. A judicial officer or a registrar or assistant registrar of the Supreme Court of South Africa may, on production of satisfactory proof that a witness for the State has forfeited income as a result of his attendance of a criminal case, order that, in addition to any allowance which may

**REGULATIONS
Criminal Procedure Act 51 of 1977****Regulations prescribing the Tariff of Allowances
payable to Witnesses in Criminal Cases**

be payable to the witness in terms of regulation 1, an allowance equal to the actual amount of income so forfeited be paid to him, subject to a maximum of R100 per day.

[regulation 2 amended by GN 34/1987]

Travelling expenses and transport

3. (1) (a) Whenever a witness has to make use of railway transport to attend court, he shall be issued with a rail warrant for a return ticket for the class in which he would presumably ordinarily travel or such other class as a magistrate or a registrar or assistant registrar of the Supreme Court of South Africa deems appropriate, and the decision of a magistrate or a registrar or assistant registrar of the Supreme Court of South Africa in this respect shall be final.

(b) Whenever a witness makes use of railway transport without a rail warrant having been issued to him, an amount equal to the fare at Government rate shall be paid to him: Provided that, if a magistrate or a registrar or assistant registrar of the Supreme Court of South Africa is satisfied that the payment of such amount would in any particular instance be unreasonable, he may order that an amount equal to the actual fare be paid to such witness.

(2) Whenever suitable railway transport is not available and a witness makes use of any other means of public transport to attend court, an amount equal to the fare for the forward and return journey along the shortest convenient route shall be paid to him: Provided that, if more than one other such means of public transport is available, the fare for the less expensive one shall be paid.

(3) Whenever suitable public transport is not available and a witness makes use of his own or hired transport to attend court, an amount for the forward and return journey along the shortest convenient route shall be paid at 35c per kilometre in respect of a motor vehicle excluding a motor cycle and 10.5c per kilometre in respect of a motor cycle or any other means of conveyance.

[subregulation (3) amended by GN 34/1987]

(4) Whenever suitable public transport is available and a witness makes use of his own or hired transport to attend court, the amount referred to in subregulation (3) may be paid for a forward and return journey not exceeding 300 kilometres: Provided that, if a magistrate or a registrar or assistant registrar of the Supreme Court of South Africa is satisfied that the circumstances of a particular instance justify the use of transport other than public transport for a distance in excess of 300 kilometres he may order that the amount referred to in subregulation (3) or such lesser amount as he deems appropriate in the circumstances be paid for such longer distance, and the decision of a magistrate or a registrar or assistant registrar of the Supreme Court of South Africa in this respect shall be final.

(5) A magistrate or a registrar of the Supreme Court of South Africa may approve a witness's making use of air transport at Government expense to attend court if he is satisfied that the use of such transport is justified.

Supplementary provisions

4. A witness shall be allowed not more than 24 hours for the purpose of calculating the period of absence for the purposes of regulation 1 -

REGULATIONS
Criminal Procedure Act 51 of 1977

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- (a) if the witness makes use of private transport to attend a criminal case, for each -
 - (i) 600 kilometres or part thereof if he travels by motor vehicle; or
 - (ii) 60 kilometres or part thereof if he makes use of any other means of transport; and
- (b) if the witness walks, for each 30 kilometres or part thereof.

5. Whenever the fare of a witness includes the provision of meals and sleeping accommodation, no allowance in terms of regulation 1 shall be paid.

6. (1) The Director-General, Deputy Director-General, Chief Director, a director, deputy director, the head of the accounts division of the Department of Justice or the Director of Justice in South-West Africa may authorise a departure from the provisions of these regulations in the case of a witness who resides outside the Republic of South Africa or the Territory of South-West Africa or in any case if he is satisfied that the application of the provisions thereof may cause a witness hardship.

(2) For the purposes of the application of these regulations to a case of a witness attending a criminal case as a witness for the State in a magistrate's court in a district or a subdistrict under the administrative control of the Minister of Co-operation and Development or a court referred to in section 9(1) of the Black Administration Act, 1927 (Act 38 of 1927), a reference to a specific officer of the Department of Justice shall be construed as a reference to a corresponding officer in the Department of Co-operation and Development.

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

8. (1) These regulations shall not apply to a public servant or an officer of the South African Railways and Harbours Administration or of the Department of Posts and Telecommunications.

(2) Where the expenses of a witness for the State in connection with his attendance at a criminal case are provided for from any other source, no allowance in terms of these regulations shall be paid to him.

Application of these regulations to South-West Africa

9. These regulations are made with the consent of the Administrator-General for the Territory of South West Africa and shall also apply in the Territory.

Repeal

- 10. Government Notice R.1751, dated 16 October 1970, is hereby withdrawn.

Commencement

- 11. These regulations shall come into operation on the first day of April 1980.