

(6 September 2017 – to date)

## **SUPERIOR COURTS ACT 10 OF 2013**

*(Gazette No. 36743, Notice No. 615 dated 12 August 2013. Commencement date: 23 August 2013 [Proc. No. R36, Gazette No. 36774]- with the exception of sections 29, 37 and 45 and Items No. 11 of Schedule 1 and No. 1.1 of Schedule 2)*

### **TARIFF OF ALLOWANCES PAYABLE TO WITNESSES IN CIVIL CASES**

*Government Notice R394 in Government Gazette 30953 dated 11 April 2008. Commencement date: 11 April 2008*

#### **As amended by:**

*Government Notice R965 in Government Gazette 41096 dated 6 September 2017. Commencement date: 6 September 2017*

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**

#### **1. Definitions**

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.

#### **2. Subsistence allowance**

- (1) A witness who is for the purpose of the attendance of civil cases absent from his or her residence or place of sojourn and -

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- (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.

*(Paragraph 2(1) substituted by GNR 965 of 2017)*

- (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.

### **3. Transport and traveling expenses**

- (1) A witness may, subject to the provisions of subparagraph (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.

*(Paragraph 3(1) substituted by GNR 965 of 2017)*

- (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.

### **4. Income forfeited**

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 R2 084,00 per day.

*(Paragraph 4 amended by GNR 965 of 2017)*

## **5. Supplementary provisions**

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.