

**CHAPTER 08:02 - CRIMINAL PROCEDURE AND EVIDENCE: SUBSIDIARY LEGISLATION
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TARIFF OF ALLOWANCES (WITNESSES IN CRIMINAL CASES) REGULATIONS

(section 209(3))

(18th March, 1994)

ARRANGEMENT OF REGULATIONS

REGULATION

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S.I. 30, 1994,
S.I. 70, 1999,
S.I. 83, 2006.

1. Citation

These Regulations may be cited as the Tariff of Allowances (Witnesses in Criminal Cases) Regulations.

2. Definition

In these Regulations, "**the Registrar**" means the Registrar of the High Court.

3. Subsistence allowance

(1) Except as otherwise provided in these Regulations, witnesses in criminal cases shall be paid out of public moneys for their attendance on subpoena or warning, in the courts, an allowance towards subsistence (in these Regulations called "subsistence allowance") at the following rates for each day or part of a day, in addition to their expenses of conveyance, that is to say-

- (a) persons giving expert evidence, P365 (the allowance includes all necessary preparatory or qualifying work);
- (b) duly qualified members of any profession and such other persons whose standing, in the opinion of the Registrar, is comparable, P300;
- (c) skilled workers, clerks, businessmen and such other persons whose standing in the opinion of the Registrar, is comparable, P150;
- (d) semi-skilled workers and such other persons whose standing, in the opinion of the Registrar, is comparable, P110;
- (e) persons not in any of the categories referred to in paragraphs (a) to (d), P90.

(2) A child under 12 years of age may be paid at one half only of the rate at which its

guardian would be entitled.

(3) For the purposes of this regulation, a guardian or other attendant necessarily accompanying a child witness shall be regarded as having been subpoenaed as a witness in the case.

(4) The subsistence allowance shall be paid for each day or part of a day involved in necessarily being absent from the place of residence or place of work of the witness, including the time necessarily spent in travelling to and from the seat of the court.

(5) Where a person is called for precognition he or she shall be paid an allowance at the rate of the category of the witnesses to which he or she belongs as prescribed in paragraphs (a) to (e) or as the Registrar may direct.

4. Transport allowance

(1) Where railway travel is available, a rail warrant shall be issued entitling the witness to the issue of a return railway ticket to travel by such class as the Registrar of the High Court deems appropriate.

(2) Where a witness comes in a motor car or lorry from a distance of over 8 kilometres from the seat of the Court, and rail travel is not reasonably available, the amount payable shall be such amount as prescribed for public servants under the Public Service Act.

(3) Where a witness comes on-

(a) a motor cycle, moped or motor scooter, the amount payable shall be as follows-

(i) tarred roads at P0,33 per kilometre;

(ii) gravel roads at P0,50 per kilometre;

(iii) sandy roads at P0,71 per kilometre;

(b) foot, cycle or horseback, the amount payable shall be P0,22 per kilometre.

(4) Notwithstanding the provisions of subregulations (1) and (2) the Registrar may authorise and issue to any witness an air warrant entitling the witness to the issue of an air return ticket.

4A. Overnight accommodation allowance

Where a witness has necessarily incurred the expense of overnight accommodation, an additional amount shall be payable at the same rates as those applicable to members of the public service travelling on duty.

4B. Refund to witnesses

When a journey is performed by air or rail, a refund shall be made for a fare of such class as the witness might ordinarily be expected to travel.

5. Witness in same place on same day

Where the same person is a witness in more cases than one in the same court or in different courts sitting on the same day, within the same township, he is entitled to allowances as for one case only.

6. Inspection *in loco*

Allowances in connection with inspection *in loco* shall be paid on the same basis as for court attendance.

7. Additional allowance

Where in the opinion of the Registrar, payment of the allowances prescribed by these Regulations would cause undue hardship, or there are extraordinary circumstances in any particular instances calling for special allowances to be paid, he may authorise the payment of such additional allowance as he may deem appropriate.

8. Accused not entitled to allowance

An accused person is not entitled to subsistence allowance or allowance for transport.

9. Non-application of tariff

These Regulations shall not apply to Government officers who are eligible for subsistence and travelling allowances in accordance with the rules of the public service and paid for from other sources.

10. Decision of Registrar to be final

Any decision made by the Registrar in the exercise of his discretion under these Regulations shall be final.

CRIMINAL PROCEDURE (CORPORAL PUNISHMENT) REGULATIONS

(under section 305)

(3rd October, 1969)

ARRANGEMENT OF REGULATIONS

REGULATIONS

1. Citation
2. Size of cane
3. Manner of administering

S.I. 95, 1969

1. Citation

These Regulations may be cited as the Criminal Procedure (Corporal Punishment) Regulations.

2. Size of cane

Corporal punishment shall be administered as follows-

- (a) in the case of males of the age of 18 years or over, with a rattan cane which shall be 1,218 metres long and 12,7 millimetres in diameter;
- (b) in the case of males under the age of 18 years, with a rattan cane which shall be 0,914 metres long and 9,525 millimetres in diameter.

3. Manner of administering

Corporal punishment shall be administered on the bare buttocks only and on no other part of the body.

CORPORAL PUNISHMENT (DESIGNATION OF PLACES FOR ADMINISTERING) ORDER

(under section 305(3))

(15th October, 1982)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Designation of places

S.I. 146, 1983.

1. Citation

This Order may be cited as the Corporal Punishment (Designation of places for Administering) Order.

2. Designation of Places

The following places are hereby designated as places where corporal punishment may be administered in traditional manner-

- (a) any place declared as a prison under section 3 or 4 of the Prisons Act;
- (b) any court recognized or established under section 6(2) of the Customary Courts Act as a customary court.

DESIGNATION OF OFFICERS ENTITLED TO ACCEPT ADMISSIONS OF GUILT ORDER

(under section 307)

(30th October, 1959)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Designation of officers

G.N. 34, 1959.

1. Citation

This Order may be cited as the Designation of Officers Entitled to Accept Admissions of Guilt Order.

2. Designation of officers

For the purposes of section 307 of the Act, the following officers are empowered to accept payment of fines with admissions of guilt-

- (a) any police officer of or above the rank of sub-inspector;
- (b) any police officer for the time being in charge of any police station or post.

POWERS TO PROSECUTE (DELEGATION) ORDER

(section 8)

(1st October, 2005)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Delegation of powers to prosecute
3. Powers to be exercised subject to directions

Schedule

S.I. 57, 2005,
S.I. 58, 2005.

1. Citation

This Order may be cited as the Powers to Prosecute (Delegation) Order.

2. Delegation of powers to prosecute

The powers of the Director of Public Prosecutions to appear at preparatory examinations held under Part VIII of the Act, and to prosecute before all subordinate courts of Botswana are hereby delegated to officers of the Departments listed in the first column of the Schedule who hold, or are above the ranks listed in the second column of the Schedule.

3. Powers to be exercised subject to directions

The powers delegated in paragraph 2 shall be exercised subject to the directions given by the Director of Public Prosecutions from time to time.

SCHEDULE

First Column

Department

1. Directorate on Corruption and Economic Crime

2. Botswana Police Service

Second Column

Officer's rank

- Principal Anti Corruption Assistant
- Assistant Anti Corruption Officer
- Anti Corruption Technical Officer on Salary Scale C3
- Sergeant

DESIGNATION OF FORENSIC AND ALLIED SERVICES (PTY) LTD ORDER

(section 222(4))

(30th January, 2009)

ARRANGEMENT OF PARAGRAPHS

PARAGRAPHS

1. Citation
2. Designation of forensic scientists
3. Proof of facts by affidavit

S.I. 5, 2009

1. Citation

This Order may be cited as the Designation of Forensic and Allied Services (Pty) Ltd Order.

2. Designation of forensic scientists

Forensic and Allied Services (Pty) Ltd are hereby designated as experts in forensic science for the purposes of subsection (4) of section 222 of the Criminal Procedure and Evidence Act.

3. Proof of facts by affidavit

In consequence of the provisions of paragraph 2, any document purporting to be an affidavit made by an officer of the Forensic and Allied Services (Pty) Ltd containing any fact ascertained by an examination or process requiring scientific skill by such an officer in relation to any matter which has become relevant to an issue in any criminal proceedings, such document shall, on its mere production in the criminal proceedings by the said officer, be admissible to prove the fact contained in the document.