

# ALLOWANCES TO WITNESSES RULES.<sup>(1)</sup>

1. These Rules may be cited as the *Allowances to Witnesses Rules*.<sup>(1)</sup> Short title.

2. The Rules made under the *Criminal Procedure Ordinance 1889* of Papua in its application to the Territory of New Guinea and published in the *New Guinea Gazette* of the twenty-ninth day of November, One thousand nine hundred and twenty-four, are repealed. Repeal.

3. In every criminal case there may be paid to every witness or interpreter (or where the witness or interpreter is a native, to his employer) called to give evidence before the Central Court<sup>(2)</sup> allowances by way of expenses in accordance with the provisions of the following paragraphs:— Allowances to witnesses.

(a) To every witness or interpreter resident not less than two miles from the court at which he is required to attend—  
The amount which he has actually and necessarily expended for his conveyance to and from court.

(b) To every witness or interpreter in respect of the period during which he has been required to attend at court—  
The amount lost by the attendance but not exceeding an

(1) The *Allowances to Witnesses Rules* (made under the *Criminal Procedure Ordinance of 1889* (Papua, adopted) as amended by the *Criminal Procedure Ordinance 1925* and the *District Courts Ordinance 1924-1938*) comprise the original *Allowances to Witnesses Rules*, as amended by the other Rules referred to in the following Table:—

### RULES MADE BY THE ADMINISTRATOR.

Description, and number and year (if any)	Date on which made by Administrator.	Date on which published in <i>N.G. Gaz.</i>	Date on which came into operation and took effect.
<i>Allowances to Witnesses Rules</i>	23.2.1932	29.2.1932	"Forthwith" <sup>(a)</sup> ( <i>N.G. Gaz.</i> of 29.2.1932)
<i>Amending Rule</i>	26.4.1932	30.4.1932	"Forthwith" <sup>(b)</sup> ( <i>N.G. Gaz.</i> of 30.4.1932)
<i>Amending Rule</i> (1936, No. 10)	2.4.1936	15.4.1936	15.4.1936 ( <i>N.G. Gaz.</i> of 15.4.1936)

(a) The *Allowances to Witnesses Rules* stated in their introductory part that they were "to come into operation forthwith." At the relevant dates in 1932 there was no Ordinance or regulation of the Territory of New Guinea of general application providing for the publication of rules, the date on which they were to take effect, or the meaning of "forthwith," and there was no such provision in *The Criminal Procedure Ordinance of 1889* (Papua, adopted) under which, in its application to the Territory of New Guinea, the above Rules were made.

(b) At the relevant dates in 1932 there was no Ordinance or regulation of the Territory of New Guinea of general application providing for the publication of Rules, or the date on which they were to take effect, and there was no such provision in *The Criminal Procedure Ordinance of 1889* (Papua, adopted). The *Amending Rule* dated 26.4.1932 and published in *N.G. Gaz.* of 30.4.1932 was made under *The Criminal Procedure Ordinance of 1889* (Papua, adopted) and stated in its introductory part that it was "to come into operation forthwith." However, this *Amending Rule* dated 26.4.1932 and published in *N.G. Gaz.* of 30.4.1932 was as follows:—

"Rule 6 of the *Allowances to Witnesses Rules* is amended by omitting the figure '2' wherever occurring and by inserting in its stead the figure '3' and the Rule shall be read and construed as if, instead of the figure '2' wherever occurring, the figure '3' had always been inserted in the Rule."

(2) See Section 7A of the *Judiciary Ordinance 1921-1938*.

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amount calculated at the appropriate rate set out hereunder according to his division and class—

### Division I.—WITNESSES:—

Class A.—*Europeans*—16s. per day.

Class B.—*Coloured persons not being natives*—

(i) *Planters and shopkeepers*—  
12s. 6d. per day.

(ii) *Clerks and mechanics*—10s.  
per day.

(iii) *Persons of other callings*—6s.  
per day.

Class C.—*Natives*—the actual amount of wages payable and cost of maintenance for the period of attendance at court, not exceeding 1s. per day.

### Division II.—INTERPRETERS:—

Class A.—*Europeans*—20s. per day.

Class B.—*Coloured persons not being natives*—15s.  
per day.

Class C.—*Natives*—The actual amount of wages payable and cost of maintenance for the period of attendance at court not exceeding 1s. per day.

- (c) To every witness or interpreter who, as a witness or interpreter, is necessarily either—
- (i) absent from his usual place of abode; or
  - (ii) detained at the place where he is required to give evidence—

in respect of the period during which he has been absent or detained by reason of his having been called as a witness or interpreter, exclusive of the period of actual attendance at court and provided that the Crown Law Officer certifies that the absence or detention of the witness or interpreter was necessary—The amount calculated in accordance with the provisions of paragraph (b) of this rule.

Proviso ad. by  
Rule gazetted  
on 15.4.1936,  
r. 1.

Provided that, where a native who is called as a witness or interpreter has been absent or detained for more than fourteen days, the Crown Law Officer may allow a further amount of 3d. per day in respect of the period, or any part of the period, during which the native has been absent or detained.

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4. In computing the amount of any allowance payable under these Rules a fraction of a day shall be regarded as a complete day.

Part of a day  
to count as  
whole day.

5. Notwithstanding the provisions of these Rules no expenses shall be payable under them in respect of any witness for the defence unless and until the Crown Law Officer certifies under his hand that the witness was material and necessary.

No payment  
to witness for  
defence without  
certificate.

6. Where in any case the period of attendance referred to in paragraph (b) of rule 3<sup>(3)</sup> of these Rules or the period of absence or detention referred to in paragraph (c) of rule 3<sup>(3)</sup> of these Rules or the combined periods of attendance and absence or detention as aforesaid exceeds or exceed seven days the Crown Law Officer may allow a further amount to cover the amount lost by attendance, absence or detention, but not exceeding an amount calculated at the rate of—

Power to  
grant  
additional  
allowance.

Am. by  
Rule gazetted  
on 30.4.1932,  
r. 1.

(a) In the case of Europeans—15s. per day.

(b) In the case of coloured persons, not being natives—10s.  
per day.

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(3) See note (b) to footnote (1), printed on p. 1655.

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