

**ORDINANCE**  
**OF THE STATES OF DELIBERATION**

ENTITLED

**The Criminal Appeal (Fees and Expenses) (Guernsey)**  
**Ordinance, 1964 \***

*[CONSOLIDATED TEXT]*

**NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* Recueil d'Ordonnances Tome XIV, p. 21; as amended by the Criminal Appeal (Fees and Expenses) (Amendment) (Guernsey) Ordinance, 1981 (Recueil d'Ordonnances Tome XXII, p. 113). See also the Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207).

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Criminal Appeal (Fees and Expenses) (Guernsey) Ordinance, 1964**

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*(Made on the 29th April, 1964.)*

## **The Criminal Appeal (Fees and Expenses) (Guernsey) Ordinance, 1964**

**THE STATES**, on the representations of the States Advisory and Finance Committee and in exercise of the powers conferred upon them by subsection (4) of section thirty-six of the Court of Appeal (Guernsey) Law, 1961<sup>a</sup>, hereby order: –

### PART I

#### *Interpretation*

#### **Interpretation.**

1. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

**"appeal"** means an appeal under Part III of the Law and, in Part II of this Ordinance, includes an application for leave to appeal,

**"appellant"** has the meaning assigned to it by section forty-three of the Law,

**"assigned"** means, in relation to an advocate assigned to an appellant by the Court, assigned under section thirty-three of the Law,

**"the Court"** means the Court of Appeal constituted under the provisions of Part I of the Law,

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<sup>a</sup> Ordres en Conseil Vol. XVIII, p. 315.

"**the Law**" means the Court of Appeal (Guernsey) Law, 1961.

PART II

*Fees and expenses of advocates*

**Fees and expenses of advocate assigned to an appellant to be determined by a judge of the Court.**

2. Subject to the provisions of this Part of this Ordinance, the fees and expenses payable to an advocate assigned to an appellant by the Court shall be determined by a judge of the Court, who shall take into account all the relevant circumstances, including the nature, importance, complexity or difficulty of the work and the time involved.

**Fees and expenses of advocate assigned to an appellant by way of legal aid.**

3. (1) Subject to the provisions of this Ordinance, an advocate assigned to an appellant by the Court shall be allowed in respect of all proceedings preliminary or incidental to an appeal and in respect of the preparation of an appeal such fee, not exceeding [one hundred pounds], as appears to represent fair remuneration according to the work actually and reasonably done by the advocate in connection with such proceedings:

Provided that, for the purposes of this subsection, any proceedings on an application for leave to appeal shall not be construed as proceedings preliminary to an appeal.

[ (2) Subject to the provisions of this Ordinance, an advocate assigned to an appellant by the Court shall be allowed in respect of the hearing of an appeal –

- (a) where the hearing of the appeal has been concluded on the day on which it commenced, such fee, not

exceeding one hundred pounds, as appears to be proper in all the circumstances of the case,

- (b) where the hearing of the appeal has not been so concluded, in respect of the first day of the hearing and in respect of each subsequent day on any part of which the hearing is continued, such fee, not exceeding one hundred pounds per day, as appears to be proper in all the circumstances of the case.]

(3) In addition to the fees payable under subsection (1) or subsection (2) of this section, an advocate assigned to an appellant by the Court shall be allowed –

- (a) expenses actually and reasonably incurred by him in travelling to and from any place for any purpose in connection with the appeal,
- (b) any other out-of-pocket expenses actually and reasonably incurred by him.

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**NOTE**

*In section 3, subsection (2), and the words in square brackets in subsection (1), were substituted by the Criminal Appeal (Fees and Expenses) (Amendment) (Guernsey) Ordinance, 1981, respectively section 1(b) and section 1(a), with effect from 1st October, 1981, subject to the saving in section 2 of the 1981 Ordinance.*

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**Fees where two or more appellants have been assigned to an advocate.**

4. Where an advocate represents two or more appellants to whom he has been assigned by the Court and whose appeals are heard together, the amount of the

fees allowable to him under the last preceding section shall be increased above the amount which would have been allowable if he had been representing only one such appellant (which last-mentioned amount is hereafter in this section referred to as "**the normal amount**") by such amount as appears to be proper in all the circumstances of the case:

Provided that any increase allowed by virtue of this section shall not exceed –

- (a) in any case where the number of appellants is two, forty per centum of the normal amount,
- (b) in any case where the number of appellants is three, sixty per centum of the normal amount,
- (c) in any case where the number of appellants exceeds three, a percentage of the normal amount equal to the sum of forty per centum thereof and a percentage thereof obtained by multiplying twenty by the number by which the number of appellants exceeds two.

**Fees and expenses where appeal is abandoned.**

5. Where notice of abandonment of an appeal has been received by the Registrar of the Court, there shall be allowed to the advocate previously assigned to the appellant such fees and allowances not exceeding the sums mentioned in the preceding provisions of this Ordinance as a judge of the Court may direct.

**Fees and expenses in cases of exceptional length, complexity or difficulty.**

6. If it appears to a judge of the Court after the conclusion of an appeal that for any reason, including the exceptional length, complexity or difficulty of the case, any fees payable by virtue of the preceding provisions of this Ordinance would not provide fair remuneration according to the work actually and reasonably done by

the advocate concerned, the judge of the Court may, notwithstanding any limitation imposed by those provisions on any such fees, allow such fees in respect of that work as appears to him to represent fair remuneration therefor.

### PART III

#### *Witnesses' expenses*

#### **Amount of witnesses' allowances to be determined by a judge of the Court.**

7. The expenses of any witness attending on the order of the Court, whether or not he gives evidence, and of any witness examined in any proceedings incidental to an appeal to the Court shall be determined by a judge of the Court in accordance with the provisions of this Part of this Ordinance.

#### **Professional witness allowance.**

8. There may be allowed in respect of a witness practising as a member of the legal or medical profession or as a dentist or veterinary surgeon for attending to give professional evidence an allowance not exceeding [fifty pounds] a day:

Provided that if the witness attends on any day to give evidence and the period during which he is necessarily absent from his place of residence or practice to attend as aforesaid does not exceed four hours, his allowance under this section shall not exceed [thirty pounds], unless he necessarily incurs expense in the provision of a person to take care of his practice during his absence.

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#### **NOTE**

*In section 8, the words in the first and second pairs of square brackets were substituted by the Criminal Appeal (Fees and Expenses) (Amendment) (Guernsey) Ordinance, 1981, respectively section 1(c)(i) and section 1(c)(ii), with effect from 1st October, 1981, subject to the saving in section 2 of the 1981 Ordinance.*

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**Expert witness allowance.**

9. There may be allowed in respect of an expert witness for attending to give expert evidence and for work in connection with its preparation an allowance of such amount as may be considered reasonable having regard to the nature and difficulty of the case and the work necessarily involved.

**Ordinary witness allowance.**

10. There may be allowed in respect of a witness who attends to give evidence, other than professional or expert evidence, and thereby loses remuneration or necessarily incurs expense, other than expense on account of travelling, lodging or subsistence, to which he would not otherwise have been subject, an allowance not exceeding [fifteen pounds] a day in respect of that loss or expense:

Provided that if the period during which the witness is necessarily absent from his place of residence, business or employment to attend as aforesaid does not exceed four hours, the sum which may be allowed under this section in respect of such loss, or expense as aforesaid shall not exceed [ten pounds] unless he necessarily loses more than half a day's remuneration or the expense necessarily exceeds [ten pounds].

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**NOTE**

*In section 10, the words in, first, the first pair of square brackets and, second, the second and third pairs of square brackets were substituted by the Criminal Appeal (Fees and Expenses) (Amendment) (Guernsey) Ordinance, 1981, respectively section 1(d)(i) and section 1(d)(ii), with effect from 1st October, 1981, subject to the saving in section 2 of the 1981 Ordinance.*

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**Subsistence allowance.**

11. There may be allowed in respect of a witness who attends to give evidence, other than professional or expert evidence, a subsistence allowance not exceeding –

- (a) if the period on any one day during which the witness is necessarily absent from his place of residence, business or employment to attend as aforesaid does not exceed four hours, [two pounds] in respect of that day,
- (b) if the said period on any one day exceeds four hours, but does not exceed eight hours, [four pounds] in respect of that day,
- (c) if the said period on any one day exceeds eight hours, [six pounds] in respect of that day.

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**NOTE**

*In section 11, the words in the first, second and third pairs of square brackets were substituted by the Criminal Appeal (Fees and Expenses) (Amendment) (Guernsey) Ordinance, 1981, respectively section 1(e)(i), section 1(e)(ii) and section 1(e)(iii), with effect from 1st October, 1981, subject to the saving in section 2 of the 1981 Ordinance.*

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**Night allowance.**

**12.** There may be allowed in respect of a witness who is necessarily absent from his place of residence overnight in order to attend as a witness, a night allowance not exceeding the expense actually and reasonably incurred for board and lodging for that night [...].

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**NOTE**

*In section 12, the words omitted in square brackets were repealed by the Criminal Appeal (Fees and Expenses) (Amendment) (Guernsey) Ordinance, 1981, section 1(f), with effect from 1st October, 1981, subject to the saving in section 2 of the 1981 Ordinance.*

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**Special allowances for seamen.**

**13.** (1) There may be allowed in respect of a seaman who is detained on shore for the purpose of attending to give evidence and thereby misses his ship, for the time during which he is, and is likely to be, necessarily detained on shore –

- (a) an allowance, not exceeding [ten pounds] a day, in respect of loss of wages, unless for special reason such an allowance appears insufficient, in which case a greater sum may be allowed as appears to be reasonable, and
- (b) an allowance not exceeding the sum actually and reasonably incurred for his maintenance.

(2) Nothing in the last five preceding sections shall apply to a person in respect of whom an allowance is made under this section.

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**NOTE**

*In section 13, the words in square brackets in paragraph (a) of subsection (1) were substituted by the Criminal Appeal (Fees and Expenses) (Amendment) (Guernsey) Ordinance, 1981, section 1(g), with effect from 1st October, 1981, subject to the saving in section 2 of the 1981 Ordinance.*

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**Travel allowance.**

**14.** There shall be allowed in respect of a witness who necessarily incurs expenses in travelling to and from the Court or any other place for the purpose of attending to give evidence an allowance not exceeding the expenses actually and reasonably incurred.

**Exceptions.**

**15.** Notwithstanding anything in this Part of this Ordinance, no sum shall be allowed under this Part of this Ordinance in respect of –

- (a) a member of the salaried police force of this Island attending the Court in his capacity as such,
- (b) a whole-time officer of the States' Prison attending the Court in his capacity as such,
- (c) a prisoner produced in Court in custody.

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**NOTE**

*In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.*

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**PART IV**

*Citation and Commencement*

**Citation and commencement.**

**16.** (1) This Ordinance may be cited as the Criminal Appeal (Fees and Expenses) (Guernsey) Ordinance, 1964.

(2) This Ordinance shall come into force on the fourth day of June, nineteen hundred and sixty-four.