

JUDICIAL DEPARTMENT.

(The rules for the payment of the expenses of complainants and witnesses attending any Criminal Court in Myanmar)

No. 91

Dated Rangoon, the 29th June 1916.

[Amendment : 18.06.1989]

Judicial Department Notification No.182, dated the 12th May 1892. Judicial Department Notification No.131, dated the 10th April 1894.

No. 91.- Under the provisions of section 544 of the Code of Criminal Procedure, 1898, and in supersession of the notifications cited in the margin, the Lieutenant-Governor, with the previous sanction of the Governor-General in Council, is pleased to make the following rules for the payment of the expenses of complainants and witnesses attending any Criminal Court in Myanmar for the purpose of any enquiry, trial, or other proceeding before such Court under the said Code.

<Amendment 18.06.1989>

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I.-The Criminal Courts may at their discretion pay, according to the scale set forth in Rule III, the expenses of complainants and witnesses either for the prosecution or for the defence-

- (1) in all cases which are cognizable by the police;
- (2) in all cases entered in column 5 of the Schedule II as not bailable;
- (3) in all cases in which witnesses are compelled to attend the Court under sections 94, 103, 208, 217, 257 and 540 of the Code of Criminal Procedure; and
- (4) in all case where the prosecution is instituted or carried on by, or under the orders or with the sanction of, Government or any Judge, Magistrate, or public officer, or in which the presiding officer thinks the prosecution to be directly in furtherance of the interests of public justice.

II.- Expenses of complainants and witnesses shall be payable, according to the scale set forth in Rule III, on account of their journeys to and from the Court and for the days during which they have been absent from their homes for the purposes of the trial, proceedings, etc.

Provided that:-

- (1) a Government officer giving evidence in his official capacity-
 - (a) when giving evidence at a place more than five miles from his headquarters, shall not receive anything under these rules, but shall be given a certificate of attendance;
 - (b) when giving evidence at a place not more than five miles from his headquarters, shall receive under these rules actual travelling expenses, but shall not receive subsistence, special nor expert allowances.
- (2) A Government officer giving evidence in his private capacity shall receive actual travelling expenses under these rules, but shall not receive subsistence, special or expert allowances.
- (3) In cases in which the Magistrate acquits the accused under section 245 or section 247 of the Code of Criminal Procedure, and is of opinion that the complaint was frivolous or vexatious, the expenses of the complainant shall not be paid.

III.-The scale of expenses payable shall be as follows:-

- (1) **Ordinary Labouring class of natives.**-The actual railway or steam-boat fare to and from the Court by the lowest class; or, where the journey could not have been performed by rail or steam-boat, actual travelling expenses up to a limit of Rs. 2 a day by boat and of four annas a mile by road; and an allowance for each day's absence from home of six annas to those who are residents of places other than the place where the Court is held, and of four annas to those who are residents of the place where the Court is held.
- (2) **Petty village officers.**-Double the above rates of daily allowance; same rates as above for railway or steam-boat fare, or actual travelling expenses by boat or road up to the limit of Rs. 2 a day by boat and of four annas a mile by road.
- (3) **Persons in higher ranks of life, such as clerks, tradespeople, village headmen and headmen of circles.**-Second class railway or steam-boat fare to and from the Court; or, where the journey could not have been performed by rail or steam-boat, actual travelling expenses up to a limit of Rs. 4 a day by boat and of six annas a mile by road; and an allowance not to exceed, except in special cases, Rs. 3 for each day's absence from home to Europeans or Anglo-Indians, and Re. 1 to Myanmar and Indians.

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(4) **Persons of superior rank.**- The actual sum spent in travelling to and from the Court, with an allowance according to circumstances, not to exceed, except in very special cases, Rs. 5 for each day's absence from home to European or Anglo-Indian, and, Rs. 2 to Myanmar and Indian gentlemen.

(5) **Witnesses following any profession, such as medicine or law.**- A special allowance according to circumstances. In determining the amount payable under this rule, the Court may, in the case of any person summoned to give evidence as an expert, allow reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the case.

NOTE.-When the journey has to be performed partly by rail or steam-boat and partly by road or boat, the fare shall be paid in respect of the former and the mileage or boat-allowance in respect of the latter part of the journey.

[**<Amendment 18.06.1989>**](#)

IV.-Allowances shall be paid under the orders of the Court, and in the presence of the presiding officer, and ordinarily at the conclusion of the trial, enquiry, or other proceeding. The presiding officer of the Court shall check the statement of charges and will be responsible that unauthorized charges are not allowed.

NOTE,-This rule does not apply to the Chief Court of Lower Myanmar where the charges are passed by the Clerk of the Crown and the payments are made by the Accountant.

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V.-In cases committed to the Court of Session, or to the High Court, the Magistrate who commits the case shall note in the list of witnesses the class to which, in his opinion,

C.M.WEBB,

Secretary to the Govt. of Myanmar.