CHAPTER 108

WITNESSES (FEES) ORDINANCE

To repeal and re-enact with amendments the law relating to the fees of witnesses in court.

(27th December, 1940)*

ORDINANCE XXXVI of 1940, as amended by Legal Notices: 46 of 1965, 148 of 1975; Acts: XXII of 1976, VIII of 1990, and XXIV of 1995; and Legal Notice 409 of 2007 and XIII of 2018.

1. The short title of this Ordinance is the Witnesses (Fees) Ordinance. Short title.

2. In this Ordinance - Interpretation. *Amended by: L.N. 46 of 1965; L.N. 148 of 1975; XXII.1976.4; VIII.1990.3,; XXIV.1995.360.*

"court" means any court of competent jurisdiction and includes any Board appointed under any law and any person authorized by such court or Board to receive evidence;

"prescribed" means prescribed under this Ordinance;

"superior court" includes the Constitutional Court, the Civil Court (First Hall and Second Hall), the Court of Appeal, the Criminal Court, the Court of Criminal Appeal, the Court of Magistrates (Gozo) exercising its superior jurisdiction, and also any person authorized by any such court to receive evidence;

"witness" means any person who is subpoenaed or requested by a party in a matter pending before any court for the purpose of being examined or of producing any document but does not include an *ex parte* witness in terms of articles 563A and 563B of the Code of Organization and Civil Procedure. Cap.12.

3. Witnesses shall be entitled to the fees prescribed in Schedule A to this Ordinance for attendance before a superior court and to the fees prescribed in Schedule B for attendance before any other court: Right of witness to fees. *Amended by: L.N. 148 of 1975.*

Provided that no person employed in the service of the Government of Malta shall be entitled to any fee when called to give evidence by the Government.

4. Witnesses shall be entitled to travelling expenses for going to and returning from the place where they are to give evidence: Right of witness to travelling expenses.

Provided that a witness shall not be entitled to other travelling expenses than those actually incurred by him in travelling by the cheapest means of conveyance.

5. Witnesses residing in Malta whose attendance is required before a court in Gozo and witnesses residing in Gozo whose attendance is required before a court in Malta shall also be entitled to expenses for board and lodging actually incurred by them in staying in Gozo or in Malta as the case may be. Such expenses shall Right of witness to expenses for board and lodging.

**See* Government Notice No. 621 of the 27th December, 1940.

not exceed the limits laid down in Schedule C to this Ordinance.

Fees and expenses due for each day of attendance in court.

6. The prescribed fees and expenses shall be due for each day the witness attends at the court:

Provided that a witness who, having been dismissed by the court, has withdrawn from the court and is on the same day recalled to give evidence, shall be considered as a fresh witness and shall be entitled to receive the prescribed fees and expenses.

Witness to give notice of attendance when not subpoenaed.

7. A witness who, not having been previously subpoenaed, attends at the court at the request of a party in a matter pending before any court, but for any reason whatsoever does not give evidence, shall not be entitled to the prescribed fees and expenses unless, at the end of each sitting attended by him, he gives notice of such request and attendance to the deputy registrar or to the person authorized to receive evidence who shall keep a note thereof in the record of the proceedings.

No fees due if witness is present in court.

8. (1) No person shall be entitled to the prescribed fees and expenses if, not having been previously subpoenaed or requested by a party in a matter pending before any court to attend at the court to give evidence, he is, at the time he is called to give evidence, at the place in which the court is sitting.

(2) The provisions of subarticle (1) shall not apply if the witness is kept after giving evidence so that he may again be called to give evidence.

Power of court to order deposit to cover fees and expenses.

9. In granting an application for the issue of a subpoena of a witness, the court may order the applicant to make a sufficient deposit to cover the fees and expenses due to the witness and if such order has been made the witness may refuse to give evidence till the deposit is made.

Issue of taxed bill by the registrar and right of interested person to appeal.

10. (1) At the request of any interested person, the registrar of the court under whose jurisdiction the witness gave evidence, shall issue a taxed bill of the prescribed fees and expenses due to the witness.

(2) It shall be lawful for the registrar before issuing the taxed bill mentioned in subarticle (1) to administer the oath to any person for the purpose of establishing any circumstance necessary for fixing the fees and expenses.

(3) A witness entitled to the prescribed fees and expenses or any person who is bound to pay such fees and expenses may appeal against the taxation of the registrar.

(4) Such appeal shall be entered by application before the court under whose jurisdiction the witness gave evidence within the period of eight days which shall run-

(*a*) in regard to those who have demanded the taxed bill, from the day on which such taxed bill was issued; and

(*b*) in regard to the debtor duly served with such taxed bill by a judicial act, from the day of such service.

11. The Minister responsible for justice may by regulations amend, substitute or make additions to the Schedules to this Ordinance.

Minister may amend, substitute or make additions to the Schedules. *Added by: XXIV. 1995.360.*

SCHEDULE A

[ARTICLE 3]

Substituted by: L.N. 409 of 2007; XIII.2018.26.

The following fees shall be allowed to witnesses before a superior court:

(*a*)	Ecclesiastics, members of the legal and medical professions, civil engineers, professors of the University, members of the Higher Division of the Civil Service, first grade Secondary School teachers, military officers, merchants, manufacturers, Police officers above the rank of Inspector, merchant navy captains and chief engineers and other persons of equal rank	70c
(*b*)	Commission agents, brokers, merchant navy officers below the rank of captain or chief engineer, Elementary School headmasters, Secondary School teachers below the first grade, Police officers below the rank of Superintendent and other persons of equal rank	58c
(*c*)	Tradesmen, shopkeepers, inn-keepers, commercial travellers, Elementary School teachers, auctioneers, photographers, mechanics, Warrant and Non-commissioned officers in the Armed Forces of Malta and in the Police Force and other persons of equal rank	47c
(*d*)	Labourers, farmers, Police constables, soldiers, shop assistants and other workmen.....	35c
(*e*)	Witnesses under 18 years of age, unless engaged in a profession or business.....	23c
(*f*)	Witnesses called to give evidence on scientific matters	1.16c
(*g*)	For each hour or part of an hour that a witness is kept to give evidence before a superior court after 1 p.m., the following additional fees shall be due:	
	(i) to witnesses mentioned in (*a*), (*b*) and (*f*)	12c
	(ii) to other witnesses	6c

Substituted by: L.N. 409 of 2007.

SCHEDULE B

[ARTICLE 3]

1. Witnesses who attend at a court other than a superior court shall be entitled to a fee of 6c

2. Witness kept after 12 noon shall be entitled to an additional fee of 6c

3. Witnesses called to give evidence on scientific matters shall be entitled to the fees specified in (*f*) in Schedule A.

Substituted by: L.N. 409 of 2007.
Amended by: XIII.2018.26.

SCHEDULE C

[ARTICLE 5]

The following expenses for board and lodging shall be allowed in terms of article 5 for each day a witness attends at any court:

		In Malta	In Gozo
1.	To witnesses mentioned in (*a*) and (*b*) in Schedule A	1.16c	70c
2.	To witnesses mentioned in (*c*) in Schedule A	93c	70c
3.	To witnesses mentioned in (*d*) in Schedule A	58c	47c
4.	Witnesses under 18 years of age shall be allowed two-thirds of the amount prescribed in paragraphs 1, 2 and 3 of this Schedule according to the status of their parents.		
