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NOVA SCOTIA  
PUBLIC PROSECUTION SERVICE

DOCUMENT TITLE:

**WITNESS FEES**

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## WITNESS FEES

### (A) NON-EXPERT WITNESSES

#### PROCEDURE

Non-expert witnesses must submit Form W-1 in order to be reimbursed.

Witnesses who wish to make a claim should be advised that they may pick up an application form (W-1) at the Crown Attorney's office<sup>1</sup>. The witness must complete and sign the form, attaching receipts. The witness must submit the form to the local Crown Attorneys' office. The Crown Attorney must sign to approve the claim. (Some offices may appoint a member of the support staff to review claims of less than \$1,000 and stamp the Crown Attorney's signature.) Approved claims are to be sent to Gordon Brown, *Manager, Administrative Services*, at Suite 1225, Maritime Centre, 1505 Barrington St., Halifax, B3J 3K5. Mr. Brown will review the claims and forward them to the Department of Justice for payment.

#### Form W-1

The back of form W-1 sets out the details of what expenses may be reimbursed. Variations, exceeding the allowable expenses and claims for expenses not noted on Form W-1 will not be reimbursed except in unusual circumstances. To recommend special arrangements, the Crown Attorney must complete Form W-2 and have it approved by the Chief Crown Attorney or his delegate.

#### Accommodations and Airfare

Please note that accommodations and air travel must be pre-approved by the local Crown office. Where overnight accommodations or air transportation is required the witness should be provided Form W-1 with their subpoena. Local Crown Attorneys should elicit the assistance and cooperation of the police in this regard.

Each Crown office **must notify** all hotel(s) in their area, with whom they deal, that the Service will pay only for rooms (at government rates) and meals (to a maximum of \$26.50 per day). No other expenses or charges to the room will be paid by the Service (subject to special pre-approval by the Crown Attorney and Chief Crown Attorney on Form W-2). Without limiting the foregoing, the Service shall not pay for movies, alcoholic beverages or phone charges.

Management of the Service currently investigating the prospect of securing preferred air transportation rates for witnesses. We will advise of any changes to procedures regarding air transportation. For the time being please continue to book air transportation through your local agency. The invoice should be sent to the local office. The local Crown Attorney must approve payment of the invoice and then forward it to Gordon Brown, *Manager*,

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<sup>1</sup> Witnesses required to travel by air and or stay overnight are to be sent form W-1 with their subpoena. In practice anyone residing more than 100 miles from the court should be sent form W-1 with their subpoena.

*Administrative Services* (address is on page 1). Please do not request that the travel agency send the invoice directly to Mr. Brown.

## **(B) EXPERT WITNESSES**

When it is anticipated that the retention of an expert witness to assist in a prosecution will cost more than \$1,000.00, Crown Attorneys must obtain the approval of the Chief Crown Attorney accountable for the case before retaining the expert.

Medical doctors compose, by far, the largest group of experts with whom the Service deals. The management of the Service has commenced discussions with the Nova Scotia Medical Society. Our goal is to standardize witness fees for medical practitioners. We will advise of the outcome of these discussions.

For the present, please ensure that the use of experts is kept to a minimum. Where experts have no personal knowledge of the case and are engaged to provide an opinion, the Crown Attorney must negotiate their fee and the maximum number of hours for which the Service will compensate. As noted above, all fees expected to exceed \$1,000.00 must be pre-approved by the Chief Crown Attorney or his delegate before the expert is engaged.

For experts with personal knowledge of the case (such as emergency room doctors) please attempt to establish some consistency to the claims. We suggest a standard fee of \$150. for a routine court attendance (it may be lower in some areas). Any doctors who claim in excess of this amount should be contacted by the Crown Attorney's office and advised of the usual fee. It is our hope that doctors will agree to accept this standard fee pending the outcome of our discussions with the Medical Society.

For the time being, please use form W-2 for expert witness claims. Please indicate under "Reasons for special arrangement" that the witness is a doctor. The Chief Crown Attorney approval is not required for form W-2 involving a medical doctor unless the fee is expected to exceed \$1,000.

## **SUMMARY**

### **Support Staff**

1. Make copies of Form W-1. Have them available for witnesses who request them.
2. Make copies of Forms W-2 and W-3 for use by the local Crown Attorney(s).
3. Contact the local hotel(s) with whom you deal and advise them of our policy regarding witness fees. Confirm your conversation in writing by sending the hotel a copy of form W-1.
4. Contact the local police staff person who prepares subpoenas and request that a form W-1 be sent with the subpoena to any witnesses who resides more than 100 miles from the court. Please ensure that the police understand that form W-1 is not to be sent to all witnesses but just those who live more than 100 miles from court. Please send the local police copies of form W-1 for this purpose. In areas where witness claims forms are currently sent out with the subpoena, please immediately request that this practice be discontinued.

5. Ensure that form W-1 is signed by the local Crown Attorney (or stamped by the appropriate support staff person) before being forwarded to Gordon Brown, *Manager, Administrative Services*.
6. Ensure that invoices for air travel and accommodations are approved by the local Crown Attorney before being sent to Gordon Brown, *Manager, Administrative Services*.

We recognize that by implementing these new procedures as quickly as we are there will undoubtedly be some wrinkles to iron out. Please bring to my attention problems as they arise and we will try to deal with them. We appreciate your cooperation in implementing these new procedures. These procedures are necessary to permit us to document our control of witness expenditures. Evidence of such control is necessary for Public Prosecution Service budget purposes.

It you have any questions please call the Chief Crown Attorney.

## **WITNESS FEES AND EXPENSES**

The forms have permitted the Service to standardize practices around the province and place the onus on the person claiming reimbursement. It is anticipated that minor amendments will be implemented after a further period of time has passed and the PPS in a better position to assess the effectiveness of the forms as currently drafted.

The purpose of this memo is to address some questions which have arisen in one or more offices and which may have troubled other offices. Of course, if there are other questions, please don't hesitate to contact the Chief Crown Attorney.

### **FORM W-1**

1. Witnesses will not be issued a cheque unless **they** (not the Crown Attorney's secretary) sign a W-1 Form certifying the truth of their claim. The only exception to this rule is where the witness is not competent to do so, in which case, the person claiming on behalf of the witness, or the Crown Attorney, should provide an explanation as to why the person is claiming on behalf of the witness.
2. There is no space on Form W-1 for a person to claim their per diem fee. Submission of the Form is sufficient basis for the Service to pay the fee. The Form requests information on what "**date(s)**" the witness attended court. Therefore, we can calculate the per diem fee by multiplying \$5.00 by the number of days the witness attended court. A witness is entitled to the \$5.00 per diem fee for each day of court attendance but not for days(s) required to travel to get to the court or return home.
3. Other than the \$5.00 per diem fee and mileage, all expense claims must be accompanied by a receipt or they will not be paid. This is the general rule which all offices should follow. If there are "exceptional circumstances" such that a claim should be paid in spite of a lack of a receipt, the Crown Attorney should complete a Form W-2 and attach it to the W-1 Form. The W-2 Form **need not** be approved

by the Chief Crown Attorney when utilized for this purpose. Unless a Form W-2 is attached to a Form W-1, a non-receipted claim will not be paid.

4. The bottom portion of Form W-1 must be completed by the Crown Attorney or his/her office delegate. Some confusion may have resulted in relation to the bottom portion of the Form as a result of a memorandum sent to the Crown offices by the Department of Justice, Financial Services Division. That memo requested a stamp be placed on all W-1 Forms with the identifying code number for your office. The memo indicated that the Crown Attorney could then simply initial the Form

The stamp with your office code number should continue to be placed on all W-1 Forms sent by your office to the Department of Justice, Financial Services Division. Either a signature or the initials of the Crown Attorney, or his/her office delegate must appear on the W-1 Form. The local office must also complete the line indicating what amount is being approved. I suggest the margins of the Form be used so that the basis of your approved amount can be reviewed by the Manager, Administrative Services, and officials at the Department of Justice. As an example, a recent Form showed: \$5.00 fee; \$6.20 mil (mileage); \$5.75 lunch - in the margins with the total \$16.95 shown at the bottom on the line for the amount approved.

## FORM W-2

Form W-2 is to be used for a number of situations:

1. When a Crown Attorney wishes to authorize payment of a witness fee in excess of the usual maximums -- in this case, the proposal must be approved by the Chief Crown Attorney.
2. When a Crown Attorney wishes to approve a non-receipted claim -- for this use, Form W-2 need not be approved by the Chief Crown Attorney unless the claim exceeds the usual maximum.
3. When expenses have been billed directly to the Public Prosecution Service -- Form W-2 should be completed and attached to the invoice received by the local office. By way of example, if a witness is staying overnight at a motel and the motel is billing the Service directly, the motel should be advised to send the bill to the local office. (The motel must also be advised what charges to the room we will pay and in particular, the maximum amounts we will pay for meals). When the local office receives the invoice, they should complete a Form W-2 and attach it to the invoice. The documentation should then be sent to the Financial Services Division of the Department of Justice. The W-2 Form **need not** be approved by the Chief Crown Attorney when utilized for this situation.