

Reference No: E109/11/52 ; **Date:** 18/03/52

Circular 5/1952:- Attendance of Civil Servants in Court as Witnesses.

A Dhuine Uasail,

(1) I am directed by the Minister for Finance to state that he has had under consideration the procedure to be followed in cases where Civil Servants are required to attend in Court as witnesses and that he has approved the following arrangements which should be adopted in future.

(2) Civil Servants called as Witnesses on behalf of the State.

(a) A Civil Servant required to attend in Court as a witness on behalf of the State in criminal or civil proceedings must attend as directed. His attendance may be required by means of a summons or sub poena or may be arranged through his Department.

(b) The officers attendance in Court should be regarded as part of his official duties and he should, accordingly, be paid his normal salary or wages for the period of necessary absence and should be granted travelling expenses and subsistence allowance subject to the usual regulations. The amount of such travelling expenses and subsistence allowance should be charged to the Vote for the officers Department. The officer should request the prosecuting authority to claim any expenses to which the officer may be entitled as a witness. In civil proceedings where the State is successful, the State Solicitor should claim the amount of the travelling expenses and subsistence allowance payable to the officer by his Department. (Sums recovered are normally paid to the prosecution or the State Solicitor, as the case may be, and credited to the Vote for Law Charges; if, however, they are received by the officer they should be surrendered to his Department and forwarded to the Department of Finance for appropriation-in-aid of the Vote for Law Charges). A claim for recovery of salary or for loss of services should not be made.

(3) Civil Servants called as Witnesses on behalf of parties other than the State.

(a) A Civil Servant called as a witness on behalf of a party other than the State should, provided he has been served with a summons or sub poena be granted special leave with pay for the period of necessary absence. If he is called as a witness in connection with a matter coming before him in his official capacity he should be granted travelling expenses and subsistence allowance, subject to the usual regulations. The officer should claim the amounts paid to him by way of travelling expenses and subsistence allowance from the party requesting his attendance. If possible the Department should give the party preliminary notice that the claim will be made. Sums received should be dealt with as in (2) preceding. Where the officer is called as a witness on matters not connected with his official duty, travelling expenses and subsistence allowance should not be paid by his Department, but he may keep any amounts allowed him by way of witnesses' expenses.

(b) Claim for recovery of salary or loss of services should not be made.

(4) Where an officer is required to attend court as a witness during a period of annual leave, the amount of annual leave taken may be suitably adjusted. Where an officer on annual leave is required to attend court as a witness on behalf of the State or on behalf of a party other than the State in connection with a matter coming before him in his official capacity, he may, subject to paragraphs (2) and (3), preceding be paid travelling expenses and subsistence allowance, if appropriate, provided the travelling and subsistence regulations relating to recall from annual leave are fulfilled.

(5) The provisions of this Circular will not apply where special arrangements are in force for furnishing of expert evidence in Court by professional or technical officers at the request of parties other than the State.

(6) The foregoing regulations will not apply to attendance in Court as witness outside the State. Any difficulties arising in connection with such attendances should be specially submitted.

(7) This Circular cancels any previous instructions regarding Witnesses' Expenses, and in particular the instructions in paragraph 18 of the annexure to Finance Circular 16/31, dated 20th July, 1931.

Mise, le meas,
Sean O Muimhneachain