

**TERMS OF A SCHEME ENABLING THE
CERTIFICATION OFFICER TO MAKE
CERTAIN PAYMENTS TO PERSONS
ATTENDING HEARINGS**

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INTRODUCTION

1. This scheme (“the scheme”) provides for the payment by the CO of travelling expenses, overnight expenses, allowances for loss of earnings and other payments to persons attending hearings held by the CO on or after the commencement date of the scheme.

RATES OF PAYMENTS- THE “APPLICABLE RATE”

2. The rates of payment applicable under the scheme (except where amounts are at the CO’s discretion) are to be the same as apply from time to time in respect of persons attending hearings before the Industrial Tribunals and Fair Employment Tribunal. Accordingly, references in this note to any payment at the “applicable rate” are to a rate which is equal to the rate of an equivalent payment to persons attending hearings before the Industrial Tribunals and Fair Employment Tribunal. Information on the rates of allowance currently in force at any time is available on request from the CO’s office.

HEARINGS IN SCOPE OF THE SCHEME

3. Expenses and allowances may be payable under the scheme to persons attending hearings which the CO holds in connection with his functions to deal with the following complaints by trade union members against their union about:-
 - (a) failure to maintain an accurate register or to secure the confidentiality of the register during ballot (Articles 3 and 4 of The Trade Union and Labour Relations (Northern Ireland) Order 1995) (the 1995 Order).
 - (b) failure to meet a request from a member for access to its accounting records (Article 37 of The Industrial Relations (Northern Ireland) Order 1992 (the 1992 Order).
 - (c) failure to ensure that its senior officers and/or members of its executives have not been previously convicted of an offence under Article 13 within 5 or 10 years (depending on the nature of the offence) (Article 13B of the 1992 Order)
 - (d) failure to ensure that the election of its senior officers and/or members of its executive satisfies the requirements of the 1992 Order (Articles 12-20)
 - (e) breach of rules approved by the Certification Officer governing the holding of a political fund ballot or the administration of the political fund (Articles 48 and 57 of the 1995 Order).

- (f) political fund ballot held where there are no rules approved for that purpose by the Certification Officer (Article 48 of the 1995 Order).
- (g) spending of money on political objects without a political fund resolution in force or without approved political fund rules (Article 45 of the 1995 Order).
- (h) failure to ensure that a ballot on a proposed merger has been conducted in accordance with the requirements of the Order or failure, in conducting a merger ballot to comply with any rule relating to the passing of the resolution to merge (Articles 75-81 of the 1995 Order).
- (i) the breach or the threat of a breach of the union's rules (Article 90A of the 1995 Order) in relation to:
 - (i) the appointment, election or removal from any office in the union;
 - (ii) disciplinary proceedings by the union;
 - (iii) balloting of its members (except in the case of industrial action);
 - (iv) the construction or proceedings of any executive committee or certain other bodies or
 - (v) such other matters as may be specified in an order made by the Department.

ELIGIBILITY FOR PAYMENTS UNDER THE SCHEME

4. In all cases payments under the scheme will be at the Certification Officer's discretion. There is no automatic right to payments. In making payments under the scheme the Certification Officer may have regard to the reasonableness of the applicant in the bringing and/or conduct of the application. In particular, the Certification Officer may have regard to the reasonableness of the applicant's conduct where the applicant requires a hearing in the circumstances where the union has conceded the breach and the applicant makes no request for an enforcement order.
5. Those eligible for payments under the scheme are:-
 - (a) the applicant attending the hearing; and/ or
 - (b) any other person attending the hearing at the invitation of the CO so that the complaint can be properly and sufficiently dealt with.
 - (c) any other person at the CO's discretion.
6. Payment will not, in any circumstances, be made under the scheme to –
 - (a) any paid representative of the applicant, attending the hearing in that capacity; and/or

- (b) anyone appearing as a representative of, or on behalf of, the union against which the complaint is made.

CONDITIONS FOR THE PAYMENT OF EXPENSES AND ALLOWANCES WHERE ENTITLEMENT HAS BEEN DETERMINED

7. The making of a payment under one of the following categories of the scheme (travel costs, overnight expenses, loss of earnings or additional circumstances) does not mean that payment will automatically be made in respect of any other category.

TRAVEL EXPENSES

8. Travel expenses may be payable if the place of the hearing is more than six miles travelling distance from the home or work of the claimant within Northern Ireland. Costs of travel from the Republic of Ireland or GB may also be paid. People travelling from outside the Republic of Ireland or GB may be paid expenses only from the place of arrival in Northern Ireland.

Public Transport

1. If a person attending a Certification Officer's hearing incurs expenditure which is above that which is usually incurred in the course of his/her normal daily travel the following expenses may be payable:
 - a. Second class railway fare
 - b. Bus or coach fare
 - c. Taxi fare – but only in exceptional circumstances if there is extreme urgency, heavy luggage to be conveyed, no other means of public transport or a taxi is necessary because of a medical condition. Full details must accompany each claim.

Private Transport

2. If private transport is used expenses may be payable. Payment will be made at the public transport mileage rate (see **Schedule** for rate current at commencement of the scheme). Reasonable parking costs may be reimbursed receipts must be produced where possible.

9. If a person eligible for payment cannot afford to pay the fare, before or when making the journey, the CO's office may be able to arrange for the purchase of the required ticket. Early contact with the office, at least three weeks before the hearing date, is required.

OVERNIGHT EXPENSES

10. Where an overnight stay is essential a night allowance, covering a period of 24 hours of necessary absence from home in one place, may be payable.
11. The amount payable will be the actual expenses incurred in obtaining bed, breakfast and evening meal (but not lunch) up to a limit (see **Schedule** for limit current at the commencement of the scheme).

LOSS OF EARNINGS ALLOWANCE

12. Loss of earnings allowance is available only
- (i) when there is actual loss of earnings (or loss of National Insurance benefit which would otherwise be payable), **or**
 - (ii) where no form of compensation is payable from an employer, **or**
 - (iii) in the case of self-employed persons, where work cannot be advanced or deferred.
- No allowance is payable to persons who take paid holiday leave or flexi leave in order to attend the hearing. The allowance is payable for any loss of earnings (other than casual overtime earnings) incurred in attending the hearing and includes losses for time spent travelling.
13. Reimbursement of actual loss of net earnings may be made up to the maximum applicable rate (see **Schedule** for rate current at the commencement of the scheme).

ADDITIONAL CIRCUMSTANCES IN WHICH ALLOWANCES MAY BE PAYABLE

14. Examples of circumstances where such an allowance may be payable are where a doctor employs a **locum** or where **registered child-minding fees** are incurred.
15. In some cases it may be necessary, for **medical reasons**, for a witness to be accompanied to a hearing by another person. The expenses of this second person will only be considered for reimbursement on the production of written confirmation, usually in the form of a doctor's note, that the second person's presence is necessary.
16. When a person who cannot speak English appears before the CO and no member of the Certification Office can interpret, it may be necessary to pay for an **interpreter**. Interpreters may be non-professional ("casual") or professional (ie they earn a regular income from interpreting). The arrangements for payment differ according to their category:-
 - a) **casual interpreters**, normally friends, relations or work colleagues, may be reimbursed travel, subsistence, loss of earnings and other expenses on the same basis as the parties and witnesses.
 - b) **for professional interpreters**, CO may reimburse reasonable charges, on production of proof of costs, up to a maximum daily limit. (See **Schedule** for costs).
 - c) **Interpreters for the deaf/disabled** – non professional interpreters, normally friends, relations or work colleagues , may be reimbursed travel, subsistence, loss of earnings and other expenses on the same basis as the parties and witnesses.
17. Rates for professional interpreters vary considerably according to the type of service required. Reasonable costs may be reimbursed for the required level of service. Indicative rates charged by some major agencies are given in the **Schedule**, but hourly rates, booking terms and cancellation charges vary widely. Payment may also be made for reasonable travel and other charges, including cancellation charges necessarily incurred, on presentation of proof of cost.

CLAIM PROCEDURE

18. Claims for payments under the scheme are to be made on a form (or forms) provided for this purpose by the CO's office and duly submitted to that office. All claims should be accompanied by receipts confirming all expenditure. Separate claims must be made for each category of payment claimed.
19. The CO's office will examine claims submitted and certify attendance at the relevant hearing or hearings of persons making claims under the scheme. The CO's office will satisfy itself as to whether the claimant is eligible, ensure the CO is willing to make the payment, and resolve any obvious errors/discrepancies/queries before making a payment.

ALTERATION OF THE SCHEME

20. The terms of the scheme may be amended from time to time by the Department.

SCHEDULE

APPLICABLE RATES OF ALLOWANCE ETC.

(Current as at 1 April 2003)

<u>Allowance Payable</u>	<u>Rates</u>
Public Transport rate if mileage allowance (per mile):-	
All vehicles	15p
Overnight Expenses	
Actual costs incurred up to a limit of:	£71.00
Maximum daily allowance for loss of earnings:-	£45.00

If you lose pay as a result of attending a Certification Office's hearing, the CO may be able to reimburse you up to a limit of £45 per day. If you are employed, the CO will need your employer to certify that you were not paid for the day(s) in question. You are not entitled to any loss of earnings allowance if you took paid holiday or special leave with pay to attend the hearing.

If you are self-employed you must provide a written declaration showing that work could not be deferred or advanced, the amount of income lost (with, where possible, a copy invoice for recent work) and the work which could not be carried out and for whom.

Registered child or adult care expenses

If you need to engage a registered child minder or adult carer to enable you to attend the CO hearing, expenses may be payable to a maximum of **£5** per hour. You will need to provide an invoice or receipt as proof of expenditure.

Child or adult care expenses will not be paid for any period covered by a claim for loss of earnings.

