



Queensland

Criminal Practice (Fees and Allowances) Regulation 2021

Subordinate Legislation 2021 No. 127

made under the

Coroners Act 2003

Justices Act 1886

Supreme Court of Queensland Act 1991

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Criminal Practice (Fees and Allowances) Regulation 2021

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Criminal Practice (Fees and Allowances) Regulation 2021*.

2 Commencement

This regulation commences on 1 September 2021.

3 Definitions

The dictionary in schedule 3 defines particular words used in this regulation.

Part 2 Fees

4 Fees

- (1) The fees payable under the Act in relation to a criminal proceeding are stated in schedule 1.
- (2) A reference in schedule 1 to a rule is a reference to a rule of the *Criminal Practice Rules 1999*.

Part 3 Allowances for particular prosecution witnesses

5 Application of part

This part applies in relation to a prosecution witness who attends court to give evidence in a criminal proceeding, other than a prosecution witness who is—

- (a) a police officer; or

[s 6]

- (b) a prisoner.

6 Types of allowances

- (1) A *travelling allowance* is a payment made towards meeting the expenses the prosecution witness incurs in travelling to and from court.
- (2) A *meal allowance* is a payment made towards meeting the expenses the prosecution witness incurs for meals if the witness is necessarily absent from the witness's residence or place of work to attend court.
- (3) An *accommodation allowance* is a payment made towards meeting the expenses the prosecution witness incurs for accommodation if the witness is necessarily absent from the witness's residence overnight to attend court.
- (4) A *loss of earnings allowance* is a payment made towards meeting the loss of earnings the prosecution witness incurs if the witness is necessarily absent from the witness's residence or place of work to attend court.

7 Entitlement to allowances

- (1) The prosecution witness is entitled to be paid the following allowances under this section (each a *relevant allowance*) for attending court—
 - (a) a travelling allowance;
 - (b) a meal allowance under subsection (2) or (3);
 - (c) an accommodation allowance;
 - (d) a loss of earnings allowance.
- (2) If the attendance does not require an overnight absence, the prosecution witness is entitled to a meal allowance for the following meals—
 - (a) for breakfast for the day of the attendance, if the attendance causes the witness to leave the witness's residence or place of work before 6a.m.;

- (b) for lunch for the day of the attendance, if the attendance causes the witness to—
 - (i) leave the witness's residence or place of work before 1.30p.m.; or
 - (ii) return to the witness's residence or place of work after 1.30p.m.;
 - (c) for dinner for the day of the attendance, if the attendance causes the witness to return to the witness's residence or place of work after 6.30p.m.
- (3) If the attendance requires 1 or more overnight absences, the prosecution witness is entitled to a meal allowance for the following meals—
- (a) for breakfast—
 - (i) for the day of the first overnight absence, if the attendance causes the witness to leave the witness's residence or place of work before 6a.m.; and
 - (ii) for each day following an overnight absence;
 - (b) for lunch—
 - (i) for the day of the first overnight absence, if the attendance causes the witness to leave the witness's residence or place of work before 1.30p.m.; and
 - (ii) for each day following an overnight absence, other than the last overnight absence; and
 - (iii) for the day following the last overnight absence, if the attendance causes the witness to return to the witness's residence or place of work after 1.30p.m.;
 - (c) for dinner—
 - (i) for each day of an overnight absence; and

[s 8]

- (ii) for the day following the last overnight absence, if the attendance causes the witness to return to the witness's residence or place of work after 6.30p.m.
- (4) For subsections (2) and (3), the attendance of the prosecution witness ***requires an overnight absence*** if the witness is necessarily absent from the witness's residence overnight to attend court.
- (5) The amount of a relevant allowance to which the prosecution witness is entitled under this section is stated in schedule 2.
- (6) This section is subject to section 8.

8 Restriction on entitlement to allowances

- (1) If the prosecution witness is entitled, under an alternative scheme, to be paid an allowance (of any amount) corresponding to a relevant allowance for attending court, the witness is not entitled to be paid the relevant allowance.
- (2) For subsection (1), an allowance under an alternative scheme corresponds to a relevant allowance if it is payable towards meeting the same, or a similar, type of expense or loss as the relevant allowance.
- (3) In this section—
alternative scheme, in relation to a prosecution witness, means any of the following—
 - (a) a ruling made under the *Public Service Act 2008*, section 54(1);
 - (b) the engagement of the prosecution witness as a general practitioner government medical officer;
 - (c) the engagement of the prosecution witness by the Commonwealth as an employee, as mentioned in the *Public Service Act 1999* (Cwlth), section 6;
 - (d) an arrangement between the Commonwealth and the State providing for the payment of an allowance to the prosecution witness;

-
- (e) if the prosecution witness is an expert witness—an arrangement between the prosecution witness and the prosecution for the witness to be paid to give opinion evidence as an expert witness.

expert witness means a witness who is qualified to give opinion evidence as an expert witness in relation to an issue arising in a proceeding.

9 Reimbursement of other expenses

- (1) This section applies if—
- (a) the prosecution witness actually and reasonably incurs an expense in attending court; and
 - (b) the expense is not otherwise provided for under this part.
- (2) The relevant accountable officer may reimburse the prosecution witness for the expense.
- (3) In this section—

relevant accountable officer, in relation to a prosecution witness, means—

- (a) if the prosecution witness is a witness in a proceeding in which the director of public prosecutions is concerned—the accountable officer under the *Director of Public Prosecutions Act 1984*, section 32; or
- (b) otherwise—the accountable officer, under the *Financial Accountability Act 2009*, of the department in which the *Police Service Administration Act 1990* is administered.

Part 4 Transitional provisions

10 Definition for part

In this part—

[s 11]

expired regulation means the expired *Criminal Practice (Fees) Regulation 2010*.

11 Allowance payable to particular prosecution witnesses attending court before commencement

- (1) This section applies if, immediately before the commencement, a prosecution witness—
 - (a) was entitled to be paid a relevant allowance under the expired regulation, section 5; but
 - (b) the relevant allowance had not been paid.
- (2) Part 3 of this regulation applies in relation to the prosecution witness for the attendance.

12 References to expired regulation

A reference in a document to the expired regulation may, if the context permits, be taken to be a reference to this regulation.

Part 5 Amendment of regulations

Division 1 Amendment of Coroners Regulation 2015

13 Regulation amended

This division amends the *Coroners Regulation 2015*.

14 Amendment of sch 1, s 8 (Fee for other persons for attending inquest to give evidence)

Schedule 1, section 8(2)—

omit, insert—

(2) In this section—

prosecution witness see the *Criminal Practice (Fees and Allowances) Regulation 2021*, schedule 3.

prosecution witness allowance means an amount payable to a prosecution witness under the *Criminal Practice (Fees and Allowances) Regulation 2021*, section 7.

Division 2 Amendment of Justices Regulation 2014

15 Regulation amended

This division amends the *Justices Regulation 2014*.

16 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *prosecution witness* and *prosecution witness allowance*—

omit.

(2) Schedule 4—

insert—

prosecution witness see the *Criminal Practice (Fees and Allowances) Regulation 2021*, schedule 3.

prosecution witness allowance means an amount payable to a prosecution witness under the *Criminal Practice (Fees and Allowances) Regulation 2021*, section 7.

Schedule 1 Fees

section 4(1)

	\$
1 Inspecting a document or thing under rule 29(8A)(a)	19.50
2 Inspecting an exhibit, other than a document, under rule 56(2)	19.50
3 Searching for, or inspecting, a document on a court file under rule 57(3)	19.50
4 Obtaining a certified copy of a document under rule 57(3) or (5)	71.65
5 Preparing and copying an appeal record book under rule 97—	
(a) first copy—each page	2.95
(b) additional copy—each page	0.65
(c) binding appeal record book—each book	11.35
6 Copying a document, other than an appeal record book, or part of it—	
(a) first copy—each page	2.95
(b) maximum fee for first copy	76.75
(c) additional copy—each page	0.65
(d) maximum fee for additional copy	30.60
7 Filing an application under rule 56A(1)—	
(a) for the Supreme Court—	
(i) if at least 1 applicant is a corporation	2,023.00
(ii) otherwise	1,008.00
(b) for the District Court—	
(i) if at least 1 applicant is a corporation	1,816.00

	\$
(ii) otherwise	911.00
(c) for a Magistrates Court	114.40
8 Copying an exhibit under an order made under rule 56A(3)	the fee, stated in item 6, for copying a document
9 Opening, or keeping open, the Supreme Court Registry or the District Court Registry between 4.30p.m. and 8.30a.m. or on a Saturday, Sunday or court holiday for the purpose of making an application, or copying an exhibit, under rule 56A (rule 56A(5))	559.60
10 Opening, or keeping open, a Magistrates Court registry between 8a.m. and 8.30a.m. or between 4.30p.m. and 6p.m. on a day other than a Saturday, Sunday or court holiday for the purpose of making an application, or copying an exhibit, under rule 56A (rule 56A(5))	188.60

Schedule 2 Amounts of prosecution witness allowances

section 7(5)

\$

Travelling allowance

- | | | |
|---|--|--|
| 1 | For travelling— | |
| | (a) by the most economical form of public transport (other than air travel or taxi or a similar form of transport) | amount paid for the fare |
| | (b) by air, if the prosecution witness arranges with the prosecution to travel by air | amount paid for an economy class airfare |
| | (c) by taxi, or a similar form of transport, if the prosecution witness arranges with the prosecution to travel by taxi or the similar form of transport | amount paid for the fare |
| | (d) by private vehicle, if the prosecution witness can not conveniently travel by public transport | 0.40 for each km the vehicle travels |

Meal allowance

- | | | |
|---|---|--|
| 2 | If the prosecution witness is 12 years or more— | |
| | (a) for breakfast | 16.05 |
| | (b) for lunch | 16.05 |
| | (c) for dinner | 30.50 |
| 3 | If the prosecution witness is under 12 years | half the amount that would be payable to a witness under item 2(a), (b) or (c) |

Accommodation allowance

	\$
4 For accommodation, for each night—	
(a) if the accommodation is provided as part of a commercial transaction	amount paid to a maximum of 144.60
(b) otherwise	30.50
Loss of earnings allowance	
5 For a non-professional witness, for each day—	
(a) for a period of absence of 4 hours or less	56.25
(b) for a period of absence of more than 4 hours	117.90
6 For a professional witness, for each day—	
(a) for a period of absence of 3 hours or less	125.80
(b) for a period of absence of more than 3 hours, the total of the following—	
(i) for the first 3 hours of the period of absence	125.80
(ii) for each hour or part of an hour, to a maximum of 5 hours, the period of absence is more than 3 hours	31.05

Schedule 3 Dictionary

section 3

accommodation allowance see section 6(3).

conveniently travel, in relation to a prosecution witness, means travel—

- (a) to attend court within a reasonable period before the attendance of the witness is required; and
- (b) to return to the witness's residence or place of work within a reasonable period after the attendance.

loss of earnings allowance see section 6(4).

meal allowance see section 6(2).

non-professional witness means a witness who is to give evidence of a non-professional nature.

period of absence, for a prosecution witness, means the period—

- (a) starting when the witness leaves the witness's residence or place of work to attend court; and
- (b) ending when the witness returns to the witness's residence or place of work after attending court.

place of work, for a prosecution witness, means the witness's place of employment or practice.

prisoner has the meaning given by the *Corrective Services Act 2006*, schedule 4, definition *prisoner*, paragraph 1(a) and (b).

professional witness means a witness who is to give evidence of a professional nature.

prosecution witness means a person who attends court to give evidence for the prosecution in a criminal proceeding.

public transport means a form of passenger transport that is available for use by the public on payment of a fare.

relevant allowance see section 7(1).

travelling allowance see section 6(1).

ENDNOTES

- 1 Made by the Governor in Council on 26 August 2021.
- 2 Notified on the Queensland legislation website on 27 August 2021.
- 3 The administering agency is the Department of Justice and Attorney-General.

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