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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Criminal Practice (Fees) and Other Legislation Amendment Regulation 2017*.

Part 2 Amendment of Coroners Regulation 2015

2 Regulation amended

This part amends the *Coroners Regulation 2015*.

3 Amendment of s 5 (Fee for copy of investigation document—Act, 99(2)(b)(ii))

Section 5, heading, ‘99(2)(b)(ii)’—

omit, insert—

s 99(2)(b)(ii)

4 Amendment of pt 4, hdg

Part 4, heading, ‘provision’—

omit, insert—

provisions

5 Insertion of new pt 4, div 1, hdg

Part 4, before section 9—

insert—

Division 1

**Transitional provision for
SL No. 105 of 2015**

[s 6]

6 Insertion of new pt 4, div 2

Part 4—

insert—

**Division 2 Transitional provision for
Criminal Practice (Fees)
and Other Legislation
Amendment Regulation
2017**

**10 Fee payable to particular persons attending
inquest before commencement**

- (1) This section applies if, before the commencement—
 - (a) a person, other than a person to whom schedule 1, section 7 applies, attended an inquest to give evidence; and
 - (b) the person had not been paid the fee payable for the attendance under schedule 1, section 8 as in force before the commencement.
- (2) Schedule 1, section 8, as amended by the *Criminal Practice (Fees) and Other Legislation Amendment Regulation 2017*, applies in relation to the person for the attendance.

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

- (1) Schedule 1, section 8(1)(a), ‘Magistrates Court’—

omit, insert—

court
- (2) Schedule 1, section 8(1)(b), from ‘witness’—

omit, insert—

[s 11]

Part 2 Fees

11 Amendment of s 2 (Fees)

(1) Section 2(1), ‘in the schedule’—

omit, insert—

stated in schedule 1

(2) Section 2(2), ‘the schedule’—

omit, insert—

schedule 1

12 Renumbering of s 3 (Repeal)

Section 3—

renumber as section 7.

13 Insertion of new pt 3, pt 4, hdg and pt 4, div 1, hdg

After section 2—

insert—

Part 3 Allowances for prosecution witnesses

3 Application of part

(1) This part applies to a prosecution witness, other than a police officer or a prisoner, who attends court to give evidence in a criminal proceeding.

(2) In this section—

prisoner see the *Corrective Services Act 2006*, schedule 4.

4 Definitions for part

In this part—

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.

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

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

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

prosecution witness means any of the following witnesses for the prosecution—

- (a) an expert witness;
- (b) a non-professional witness;
- (c) a professional witness.

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

5 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;
 - (c) an accommodation allowance;
 - (d) a loss of earnings allowance.
- (2) However, 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

[s 13]

witness is not entitled to be paid the relevant allowance.

- (3) For subsection (2), an allowance 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.
- (4) A *travelling allowance* is a payment made towards meeting the expenses the prosecution witness incurs in travelling to and from court.
- (5) 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.
- (6) An *accommodation allowance* is a payment made towards meeting the expenses the prosecution witness incurs for accommodation if the witness is necessarily absent overnight from the witness's residence or place of work to attend court.
- (7) 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.
- (8) The amount of a relevant allowance to which the prosecution witness is entitled under this section is stated in schedule 2.
- (9) In this section—
alternative scheme means any of the following—
 - (a) a ruling made under the *Public Service Act 2008*, section 54(1);
 - (b) if the prosecution witness is engaged as a general practitioner government medical officer—the engagement;

- (c) if the prosecution witness is engaged by the Commonwealth as an employee, as mentioned in the *Public Service Act 1999* (Cwlth), section 6—the engagement;
- (d) if there is an arrangement between the Commonwealth and the State for the payment of an allowance to the prosecution witness—the arrangement.

6 Reimbursement of additional expenses

- (1) The relevant accountable officer may reimburse the prosecution witness for an additional expense the witness incurs in attending court.
- (2) In this section—

additional expense, for a prosecution witness, means an expense the prosecution witness actually and reasonably incurs that is not otherwise provided for under this part.

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, under the *Director of Public Prosecutions Act 1984*, is concerned—the accountable officer under section 32 of that Act; 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 Repeal and transitional provisions

[s 14]

Division 1

Repeal

14 Insertion of new pt 4, div 2

After section 7, as renumbered—

insert—

Division 2

Transitional provision for Criminal Practice (Fees) and Other Legislation Amendment Regulation 2017

8 Fee payable to particular prosecution witnesses attending court before commencement

- (1) This section applies if, before the commencement—
 - (a) a prosecution witness attended court to give evidence in a criminal proceeding; and
 - (b) the prosecution witness had not been paid the allowances, if any, to which the witness was entitled under the approved schedule of allowances.
- (2) Part 3 applies in relation to the prosecution witness for the attendance.
- (3) In this section—

approved schedule of allowances means the allowances approved by the Governor in Council for prosecution witnesses attending criminal proceedings in the Supreme Court, the District Court or the Magistrates Courts.

Editor's note—

For the approved schedule of allowances, see the gazette published on 5 December 1997 at pages 1513–14.

15 Amendment of schedule (Fees)

Schedule—

number as schedule 1.

16 Insertion of new schs 2 and 3

After schedule 1, as numbered—

insert—

**Schedule 2 Amounts of
prosecution witness
allowances**

section 5(8)

\$

Travelling allowance

1 For travelling by—

- | | |
|---|--|
| (a) 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 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 witness arranges with the prosecution to travel by taxi or the similar form of transport | amount paid for the fare |

[s 16]

- | | | |
|---|--|--------------------------------------|
| | | \$ |
| 2 | For travelling by private vehicle, if the witness cannot conveniently travel by public transport | 0.39 for each km the vehicle travels |

Meal allowance

- | | | |
|---|--|--|
| 3 | For a meal— | |
| | (a) for a witness who is 12 years or more—the amount paid for a meal, to a maximum of— | |
| | (i) for breakfast, for each day the witness leaves the witness’s residence or place of work before 6a.m. to attend court and it is not practicable for the witness to eat breakfast before the witness leaves the residence or place | 15.00 |
| | (ii) for lunch, for each day other than a day on which the witness leaves the witness’s residence or place of work after 1.30p.m. or returns to the witness’s residence or place of work before 1.30p.m. | 15.00 |
| | (iii) for dinner, for each day other than a day on which the witness leaves the witness’s residence or place of work after 6.30p.m. or returns to the witness’s residence or place of work before 6.30p.m. | 28.50 |
| | (b) for a witness who is under 12 years | half the amount that would be payable to a witness under paragraph (a) |

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 135.00 |

	\$
(b) otherwise	28.50
Loss of earnings allowance	
5 For a non-professional witness, for each day—	
(a) for a period of absence of 4 hours or less	52.50
(b) for a period of absence of more than 4 hours	110.00
6 For a professional witness, other than an expert witness who has entered into an arrangement with the prosecution to be paid for the opinion evidence of the expert witness, for each day—	
(a) for a period of absence of 3 hours or less	117.50
(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	117.50
(ii) for each hour or part of an hour, to a maximum of 5 hours, the period of absence is more than 3 hours	29.00

Schedule 3 Dictionary

section 1A

accommodation allowance see section 5(6).

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

- (a) to attend court within a reasonable time before the attendance of the witness is required; and

[s 17]

- (b) to return to the witness's residence or place of work within a reasonable time after the attendance.

expert witness, for part 3, see section 4.

loss of earnings allowance see section 5(7).

meal allowance see section 5(5).

non-professional witness, for part 3, see section 4.

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

- (a) starting when the witness departs from the witness's residence or place of work; and
- (b) ending when the witness returns to the witness's residence or place of work.

place of work, for a prosecution witness, for part 3, see section 4.

professional witness, for part 3, see section 4.

prosecution witness, for part 3, see section 4.

public transport, for part 3, see section 4.

travelling allowance see section 5(4).

Part 4 **Amendment of Justices Regulation 2014**

17 **Regulation amended**

This part amends the *Justices Regulation 2014*.

18 Amendment of sch 2, s 6 (Disbursements as allowance to witness for attending—defendant’s witnesses)

Schedule 2, section 6, from ‘approved’—

omit, insert—

of any comparable prosecution witness allowance that would be payable to the witness if the witness were a prosecution witness attending court to give evidence in a criminal proceeding.

19 Amendment of sch 2, s 7 (Disbursements as allowance to witnesses for attending—prosecution witnesses)

Schedule 2, section 7, ‘an allowance, approved by the Governor in Council,’—

omit, insert—

a prosecution witness allowance

20 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

prosecution witness see the *Criminal Practice (Fees) Regulation 2010*, section 4.

prosecution witness allowance means an amount payable to a prosecution witness under the *Criminal Practice (Fees) Regulation 2010*, section 5.

ENDNOTES

- 1 Made by the Governor in Council on 13 April 2017.
- 2 Notified on the Queensland legislation website on 13 April 2017.
- 3 The administering agency is the Department of Justice and Attorney-General.

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