

South Australia

Criminal Law Consolidation (Witness Payment) Regulations 2004

under the *Criminal Law Consolidation Act 1935*

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Prosecution witness fees
- 5 Defence witness fees

Schedule 1—Revocation of *Criminal Law (Witness Payments)
Regulations 1989*

1—Short title

These regulations may be cited as the *Criminal Law Consolidation (Witness Payment) Regulations 2004*.

2—Commencement

These regulations will come into operation on 1 September 2004.

3—Interpretation

In these regulations—

Act means the *Criminal Law Consolidation Act 1935*;

witness includes a witness who attended court but was not called to give evidence.

4—Prosecution witness fees

- (1) Pursuant to section 297 of the Act, the Sheriff may authorise a witness for the prosecution in respect of proceedings under the Act to be paid any or all of the following amounts:
 - (a) the actual amount lost, or the expenses necessarily incurred, by the witness by reason of the absence of the witness from home or business for the purpose of attending court, or \$100 per day, whichever is the lesser;
 - (b) an allowance for the travelling expenses of the witness, calculated on the basis of travel by public transport to and from court or, if the use of public transport by the witness is not reasonably practicable, \$0.20 per kilometre necessarily travelled to and from court;
 - (c) if the witness is necessarily absent from home overnight—the accommodation and meal expenses reasonably incurred by the witness;

- (d) if the witness is necessarily accompanied by another person—an amount equal to that which would be paid under this regulation in respect of that other person if he or she were a witness for the prosecution.
- (2) If, on the basis of information provided by the witness, the Sheriff is satisfied—
- (a) that the amount lost, or the expenses incurred, by the witness exceed the amount determined under subregulation (1)(a); or
 - (b) that the travelling expenses incurred by the witness exceed the amount determined under subregulation (1)(b),
- the amount to be paid to the witness may include such further amount as the Sheriff thinks fair and reasonable in the circumstances.
- (3) A claim for witness fees or expenses must be verified by a declaration in writing signed by the witness.
- (4) No amount is to be paid in respect of a witness who is an officer or employee of the State or Commonwealth (including a police officer but excluding an officer or employee who is on leave during the period of attendance at court).

5—Defence witness fees

Pursuant to section 297 of the Act, a court may, at the request of a witness for the defence in respect of proceedings under the Act, authorise the Sheriff to pay to the witness any or all of the amounts that would be payable to the witness if he or she were a witness for the prosecution.

Schedule 1—Revocation of *Criminal Law (Witness Payments) Regulations 1989*

The *Criminal Law (Witness Payments) Regulations 1989* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 26 August 2004

No 179 of 2004

AGO0191/04CS