

South Australia

Criminal Law (Witness Payments) Regulations 1989

under the *Criminal Law Consolidation Act 1935*

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Legislative history

1—Short title

These regulations may be cited as the *Criminal Law (Witness Payments) Regulations 1989*.

2—Revocation

The regulations made under the *Criminal Law Consolidation Act 1935* on 19 January, 1978 (see *Gazette 19.1.1978 p300*) relating to the scale of payment to witnesses and others for attendance in criminal prosecutions, as varied, are revoked.

3—Commencement

These regulations will come into operation on 1 June, 1989.

4—Prosecution witness fees

- (1) The amount that the court may order to be paid to a witness for the prosecution, or that an examining magistrate or justice may certify to the court as a reasonable amount to be paid to a witness for the prosecution, pursuant to section 297 of the *Criminal Law Consolidation Act 1935* is to be determined in accordance with this regulation.
- (2) Subject to this regulation, the following amounts may be ordered to be paid, or certified, in respect of a witness (including a witness who attended court but was not called to give evidence):
 - (a) the actual amount lost, or the expenses necessarily incurred, by the witness by reason of his or her absence from home or business for the purpose of attending court, or \$100 per day, whichever is the lesser; and
 - (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; and
 - (c) if the witness is necessarily absent from home overnight, the accommodation and meal expenses reasonably incurred by the witness; and

- (d) if the witness is necessarily accompanied by another person, an amount equal to that which would be allowed, ordered or certified in accordance with this regulation in respect of that other person if he or she were a witness for the prosecution.
- (3) Where—
 - (a) the amount lost, or the expenses incurred, by the witness exceed the amount determined in accordance with subregulation (2)(a); or
 - (b) the travelling expenses incurred by the witness exceed the amount determined in accordance with subregulation (2)(b),the amount ordered to be paid, or certified, may include such further amount as the court, or the examining magistrate or justice, thinks just and reasonable in the circumstances.
- (4) No amount is to be ordered to be paid, or certified, 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.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Revocation of regulations

The *Criminal Law (Witness Payments) Regulations 1989* were revoked by Sch 1 of the *Criminal Law Consolidation (Witness Payment) Regulations 2004* on 1.9.2004.

Principal regulations

Year	No	Reference	Commencement
1989	73	<i>Gazette 25.5.1989 p1423</i>	1.6.1989: r 3