



Western Australia

Evidence Act 1906

**Evidence (Witnesses' and  
Interpreters' Fees and Expenses)  
Regulations 1976**

**Reprint 2: The regulations as at 15 November 2007**

## Guide for using this reprint

### *What the reprint includes*



### *Endnotes, Compilation table, and Table of provisions that have not come into operation*

1. Details about the original regulations and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the regulations being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### *Notes amongst text (italicised and within square brackets)*

1. If the reprint includes a regulation that was inserted, or has been amended, since the regulations being reprinted were made, editorial notes at the foot of the regulation give some history of how the regulation came to be as it is. If the regulation replaced an earlier regulation, no history of the earlier regulation is given (the full history of the regulations is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
  - removed (because it was repealed or deleted from the law); or
  - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

### *Reprint numbering and date*

1. The reprint number (in the footer of each page of the document) shows how many times the regulations have been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3<sup>rd</sup> reprint since the regulations were published. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the regulations are reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

## Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976

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**Defined Terms**



Reprinted under the  
*Reprints Act 1984* as  
at 15 November 2007

Western Australia

Evidence Act 1906

## **Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976**

### **1. Citation**

These regulations may be cited as the *Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976*<sup>1</sup>.

### **2. Terms used in these regulations**

In these regulations unless the contrary intention appears —

“**expert witness**” means a witness called to give opinion evidence because of his special skill, technical knowledge or professional qualifications;

“**interpreter**” means an interpreter referred to in section 119(2) of the Act;

“**item**” means an item in the Schedule;

“**paying officer**” means a person appointed to be the paying officer, in the particular case, in accordance with regulation 2A;

**r. 2A**

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“**witness**” means a witness referred to in section 119(2) of the Act but does not include a police officer acting in the course of his duty.

*[Regulation 2 amended in Gazette 5 Dec 1995 p. 5585; 31 Dec 2004 p. 7142.]*

**2A. Appointment of paying officer**

- (1) In relation to matters referred to in section 119(2)(a)(ii) of the Act in which the prosecutor is a local government or other statutory body or a person acting on its behalf — the local government or statutory body may appoint one or more persons to be a paying officer, to make the payments prescribed by these regulations.
- (2) In relation to the matters referred to in section 119(2) or (2a) of the Act, other than the matters referred to in subregulation (1) —
  - (a) the chief executive officer;
  - (b) the Director of Public Prosecutions; or
  - (c) the Commissioner of Police,

(as the case requires) may appoint one or more persons to be a paying officer, to make the payments prescribed by these regulations.

*[Regulation 2A inserted in Gazette 31 Dec 2004 p. 7142; amended in Gazette 31 Jul 2007 p. 3798.]*

**3. Fees and expenses to be paid**

The paying officer shall pay the fees and expenses determined under these regulations to witnesses and to interpreters.

*[Regulation 3 amended in Gazette 31 Dec 2004 p. 7143.]*

**4. Fees (item 1 and item 2)**

- (1) Subject to this regulation, the fees to be paid to a witness other than an expert witness or a witness who is a prisoner of the Crown are the fees prescribed in item 1.
- (2) Subject to this regulation, where the paying officer is satisfied that, other than an expert witness, a witness has, by reason of his attendance as a witness, lost income in an amount greater than the amount fixed in item 1 he shall pay the witness a fee that equals that loss so long as the amount so paid in respect of any one day does not exceed an amount determined by the person or body entitled to appoint the paying officer.
- (3) A witness who is normally employed —
  - (a) by the Public Service of the State or of the Commonwealth or of another State or Territory of the Commonwealth; or
  - (b) by a body or authority established or constituted under a law of the State or of the Commonwealth or of another State or Territory of the Commonwealth,

shall not be paid the fees prescribed in item 1 or item 2.

*[Regulation 4 amended in Gazette 5 Dec 1995 p. 5585;  
31 Dec 2004 p. 7143.]*

**5. Expert witnesses**

- (1) An expert witness may claim fees and expenses incurred by reason of his or her attendance.
- (2) The paying officer is to pay such claims as are, in the officer's opinion, reasonable and justifiable in each particular case.

*[Regulation 5 inserted in Gazette 31 Dec 2004 p. 7143.]*

**6. Young persons and accompanying parents**

- (1) A witness under the age of 16 years shall not be paid any fee for attendance as a witness or attendance at, and participation in,

**r. 6A**

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programmes in preparation for giving evidence as a witness, but where the paying officer is satisfied that that witness has suffered a loss of income by reason of that attendance he shall pay him the fees prescribed by regulation 4.

- (2) A parent, guardian, relative or other support person who necessarily accompanies a witness under the age of 16 years may claim fees and expenses incurred by reason of his or her accompaniment.
- (3) A person who accompanies and assists a witness under the age of 16 years in order to enable the witness to —
  - (a) attend and give evidence at proceedings referred to in section 119(2)(a) and (b) of the Act; or
  - (b) attend and participate in programmes in preparation for giving evidence in those proceedings,may claim fees and expenses incurred by reason of his or her accompaniment and assistance.
- (4) The paying officer is to pay such claims under subregulation (2) or (3) as are, in the officer's opinion, reasonable and justifiable in each particular case, but is not to pay —
  - (a) fees and expenses for more than one parent, guardian, relative or other support person per witness unless regulation 15(2) applies;
  - (b) fees and expenses for more than one person to accompany and assist each witness;
  - (c) fees and expenses to a person for accompanying a child witness to court, where that person is appointed by the court to accompany and assist that child witness.

*[Regulation 6 amended in Gazette 5 Dec 1995 p. 5585;  
31 Dec 2004 p. 7143-4.]*

**6A. Special witnesses**

- (1) A witness aged 16 years or more who is, or may be, declared to be a special witness under section 106R(1) of the Act may claim



fees and expenses incurred by reason of his or her attendance at, and participation in, programmes in preparation for giving evidence in proceedings referred to in section 119(2)(a) and (b) of the Act.

- (2) A person who necessarily accompanies and assists a witness aged 16 years or more in order to enable the witness to —
- (a) attend and give evidence at proceedings referred to in section 119(2)(a) and (b) of the Act; or
  - (b) attend and participate in programmes in preparation for giving evidence in those proceedings,
- (or both) may claim fees and expenses incurred by reason of his or her accompaniment and assistance.
- (3) A person appointed under section 106R(4)(a) of the Act to provide support for a special witness may claim fees and expenses incurred by providing that support.
- (4) Unless regulation 15(2) applies, the paying officer is to pay such claims under subregulation (2) of this regulation as are, in the officer's opinion, reasonable and justifiable in each particular case, and where —
- (a) a different person attends under paragraph (2)(a) to the person who attends under paragraph (2)(b); or
  - (b) a different person attends under a particular paragraph on a different occasion,
- each is to be paid fees or expenses for that attendance in relation to the one witness.
- (5) The paying officer is to pay such claims under subregulation (3) of this regulation as are, in the officer's opinion, reasonable and justifiable in each particular case, but is not to pay fees or expenses for more than one person under that subregulation per witness, unless regulation 15(2) applies.

*[Regulation 6A inserted in Gazette 31 Dec 2004 p. 7144-5.]*

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**7. Fees for interpreters**

- (1) The paying officer is to pay an interpreter an attendance fee for his or her participation in proceedings.
- (2) The attendance fee payable is to be at an agreed rate or, where no agreement can be reached, the fee payable is to be one that is, in the officer's opinion, reasonable and justifiable in that particular case.

*[Regulation 7 inserted in Gazette 31 Dec 2004 p. 7145.]*

**8. Travelling expenses (item 2)**

- (1) A witness or interpreter shall be paid any bus or rail fares incurred by him.
- (2) Where the paying officer is satisfied that bus or rail transport is not reasonably convenient a witness shall be paid for the distance travelled each way in respect of his attendance at the rate per kilometre prescribed in item 2.
- (2a) Where the paying officer is satisfied that bus or rail transport is not reasonably convenient, an interpreter shall be paid at the rate prescribed in item 2 for every kilometre that he is required to travel.
- (3) Where a person who is entitled to be paid the travelling expenses prescribed by subregulation (2) or (2a) travels in the same vehicle as another person who is also entitled to be paid those expenses only one such payment shall be made.

*[Regulation 8 amended in Gazette 5 Dec 1995 p. 5585-6; 31 Dec 2004 p. 7145.]*

**9. Air fares**

- (1) Subject to subregulation (3) where it is necessary for a witness or interpreter to travel by air prior approval for such travel shall be obtained from the paying officer.

- (2) Where prior approval for the payment of air travel has been obtained the cost of the air fare shall be paid in accordance with that approval.
- (3) Where the paying officer is satisfied that it was not practicable to obtain prior approval for air travel he shall pay the air fares incurred by the witness.

**10. Expenses for meals**

- (1) Where a witness or interpreter is required to travel a distance exceeding 40 kilometres from his or her place of residence (but is not required to stay overnight), the paying officer shall pay the witness or interpreter the allowances for meals prescribed in item 3 in respect of the meals that are normally taken during the time of that travelling and attendance and the cost of which has been paid for by the witness.
- (2) Where a witness or interpreter is required to remain away from his or her residence overnight he or she shall be paid such actual costs for meals as, in the opinion of the paying officer, are reasonable having regard to the circumstances of the particular case.

*[Regulation 10 inserted in Gazette 31 Dec 2004 p. 7146.]*

**11. Accommodation expenses**

Where a witness or interpreter is required to remain away from his residence overnight he shall be paid only such actual costs for accommodation at an hotel, motel or other place as in the opinion of the paying officer are reasonable having regard to the circumstances of the particular case.

*[Regulation 11 amended in Gazette 5 Dec 1995 p. 5586;  
31 Dec 2004 p. 7146.]*

r. 12

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**12. Witnesses and interpreters from outside State**

- (1) Where a witness or interpreter is required to attend from outside this State prior approval of expenses shall be obtained from the paying officer.
- (2) Where a witness or interpreter travels to this State he shall be paid such expenses as in the opinion of the paying officer are reasonable.

[13. *Repealed in Gazette 31 Dec 2004 p. 7146.*]

**14. Miscellaneous expenses**

The paying officer may at his discretion pay laundry charges and such other reasonable expenses that have been incurred by a witness or interpreter having regard to the circumstances of a particular case.

**15. Discretion to pay higher amounts in certain circumstances**

- (1) Where a paying officer is presented with a substantiated claim for expenses, loss of earnings, etc., that exceeds the usual amount paid under these regulations, the person who appointed that payment officer may approve the payment of such higher amount as that person thinks is reasonable, and the amount so fixed by the person shall be the amount payable under these regulations in that case.
- (2) Where, in the opinion of —
  - (a) the chief executive officer;
  - (b) the Director of Public Prosecutions; or
  - (c) the Commissioner of Police,

(as the case requires), a witness under 16, a special witness, or a person who may be declared a special witness, necessarily requires a second parent, guardian, relative or other support person to accompany that witness, payment of a further amount

may be approved for that second person to accompany the witness.

*[Regulation 15 inserted in Gazette 31 Dec 2004 p. 7146-7.]*

**Schedule**

[r. 4, 8, 10]

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1. Fees for attendance	
For a half-day .....	10.00
For a full day .....	15.00
2. Rate per kilometre ..... 37.5 cents	
3. Meals —	
Breakfast .....	10.00
Lunch .....	10.00
Dinner .....	20.00

*[Schedule inserted in Gazette 31 Dec 2004 p. 7147.]*



**Notes**

- <sup>1</sup> This reprint is a compilation as at 15 November 2007 of the *Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976</i>	19 Mar 1976 p. 801-3	1 Apr 1976
Untitled regulations	19 Jan 1979 p. 126	19 Jan 1979
<i>Evidence (Witnesses' and Interpreters' Fees and Expenses) Amendment Regulations 1982</i>	13 Aug 1982 p. 3109	13 Aug 1982
<i>Evidence (Witnesses' and Interpreters' Fees and Expenses) Amendment Regulations 1987</i>	19 Jun 1987 p. 2387	1 Jul 1987 (see r. 2)
<i>Evidence (Witnesses' and Interpreters' Fees and Expenses) Amendment Regulations 1995</i>	5 Dec 1995 p. 5585-6	5 Dec 1995
<b>Reprint of the Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976 as at 17 May 2002</b> (includes amendments listed above)		
<i>Evidence (Witnesses' and Interpreters' Fees and Expenses) Amendment Regulations 2004</i>	31 Dec 2004 p. 7141-7	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Evidence (Witnesses' and Interpreters' Fees and Expenses) Amendment Regulations 2007</i>	31 Jul 2007 p. 3798	r. 1 and 2: 31 Jul 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Aug 2007 (see r. 2(b))
<b>Reprint 2: The Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976 as at 16 Nov 2007</b> (includes amendments listed above)		

**Defined Terms**

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**Defined Terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
expert witness .....	2
interpreter .....	2
item .....	2
paying officer .....	2
witness .....	2