



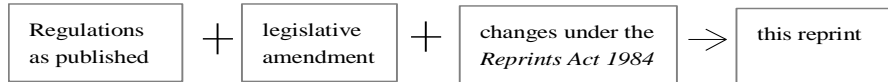
Western Australia

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

Reprinted as at 17 May 2002

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 - removed (because it was repealed or deleted from the law); or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.

Western Australia

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

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 17 May 2002

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*¹.

2. Interpretation

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;

“**municipality**” means a local government under the *Local Government Act 1995*²;

“**paying officer**”—

- (a) in relation to matters referred to in section 119(2)(a)(ii) of the Act in which the complainant is a municipality or other statutory body or a person acting on its behalf — means the person appointed by the

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municipality or statutory body to make the payments prescribed by these regulations;

- (b) in relation to the matters referred to in section 119(2) of the Act other than the matters referred to in paragraph (a) of this definition — means a person appointed by the chief executive officer to make the payments prescribed by these regulations;

“**regulation**” means one of these regulations;

“**Schedule**” means the Schedule to these regulations;

“**the Act**” means the *Evidence Act 1906*;

“**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.]

3. Fees and expenses to be paid

The paying officer shall pay the fees and expenses fixed by these regulations to witnesses and to interpreters.

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 the amount prescribed as the maximum fee for one day in item 2.

- (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.]

5. Expert witnesses (item 3 and item 4)

- (1) Subject to this regulation, an expert witness shall be paid the fees prescribed in item 3.
- (2) An expert witness —
- (a) who is a medical practitioner, other than a medical practitioner employed in the service of the State or Commonwealth or of a State or Territory of the Commonwealth; and
 - (b) who is required to travel a distance that exceeds 50 kilometres from his place of business,

shall be paid the additional fee prescribed in item 4.

6. Young persons and accompanying parent

- (1) A witness under the age of 16 years shall not be paid any fee for attendance 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 or guardian who necessarily accompanies a person referred to in subregulation (1) shall be paid the fees prescribed by regulation 4.

[Regulation 6 amended in Gazette 5 Dec 1995 p. 5585.]

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7. Fees for interpreters (item 5)

An interpreter shall be paid the fees prescribed in item 5.

8. Travelling expenses (item 6)

- (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 6.
- (2a) If an interpreter does not travel by bus or rail transport, he shall be paid at the rate prescribed in item 6 for every kilometre over 50 kilometres 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.]

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 (item 7)

Subject to these regulations, where a witness or interpreter —

- (a) is required to travel a distance exceeding 40 kilometres from his place of residence; and
- (b) is required to leave his residence before 7 a.m.,

the paying officer shall pay the witness or interpreter the allowances for meals prescribed in item 7 in respect of the meals that are normally taken during the time of his travelling and attendance and the cost of which has been paid for by the witness.

11. Accommodation expenses

- (1) Subject to this regulation, 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, but so as not to exceed the amount prescribed in item 8.

[(2) repealed]

[Regulation 11 amended in Gazette 5 Dec 1995 p. 5586.]

12. Witnesses and interpreters from outside the 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. Parents accompanying witness

A parent or guardian who necessarily accompanies a witness under the age of 16 years shall be paid the expenses prescribed by regulations 8 to 12 (inclusive).

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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. Minister to have discretion

Where the Minister is satisfied that in the circumstances of a particular case the amount of the fees and expenses fixed by these regulations is not appropriate he may fix such higher amount as he thinks is reasonable and the fees and expenses so fixed by the Minister shall be the amount payable under these regulations.

| Schedule | | \$ |
|-----------------|---|------------|
| 1. | Fees for attendance | |
| | For a half-day | 10.00 |
| | For a full day | 15.00 |
| 2. | Maximum attendance fee for one day | 240.00 |
| 3. | Expert witness — | |
| | For the first 3 hours | 18.00 |
| | For every hour thereafter | 5.00 |
| | Maximum per day | 75.00 |
| 4. | Additional attendance fee pursuant to regulation 5(2) — | |
| | Per day or part thereof | 15.00 |
| 5. | Interpreters' fees | |
| | During standard hours: | |
| | For the first 2 hours or part thereof | 65.00 |
| | For each additional ½ hour or part thereof | 15.00 |
| | During non-standard hours: | |
| | For the first 2 hours or part thereof | 104.00 |
| | For each additional ½ hour or part thereof | 24.00 |
| | Standard hours are — | |
| | 0800-1800 on Mondays to Fridays | |
| | Non-standard hours are — | |
| | 1800-0800 on Mondays to Fridays | |
| | Saturdays, Sundays and public holidays | |
| 6. | Rate per kilometre | 37.5 cents |
| 7. | Meals — | |
| | Breakfast | 6.00 |
| | Lunch | 6.00 |
| | Dinner | 12.00 |
| 8. | Overnight accommodation (bed only) | |
| | Maximum per day | 90.00 |

[Schedule amended in Gazette 19 Jan 1979 p. 126; 13 Aug 1982 p. 3109; 19 Jun 1987 p. 2387; 5 Dec 1995 p. 5586.]



Notes

- ¹ This reprint is a compilation as at 17 May 2002 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.

Compilation table

| Citation | Gazettal | Commencement |
|---|-------------------------|-----------------------|
| <i>Evidence (Witnesses' and Interpreters' Fees and Expenses) Regulations 1976</i> | 19 Mar 1976 p. 801-3 | 1 Apr 1976 |
| | 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 |

- ² Under the *Local Government Act 1995* Sch. 9.3 cl. 3(2) a reference to a municipality may, where the context so requires, be read as if it had been amended to include or be a reference to a local government under that Act. This reference was changed under the *Reprints Act 1984* s. 7(5)(a).