

Version
as at 2 June 2023



Witnesses and Interpreters Fees, Allowances, and Expenses Regulations 2023

(SL 2023/18)

Cindy Kiro, Governor-General

Order in Council

At Wellington this 20th day of February 2023

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 81 of the Public Finance Act 1989, section 387 of the Criminal Procedure Act 2011, section 156 of the Senior Courts Act 2016, section 230 of the District Court Act 2016, and section 410 of the Crimes Act 1961—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Finance.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry of Justice.

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[Revoked]

Regulations

1 Title

These regulations are the Witnesses and Interpreters Fees, Allowances, and Expenses Regulations 2023.

2 Commencement

These regulations come into force on 1 May 2023.

3 Interpretation

In these regulations, unless the context otherwise requires, **interpreter** includes a person who provides a written translation of any document—

- (a) into English from any other language; or
- (b) from English into any other language.

4 Application

These regulations apply to—

- (a) witnesses and interpreters—
 - (i) in any criminal proceedings to which the Criminal Procedure Act 2011 applies:
 - (ii) in any civil proceedings before the District Court or a senior court:
 - (iii) in any other proceedings under any enactment by or under which these regulations are applied:
- (b) interpreters appointed to assist in any legal proceedings in which a person exercises their right under—
 - (i) section 7 of Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016, to speak te reo Māori:
 - (ii) section 7 of the New Zealand Sign Language Act 2006 to use New Zealand Sign Language.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

6 Fees payable to expert witnesses

- (1) The Secretary for Justice must determine (whether by profession, qualification, or other description) the different classes of expert witnesses who give evidence in proceedings.
- (2) The Secretary for Justice must determine the hourly fee payable to expert witnesses in each class for attending proceedings to give evidence, or for work necessarily undertaken in preparation for giving evidence (for example, for any analysis or for the preparation of any translation, report, plan, or map).
- (3) The prescribed hourly fee payable to an expert witness in any class for attending proceedings to give evidence or for undertaking any preparatory work may not be less than \$50 or more than \$440.

7 Fees payable to interpreters

- (1) The Secretary for Justice must determine (whether by qualification, experience, or other description) the different classes of interpreters who provide services in proceedings.
- (2) The Secretary for Justice must determine the hourly fee payable to interpreters in each class.
- (3) The prescribed hourly fee payable to an interpreter in any class may not be less than \$35 or more than \$200.

8 Allowances and travel expenses payable to interpreters and expert witnesses

- (1) Interpreters and expert witnesses are entitled to receive—

- (a) any allowances that the Secretary for Justice determines; and
 - (b) reimbursement for their actual and reasonable travel expenses.
- (2) For the purpose of subclause (1)(a), **allowances** may include allowances in respect of—
- (a) travel time;
 - (b) private vehicle use;
 - (c) waiting time;
 - (d) overnight stays;
 - (e) meals.
- (3) For the purposes of subclause (1)(b), **travel expenses** may include—
- (a) public transport costs;
 - (b) private transport costs (for example, taxi or ride-share services);
 - (c) parking fees;
 - (d) accommodation costs.

9 Fees, allowances, and travel expenses payable to other witnesses

- (1) This regulation applies to a witness who is not an expert witness.
- (2) A witness to whom this regulation applies is entitled to be paid—
 - (a) the fees specified in Part 1 of Schedule 2, if the witness—
 - (i) is aged 16 years or over; and
 - (ii) is not attending school;
 - (b) the allowances specified in Part 2 of Schedule 2;
 - (c) the travel expenses specified in Part 3 of Schedule 2.

10 Fees, allowances, and expenses of certain persons accompanying witnesses

- (1) This regulation applies if it is necessary for a person to accompany a witness who—
 - (a) is under the age of 16 years; or
 - (b) is unwell or has a disability.
- (2) The person accompanying the witness is entitled to be paid fees, allowances, and travel expenses as if they were a witness.

11 Power of court to disallow or increase amounts

- (1) The amounts payable to any person under these regulations are subject to any directions of the court as to disallowance (of the whole or any part of the amount).
- (2) If the amounts payable to any person under these regulations are fixed by the court, the court may authorise those amounts to be increased in any case where

the court considers that, by reason of exceptional circumstances, it is desirable to do so.

- (3) In this regulation, **court** includes a Registrar.

12 Fees, allowances, and travel expenses exclusive of GST

All fees, allowances, and travel expenses set by or under these regulations are exclusive of goods and services tax.

13 Fees, allowances, and travel expenses of certain witnesses and interpreters payable by the Crown

- (1) The fees, allowances, and travel expenses set by or under these regulations are payable by the Crown to a witness to whom these regulations apply if the witness is—

- (a) for the Crown in any criminal or civil proceedings:
- (b) for the prosecution in a private prosecution to which the Criminal Procedure Act 2011 applies, and the court so orders.

- (2) The fees, allowances, and travel expenses set by or under these regulations are payable by the Crown to an interpreter to whom these regulations apply if the interpreter is—

- (a) for the Crown in any criminal or civil proceedings:
- (b) for the prosecution in a private prosecution to which the Criminal Procedure Act 2011 applies, and the court so orders:
- (c) appointed to assist a person charged with an offence who exercises their right under section 24(g) of the New Zealand Bill of Rights Act 1990:
- (d) an interpreter to whom these regulations apply under regulation 4(b).

14 Fees, allowances, and expenses payable by the Crown may be increased by Secretary for Justice in exceptional circumstances

The Secretary for Justice may increase any fees, allowances, and expenses payable to a witness or an interpreter by the Crown under regulation 13 if the Secretary considers it desirable to do so because of exceptional circumstances.

15 Revocation

The Witnesses and Interpreters Fees Regulations 1974 (SR 1974/124) are revoked.

16 Consequential amendments

[Revoked]

Regulation 16: revoked, on the close of 2 June 2023, by regulation 16(2).

**Schedule 1
Transitional, savings, and related provisions**

r 5

**Part 1
Provisions relating to these regulations as made**

There are no transitional, savings, or related provisions relating to these regulations as made.

Schedule 2

Fees, allowances, and travel expenses of non-expert witnesses

r 9

Part 1

Fees

		\$
1	For every day the witness is required to be absent from their usual place of residence or business for a period not exceeding 3 hours	25.00
2	For every day that the witness—	50.00
(a)	is required to be absent from their usual place of residence or business for a period exceeding 3 hours; or	
(b)	suffers a loss of earnings	

Part 2

Allowances

		\$
3	If a witness is required to be absent overnight from their usual place of residence for a period not exceeding 24 hours	55.50
4	If a witness is required to be absent overnight from their usual place of residence for a period exceeding 24 hours, for each 6 hours or part thereof	13.00
5	If a witness is entitled to be paid fees, is not required to be absent overnight from their usual place of residence, and is able to return to their usual place of residence each day before 7 pm, a daily meal allowance	7.00
6	If a witness is not entitled to be paid fees and is not required to be absent overnight from their usual place of residence, the following meal allowances:	
(a)	for every day that the witness is able to return to their usual place of residence before 7 pm:	4.50
(b)	for every day that the witness is not able to return to their usual place of residence before 7 pm	7.00

Part 3

Travel expenses

7	The actual cost of travelling by any mode of public transport that is reasonable having regard to the distance travelled, the age and health of the witness, and any other relevant circumstances	
8	If travel by public transport is not possible, or not reasonable in the circumstances, the actual cost of travelling by taxi or ride-share or other small passenger service vehicle (as defined in section 2(1) of the Land Transport Act 1998)	
9	If travel is by the witness's own vehicle, an allowance of 38 cents per kilometre, not exceeding in total the actual cost of travelling by any available public transport	

Schedule 3
Consequential amendments
[Revoked]

r 16

Schedule 3: revoked, on the close of 2 June 2023, by regulation 16(2).

Rachel Hayward,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 23 February 2023.

Notes

1 *General*

This is a consolidation of the Witnesses and Interpreters Fees, Allowances, and Expenses Regulations 2023 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Witnesses and Interpreters Fees, Allowances, and Expenses Regulations 2023 (SL 2023/18): regulation 16(2)