

# **Costs in Criminal Cases Regulations 1987**

(SR 1987/200)

PURSUANT to the Costs in Criminal Cases Act 1967, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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### **1 Title and commencement**

- (1) These regulations may be cited as the Costs in Criminal Cases Regulations 1987.
- (2) These regulations shall come into force on the 1st day of August 1987.

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#### **Note**

**These regulations are administered in the Department of Justice.**

**2 Interpretation**

In these regulations, unless the context otherwise requires,—

**The Act** means the Costs in Criminal Cases Act 1967

**Registrar**, in relation to a Court, includes a Deputy Registrar of the Court.

**3 Heads of costs and maximum scales of costs**

Subject to section 13(3) of the Act, the heads of costs and the maximum scales of costs that may be ordered to be paid under the Act shall be those set out in the Schedule to these regulations.

**4 Delegation to Registrar**

- (1) Subject to subclause (2) of this regulation, where a Court makes an order for the payment of costs under the Act, the Court may delegate to a Registrar of the Court the power to determine the amount of the costs to be allowed under any particular head.
- (2) A power may not be delegated under subclause (1) of this regulation to a Registrar who is a member of the Police.

**5 Determination by Registrar**

- (1) Where a Court delegates to a Registrar the power to determine the amount of the costs to be allowed under any particular head, the party entitled to costs shall set out particulars of the costs claimed under that head in an itemised statement and shall forward it to the Registrar.
- (2) On receipt of particulars of the costs claimed by the party, the Registrar shall—
  - (a) Give to that party a certificate for all or such part of the amounts claimed as the Registrar is satisfied are payable under the Act and these regulations; or
  - (b) If not satisfied as to the amounts payable under the Act and these regulations, refer the particulars of the claim to a Judge who shall, where possible, be the Judge who presided at the proceedings.
- (3) Where the Registrar gives a certificate for less than all the amounts claimed, the person who made the claim may, within

10 days of the date of the certificate, require the Registrar, by notice in writing, to refer the particulars of the claim to a Judge who shall, where possible, be the Judge who presided at the proceedings.

**6 Claims referred back by Registrar**

Where the particulars of a claim to costs are referred to a Judge pursuant to regulation 5(2)(b) or regulation 5(3) of these regulations, the Judge, after giving the Registrar and the person entitled to costs an opportunity of being heard, may do one or more of the following:

- (a) Direct the Registrar to give a certificate for such amounts as the Judge is satisfied are payable under the Act and these regulations:
- (b) Confirm or vary the Registrar's certificate:
- (c) Refer the particulars back to the Registrar with such directions as are requisite.

**7 Notice of liability for costs**

Where a Court makes an order for the payment of costs under the Act and the amount to be allowed is fixed by the Court in its order or by a Registrar in a certificate as finally given under these regulations, the Registrar shall—

- (a) Send to the person liable for payment a notice showing the amount that the person is liable to pay; and
- (b) File the Registrar's certificate (if any) and a copy of the notice with the records of the proceedings in respect of which the order is made.

**8 Costs payable by chief executive of Department for Courts, etc**

Where any costs are payable under the Act by the chief executive of the Department for Courts or a Government Department, the Registrar concerned shall prepare and certify a voucher for the amount of the costs payable and shall send it with the notice under regulation 7 of these regulations to the chief executive of the Department for Courts or the Government Department, as the case may require.

Regulation 8 was substituted, as from 1 July 1995, by section 12(1) Department of Justice (Restructuring) Act 1995 (1995 No 39).

**9 Transitional provision**

These regulations shall apply to proceedings commenced on or after the date of the commencement of these regulations and to proceedings commenced but not completed before that date.

**10 Revocation**

The Costs in Criminal Cases Regulations 1970<sup>1</sup> are hereby revoked.

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**Schedule**

This Schedule was substituted by regulation 2 Costs In Criminal Cases Regulations 1987, Amendment No 1 (SR 1988/144).

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Reg 3

Fees payable to barristers and solicitors in  
respect of proceedings under the Summary  
Proceedings Act 1957

**A. Hearings**

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|-----|--|--------|
| (a) | For conducting a prosecution or defence in cases that are dealt with before a Judge or before one or more Justices, including all matters and proceedings connected with or incidental thereto,-For each half day or part half day occupied in Court, a maximum of | 226.00 |
|-----|--|--------|

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<sup>1</sup> SR 1970/20

1—*continued*

	\$
(b) Where for any reason the information is withdrawn or is dismissed without a hearing, or where the defendant pleads guilty-For each half day or part half day occupied in Court, a maximum of	113.00
(c) In respect of the preliminary hearing of an indictable offence, the maximum shall be the same as for a trial before the High Court.	

**B. Appeals**

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(a) In respect of an appeal (except an appeal against sentence only),-For each half day or part half day occupied in Court, a maximum of	226.00
(b) In respect of an appeal against sentence only-For each half day or part half day occupied in Court, a maximum of	130.50
(c) On dismissal for non-prosecution or on a certificate being given under section 107(8) of the Summary Proceedings Act 1957 that the appeal has not been prosecuted, a maximum of	130.50

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Fees payable to barristers and solicitors in  
respect of proceedings under the Crimes Act  
1961**A. Trials**

In proceedings in the High Court on trials of indictable offences—

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(a) For conducting a prosecution or defence (including interlocutory or ancillary proceedings or matters)-For each half day or part half day occupied in Court, a maximum of	226.00
(b) In respect of arraignment where for any reason the trial does not proceed further, a maximum of	113.00

**B. Sentences**

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For appearance upon sentence, irrespective of the number of charges or the number of appearances, a maximum of	56.00

Provided that no fee shall be payable in respect of appearance upon the sentencing of a prisoner where the sentence is pronounced on the same day as the verdict, unless the appearance alone necessitates a separate attendance of Counsel, when a fee not exceeding \$56 may be paid.

2—*continued*

**C. Appeals**

	\$
(a) In respect of an appeal (except an appeal against sentence only) or an application for leave to appeal or a case stated or question of law reserved or an ancillary application or matter-For each half day or part half day occupied in Court, a maximum of	226.00
(b) In respect of an appeal against sentence only-For each half day or part half day in Court, a maximum of	130.00
(c) In respect of an appeal which is dismissed for non-prosecution, a maximum of	130.00

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**Provisions of general application**

**A. Second counsel**

Fees may be paid in respect of second counsel if such counsel is employed and if the Court so directs, but the fees paid shall not exceed the maxima above prescribed, reduced by half.

**B. Costs of a convicted defendant**

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Where costs are awarded to a convicted defendant pursuant to section 6 of the Act they shall not exceed	212.00

3—*continued*

**C. Travelling expenses and costs incidental to the proceedings**

Expenses which may be ordered to be paid under the Act shall be—

- (a) The reasonable travelling expenses and allowances of the parties to the proceedings and those of their counsel or solicitors:
- (b) All other disbursements reasonably and properly incurred; including—
  - (i) Fees, allowances, and expenses paid to witnesses and interpreters, which shall not exceed the fees, allowances, and travelling expenses prescribed by the Witnesses and Interpreters Fees Regulations 1974 (S.R. 1974/124); and
  - (ii) The costs of enquiries and scientific and other investigations and tests.

C J HILL

for Clerk of the Executive Council

**Explanatory note**

*This note is part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 August 1987, revoke and replace the Costs in Criminal Cases Regulations 1970. The new regulations correct outdated references and make substantial increases to the maxima fixed for the scales of costs that may be ordered to be paid under the Costs in Criminal Cases Act 1967. In other respects, the new regulations are substantially the same as the regulations they replace.

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