

**Reprint
as at 29 June 2009**



**Costs in Criminal Cases
Regulations 1987**
(SR 1987/200)

Paul Reeves, Governor-General

Order in Council

At Wellington this 13th day of July 1987

Present:
His Excellency the Governor-General in Council

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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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Justice.

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Regulations

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 1 August 1987.

2 Interpretation

In these regulations, unless the context otherwise requires,—
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.

4 Delegation to Registrar

- (1) Subject to subclause (2), 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) to a Registrar who is a constable.

Regulation 4(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

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), the Judge, after giving the Registrar and the person entitled to costs an opportunity of being heard, may do 1 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 the Ministry of Justice, etc

Where any costs are payable under the Act by the chief executive of the Ministry of Justice 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 to the chief executive of the Ministry of Justice or a government department, as the case may require.

Regulation 8: substituted, on 1 July 1995, by section 12(1) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Regulation 8 heading: amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

Regulation 8: amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

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 (SR 1970/20) are hereby revoked.

Schedule

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Schedule: substituted on 1 August 1988, by regulation 2 of the Costs in Criminal Cases Regulations 1987, Amendment No 1 (SR 1988/144).

Part 1

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

A Hearings

- | | \$ |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| (a) For conducting a prosecution or defence in cases that are dealt with before a Judge or before 1 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 |
| (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 |
| (c) In respect of the committal hearing of an indictable offence, the maximum shall be the same as for a trial before the High Court. | |

Schedule Part 1 paragraph (c): amended, on 29 June 2009, by section 18 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

B Appeals

- | | \$ |
|-----------------------------------------------------------------------------------------------------------------------------------------|-----------|
| (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 |

Part 1—*continued*

	\$
(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

Part 2

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—

	\$
(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
(b) in respect of arraignment where for any reason the trial does not proceed further, a maximum of	113

B Sentences

	\$
For appearance upon sentence, irrespective of the number of charges or the number of appearances, a maximum of	56
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 ver-	

Part 2—*continued*

dict, unless the appearance alone necessitates a separate attendance of counsel, when a fee not exceeding \$56 may be paid. \$

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
 - (b) In respect of an appeal against sentence only—For each half day or part half day in court, a maximum of 130
 - (c) In respect of an appeal which is dismissed for non-prosecution, a maximum of 130

Part 3

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

\$

Where costs are awarded to a convicted defendant pursuant to section 6 of the Act they shall not exceed 212

Part 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 (SR 1974/124); and
 - (ii) the costs of enquiries and scientific and other investigations and tests.

C J Hill,
for Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in the *Gazette*: 16 July 1987.

Costs in Criminal Cases Regulations 1987, Amendment No 1

(SR 1988/144)

Paul Reeves, Governor-General

Order in Council

At Wellington this 27th day of June 1988

Present:

His Excellency the Governor-General in Council

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.

Regulations

1 Title and commencement

- (1) These regulations may be cited as the Costs in Criminal Cases Regulations 1987, Amendment No 1, and shall be read together with and deemed part of the Costs in Criminal Cases Regulations 1987 (SR 1987/200) (hereinafter referred to as “the principal regulations”).
- (2) These regulations shall come into force on 1 August 1988.

3 Goods and services tax not included

The scales of costs prescribed by these regulations do not include any goods and services tax that is payable under the Goods and Services Tax Act 1985.

Marie Shroff,
Clerk of the Executive Council.

Costs in Criminal Cases Regulations 1987

Reprinted as at
29 June 2009

Date of notification in *Gazette*: 30 June 1988.

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-

Notes

1 *General*

This is a reprint of the Costs in Criminal Cases Regulations 1987. The reprint incorporates all the amendments to the regulations as at 29 June 2009, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Policing Act 2008 (2008 No 72): section 116(a)(ii)
Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41): section 18
State Sector Amendment Act 2003 (2003 No 41): section 14(2)
Department of Justice (Restructuring) Act 1995 (1995 No 39): section 12(1)
Costs in Criminal Cases Regulations 1987, Amendment No 1 (SR 1988/144)
