

Version
as at 1 May 2023



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

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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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

working day has the same meaning as in section 5 of the Criminal Procedure Act 2011.

Regulation 2 **working day**: inserted, on 1 July 2013, by regulation 4 of the Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173).

2A Application of these regulations

Schedule 2 contains application, savings, and transitional provisions that affect these regulations' other provisions as from time to time amended, revoked, or revoked and replaced.

Regulation 2A: inserted, on 1 July 2013, by regulation 5 of the Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173).

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 Schedule 1.

Regulation 3: amended, on 1 July 2013, by regulation 6 of the Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173).

4 Delegation to Registrar

Where a court makes an order for the payment of costs under the Act, the court may delegate to a Registrar the power to determine the amount of the costs to be allowed under any particular head.

Regulation 4: replaced, on 1 July 2013, by regulation 7 of the Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173).

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 working 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.

Regulation 5(3): amended, on 1 July 2013, by regulation 8 of the Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173).

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

[Revoked]

Regulation 9: revoked, on 1 July 2013, by regulation 9 of the Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173).

10 Revocation

The Costs in Criminal Cases Regulations 1970 (SR 1970/20) are hereby revoked.

Schedule 1
**Fees payable to barristers and solicitors in respect of proceedings
under Criminal Procedure Act 2011**

r 3

Schedule 1: replaced, on 1 July 2013, by regulation 10 of the Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173).

Part 1
Trials, sentences, and appeals

Subpart A—Trials

Particulars	Maximum fee (\$)
1 For conducting a prosecution or defence in a case, including all matters and proceedings connected with or incidental to the case—for each half day or part half day occupied in court	226
2 Where for any reason the charge is withdrawn or is dismissed without a trial, or where the defendant pleads guilty—for each half day or part half day occupied in court	113

Subpart B—Sentences

Particulars	Maximum fee (\$)
For appearance upon sentence, irrespective of the number of charges or the number of appearances, provided that no fee is payable in respect of appearance upon the sentencing of an offender where the sentence is pronounced on the same day as the verdict, unless the appearance alone necessitates a separate attendance of the defendant's lawyer, when a fee not exceeding \$56 may be paid	56

Subpart C—Appeals

Particulars	Maximum fee (\$)
1 In respect of an appeal (except an appeal against sentence only) or an application for leave to appeal or an ancillary application or matter—for each half day or part half day occupied in court	226
2 In respect of an appeal against sentence only—for each half day or part half day in court	130
3 In respect of an appeal that is dismissed for non-prosecution	130

Part 2

Provisions of general application

Subpart A—Second counsel

Fees may be paid in respect of second counsel if second counsel is employed and if the court so directs, but the fees paid must not exceed the maximum fees prescribed in Part 1, reduced by half.

Subpart B—Costs of convicted defendant

Particulars	Maximum fee (\$)
Where costs are awarded to a convicted defendant under section 6 of the Act	212

Subpart C—Travelling expenses and costs incidental to proceedings

Expenses that may be ordered to be paid under the Act are—

- (a) the reasonable travelling expenses and allowances of the parties to the proceedings and those of their lawyers:
- (b) all other disbursements reasonably and properly incurred, including—
 - (i) fees, allowances, and expenses paid to witnesses and interpreters, which must not exceed the fees, allowances, and travelling expenses payable under the Witnesses and Interpreters Fees, Allowances, and Expenses Regulations 2023; and
 - (ii) the costs of enquiries, scientific and other investigations, and tests.

Schedule 1 Part 2 subpart C paragraph (b)(i): amended, on 1 May 2023, by regulation 16(1) of the Witnesses and Interpreters Fees, Allowances, and Expenses Regulations 2023 (SL 2023/18).

Schedule 2

Application, savings, and transitional provisions

r 2A

Schedule 2: inserted, on 1 July 2013, by regulation 10 of the Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173).

1 **Costs in Criminal Cases Amendment Regulations 2013**

On the commencement of the Costs in Criminal Cases Amendment Regulations 2013 (the **2013 regulations**), these regulations continue to apply, as if they had not been amended by the 2013 regulations, to a proceeding conducted under the Summary Proceedings Act 1957 or the Crimes Act 1961.

C J Hill,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in the *Gazette*: 16 July 1987.

Notes

1 *General*

This is a consolidation of the Costs in Criminal Cases Regulations 1987 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(1)

Costs in Criminal Cases Amendment Regulations 2013 (SR 2013/173)

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)