

Criminal Practice (Fees and Allowances) Regulation 2021

Explanatory notes for SL 2021 No. 127

Made under the

Coroners Act 2003

Justices Act 1886

Supreme Court of Queensland Act 1991

General Outline

Short title

Criminal Practice (Fees and Allowances) Regulation 2021

Authorising law

Section 99 of the *Coroners Act 2003*

Section 266 of the *Justices Act 1886*

Section 92 of the *Supreme Court of Queensland Act 1991*

Policy objectives and the reasons for them

The purpose of the *Criminal Practice (Fees and Allowances) Regulation 2021* (the 2021 Regulation) is to replace the *Criminal Practice (Fees) Regulation 2010* (2010 Regulation), and continue to provide:

- a transparent and equitable fee regime for accessing court exhibits, documents and other things from criminal proceedings; and
- a transparent and equitable compensatory scheme for prosecution witnesses in criminal proceedings.

In accordance with the *Statutory Instruments Act 1992*, the 2010 Regulation is due to expire on 31 August 2021. The 2021 Regulation will commence on 1 September 2021.

Fees

Rules for various practice and procedural matters relating to the criminal jurisdiction of the Supreme, District and Magistrates Courts are set out in the *Criminal Practice Rules 1999* (the Rules). The Rules include providing for access to court exhibits, documents and other things, by persons who are not a party to the trial on payment of a fee. The Rules also provide for the preparation of an appeal record book, and that a party may obtain a copy of the book on payment of the fee.

The 2021 Regulation prescribes the relevant fees for:

- searching for or inspecting an exhibit, document or thing;

- obtaining a copy of a document;
- preparing and copying an appeal record book;
- applying for an order permitting an exhibit to be copied for publication; and
- opening or keeping open a Supreme, District or Magistrates Court Registry for the purpose of making an application or copying an exhibit.

Allowances

Prosecution witnesses play an important role in criminal proceedings. The payment of allowances recognises the impost that this can have on the witness.

The 2021 Regulation prescribes the allowances payable to prosecution witnesses, other than a police officer and prisoner, to compensate them for costs incurred in appearing in a criminal trial. The allowances that prosecution witnesses may be eligible for include a travel allowance, meal allowance, accommodation allowance, and loss of earnings allowance.

These allowances are also referenced in the *Justices Regulation 2014* and the *Coroners Regulation 2015*, which each provide that witnesses are entitled to the payment of allowances as set out in the 2010 Regulation.

Achievement of policy objectives

The 2021 Regulation will remake the 2010 Regulation. The 2021 Regulation will provide for the same matters as the 2010 Regulation, with minor and clarifying changes to:

- reflect contemporary drafting practice;
- ensure the prosecution witness allowance provisions are clear and operate as intended;
- remove transitional provisions, which were required for the initial introduction of prosecution witness allowances into the 2010 Regulation, that are no longer required; and
- make consequential amendments to the *Justices Regulation 2014* and *Coroners Regulation 2015*.

Consistency with policy objectives of authorising law

The 2021 Regulation is consistent with the policy objectives of the *Coroners Act 2003*, *Justices Act 1886*, and *Supreme Court of Queensland Act 1991*.

Inconsistency with policy objectives of other legislation

The 2021 Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The 2021 Regulation:

- supports the effective operation of the *Supreme Court of Queensland Act 1991* and *Criminal Practice Rules 1999*;
- supports the effective operation of the *Justices Regulation 2014* and *Coroners Regulation 2015* in relation to witness allowances provided for under those regulations;
- provides a transparent and equitable fee regime for accessing court exhibits, documents and other things from criminal proceedings; and

- provides a transparent and equitable compensatory scheme for certain prosecution witnesses in criminal proceedings.

The costs associated with the 2010 Regulation are met from existing resources. There are no anticipated additional implementation costs associated with implementing the 2021 Regulation.

Consistency with fundamental legislative principles

The 2021 Regulation is consistent with fundamental legislative principles.

Consultation

Consultation has been undertaken with key legal stakeholders.

No concerns were raised about the making of the 2021 Regulation.

The Office of Best Practice Regulation (OBPR) was also consulted on the sunset review of the 2010 Regulation. OBPR advised that the that no further regulatory impact analysis was required under the Queensland Government Guide to Better Regulation.