

Legislation update for prosecuting agencies

The Criminal Practice (Fees) and Other Legislation Amendment Regulation 2017: Witness allowances

3 May 2017

As of 13 April 2017, allowances payable to prosecution witnesses who attend criminal proceedings to give evidence are now governed by the Criminal Practice (Fees) Regulation 2010.

Previously, there were no legislative guidelines or rates with respect to the payment of witness allowances in criminal proceedings. This meant that many prosecuting agencies (especially those involved in summary proceedings) were left to determine their own rates on a discretionary basis or to defer to those suggested by the Department of Justice and Attorney General.

Amendments to the *Criminal Practice (Fees) Regulation 2010* however, have resulted in the insertion of a schedule which sets out the allowances that prosecution witnesses are entitled to be paid in criminal proceedings (see Schedule 2 – ‘Amounts of prosecution witness allowances’). That schedule provides amounts for:

1. Travelling allowances;
2. Meal allowances;
3. Accommodation allowances; and
4. Loss of earnings allowances.

These new allowances apply to witnesses who have not yet attended court for proceedings which are currently on foot, and also witnesses who have attended court to give evidence, but who have not yet been paid their entitlements.

Government lawyers will need to consider these allowances in matters where witnesses have been summoned to attend criminal court proceedings to give evidence for the prosecution.

For further inquiries or assistance, please contact Glen Cranny, Principal, Gilshenan & Luton Legal Practice on 3361 0240 or gcranny@gnl.com.au