

TASMANIA

**CRIMINAL PROCEDURE (ATTENDANCE OF
WITNESSES) REGULATIONS 2019**

STATUTORY RULES 2019, No. 23

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CRIMINAL PROCEDURE (ATTENDANCE OF WITNESSES) REGULATIONS 2019

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Criminal Procedure (Attendance of Witnesses) Act 1996*.

Dated 29 April 2019.

C. WARNER
Governor

By Her Excellency's Command,

ELISE ARCHER
Minister for Justice

1. Short title

These regulations may be cited as the *Criminal Procedure (Attendance of Witnesses) Regulations 2019*.

2. Commencement

These regulations take effect on 12 May 2019.

3. Interpretation

In these regulations –

Act means the *Criminal Procedure (Attendance of Witnesses) Act 1996*.

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4. Notice to be served personally

A notice required to be served under the Act must be served personally.

5. Preliminary notice

For the purposes of section 5 of the Act, the prescribed form of a preliminary notice is a form in accordance with Form 1 in Schedule 1.

6. Final notice

For the purposes of section 10 of the Act, the prescribed form of a final notice is a form in accordance with Form 2 in Schedule 1.

7. Expenses of witnesses

(1) For the purposes of section 17 of the Act, the following is the prescribed scale:

Item	Matter	Prescribed scale
1.	For meals, travelling and accommodation	the same rate and on the same terms as is prescribed from time to time for the equivalent allowance in clause 3 of Part IV of the Tasmanian State Service Award made by the Tasmanian Industrial Commission

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2.	For loss of salary, wages or income resulting from a person's attendance at the Court, if the person is not an expert witness (for each hour, or part of an hour)	the actual loss incurred, up to a maximum of 2.5% of the seasonally adjusted average weekly total earnings of a full-time adult employee in Tasmania, as published by the Australian Bureau of Statistics in the most recent issue of Catalogue Number 6302.0
3.	<p>For loss of salary, wages or income resulting from a person's attendance at the Court, if the person is an expert witness –</p> <p>(a) if there is a professional body governing the professional discipline, in relation to which the expert witness has attended the Court, and that body applies a rate according to a scale applicable to that discipline</p>	that rate or scale

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	(b) if there is no such scale	up to the actual loss of salary, wages or income incurred by the person as a result of the person's attendance at the Court as an expert witness
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- (2) Compensation for loss of salary, wages or income is not payable unless the person incurs an actual loss of salary, wages or income as a result of attending Court.

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SCHEDULE 1 – FORMS

Regulations 5 and 6

Form 1

Criminal Procedure (Attendance of Witnesses) Act 1996

PRELIMINARY NOTICE TO WITNESS

Indictment No.

TO:
(name and address of witness)

YOU ARE NOTIFIED that you are required to attend and give evidence
at the trial of for
(name of defendant)

.....
(details of offence/crime charged)

The trial is due to be held at the Supreme Court of Tasmania at
(Salamanca Place, Hobart/Cameron St, Launceston/Alexander St,
Burnie) **at some time after**

You are not required to attend the Court until you are served with a Final
Notice which will give the exact date on which you will be required to
attend.

If you propose to change your place of residence, employment or
business from the address specified in this notice, you must, as soon as
practicable before the change occurs, give notice in writing of the
change to the summoning party (see below)*. If it is not practicable to
give notice in writing, you must give oral notice of the change to that
person.

If you are of the opinion that circumstances have arisen or may arise that
will or may prevent you from attending and giving evidence in the trial,
you must, as soon as practicable after the relevant facts have come to
your knowledge, give notice in writing of those facts to the summoning
party. If it is not practicable to give notice in writing, you must give oral
notice of those facts to that person.

Dated this day of 20 .. .

REGISTRAR OF THE SUPREME COURT

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***THE SUMMONING PARTY:**

This Notice has been issued at the request of the Director of Public Prosecutions/accused whose contact details are as follows:

(1) Name:

(2) Address:

(3) Telephone:

(4) Fax:

(5) Email:

NOTE: *You may make written application (stating reasons) to the Registrar of the Supreme Court for an order that you be excused from giving evidence at the trial.*

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Form 2

Criminal Procedure (Attendance of Witnesses) Act 1996

FINAL NOTICE TO WITNESS

Indictment No.

TO:
(name and address of witness)

YOU ARE REQUIRED to attend and give evidence at the trial of
..... before
(name of defendant)

the Supreme Court of Tasmania at (Salamanca Place, Hobart/Cameron
St, Launceston/Alexander St, Burnie) ata.m./p.m. on the
..... day of 20, and from day
to day until that trial has been heard and determined.

YOU ARE ALSO REQUIRED to produce at the trial, for the purpose of
evidence, the following documents or articles in your possession or
power:

.....
.....

Failure to attend Court on that date and answer questions properly put to
you in Court will render you liable, upon conviction, to a penalty of a
fine not exceeding 20 penalty units or imprisonment for a term not
exceeding 6 months, or both.

Take notice that the Court may order that a warrant for your arrest be
issued if you do not attend Court on the above date.

Dated this day of 20

REGISTRAR OF THE SUPREME COURT

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THE SUMMONING PARTY:

This Notice has been issued at the request of the Director of Public Prosecutions/accused whose contact details are as follows:

(1) Name:

(2) Address:

(3) Telephone:

(4) Fax:

(5) Email:

NOTE: *You may make written application (stating reasons) to the Registrar of the Supreme Court for an order that you be excused from giving evidence at the trial.*

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 8 May 2019.

These regulations are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) make provision for the payment of expenses to witnesses in certain circumstances; and
- (b) prescribe forms for certain notices under the *Criminal Procedure (Attendance of Witnesses) Act 1996*; and
- (c) are made consequentially on the repeal of the *Criminal Procedure (Attendance of Witnesses) Regulations 2009* under section 11 of the *Subordinate Legislation Act 1992*.