



Date: 24 November 2021

Giving evidence in criminal prosecutions is part of the public duty which citizens may be called upon to carry out. Once you receive a summons or subpoena to give evidence, you are required to attend court.

The policy of the Commonwealth Director of Public Prosecutions (CDPP) is to provide some compensation for lost income and to meet reasonable expenses incurred by witnesses as a direct result of being required to give evidence. The CDPP is a publicly funded agency and there is a limit on the compensation that is provided.

The following information is provided to help you understand your entitlements as a prosecution witness.

1. Travel expenses

You will be reimbursed for reasonable travel expenses for return travel from your place of residence or business, to court via the most direct route. Witnesses should normally use public transport to attend court. Public transport fares which you pay to travel from your place of residence or employment to court, and return, will be reimbursed with a receipt.

If public transport is not available, or other sufficient justification is provided, the CDPP may agree to reimburse travel by taxi. However, such a fare will not be reimbursed unless prior approval has been given by the CDPP and a receipt is provided.

If, with the prior agreement of the CDPP, you have travelled by private car for part, or all, of the journey, you must state the total number of kilometres travelled via the most direct route. A 'per kilometre' allowance, is paid for such journeys. A flat rate of 72 cents per/km (regardless of car size) is the maximum amount claimable.

Air travel, where required, will be organised in advance by the CDPP. Airport bus/train, or if necessary taxi, travel to and from airports should be arranged by the witness. Fares incurred may be claimed upon providing receipts to the CDPP.

2. Accommodation

Arrangements for your accommodation, if required, will be made by the CDPP. If you wish to stay at a different hotel to the one selected by the CDPP, you will have to pay any amount above the set rate agreed to by the CDPP. This must be discussed with the CDPP and approved in advance of your stay.

Any additional expenses at a hotel such as personal telephone calls, laundry, pay TV/movies, any alcoholic beverages and mini-bar items **will not** be paid for by the CDPP. *You must pay for these expenses before checking out of the accommodation*

3. Meals

Witnesses who incur meal expenses during the course of attending court are entitled to have these expenses reimbursed in accordance with the rates outlined below. **Receipts** for all meals claimed for **must be provided to the CDPP**. The CDPP will reimburse witnesses a maximum of 3 meals per day and will not pay for meals for any travelling companions or partners.

Reimbursement will not be made for the cost of meals above the following amounts:

Breakfast – \$29.20 Lunch – \$32.85 Dinner – \$56.00

These amounts are not a daily allowance. They are a guide as to the maximum the CDPP will reimburse with receipts submitted with your Witness Expenses Claim Form. Please note the CDPP will not pay for the cost of any alcoholic beverages.

4. Incidentals

When witnesses are required to travel interstate the CDPP will also pay incidentals at **\$20.60 per day**.

5. Loss of wages or earnings

The CDPP will, in certain circumstances, provide some compensation for income lost by reason of the witness attending court. The payment is **limited to**:

- **income actually lost;**
- the times and date of the attendance;
- the date of any associated travel time;
- up to a maximum amount as set out below.

All claims **must** be fully substantiated. Examples of substantiating documents include:

- your most recent Tax Return;
- a statutory declaration;
- a letter from an employer;
- in certain circumstances, pay slips.

Witnesses will be reimbursed up to a **maximum amount of \$345 (gross) per day or \$43 (gross) per hour**. If witnesses earn less than this amount they are paid their actual loss of income. Witnesses who earn more than this amount are paid \$43 (gross) for each hour they are required to be absent from work, up to a maximum of \$345 (gross) per day.

If you are an employee, you must complete **Parts A and B of Section 4** and your employer must sign the Employer's Certificate in **Part B of Section 4** of the Witness Expenses Claim Form.

If you are self-employed, you must complete **Parts A and C of Section 4** of the Witness Expenses Claim Form. You are able to claim for the loss of gross (i.e. before tax) income whilst attending court. You **must** provide details of the method used to calculate your loss of income and provide evidence of the actual loss you have incurred.

The payment is compensation only. No payment will be made to public servants, others who continue to receive income, or for "consequential" losses or additional entitlements such as overtime.

Please note:

- **In order to claim for a loss of income, Part A and EITHER Part B or Part C of Section 4 of the Witness Expenses Claim Form must be completed. Payment cannot be made unless either Part B or C is clearly completed.**
- **If you are an employee, any payments for loss of income paid directly to you, must be included in your next Income Tax Return.**
- **If you are self-employed, any payment for loss of income made directly to you as a result of lodging a Witness Expenses Claim Form must be included in your next income tax return.**

As the CDPP is a publicly funded agency it may not be possible to compensate you the full extent of your loss of income. The CDPP will establish whether your claim is within the guidelines for spending public funded money, according to the Public Governance, Performance and Accountability Act 2013.

6. Other expenses

You must complete Section 3 if you are seeking payment for any other expenses necessarily incurred as a result of your attending court (e.g. childcare costs, if not normally incurred; telephone calls to your place of employment). You must attach receipts in justification of your claim. If you know you will need to make a claim for other expenses you should discuss this at the earliest opportunity with the CDPP.

7. Lodgement of your claim

All claims for witness expenses should be made by completing and lodging the Witness Expenses Claim Form attached. Please send your completed claim form to:

Commonwealth Director of Public Prosecutions
Locked Bag A4020
Sydney South NSW 1235
Attention: (to relevant CDPP officer)

Your claim can also be lodged via email: sydney@cdpp.gov.au

8. When can I expect to receive payment?

All claim forms are processed by the CDPP as soon as possible. Generally payment can be expected to be received within 14 days of a correctly rendered expense claim.



Please read the Guide to Claiming Witness Expenses before completing this Claim Form

Case officer

Defendant/matter name

Court

Witness name

Witness address

Witness phone no.

DETAILS OF ATTENDANCE AT COURT:

| | | | | | |
|------|----------------------|--------------|----------------------|---------------|----------------------|
| Date | <input type="text"/> | Time arrived | <input type="text"/> | Time departed | <input type="text"/> |
| Date | <input type="text"/> | Time arrived | <input type="text"/> | Time departed | <input type="text"/> |
| Date | <input type="text"/> | Time arrived | <input type="text"/> | Time departed | <input type="text"/> |

Payment of income will be made via direct deposit, please complete your banking details below.

Account name Branch

BSB Account Number

Email address (remittance advice will be sent to this address)

1. TRAVELLING EXPENSES (Tickets/receipts must be attached—See Section 1 of the Guide)

Train, bus or airport bus fares \$

Taxi fare (not always payable) \$

Private car kms travelled by most direct route \$

(Please note: km rate is 72 cents per kilometre)

SUB-TOTAL \$



2. MEAL EXPENSES (Receipts must be attached—see Section 3 of the Guide)

Please note the following maximum allowances: Breakfast—\$29.20, Lunch—\$32.85 and Dinner—\$56.00)

| | | | | | |
|-----------|----------------------|-------------------|----------------------|----|----------------------|
| Date | <input type="text"/> | Meal (e.g. lunch) | <input type="text"/> | \$ | <input type="text"/> |
| Date | <input type="text"/> | Meal (e.g. lunch) | <input type="text"/> | \$ | <input type="text"/> |
| Date | <input type="text"/> | Meal (e.g. lunch) | <input type="text"/> | \$ | <input type="text"/> |
| SUB-TOTAL | | | | \$ | <input type="text"/> |

3. OTHER EXPENSES—(Itemise and provide explanation/receipts - see Section 6 of the Guide)

| Date | Details of expense | Receipt attached | |
|----------------------|----------------------|--------------------------|-------------------------|
| <input type="text"/> | <input type="text"/> | <input type="checkbox"/> | \$ <input type="text"/> |
| <input type="text"/> | <input type="text"/> | <input type="checkbox"/> | \$ <input type="text"/> |
| SUB-TOTAL | | | \$ <input type="text"/> |

I attach the following documents to substantiate this claim:

4. LOSS OF INCOME

A. All claimants

(Please read Section 4 of the Guide before completing this section)

As a result of attending court as a witness for the prosecution for the time(s) shown above,

I have received or I would have received
 from my employer or as a self-employed person

| | | | | | |
|--------------|----------------------|---|--|---|-------------------------|
| No. of days | <input type="text"/> | x | Daily rate <i>(Maximum \$345.00 per day)</i> | = | \$ <input type="text"/> |
| No. of hours | <input type="text"/> | x | Hourly rate <i>(Maximum \$43.00 per hour)</i> | = | \$ <input type="text"/> |
| SUB-TOTAL | | | | | \$ <input type="text"/> |

Complete EITHER Part B or Part C below.



B. Witnesses in paid employment:

If approved, payment of the lost income as per Part A will be paid directly to you or your employer.

| | |
|----------------------|----------------------|
| Name of employer | <input type="text"/> |
| ABN number | <input type="text"/> |
| Employer's address | <input type="text"/> |
| Employer's phone no. | <input type="text"/> |

Employer's Certificate: (to be completed by your employer)

I certify that (Employee's name)

has been paid has been withheld wages or salary as per Part A.

If wages or salary has been paid, reimbursement of this will be paid via direct deposit, please complete your banking details below.

| | | | |
|--------------|----------------------|----------------|----------------------|
| Account name | <input type="text"/> | Branch | <input type="text"/> |
| BSB | <input type="text"/> | Account Number | <input type="text"/> |

Name and position of certifying person

Signature Date

Contact telephone number

C. Self-employed witnesses

I am self-employed under the business name of

My Australian Business Number (ABN) number is

The rate for loss of income indicated in Part A above is calculated as follows:



Please provide:

1. Details of your annual income before tax or details of the other means used to calculate the rate of loss of income—e.g. a copy of an income tax assessment; and
2. Evidence of the actual loss of income incurred—e.g. a statutory declaration indicating how the loss of income was calculated.

5. TOTAL CLAIM: Please add the totals of Parts 1, 2, 3 and 4.

| | | |
|------------------------|----|----------------------|
| 1. Travelling expenses | \$ | <input type="text"/> |
| 2. Meal expenses | \$ | <input type="text"/> |
| 3. Loss of Income | \$ | <input type="text"/> |
| 4. Other expenses | \$ | <input type="text"/> |
| TOTAL | \$ | <input type="text"/> |

Please note that if you have been paid conduct money, this amount will be subtracted from any claim made for travelling expenses, meal expenses or other incidental expenses.

I certify that the above particulars are true and correct.

| | | | |
|-----------------------|----------------------|------|----------------------|
| Signature of claimant | <input type="text"/> | Date | <input type="text"/> |
|-----------------------|----------------------|------|----------------------|

Office use only - for case officer to complete

| | | | |
|--------------------|----------------------|--------|-------------------------------|
| File no. | <input type="text"/> | Matter | <input type="text"/> |
| Conduct money paid | Yes | Amount | \$ <input type="text"/> |
| | No | | Total \$ <input type="text"/> |
| | | | claim <input type="text"/> |

Assessed claim amount:

(to be completed if different from amounts claimed above)

| | | |
|--------------------|----|----------------------|
| Traveling expenses | \$ | <input type="text"/> |
| Meal expenses | \$ | <input type="text"/> |
| Loss of income | \$ | <input type="text"/> |
| Other expenses | \$ | <input type="text"/> |
| TOTAL | \$ | <input type="text"/> |

| | | | |
|---|----------------------|------|----------------------|
| Claim assessed as fair and reasonable by Case Officer | <input type="text"/> | Date | <input type="text"/> |
|---|----------------------|------|----------------------|



CDPP

Australia's Federal Prosecution Service



I, of

(Name)

(Address)

.....

(Occupation)

do solemnly and sincerely declare that as a result of my attendance at Court on the

..... day of, 20 in relation to the prosecution of.....,

I incurred the following expenses:-

| | | |
|----|----------------------------------|-----------|
| 1. | Gross wages or other income lost | \$ |
| 2. | Accommodation | \$ |
| 3. | Meals | \$ |
| 4. | Travelling | \$ |
| 5. | Other (specify) | \$ |
| | Less conduct money | \$ |
| | Total | \$ |

And I make this solemn declaration by virtue of the *Statutory Declarations Act 1959*, and subject to the penalties provided by that Act for the making of false statement in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

.....

Signature of person making the declaration

Declared at)

the day of)

20) Before me:

Signature of ***prescribed person** before whom the declaration is made
***(e.g. Legal Practitioner/Justice of the Peace)**

.....

Title of person before whom the declaration is made



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STATUTORY DECLARATION OF SELF-EMPLOYED WITNESS

I,of.....

do solemnly and sincerely declare that, I conduct a business of

.....

and by reason of my attendance at court on the day of, 20 in relation to the prosecution of, I incurred the following expenses:-

| | | |
|----|--------------------|----|
| 1. | Gross income lost | \$ |
| 2. | Accommodation | \$ |
| 3. | Meals | \$ |
| 4. | Travelling | \$ |
| 5. | Other (specify) | \$ |
| | Less conduct money | \$ |
| | Total | \$ |

And I make this solemn declaration by virtue of the Statutory Declarations Act 1959, and subject to the penalties provided by that Act for the making of false statement in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

.....
Signature of person making the declaration

Declared at)
the day of)
20)

Before me:

Signature of *prescribed person before whom the declaration is made
*(e.g. Legal Practitioner/Justice of the Peace)

.....
Title of person before whom the declaration is made

COMMONWEALTH STATUTORY DECLARATION SIGNATORY LIST

A statutory declaration under the *Statutory Declarations Act 1959* may be made before:-

1. a person who is currently licensed or registered under a law to practise in one of the following occupations:
 - Chiropractor
 - Dentist
 - Legal practitioner
 - Medical practitioner
 - Nurse
 - Optometrist
 - Patent attorney
 - Pharmacist
 - Physiotherapist
 - Psychologist
 - Trade marks attorney
 - Veterinary surgeon
2. a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or
3. a person who is in the following list:
 - Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
 - Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)
 - Bailiff
 - Bank officer with 5 or more continuous years of service
 - Building society officer with 5 or more years of continuous service
 - Chief executive officer of a Commonwealth court
 - Clerk of a court
 - Commissioner for Affidavits
 - Commissioner for Declarations
 - Credit union officer with 5 or more years of continuous service
 - Employee of the Australian Trade Commission who is:
 - (a) in a country or place outside Australia; and
 - (b) authorised under paragraph 3(d) of the *Consular Fees Act 1955*; and
 - (c) exercising his or her function in that place
 - Employee of the Commonwealth who is:
 - (a) in a country or place outside Australia; and
 - (b) authorised under paragraph 3(c) of the *Consular Fees Act 1955*; and
 - (c) exercising his or her function in that place
 - Fellow of the National Tax Accountants' Association
 - Finance company officer with 5 or more years of continuous service
 - Holder of a statutory office not specified in another item in this list
 - Judge of a court

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- Justice of the Peace
- Magistrate
- Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*
- Master of a court
- Member of Chartered Secretaries Australia
- Member of Engineers Australia, other than at the grade of student
- Member of the Association of Taxation and Management Accountants
- Member of the Australasian Institute of Mining and Metallurgy
- Member of the Australian Defence Force who is:
 - (a) an officer; or
 - (b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982*;
 - (c) with 5 or more years of continuous service; or
 - (d) a warrant officer within the meaning of that Act;
- Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants
- Member of:
 - (a) the Parliament of the Commonwealth; or
 - (b) the Parliament of a State; or
 - (c) a Territory legislature; or
 - (d) a local government authority of a State or Territory;
- Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*
- Notary public
- Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public
- Permanent employee of:
 - (a) the Commonwealth or a Commonwealth authority; or
 - (b) a State or Territory or a State or Territory authority; or
 - (c) a local government authority;
 - (d) with 5 or more years of continuous service who is not specified in another item in this list
- Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made
- Police officer
- Registrar, or Deputy Registrar, of a court
- Senior Executive Service employee of:
 - (a) the Commonwealth or a Commonwealth authority; or
 - (b) a State or Territory authority
- Sheriff
- Sheriff's officer
- Teacher employed on a full-time basis at a school or tertiary education institution

NB—A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years—see section 11 of the *Statutory Declarations Act 1959*.