

Guide to claiming witness expenses

Giving evidence in 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 Office of the Work Health and Safety Prosecutor (OWHSP) meets the reasonable expenses incurred by witnesses as a direct result of being required to give evidence, including providing limited compensation for lost income. The amounts which can be reimbursed are limited by Queensland legislation.

Witnesses are provided \$50.00 in advance of attendance. This is paid by a cheque at the time of service of the witness summons. Where witnesses incur expenses beyond that amount, and wish to make a claim, the relevant allowances are:

1. **Travel:** a payment made towards meeting the expenses the prosecution witness incurs in travelling to and from court.
2. **Meals:** a payment made towards meeting the expenses the prosecution witness incurs for meals if the witness is necessarily absent from the witness's residence or place of work to attend court.
3. **Accommodation:** a payment made towards meeting the expenses the prosecution witness incurs for accommodation if the witness is necessarily absent overnight from the witness's residence or place of work.
4. **Loss of earnings:** a payment made towards meeting the loss of earnings the prosecution witness incurs if the witness is necessarily absent from the witness's residence or place of work to attend court.

When a witness is summonsed or subpoenaed, and they have concerns about incurring expenses to attend court, this should be raised with the prosecution in advance of their attendance to give their evidence. In appropriate circumstance, the travel and accommodation arrangements will then be organised by the OWHSP and the related expenses will be incurred directly by the OWHSP, removing the need, or most of the need, to make a claim for expenses incurred.

When a claim for an allowance is made the \$50 already received upon service of the summons or subpoena will be deducted from any allowable claim. If the prosecution witness is entitled under an 'alternative scheme' to be paid an allowance of any amount corresponding to the relevant allowance for attending the witness is not entitled to be paid the relevant allowance.

The form to complete a claim is attached below.

Travel expenses

A witness may be reimbursed a travelling allowance towards meeting the expenses incurred in travelling to and from court, as follows:

- The amount paid for the fare when you have travelled by the most economical form of public transport (other than air travel or taxi or a similar form of transport).
- The amount paid for an economy class airfare, for travelling by air, if the witness arranges with the prosecution to travel by air.
- The amount paid for the fare, for travelling by taxi or similar form of transport, if the witness arranges with the prosecution to travel by taxi or the similar form of transport.

Return travel from your place of residence or place of work, to court needs to be via the most economical (e.g. 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 OWHSP may agree to reimburse travel by taxi. However, such a fare will not be reimbursed unless prior approval has been given by the OWHSP and receipts provided.

An allowance of .40 cents for each km the vehicle travels may be paid for travelling by private vehicle if the witness cannot conveniently travel by public transport. This should be discussed in advance with the prosecution. Reasonable parking expenses may be paid at the discretion of the OWHSP, and only with prior approval.

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 OWHSP.

The OWHSP will reimburse witnesses, who are 12 years or more, a maximum of three 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 \$15.30
- Lunch \$15.30
- Dinner \$29.05

For a witness who is under 12 years, half those amounts are payable.

These amounts are not a daily allowance. They are a guide as to the maximum the OWHSP will reimburse with receipts submitted with your Witness expenses claim form.

Please note the OWHSP will not pay for the cost of any alcoholic beverages.

Meal allowance for **breakfast** applies for each day the witness leaves the witness's residence or place or work before 6am to attend court and it is not practicable for the witness to eat breakfast before the witness leaves the residence or place.

Meal allowance for **lunch** applies for each day other than a day on which the witness:

- leaves the witness's residence or place or work after 1.30pm, or
- returns to the witness's residence or place of work before 1.30pm.

Meal allowance for **dinner** applies for each day other than a day on which the witness:

- leaves the witness's residence or place or work after 6.30pm, or
- returns to the witness's residence or place of work before 6.30pm.

Accommodation

Arrangements for your accommodation, if required, will usually be made by the OWHSP at its direct expense. If you wish to stay at a different hotel to the one selected by the OWHSP, you will have to pay any amount above the set rate agreed to by the OWHSP. For accommodation for each night, if the accommodation is provided as part of a commercial transaction, the allowance is paid to a maximum of \$137.60, otherwise it is \$29.50.

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 OWHSP. *You must pay for these expenses before checking out of the accommodation.*

Loss of wages or earnings

The OWHSP will pay a loss of earning allowance as follows:

- \$53.50 for a witness (non-professional) for each day for a period of absence of four hours or less.
- \$112.10 for a witness (non-professional) for each day for a period of absence of more than four hours.

Different rates apply for professional witnesses (other than expert witnesses).

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.

Acceptance of the substantiating documents is at the discretion of the OWHSP.

As the OWHSP is a public office, it may not be possible to compensate you to the full extent of your loss of income.

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, or 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.

Additional expenses

If you are seeking payment for any additional expenses necessarily incurred as a result of your attending court (e.g. childcare costs, if not normally incurred) you should discuss this at the earliest opportunity with the OWHSP Case Officer who will provide further guidance.

Lodgment of your claim

All claims for witness expenses should be made by completing and lodging the Witness expenses claim form attached. Lodge your claim by either:

Email: enquiries@owhsp.qld.gov.au

Post: Office of the Work Health and Safety Prosecutor
GPO Box 69
Brisbane, QLD 4001

Attention: (to relevant OWHSP officer)

When can I expect to receive payment?

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

Witness expenses claim form

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		Time arrived		Time departed	
Date		Time arrived		Time departed	
Date		Time arrived		Time departed	

If you would like payment of approved expenses via direct deposit, please complete your banking details below

Account name		Branch	
BSB		Account number	

1. Travelling expenses (Tickets/receipts must be attached. See the Guide to claiming witness expenses)

Train, bus or airport bus fares	\$
Taxi fare (not always payable)	\$
Private car km travelled by most direct route <small>(Please note: km rate is 40 cents per kilometre)</small>	\$
Sub-total	\$

2. Meal expenses (Receipts must be attached. See the Guide to claiming witness expenses)

Please note the following maximum allowances: Breakfast—\$15.30, Lunch—\$15.30 and Dinner—\$29.05)

Date		Meal (e.g. lunch)		\$
Date		Meal (e.g. lunch)		\$
Date		Meal (e.g. lunch)		\$
Sub-total				\$

3. Additional expenses – (Itemise and provide explanation/receipts. See the Guide to claiming witness expenses)

Date	Details of expense	Receipt attached	
		<input type="checkbox"/>	\$
Sub-total			\$

I attach the following documents to substantiate this claim:

4. Loss of income

A. All Claimants

(Please see the Guide to claiming witness expenses before completing this section)

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

<input type="checkbox"/>	I have received	or	<input type="checkbox"/>	I would have received
<input type="checkbox"/>	from my employer	or	<input type="checkbox"/>	as a self-employed person

No. of days		x	Daily rate		=	\$
<i>(Maximum \$112.10 per period of absence of more than 4 hours)</i>						
No. of hours		x	Hourly rate		=	\$
<i>(Maximum \$53.50 per period of absence of less than 4 hours)</i>						
Sub-total						\$

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	
ABN number	
Employer's address	
Employer's phone no.	

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

I certify that	(Employee's name)
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<input type="checkbox"/>	has been paid	<input type="checkbox"/>	has been withheld	<input type="checkbox"/>	wages or salary as per Part A.
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If wages or salary has been paid, and you would like reimbursement of this paid via direct deposit, please complete your banking details below.

Account name		Branch	
BSB		Account number	

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 ABN number is	

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

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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).
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 and 3.

1. Travelling expenses	\$
2. Meal expenses	\$
3. Loss of income	\$
4. Additional expenses	\$
Total	\$

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		Date	
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Statutory declaration of witness

I, (Name)	
of (Address)	
(Occupation)	

do solemnly and sincerely declare that as a result of my attendance at Court on the <i>(day/month/year)</i>	
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in relation to the prosecution of <i>(name of accused)</i>		(Ref: File number),
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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 conscientiously believing the same to be true and by virtue of the provisions of the [Oaths Act 1867](#).

Signature of person making the declaration	
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Declared at <i>(day/month/year)</i>	
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Before me: <i>Signature of *prescribed person before whom the declaration is made *(e.g. justice/commissioner for declarations/notary public/lawyer)</i>		Title of person before whom the declaration is made

Queensland statutory declaration signatory list

A statutory declaration under the *Oaths Act 1867* may be taken by:

- a justice, commissioner for declarations or notary public under the law of the State, the Commonwealth or another State; or
- a lawyer; or
- a conveyancer, or another person authorised to administer an oath, under the law of the State, the Commonwealth or another State.

Statutory declaration of self-employed witness

I, (Name)	
of (Address)	
(Occupation)	
do solemnly and sincerely declare that, I conduct a business of	
and by reason of my attendance at court on the <i>(day/month/year)</i>	
in relation to the prosecution of <i>(name of accused)</i>	
(Ref: File number)	

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 conscientiously believing the same to be true and by virtue of the provisions of the [Oaths Act 1867](#).

Signature of person making the declaration	
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Declared at <i>(day/month/year)</i>	
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Before me: <i>Signature of *prescribed person before whom the declaration is made</i> <i>*(e.g. justice/commissioner for declarations/notary public/lawyer)</i>		Title of person before whom the declaration is made

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Office use only

File no.		Matter	
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Conduct

Money paid	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	Amount	\$		Total claim	\$	
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Assessment claim amount:
(to be completed if different from amounts claimed above)

Travelling expenses	\$	
Meal expenses	\$	
Loss of income	\$	
Additional expenses	\$	
Total	\$	

Claims assessed as fair and reasonable by Case Officer		Date	
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