

Integrity Commission Regulation 2026

Subordinate law SL2026-10

made under the

Integrity Commission Act 2018, section 302 (regulation-making power)

EXPLANATORY STATEMENT

BACKGROUND

In 2023, Mr Ian Govey AM carried out an independent review of the *Integrity Commission Act 2018* (IC Act) (the Review), making 66 recommendations. The ACT Government, in the 10th Legislative Assembly, agreed to 17 recommendations, agreed in-principle to 10, and noted the remaining 39.

When witnesses appear before the ACT Integrity Commission (the Commission), they may incur a range of costs, including lost income, caring expenses, and travel and accommodation costs.

The Review examined section 172 of the IC Act, which provides for the payment of witness expenses either by regulation or in accordance with the Supreme Court Scale of Costs. In the absence of any prescribed regulation, payment must be made in accordance with the Supreme Court Scale of Costs.

The Review found that this Scale is not necessarily suited to Commission proceedings, given the inquisitorial nature of examinations and the differences between Commission processes and court proceedings.

Recommendation 40 of the Review proposed that the ACT Government make a regulation under section 172 of the IC Act to enable witnesses appearing before the Commission for examination to be reimbursed for reasonable out of pocket expenses, including:

- a. meals
- b. lost wages
- c. travel and accommodation
- d. childcare, and
- e. other expenses approved by the Commission.

This subordinate law gives effect to Recommendation 40 of the Review.

PURPOSE

Witness testimony is critical to the effective functioning of the Commission, enabling the thorough collection of information on matters under investigation. It also supports procedural fairness for people subject to investigation, ensuring that decisions are informed by complete and reliable evidence.

However, attending an examination as a witness can impose a significant burden, including financial and practical impacts. These impacts may be felt more acutely by vulnerable members of the community or individuals with caring responsibilities. Providing reimbursement for reasonable expenses helps to remove barriers to attendance, thereby supporting both the efficiency of investigations and procedural fairness.

Reimbursing witnesses also ensures that the financial consequences of participating in Commission processes, undertaken in the interest of good governance and integrity, do not fall on individual witnesses.

The regulation provides for reimbursement of the following categories of expenses:

- a. lost income
- b. meals
- c. expenses relating to alternative care arrangements
- d. travel
- e. accommodation, and
- f. health and wellbeing support.

The IC Act does not confer on the Commission the authority to assess or determine unspecified “reasonable expenses” in the absence of a clear and defined framework. Accordingly, a general catch-all provision of this kind has not been included.

CONSISTENCY WITH HUMAN RIGHTS

During the development of this instrument, careful consideration was given to its compatibility with human rights as set out in the *Human Rights Act 2004*. The regulation is administrative in nature, establishing a mechanism for reimbursing expenses incurred by witnesses appearing before the Commission.

Rights Promoted

The regulation promotes several human rights by reducing financial barriers to participation in Commission examinations and enabling witnesses to comply with their obligations without undue personal or economic hardship.

The following rights are engaged and supported:

- **Recognition and equity before the law (section 8)**
The regulation ensures that witnesses are not disadvantaged by their financial circumstances. Without reimbursement, individuals on lower incomes, those with caring responsibilities, or those required to travel significant distances may face disproportionate burden in complying with compulsory examination requirements. By offsetting these costs, the regulation promotes equitable access and supports fair participation in Commission processes.

- **Protection of the family and children (section 11)**

The regulation supports individuals with caring responsibilities by enabling them to comply with examination requirements without compromising family obligations or experiencing financial stress. This recognises and mitigates the additional burden that compulsory participation may place on carers, thereby supporting the protection of family life.

- **Privacy and reputation (section 12)**

The scheme promotes the right to privacy by minimising the need for a witness to disclose personal information in order to explain a potential inability to comply with an examination summons. In the circumstance whereby a person was unable to comply because they could not afford to secure alternative care for a dependant, for example, the regulation minimises intrusive scrutiny by ensuring that a witness knows they can pay for alternative care that will then be reimbursed by the Commission.

In so far as the provisions relating to the application and request for further information could be seen as limiting this human right, the information required to be provided to the Commission is limited to evidence reasonably sufficient for the Commission to decide the application for the reimbursement of expenses incurred by the person. The evidence to be provided to the Commission does not necessarily require the disclosure of personal information. The evidence could be, for example, a paid invoice or a statutory declaration that no other reimbursement has been received. The Commission is otherwise bound by the *Information Privacy Act 2014* and must have appropriate information handling processes in place.

- **Fair trial (section 21)**

Although the Commission is not a court, section 21 applies broadly to processes that may affect a person's rights or interests. Financial barriers such as inability to afford travel, being required to take unpaid leave or put in place necessary care arrangements may limit a witness's ability to attend or participate effectively in a Commission process. The reimbursement framework assists in ensuring Commission processes are accessible, fair and do not impose unreasonable financial impediments.

The regulation does not prescribe a specific review mechanism if a claim is refused for reimbursement. If, however, a person is unsatisfied with the outcome of an application for the reimbursement of witness expenses by the Commission they can make a complaint to the Inspector under section 257 of the Act. Section 172 of the Act makes it clear that a witness appearing before the Commission at an examination is entitled to be paid an amount by the Territory for the expenses of the appearance, in a way prescribed by the Regulation. Clause 12 (1) also provides a clear entitlement for a witness to be reimbursed for expenses incurred following an application to the Commission. Accordingly, witnesses are entitled to expect that all reasonable expenses incurred and accounted for will be reimbursed.

- **Right to work and work-related rights (section 27A)**
The regulation supports this right by reducing the risk that individuals are financially disadvantaged by complying with statutory obligations, thereby promoting fair and reasonable work-related protections.

Rights Limited

The regulation does not impose any requirements or barriers that would limit an individual's human rights.

REGULATORY IMPACT STATEMENT

A regulatory impact statement is not required as the regulation does not impose any appreciable costs on the community, or part of a community under section 34 (1) of the *Legislation Act 2001*.

CLIMATE IMPACT

The regulation does not have any impact on climate change.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Regulation

The name of the regulation is the *Integrity Commission Regulation 2026*.

Clause 2 Commencement

The regulation will commence in accordance with the Act, section 302 (3) (regulation-making power).

Clause 3 Dictionary

This clause incorporates the dictionary at the end of the regulation as part of the regulation.

Clause 4 Notes

This clause provides that a note in the regulation is explanatory and does not form part of the regulation.

Part 2 Witnesses at examinations—reimbursement of expenses

Division 2.1 Witness expenses that may be reimbursed

Clause 5 Reimbursement for lost income—Act, s 172 (b)

This clause provides for reimbursement for lost income where a person appearing before the Commission at an examination loses income as a result of their required attendance.

The amount a witness is entitled to be paid for each day they are required to attend is the lowest of the following three amounts:

- a. the actual income lost on the day
- b. \$100 for each hour, or part of an hour, the witness is absent from work on the day, or
- c. \$600.

Clause 6 Reimbursement for meals—Act, s 172 (b)

This clause provides for the reimbursement for meals and the circumstances in which the section applies.

Where a witness is required to appear before the Commission at an examination, this provision provides for meal reimbursement where:

- the witness lives more than 50km from where the examination is held, and
- the witness is away from their home for an entire mealtime provided for in the included table because of their required attendance.

The amount to be paid by the Territory is the lowest amount being either the actual amount or the amount mentioned in table 6, column 4 for the meal.

Clause 7 Reimbursement for alternate care—Act, s 172 (b)

This provision sets out the circumstances in which the section applies. The section applies where a witness attending the Commission is a carer and arranged alternative care for one or more child/ren or other person due to that attendance.

For clarity, section 145 (b) of the *Legislation Act 2001* states “words in the singular number include the plural and words in the plural number include the singular”. The use of the singular words’ “child” and “other person” captures the plural.

The amount payable is the lowest of the following three amounts:

- the actual cost incurred by the witness for the alternative care on that day
- \$40 per hour, or part of an hour, of care required on that day, or
- a daily cap of \$400.

This structure ensures that reimbursement reflects actual costs incurred, while preventing excessive claims through application of an hourly rate and overall daily cap.

The inclusion of “part of an hour” ensures that witnesses are not disadvantaged where care is required for incomplete hourly periods.

The intent of this clause is to:

- reduce barriers to participation in Commission proceedings
- support witnesses who have caring responsibilities, and
- promote equitable access to justice processes by minimising financial disadvantage associated with attendance requirements.

Clause 8 Reimbursement for travel—Act, s 172 (b)

This clause applies if a witness appearing before the Commission at an examination lives more than 50km from the place they are required to attend the Commission.

The witness is entitled to be paid an amount for each day the witness is required to attend the Commission as follows:

- if the witness uses their own vehicle for the travel, 18 cents for each kilometre travelled on the day, or
- in any other case, the lower of the following amounts:
 - the actual cost of the travel on the day, or
 - the cost of the most economical form of travel that is reasonable for the witness.

This provision requires the Commission to consider factors such as distance, travel time, health or disability needs, and any other relevant matter when determining what is reasonable travel.

Clause 9 Reimbursement for accommodation—Act, s 172 (b)

This clause applies where a witness attending the Commission lives more than 50km away and is required to stay away from their home overnight.

The limit for the payment for accommodation for each relevant night is the lower of:

- the actual cost of the accommodation, or
- \$178 per night.

Clause 10 Reimbursement for health and wellbeing support—Act, s 172 (b)

This clause applies where a witness consults a doctor or psychologist about their health and wellbeing because of appearing before the Commission.

The witness is entitled to be reimbursed for the cost of the consultation, with the lowest being paid of the following amounts:

- the actual cost
- an amount calculated by the specific formula based on consultation time, or
- \$622.

The intent of this clause is to support the witness by covering reasonable health-related costs arising from their participation in the Commission's examination.

Clause 11 No reimbursement for expenses otherwise recoverable—Act, s 172 (b)

This clause provides that a witness is not entitled to reimbursement for an expense to the extent that it can be reasonably covered from another source. Examples are provided to illustrate how the provision operates including where a witness receives paid leave, is eligible for a Medicare rebate, or receives the Child Care Subsidy.

Division 2.2 Application for Reimbursement

Clause 12 Application for reimbursement

This clause provides that a witness is entitled to reimbursement only if they apply to the Commission. The provision sets out the application requirement, including that it must:

- be in writing
- state the expense claimed
- include evidence of the expense, and
- be lodged within 1 year after the expense was incurred.

The note contained in the clause highlights that it is an offence to provide false or misleading information.

The Commission may extend the time for the making of an application. Section 151C of the *Legislation Act 2001* applies to this provision and allows for an extension including the granting of an extension for making an application for reimbursement after its passing.

Clause 13 Further information

This clause ensures the Commission has sufficient information to properly determine applications for reimbursement.

Clause 14 Decision on application for reimbursement

This clause provides that the Commission must pay a witness the amount to which they are entitled for an expense, on behalf of the Territory, if:

- the witness has applied for payment, and
- the Commission is satisfied the witness is entitled to reimbursement.

Dictionary

The Dictionary notes that:

- the *Legislation Act 2001* contains definitions relevant to the regulation (for example, “doctor” and “the Territory”), and
- terms used in the regulation generally have the same meaning as in the *Integrity Commission Act 2018* (including “commission” and “psychologist”).

The dictionary provides definitions for this regulation. This includes the term “home” to mean, for an individual, the place where the individual usually lives. This definition is consistent with the definition of “home address” contained in the *Legislation Act 2001*.