

International War Crimes Tribunals Regulations 1995 No. 250

EXPLANATORY STATEMENT

Statutory Rules 1995 No. 250

Issued by the Authority of the Attorney-General

International War Crimes Tribunals Act 1995

International War Crimes Tribunals Regulations

Section 85 of the *International War Crimes Tribunals Act 1995* (the Act) provides that the Governor-General may make regulations for the purposes of the Act.

The Regulations provide mechanisms necessary for the practical operation of the Act. They:

- * prescribe forms in relation to matters required by the Act to be done in statutory form and in relation to certain applications, authorisations and warrants specified in the Act;
- * empower magistrates to issue summonses requiring the attendance of witnesses to give evidence, answer questions and produce documents and articles;
- * provide for certain matters in relation to witnesses, such as duty to attend, witness fees and allowances, power to examine on oath or affirmation; and
- * provide protections and immunities to magistrates, legal practitioners and witnesses.

Details of the Regulations are as follows.

Regulation 1 is a citation provision.

Regulation 2 provides for the proposed Regulations to commence on the day on which the provisions of the Act, other than sections 1 and 2 commence. Those provisions will be proclaimed to commence on 28 August 1995.

Regulation 3 is an interpretation provision.

Regulation 4 provides that statutory forms mentioned in provisions in the Act are set out in certain numbered forms. (A reference to a form by number is a reference to a form bearing the relevant number in the Schedule - see subregulation 3(2)).

Regulation 5 sets out numbered forms for certain applications, authorisations or warrants mentioned in particular provisions in the Act. (A reference to a form by number is a reference to a form bearing the relevant number in the Schedule - see subregulation 3(2)).

Regulation 6 Subregulation (1) empowers magistrates performing a function under the Act to issue a summons in accordance with Form 20 in the Schedule requiring attendance by a person as a witness to give evidence, answer questions and produce documents and other articles. Subregulation (2) provides for the method of service of a summons.

Regulation 7 provides that a person summoned under regulation 6 must attend at the place and time on the date specified until excused or released by a magistrate.

Regulation 8 Subregulation (1) entitles a witness to receive payment of such fees and travelling allowances equivalent to those payable to a person attending as a witness attending a court of summary jurisdiction in the State or Territory of appearance, or, in special circumstances, such fees and allowances as the magistrate directs.

Subregulations (2) and (3) provide respectively for deduction of expenses of attendance previously paid and for the person who has requested that the witness be summoned to pay such fees and allowances.

Regulation 9 empowers a magistrate to administer an oath or affirmation to a witness and to examine a witness on oath or affirmation. Although the regulation only refers to oaths, it applies equally to affirmations by virtue of section 27(b) of the *Acts Interpretation Act 1995*.

Regulation 10 provides appropriate protection and immunity to the following persons in relation to the performance of functions under the Act:

- * magistrates;
- * legal practitioners appearing before a magistrate;
- * persons appearing unrepresented before a magistrate; and
- * witnesses summoned to attend or appearing before a magistrate.