1992 No. 371

MAGISTRATES' COURTS

Magistrates' Courts (Costs in Criminal Cases) (Amendment) Rules (Northern Ireland) 1992

Made . . . . . *21st August 1992*

Coming into operation . . *1st September 1992*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**a**) and section 7 of the Costs in Criminal Cases Act (Northern Ireland) 1968(**b**), on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:—

Citation and commencement

1. These rules may be cited as the Magistrates' Courts (Costs in Criminal Cases) (Amendment) Rules (Northern Ireland) 1992 and shall come into operation on 1st September 1992.

2. For Schedule 2 to the Magistrates' Courts (Costs in Criminal Cases) Rules (Northern Ireland) 1988(**c**) there shall be substituted the Schedule 2 set out in the Schedule to these rules.

Dated 21st August 1992. *Mackay of Clashfern*, C.

(**a**) S.I. 1981/1675 (N.I. 26)
(**b**) 1968 c. 10 (N.I.) as amended by 1978 c. 23
(**c**) S.R. 1988 No. 136; to which the most recent relevant amendment was made by S.R. 1991 No. 96

SCHEDULE Rule 2

SCHEDULE 2 Rule 5

Amounts payable in connection with the attendance of witnesses, etc.

PART I

TRAVELLING

1.—(1) Where the witness has travelled to and from court by public conveyance or, in the opinion of the court, could reasonably have done so but instead incurred greater expense, there may be allowed a sum not exceeding the amount of the fare which was actually, or would have been, paid for travelling by public conveyance.

Provided that, unless for a special reason the court otherwise directs, only second class fare shall be allowed for travel by railway.

(2) Where the witness has travelled to and from the court by private conveyance and, in the opinion of the court, it was reasonable that he should have done so, there may be allowed in respect thereof—

(*a*) if the vehicle is a car, a sum calculated at the rate of 35·7p per mile each way; or

(*b*) if the vehicle is a motor cycle of 150cc or less, a sum calculated at the rate of 11·0p per mile each way; or

(*c*) if the vehicle is a motor cycle of 151cc-250cc, a sum calculated at the rate of 15·3p per mile each way; or

(*d*) if the vehicle is a motor cycle of 251cc or over, a sum calculated at the rate of 21·3p per mile each way.

Provided that, where the court considers it unreasonable that he should have travelled by private car the sum payable shall be calculated at the rate of 20·1p per mile.

(3) The rates specified in paragraph (2) shall be increased—

(i) by a supplement of 2·0p per mile each way for the first, and 1·0p per mile each way for each additional passenger carried to whom a travelling allowance would otherwise have been payable under this Part; and

(ii) by the amount of any expenditure necessarily incurred on parking fees, provided the court considers the use of a private conveyance to have been reasonable.

(4) Where the witness has travelled to and from the court by a hired vehicle and, in the opinion of the court, it was reasonable that he should have done so, there may be allowed, in respect thereof, the amount of the fare and any reasonable gratuity paid.

Provided that, where the court considers it unreasonable that he should have travelled by hired car, there may be allowed the amount which would have been paid for travelling by public transport.

PART II

SUBSISTENCE AND LODGING

Professional or expert witness

2. Where a witness in practice in a fee-paid profession (hereinafter referred to as "a professional witness") or a medical witness of consultant status or other

professional or specialist witness of comparable status (hereinafter referred to as "an expert witness") has been necessarily absent from his place of residence overnight for the purpose of attending as a witness there may be allowed a sum not exceeding £54·55 for subsistence and lodging in respect of each night during which he is so absent.

Ordinary witness

3.—(1) Where a witness, other than a professional or expert witness, has been necessarily absent from his place of residence overnight for the purpose of attending as a witness there may be allowed a sum (hereinafter referred to as "an overnight allowance") not exceeding £63·15 in respect of each period of 24 hours or fraction thereof during which he is absent overnight.

(2) Where on any day such witness (for the purpose of attending as a witness) has been necessarily absent from his place of residence, business or employment for a continuous period (other than a period for which an overnight allowance is payable) exceeding 5 hours there may for his subsistence be allowed a sum not exceeding the appropriate amount specified hereunder, namely—

Continuous period of absence		*Amount*
		£
Over 5 hours but not over 10 hours	...	3·90
Over 10 hours	...	8·60

PART III

ALLOWANCES FOR SERVICES RENDERED BEFORE ATTENDANCE IN COURT AND FOR LOSS OF REMUNERATION

TIME OR EQUIVALENT EXPENSES

Professional witnesses

Examinations and reports

4.—(1) Where a professional witness carries out an examination and/or furnishes a report there may be allowed such sum as the court thinks reasonable, not exceeding the appropriate amount specified hereunder, namely—

		£
Full medical examination and report	...	24·60
Short medical examination and report	...	15·50
Extracts from medical records:		
Straightforward factual extract	...	9·10
More complicated extracts/extracts with opinions	...	15·50
Very lengthy examination and/or report	...	31·00 per hour
	Up to ...	108·70 per session

Consultation and court attendance

(2) Where a professional witness attends a consultation on a non-attendance day at court there may be allowed an attendance allowance at the rate of £20·90 per hour (including travelling time) but not exceeding the limits specified hereunder—

Period of absence from home or place of business		*Amount*
		£
Over 1 hour up to 2 hours	...	41·70
Over 2 hours up to 3 hours	...	62·60
Over 3 hours up to 3½ hours (session)	...	73·00

(3) Where a professional witness attends court to give professional evidence there may be allowed such attendance allowance not exceeding the appropriate amount hereunder, namely—

Period of absence from home or place of business		*Amount*
		£
Up to 2 hours	...	48·70
Over 2 hours up to 4 hours	...	73·00
Over 4 hours up to 6 hours	...	109·60
Over 6 hours	...	146·10

Expert witnesses

Examination and reports

5.—(1) Where an expert witness carries out an examination and report there may be allowed such amount as is claimed and as the court considers reasonable but not exceeding the appropriate amount specified hereunder, namely—

		£
Standard examination	...	77·30
Examination and report of a very special nature or complexity up to	...	154·60

Consultation attendance

(2) Where an expert witness attends a consultation on a non-attendance day at court, there may be allowed such attendance allowance as the court considers reasonable but not exceeding £29·43 per hour (including travelling time) subject to a maximum of £103·04 per session or £206·10 per full day.

Court attendance

(3) Where an expert witness attends court to give expert evidence there may be allowed such attendance allowance not exceeding the appropriate amount specified hereunder—

Period of absence from home or place of business		*Amount*
		£
Up to 1 hour	...	57·00
Over 1 hour up to 4 hours	...	116·90
Over 4 hours up to 6 hours	...	175·30
Over 6 hours	...	233·80

Ordinary witness

6. Where a witness, not being one to whom paragraph 4 or 5 applies, is by reason of his attendance in court necessarily absent from his place of residence, business or employment, he shall be allowed in respect of actual financial loss or additional expenses such amount as is claimed not exceeding £19·25 per day provided that,

where the court is satisfied, on the production of evidence, that such actual financial loss or additional expense necessarily incurred exceeds £19·25 the court may allow such amounts as the court thinks reasonable.

Evidence of loss of wages must be certified by the employer. The amount allowed will be net of income tax and earnings related social security contributions.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules amend the Magistrates' Courts (Costs in Criminal Cases) Rules (Northern Ireland) 1988 to substitute a new Schedule 2 thereby increasing certain amounts payable in connection with the attendance of witnesses at court.