1975 No. 219

MAGISTRATES' COURTS

Magistrates' Courts (Costs in Criminal Cases) Rules (Northern Ireland) 1975

Made . . . . . *24th July* 1975

Coming into operation . . . *1st September* 1975

To be laid before Parliament

The Secretary of State(a) in pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(b) and section 7(3) of the Costs in Criminal Cases Act (Northern Ireland) 1968(c) hereby, upon the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, makes the following rules:

Citation and commencement

1. These rules may be cited as the Magistrates' Courts (Costs in Criminal Cases) Rules (Northern Ireland) 1975 and shall come into operation on 1st September 1975.

Revocation

2. The Magistrates' Courts (Costs in Criminal Cases) Rules (Northern Ireland) 1970(d) and the Magistrates' Courts (Costs in Criminal Cases) (Amendment) Rules (Northern Ireland) 1973(e) are hereby revoked.

Interpretation

3. In these rules—

"the Act" means the Costs in Criminal Cases Act (Northern Ireland) 1968;

"witness" means a person properly attending to give evidence, whether or not he gives evidence, and includes a person accompanying a witness where the court is satisfied that it is reasonable that the witness should be accompanied by that person.

Orders for the payment of costs of prosecution or defence fees for solicitors or counsel

4. Where a magistrates' court makes an order under section 2 of the Act for the payment by a convicted person of the whole or any part of the costs of the prosecution or under section 3 of the Act for the payment by the Secretary of State or, as the case may be, by the prosecutor of the whole or any part of the costs of the defence, the amount ordered to be so paid for the fees of a solicitor or counsel shall be determined by the court in accordance with Schedule 1.

(a) Formerly the Minister of Home Affairs for Northern Ireland: *see* S.I. 1973/2163
(b) 1964 c. 21 (N.I.)
(c) 1968 c. 10 (N.I.)
(d) S.R. & O. (N.I.) 1970 No. 10 (p. 18)
(e) S.R. & O. (N.I.) 1973 No. 533 (II p. 3061)

Sums payable in connection with the attendance of witnesses

5. Where an order is made by a magistrates' court under section 2 or 3 of the Act for the payment of an amount as compensation for the expense, trouble or loss of time properly incurred in, or incidental to the attendance of a witness to give evidence or of an interpreter such amount shall be determined by the court in accordance with Schedule 2.

Merlyn Rees
One of Her Majesty's Principal Secretaries of State

Northern Ireland Office
24th July 1975

SCHEDULE 1

Amounts payable for fees of solicitors or counsel

1. The court may order the payment of—

(*a*) such amount not exceeding £30 as the court thinks just, in respect of the remuneration and outlay (other than outlay incurred in connection with witnesses recoverable under rule 5 and Schedule 2) of the solicitor for the prosecution or, as the case may be, the defence in taking instructions, preparing the case, attending in court and where counsel is not instructed, conducting the proceedings at the hearing and in respect of all other reasonable charges incidental to the proceedings; and

(*b*) where it is reasonable to instruct counsel, such amount not exceeding £30 as the court thinks just, in respect of counsel's fee.

2. Where the court, having regard to the exceptional length, difficulty or complexity of the proceedings, is satisfied that the amounts prescribed by paragraph 1 are inadequate, it may, notwithstanding that paragraph, make a special order for the payment of a greater sum.

A special order under this paragraph shall contain a full statement of the reasons for making it.

SCHEDULE 2

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

PART I

TRAVELLING

1. Where the witness 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.

2. Where the witness, in the opinion of the court, has reasonably travelled to and from court by hired or private conveyance, there may be allowed a sum not exceeding the cost incurred or, if the private conveyance is his own motor vehicle, one calculated at the rate of 7p a mile each way (or 1.5p a mile if the vehicle is a motor-cycle).

PART II

SUBSISTENCE AND LODGING

3. Where the witness has been necessarily absent from his place of residence overnight there may be allowed a sum (in this Schedule referred to as "an overnight allowance") not exceeding the expense actually and reasonably incurred for board and lodging for each night of such absence (including breakfast the next morning) subject to a maximum of £5.

4.—(1) Where on any day a witness has been necessarily absent from his place of residence, business or employment for a continuous period exceeding 4 hours there may for his subsistence be allowed a sum not exceeding the appropriate amount specified hereunder, namely—

Continuous period of absence	*Amount*
	£
Over 4 but not over 8 hours	0.60
Over 8 but not over 12 hours . . .	0.84
Over 12 hours	1.30

(2) If a witness qualifies for an overnight allowance any period during which he was necessarily absent from his place of residence, business or employment on the following day shall be deemed to begin at 9.00 a.m.

PART III

ALLOWANCE FOR LOSS OF REMUNERATIVE TIME OR EQUIVALENT EXPENSES

5.—(1) Subject to sub-paragraphs (2) and (3), for a witness in practice in a fee-paid profession there may be allowed such sum as the court thinks just for each day of attendance not exceeding the appropriate amount specified hereunder, namely—

Period of absence from home or place of business	*Amount*
	£
Up to 4 hours	7.74
Over 4 hours	15.48

(2) Where such a witness has had to engage a substitute the sum allowed shall not exceed the expense incurred or £15.48, whichever is the less.

(3) Where such a witness is a medical witness of consultant status or other professional witness of comparable status the sum allowed shall not exceed the appropriate amount specified hereunder, namely—

Period of absence from home or place of business	*Amount*
	£
Morning	18.90
Whole day	26.25

6. For a witness, not being one to whom paragraph 5 applies, who has suffered a loss of remunerative time or has incurred equivalent expense, there may be allowed such sum as the court thinks just in all the circumstances including the rate of his remuneration, subject, in the case of a salary or wage earner where there is no satisfactory evidence of such rate, to the following maxima:

Period of absence from business or employment	*Maximum allowance*
	£
Up to 4 hours	2.75
Over 4 hours	5.50

Part IV

Allowance for Trouble and Inconvenience other than under Part III

7. Where a witness has not suffered a loss of remunerative time or incurred equivalent expense but is put to substantial trouble or inconvenience, there may be allowed such sum as the court thinks just, not exceeding one-half of the appropriate maximum set out in paragraph 6 (any fraction of a penny being disregarded).

Part V

Allowances for Services rendered before Attendance in Court

8.—(1) Subject to sub-paragraph (2), where a witness in practice in a fee-paid profession has rendered services other than attendance at court there may be allowed for such services such sum as the court thinks just, not exceeding £8.40.

(2) Where a medical examination is made on a day other than one on which the witness attended court the maximum sum allowed shall be £10.50.

(3) Where having regard to any exceptional difficulty or complexity of the services rendered the court is satisfied that a sum otherwise allowable in accordance with this paragraph is inadequate it may allow such greater sum as it thinks just.

9. Where a witness, not being one to whom paragraph 8 applies, has rendered services other than when attending in court there may be allowed for such services such sum as the court thinks just.

PART VI

INTERPRETERS

10. There shall be paid to an interpreter for every hour (any fraction of an hour being counted as a whole hour) for which he is necessarily absent from his place of residence, business or employment an allowance of £1.50; but where the total amount so calculated is less than £5 the court may increase the amount paid to £5.

EXPLANATORY NOTE

(This note is not part of the rules but is intended to indicate their general purport.)

These rules provide for the maximum amounts which may be ordered by a Magistrates' Court in a criminal case to be paid by the defendant or, as the case may be, by the prosecutor for solicitors' or counsel's fees or in connection with the attendance of witnesses at the hearing. The rules replace the Magistrates' Courts (Costs in Criminal Cases) Rules (Northern Ireland) 1970 and the Magistrates' Courts (Costs in Criminal Cases) (Amendment) Rules (Northern Ireland) 1973, which are revoked. The new rules increase the amounts payable in connection with the attendance of witnesses. (The amounts payable for legal fees remain the same.)