STATUTORY RULES OF NORTHERN IRELAND

2012 No. 430

MAGISTRATES' COURTS

The Magistrates' Courts (Costs in Criminal Cases) (Amendment) Rules (Northern Ireland) 2012

Made - - - - 3rd December 2012

Coming into operation 1st January 2013

The Magistrates' Courts Rules Committee makes the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) and section 7 of the Costs in Criminal Cases Act (Northern Ireland) 1968(**2**) after consultation with the Department of Justice and with the agreement of the Lord Chief Justice.

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Costs in Criminal Cases) (Amendment) Rules (Northern Ireland) 2012 and shall come into operation on 1st January 2013.

Amendments to the Magistrates' Courts (Costs in Criminal Cases) Rules (Northern Ireland) 1988

2. The Magistrates' Courts (Costs in Criminal Cases) Rules (Northern Ireland) 1988(**3**) shall be amended as follows.

3. In rule 4—

(a) for "Secretary of State", substitute "Director of Public Prosecutions";

(b) for the words from "the amount" to "Schedule 1", substitute—

"the court may order the payment of—

(a) such amount as it thinks just, in respect of the remuneration and outlay (other than outlay incurred in connection with witnesses recoverable under rule 5 and the Schedule) 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;

(**1**) S.I. 1981/1675 (N.I. 26): Article 13 was amended by paragraph 65 of Schedule 5 and by Schedule 18 to the Constitutional Reform Act 2005 (c.4); and by paragraph 133 of Schedule 18 to S.I. 2010/976.

(**2**) 1968 c.10 (N.I.): section 7 was amended by rule 48 of S.R. 1979 No. 90.

(**3**) S.R. 1988 No. 136; to which the most recent relevant amendment was made by S.R. 2008 No. 363.

(b) where it is reasonable to instruct counsel, such amount as it thinks just in respect of counsel's fees; or

(c) such amount for costs and outlay incurred by a party appearing in person as it thinks just".

4. In rule 5, for "Schedule 2", substitute "the Schedule".

5. Omit Schedule 1.

6. For Schedule 2, substitute the Schedule set out in the Schedule to these Rules.

William A McNally
Peter Luney
Robin Steer
Dated 3rd December 2012 *John Rea*

SCHEDULE Rule 6

"SCHEDULE Rule 5

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

PART 1

SUBSISTENCE ALLOWANCES

Day subsistence

1. Where a witness, other than a professional or expert witness, has been necessarily absent from his or her place of residence, business or employment for the purpose of attending as a witness, and for a period not including an overnight absence, the following allowances are payable:

Attendance lasting up to five hours	£2.25
Attendance lasting between five hours and ten hours	£4.50
Attendance lasting over ten hours	£9.75

Overnight allowance

2. Where a witness has been necessarily absent from his or her place of residence overnight for the purpose of attending as a witness, and has stayed in a hotel because he or she could not otherwise get to court in time in the morning or get home on the same day, the following allowances are payable:

Attendance overnight in Belfast (ordinary witness)	£95.00 per night
Attendance overnight in Belfast (professional or expert witness)	£85.25 per night
Attendance overnight elsewhere (ordinary witness)	£65.00 per night
Attendance overnight elsewhere (professional or expert witness)	£55.25 per night

Night subsistence allowance

3. Where a witness, other than a professional or expert witness, has been necessarily absent from his or her place of residence overnight for the purpose of attending as a witness, and has stayed with family or friends because he or she could not otherwise get to court in time in the morning or get home on the same day, an allowance of £25.00 per night is payable.

PART 2

TRAVEL COSTS

4. Where a witness has travelled to and from court, the following rates are payable—

(a) full reimbursement of rail, bus and coach fares at standard class rates;

(b) where it is necessary for an expert witness to undertake preparation for court on a train, a first-class rail fare;

(c) in respect of a private car—