1994 No. 285

MAGISTRATES' COURTS

Magistrates' Courts (Costs in Criminal Cases) (Amendment) Rules (Northern Ireland) 1994

Made . . . . . *22nd July 1994*

Coming into operation . . *1st September 1994*

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 advise 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) 1994 and shall come into operation on 1st September 1994.

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 22nd July 1994 *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. 1993 No. 194

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, 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 125cc or less, a sum calculated at the rate of 15·4p per mile each way; or

(*c*) if the vehicle is a motor cycle of 126cc or over, a sum calculated at the rate of 24·7p per mile each way.

(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.