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No. 4]

PERTH: TUESDAY, 17th JANUARY

[1967

SUPREME COURT ACT, 1953-1964.

MATRIMONIAL CAUSES ACT 1959-1966 (COMMONWEALTH).

AMENDMENT OF COSTS RULES (MATRIMONIAL CAUSES JURISDICTION).

WE, the Honourable Sir Albert Wolff, K.C.M.G., Chief Justice of Western Australia, the Honourable Sir Lawrence Walter Jackson, Kt., Senior Puisne Judge, and the Honourable John Evenden Virtue, the Honourable Roy Vivian Nevile, the Honourable Gordon Bede D'Arcy, the Honourable John Hale, and the Honourable Oscar Joseph Negus, Puisne Judges of the Supreme Court of Western Australia, acting in pursuance of the powers conferred by the Supreme Court Act, 1935-1964, and the Matrimonial Causes Act 1959-1966 (Commonwealth), and of every other power enabling us in this behalf, amend the Costs Rules (Matrimonial Causes Jurisdiction) dated the 26th day of June, 1964, and published in the *Government Gazette* on the 13th day of July, 1964, in the manner hereinafter mentioned:—

(1) Rule 5 is amended by omitting from line four the words "this Rule" and inserting in their stead the words "these Rules".

(2) Rule 7 is repealed and the following rule inserted in its stead:—

7. Rules 36, 37, 39, 40, 41, 42, 44, 45, 46 and 54 to 59 (both inclusive) of Order LXV (O. 65) of the Rules of the Supreme Court shall, so far as they are not inconsistent with these Rules, or the Matrimonial Causes Act 1959-1966 (Commonwealth), or the Matrimonial Causes Rules (Commonwealth), apply *mutatis mutandis* to the taxation of costs under these Rules.

(3) The amendments of the Costs Rules (Matrimonial Causes Jurisdiction) effected by this Order shall come into force on the 2nd day of February, 1967.

Dated this 21st day of December, 1966.

A. A. WOLFF,
Chief Justice.

L. W. JACKSON,
Senior Puisne Judge.

J. E. VIRTUE,
Puisne Judge.

R. V. NEVILE,
Puisne Judge.

G. B. D'ARCY,
Puisne Judge.

JOHN HALE,
Puisne Judge.

OSCAR J. NEGUS,
Puisne Judge.

SUPREME COURT ACT, 1935-1964.

THE RULES OF THE SUPREME COURT, 1909.

WE, the Honourable Sir Albert Wolff, K.C.M.G., Chief Justice of Western Australia, the Honourable Sir Lawrence Walter Jackson, Kt., Senior Puisne Judge, and the Honourable John Evenden Virtue, the Honourable Roy Vivian Nevile, the Honourable Gordon Bede D'Arcy, the Honourable John Hale, and the Honourable Oscar Joseph Negus, Puisne Judges of the Supreme Court of Western Australia, acting in pursuance of the powers contained in the Supreme Court Act, 1935-1964, and of every other power enabling us in this behalf, do hereby amend The Rules of the Supreme Court, 1909, in the manner hereinafter mentioned, and declare that such amendments shall come into operation on the 1st day of February, 1967.

1. Order LXV, Rule 9 is amended by adding after the word "party" in the last line the words "and the solicitor on the record".

2. Order LXV, Rule 17 is deleted and the following rule substituted:—

17. (1) Except when otherwise ordered, solicitors are, subject to these Rules, entitled to charge and be allowed the fees set forth in Appendix N in respect of the matters referred to in that Appendix, and higher fees shall not be allowed in any case, except such as are by this Order otherwise provided for.

(2) In this Order and in Appendix N the expression "solicitor on record" includes a partner of the solicitor on the record, and where a firm of solicitors is on the record, a partner in that firm.

3. Order LXV, Rule 18 is amended—

(i) by deleting the words "Note (b) to Appendix N" in line 7 of sub-rule (1) and substituting the words "Rule 20 of this Order";

(ii) by inserting after sub-rule (1) a sub-rule as follows:—

(1a) In regard to any particular item or section of costs where the quantum of work performed does not justify the allowance of a fee according to the scale prescribed or a fee equal to the minimum fee prescribed, the Court or Judge or Taxing Officer may fix such fee as in the opinion of the Court, Judge, or Taxing Officer is just and reasonable.

4. Order LXV is amended by deleting the heading "Taxation of Costs" and Rules 19 to 37 (both inclusive) and substituting the following rules and headings:—

19. Subject to the provisions of the Legal Practitioners Act, 1893, permitting a solicitor to make a written agreement as to costs with his client, the fees allowed under Appendix N shall apply both as between party and party and solicitor and client, but where costs (including expenses and counsel fees) have been incurred which in the opinion of the Taxing Officer are not properly recoverable against the party liable under the judgment or order to pay costs, but have nevertheless been properly incurred, or where such costs have been incurred at the special request of the client, or in contesting and reducing a claim, such costs shall be recoverable from the client, and the Taxing Officer is hereby authorised to fix such sum as he thinks reasonable to cover such additional costs.

20. Unless the Court certifies for the whole of the costs in accordance with the details of the scale in Appendix N or fixes the costs, the total costs of an action, inclusive of counsel fees, but exclusive of other disbursements shall not exceed in the case of an action commenced before the 1st day of February, 1967, the limits prescribed by these Rules before that date, and in the case of an action commenced after that date, shall not exceed five thousand dollars (\$5,000.00); but if the action (whether contested or only an assessment of damages, and whether commenced before or after that date) is one in which damages for personal injuries caused by the use of a vehicle as defined in the Traffic Act, 1919, and amendments, are claimed, such total costs shall not exceed the costs which could be allowed if the amount recovered was ten thousand dollars (\$10,000).

21. (1) If an action is brought in the Supreme Court which could have been brought in the Local Court without the special consent of the defendant, the plaintiff shall recover no greater sum by way of costs than he could have recovered had the action been brought in the Local Court, unless the Judge certifies that by reason of some important principle of law being involved, or of the complexity of the issues or of the facts, the action was properly brought in the Supreme Court.

(2) Where this rule applies a solicitor acting for a plaintiff shall not be entitled to charge his client any sum by way of costs in excess of that properly payable on a party and party basis in the Local Court, unless

the client has agreed in writing, before the proceedings are commenced, to pay on a higher scale, or the Judge has certified that the action was properly brought in the Supreme Court.

22. In any matter not specially provided for in Appendix N the Judge or the Taxing Officer may allow costs by way of analogy according to the item in the scale which is most nearly applicable thereto; or if in the opinion of the Judge or the Taxing Officer, there is no such item, he shall fix the costs at such sum as in his opinion is adequate in the circumstances.

23. In addition to the items of costs allowable under Appendix N, and such counsel fees as may be allowed, all disbursements for fees of court, fees of officers, witness expenses actually paid according to the scale of allowances fixed in Appendix N in that regard, agency charges if specially allowed by the Court or by the Taxing Officer, the reasonable expenses as fixed by the Taxing Officer of the typing, printing and binding of appeal books, and other necessary payments and expenses incurred in the conduct of the litigation shall be allowable.

24. (1) Where the claim is for a liquidated sum costs are to be calculated on the amount recovered by the plaintiff if he succeeds, and on the amount claimed if the defendant succeeds.

(2) Where relief other than a liquidated sum is claimed, either alone or in addition to a liquidated sum, the Court in giving judgment shall fix the value of the subject matter for the purpose of determining the basis on which the party and party costs and the solicitor and client costs of each party shall be calculated. The value so fixed need not necessarily be the same for each party.

(3) If judgment is entered before trial without application to a Judge or the Master, the Taxing Officer shall determine the value of the subject matter for the purpose of this rule, or may fix a lump sum for costs, and in the case of difficulty may refer the matter to a Judge.

(4) The costs of the solicitor for the unsuccessful party as against his client shall be on the same basis as the costs of the successful party unless the Judge at the trial or in Chambers summarily orders otherwise: Provided that the client or the solicitor may, at any time within six calendar months from the date of judgment, apply to a Judge for an order that such costs be fixed on some other basis.

25. Items 9, 10 (a) and 10 (g) in Appendix N apply only where there is a substantial trial. Where for any reason there is no substantial trial, the Judge or the Taxing Officer may make such allowance in lieu of the fees prescribed by any of such items as he considers to be merited in the circumstances.

26. In any case other than the trial of an action, where the solicitor on the record appears at a trial or hearing in court or in Chambers in the capacity of junior counsel, and a certificate for second counsel is granted, and the Taxing Officer is of opinion that the maximum fee prescribed for the proceeding is not sufficient to provide a proper fee for the solicitor so appearing in the capacity of second counsel, the Taxing Master may make such additional allowance over and above the maximum fee prescribed, as he thinks proper.

27. If it is shown to the satisfaction of the Taxing Officer that by reason of special circumstances, a fee in the Scale in Appendix N which includes the drawing or settling of a pleading or other document is inadequate, the Taxing Officer may allow such additional sum as he thinks proper, whether the pleading or document has been drawn or settled by counsel or by the solicitor on the record.

FEEES TO COUNSEL.

28. For the purposes of this Order the term "counsel" means a practitioner in practice on his own account or in partnership who is not the solicitor on the record and who has been briefed on behalf of a party. Where there is a country principal and a Perth agent, the principal shall be the solicitor on the record.

29. Such fees may be allowed to counsel as in the circumstances of the case the Taxing Officer thinks reasonable: Provided that the fees prescribed in items 18, 19, 20, 21, 24 and 25 in Appendix N cover all work done whether by the solicitor on the record or by counsel.

30. The fees of more than one counsel, or solicitor appearing in lieu of counsel, shall not be allowed unless certified for by the Court or Judge.

31. Fees to counsel for conferences or consultations shall not be allowed unless the Taxing Officer is satisfied that such conferences or consultations were reasonably necessary. More than one conference or consultation shall not be allowed except in special circumstances.

32. A fee to counsel shall not be allowed on taxation unless unconditional payment is vouched by the signature of counsel, or otherwise proved to the satisfaction of the Taxing Officer.

33. Unless the Court or Judge otherwise orders counsel appearing as junior counsel to a solicitor on the record appearing at the trial in lieu of counsel shall (if a certificate for second counsel is granted) be allowed the same fee as that prescribed for a solicitor on the record appearing at the trial in the capacity of junior counsel.

34. The Taxing Officer may allow to counsel such refresher fees as in his discretion he thinks reasonable in respect of each additional day of the trial or hearing certified for by the Court or Judge.

TAXATION OF COSTS.

35. Unless the Court or Judge in a particular case otherwise directs, bills of costs and fees which are payable to practitioners admitted and entitled to practise in the Court in respect of business transacted by them in the Court or its offices, and which have been directed by judgment or order to be taxed, shall be taxed, allowed and certified by the Taxing Officer who shall appoint a time for taxation on the application of the party claiming taxation.

36. Notice of taxing costs shall not be necessary in any case where the defendant has not filed a defence or has not given notice of his intention to be heard in the action or matter to which the costs relate.

37. Every bill of costs which is left for taxation shall have endorsed thereon a notice of appointment, and the name and address of the solicitor by whom it is so left, and also the name and address of the solicitor (if any) for whom he is agent, including any solicitor who is entitled or intended to participate in the costs to be taxed.

38. (1) Where notice is required two clear days' notice of taxing costs together with a copy of the bill of costs and of any affidavit of increase which may be necessary shall be given to the other party by the party whose costs are to be taxed.

(2) In cases of urgency the Taxing Officer may direct that one clear day's notice only shall be given.

39. Where any solicitor fails to leave his bill with the necessary papers and vouchers within the time or extended time fixed by the Taxing Officer, or in any way delays or impedes the taxation he shall, unless the Taxing Officer otherwise directs, forfeit the fees to which he would be entitled for preparing his bill of costs and attending on taxation.

40. The appointment made by the Taxing Officer shall be peremptory, and he shall proceed thereon *ex parte* on proof that due notice has been given to the opposite party, unless sufficient cause appears for postponement.

41. When an order directing the taxation of any costs in a proceeding has been made, the Taxing Officer may of his own motion give notice to a party to carry in his bills of costs for taxation and may limit a time for that purpose.

42. When a party entitled to costs refuses or neglects to bring in his costs for taxation, or to procure them to be taxed, and thereby prejudices another party, or delays the distribution of any fund, the Taxing Officer may, so as to prevent another party being prejudiced by the refusal or neglect—

- (a) to certify the costs of the other parties and the refusal or neglect; or
- (b) allow a nominal or other sum to the party refusing or neglecting, for his costs.

43. Where in any action or matter any bill of costs is directed to be taxed for the purpose of being paid or raised out of any fund or property, the Taxing Officer may, previously to completing the taxation, require the solicitor to deliver or send to his clients, or any of them free of charge, a copy of such bill or any part thereof, accompanied by any statement such officer may direct and by a letter informing such client that the bill of costs has been referred to the Taxing Officer for taxation and that the taxation will be proceeded with at the time the officer shall have appointed for this purpose, and such officer may suspend the taxation for such time as he may consider reasonable.

44. In every bill of costs the professional charges shall be entered in a separate column from the disbursements and every column shall be added before the bill is left for taxation. Counsel fees shall be shown as disbursements.

45. The decision of the Taxing Officer on all questions of fact shall be final.

46. The Taxing Officer may, for the purpose of taxation of costs—

- (a) summon and examine witnesses either orally or upon affidavit;
- (b) administer oaths;
- (c) direct or require the production of books, papers, and documents;
- (d) issue subpoenas;

- (e) make separate or interim certificates or allocaturs;
- (f) require a party to be represented by a separate solicitor.

47. Where a Judge directs that any matter shall be adjourned into court the same fees shall, if the Judge so orders, be payable and the same costs shall be allowed in respect of proceedings subsequent to the adjournment as would have been payable if the matter had been commenced in court.

48. (1) The costs of interrogatories and answers to interrogatories shall be reserved for consideration of the Judge at the trial. Where there is no trial such costs shall be in the discretion of the Taxing Officer.

(2) In considering whether any order should be made for the costs of interrogatories or answers, the Judge or the Taxing Officer shall consider whether either or both parties have by their conduct in connection with the request for or answers to interrogatories, unnecessarily increased the costs and whether the results achieved have justified wholly or in part the additional costs involved.

(3) The costs of obtaining discovery including inspection of documents is in the discretion of the Taxing Officer, but no allowance shall be made if it is shown to his satisfaction that there were not good and sufficient grounds for obtaining discovery and making the inspection.

49. (1) Unless the Court or Judge otherwise orders, the costs of a motion or application in an action shall be deemed to be part of the costs of the action of the party in whose favour the motion or application is determined unless the motion or application is unopposed.

(2) When the motion or application is unopposed, the costs of both parties shall be deemed to be part of their costs of the action, unless the Court or a Judge otherwise orders.

50. When a motion, application or other proceeding is ordered to stand over to the trial and no order is made at the trial as to the costs of the motion, application or proceeding, the costs of both parties of the motion, application or proceeding shall be deemed to be part of their costs of the action.

51. When the costs of a motion, application, or other proceeding are reserved by the Court or a Judge, costs of the motion, application, or proceeding shall not be allowed to a party without an order of the Court or a Judge.

52. (1) Where in any action or matter taxation of costs is not ordered, or any special costs are by these Rules or by any order reserved for the consideration of the Court at trial, the Court may fix the amount of costs payable, or the amount of such special costs, and in every judgment or order of the Court where the question of costs is not specifically dealt with there shall be deemed to be reserved to any party interested liberty to apply within 30 days.

(2) Where under these Rules a party is required to obtain some special certificate for costs, there shall be deemed to be reserved to such party liberty to apply within 30 days.

53. Where taxation of costs is ordered and by the terms of the order, or by the effect of the order, the costs are to be apportioned as between the parties, or a party is entitled to receive the costs applicable to any part of the action or matter, or where the costs of a counterclaim are concerned, then in case of any doubt or difficulty arising on taxation there shall be deemed to be reserved in every such order an authority to the Taxing Officer or any party to refer the question to a Judge.

REVIEW OF TAXATION.

54. (1) A party who contends that the Taxing Officer has made an error in principle in allowing or disallowing any item or part of an item in a Bill of Costs taxed by him may, at any time before a certificate or allocatur is signed, or at such earlier time as may, in any case, be fixed by the Taxing Officer—

- (a) deliver to the other party interested in the allowance or disallowance and carry in before the Taxing Officer, an objection in writing to the allowance or disallowance specifying in the objection by a list, in a short and concise form, the items or parts of items objected to, and the grounds and reasons for the objections; and
- (b) thereupon apply to the Taxing Officer to review the taxation in respect of those items or parts.

(2) Pending the consideration and determination of the objection, the Taxing Officer may if he thinks fit, issue an allocatur for or on account of the remainder, or of part of the bill of costs. Any further allocatur which may be necessary shall be issued by the Taxing Officer after his decision upon the objections.

55. (1) Upon an application under the last preceding rule to review the taxation, the Taxing Officer shall reconsider and review his taxation in relation to the objections, and he may, if he thinks fit, receive further evidence in respect of the objections.

(2) If so required by a party, the Taxing Officer shall state in his allocatur or by reference to the objection, the ground and reason of his decision on the objection, and any special facts or circumstances relating to his decision.

(3) The Taxing Officer may tax the costs of the objections and add them to or deduct them from, any sum payable by or to a party to the taxation.

(4) Except as provided by this rule, the Taxing Officer shall not, after an allocatur is signed, review his taxation or amend his allocatur, except to correct a clerical or manifest error before payment or process issued for recovery of the costs.

56. (1) If a party is dissatisfied with the allocatur of the Taxing Officer as to any item or part of an item objected to under Rule 54 of this Order, he may, within fourteen days from the date of the allocatur, or such other time as the Court or a Judge, or the Taxing Officer at the time he signs his allocatur, allows, apply to a Judge in Chambers for an order to review the taxation as to that item or part of an item.

(2) The Judge, if of opinion that the Taxing Officer has made an error in principle, may thereupon make such order to rectify the error as the Judge thinks just.

(3) The allocatur of the Taxing Officer is final and conclusive as to all matters which have not been objected to in accordance with these Rules.

57. An application under the last preceding rule to a Judge to review the taxation shall be heard and determined by the Judge upon the evidence which has been brought in before the Taxing Officer, and further evidence shall not be received upon the hearing of the application unless the Judge otherwise directs.

MISCELLANEOUS.

58. The costs allowed by the Taxing Officer on any interim or final allocatur shall be deemed to be a judgment of the Court, and shall be recoverable accordingly.

59. A party who has required the Taxing Officer to state the ground and reason of his decision on an objection for the purpose of applying to a Judge to review the taxation, may request the Taxing Officer

to grant a stay of proceedings either wholly or limited to the item or part of an item which is the subject of the objection, and in the event of the Taxing Officer refusing such stay may apply to a Judge.

60. (1) Where on the taking of accounts, the accounts consist in part of a bill of costs, the Taxing Officer shall assist in settling the costs, not being the ordinary costs of passing the accounts of a receiver.

(2) On a bill of costs being referred under this Rule, the Taxing Officer shall proceed to tax the costs, and shall have the same powers, and the same fees shall be payable in respect of the taxation, as if those costs had been referred to the Taxing Officer for taxation by an order.

(3) The Taxing Officer shall report and certify the costs to the Master or other officer taking the accounts.

5. Appendix N is rescinded and the following new Appendix N is substituted:—

Appendix N.

SCALE OF COSTS.

(O. LXV.)

	\$	
1. (a) Writ of Summons (including instructions and statement of claim)	40	
(b) For each additional defendant	6	
2. Guardian <i>ad litem</i>	12	
3. Entry of judgment by default, or pursuant to order (without trial)	12	
4. Payment into, or out of, Court	10	
5. (a) Defence (including instructions)	40	
(b) If with counterclaim involving substantial new matter, extra	10	
6. (a) Reply (if necessary), not exceeding	24	
(b) Defence to counterclaim not exceeding	24	
7. Examination of witness before trial pursuant to order, per hour	10-16	
8. Application for and striking jury	30	
In respect of Items 9 and 10 differential scales shall apply as shown therein.		
	Lower Scale (Up to and including \$3,000)	Higher Scale (Over \$3,000)
	\$	\$
9. Getting up case for trial (subject however to Item 10 (g))	60-240	100-300 for first \$3,000, 4% for the balance to \$6,000, then 2%

	Lower Scale (Up to and including \$3,000)	Higher Scale (Over \$3,000)
	\$	\$
10. Trial		
(a) If the solicitor on the record appears at the trial in lieu of counsel he shall be allowed	60-200	100-200 for the first \$3,000 4% for the balance to \$8,000, then 2%
(b) Where Item 10 (a) applies, if the trial extends beyond one day, there shall be allowed for the second and each successive day (if certified for) a fee not exceeding ...	75	130
(c) If the solicitor on the record appears at the trial in the capacity of junior counsel (and a certificate for second counsel is granted) he shall be allowed one-half of the fee which would have been allowed to him under Item 10 (a) if he had appeared alone		
(d) Where Item 10 (c) applies, if the trial extends beyond one day, there shall be allowed for the second and each successive day (if certified for) a fee not exceeding ...	50	80
(e) Solicitor attending trial, per hour, not exceeding ... (To be allowed only to a solicitor on the record, and if his attendance was reasonably necessary, but a suitable allowance may be made for the attendance of a clerk)	10	14
(f) Solicitor on the record attending in lieu of counsel to hear reserved judgment	16	24
(g) When the only issue tried is the assessment of damages		or a reasonable allowance in the circumstances One-half of the amounts allowable under Items 9, 10 (a) and 10 (c) (unless in any case otherwise directed by the Court). Similar allowances as under Items 10 (b), 10 (d) and 10 (e).
11. Call-over (if certified for) not exceeding ...		10
12. Settling and extracting judgment after trial		
(a) If without appointment		15
(b) If with appointment		21
13. Re-trial or Re-hearing :		
(a) Getting up case for re-trial or re-hearing—		Such amount as is reasonable in the circumstances.
(b) If the solicitor on the record appears in lieu of counsel on a re-trial or re-hearing he shall be allowed—		Two-thirds of the amounts allowable under Items 10(a), 10(b), 10(c) and 10(d). Similar allowances as under Items 10(e) and 10(f).
14. Proceedings, whether by action or otherwise, for the recovery of compensation for the taking or resumption of land or any other property by the Crown in right of the State or of the Commonwealth or by any other person, body or instrumentality pursuant to any statutory power—		The same costs <i>mutatis mutandis</i> as allowed in civil actions, but the Court or Tribunal shall determine what is a just and equitable basis for the taxation of such costs.
		\$
15. (a) Delivery of interrogatories		10-50
(b) Answers to interrogatories		10-50
16. (a) Obtaining discovery of documents (without order) including inspection		6-30
(b) Giving discovery of documents		6-50

17. Interpleader, if uncontested	\$	20
18. (a) Special case, or trial of an issue (otherwise than in an action)		60-500
(b) For the second and each successive day on the hearing or trial (and in proportion for part of a day)		60-200
19. Motions in Court, not otherwise provided for		10-100
20. Originating Summons or Petition		30-500
	but the Judge may direct that the costs of the parties or any of them be taxed as in an action.	
21. Proceedings in Chambers, other than originating summonses and petitions		6-100
22. Taking accounts : Inquiries : taxation of costs: and the like :—per hour		2-14
23. Arbitration proceedings	The same costs as in an action, less 20%.	
24. Appeal :	\$	
(a) From a Judge		60-600
(b) From an inferior court, or statutory tribunal		60-400
(c) For the second and each successive day on the hearing of an appeal (and in proportion for part of a day)		60-200
25. Proceedings in connection with a prerogative writ		60-500
	In respect of Item 26 differential scales shall apply as shown therein.	
	Lower Scale (Up to and including \$3,000)	Higher Scale (Over \$3,000)
	\$	\$
26. (a) Execution	14	20
(b) If land is involved, extra	12	14
27. Service of any process :	\$	
(1) (a) Where service by post is not authorised		3.00
(b) In any other case		1.50
(2) If at a place more than two miles from the nearest place of business of the solicitor effecting service	According to the time occupied and fares paid, but not, exceeding the cost of service by the nearest Sheriff's officer.	
	\$	
(3) If it is proper to effect service through an agent		3.00
	together with the agent's reasonable charges.	
(4) If outside the jurisdiction	Such allowance as the Taxing Officer thinks fit.	

ALLOWANCES TO WITNESSES

	Per Day
	\$
28. (1) Persons carrying on a profession or business as principals, not exceeding	17
(2) Other adult persons, not exceeding	10
(3) Persons under 21 years of age in receipt of salary or wages, not exceeding	7
(4) Persons under 21 years of age, not in receipt of salary or wages—the amount of any loss in respect of which the Taxing Officer thinks the person should be indemnified, but not exceeding	7
(5) Where any person is required, by reason of the distance which he or she has to travel, to remain away from home overnight, not exceeding an additional	8

In fixing the allowance to be made under items (2) and (3) the Taxing Officer shall have regard to the amount of salary or wages actually lost by the witness.

In addition to the above allowances, witnesses residing at a distance from the place of trial or hearing may be allowed reasonable travelling expenses actually paid, excluding any charges for maintenance or sustenance.

The Taxing Officer may also allow such amount as he thinks has been reasonably and properly incurred and paid to witnesses for qualifying to give skilled evidence.

Except by special order of the trial judge, no allowance shall be made to any expert witness for attendance at Court assisting or advising counsel or solicitor for a party during the trial.

In the case of persons giving evidence as experts the allowances in the above Scale may be increased in the discretion of the Taxing Officer.

6. (1) Rules 27 to 34 both inclusive of Order LXV as amended by this Order apply only to causes and matters commenced on or after the first day of February, 1967.

(2) The scale of costs in the new Appendix N shall apply to all causes and matters commenced in the Court on and after the first day of February, 1967, and to all proceedings in such causes and matters.

(3) The scales of costs in force at the date of commencement of causes and matters pending in the Court on the first day of February, 1967, shall continue to apply to such causes and matters and to all proceedings therein.

(4) The new scale of allowances to witnesses in Appendix N shall apply in respect of the attendances of witnesses at all trials or hearings on and after the first day of February, 1967.

Dated the 21st day of December, 1966.

A. A. WOLFF,
Chief Justice.

L. W. JACKSON,
Senior Puisne Judge.

J. E. VIRTUE,
Puisne Judge.

R. V. NEVILE,
Puisne Judge.

G. B. D'ARCY,
Puisne Judge.

JOHN HALE,
Puisne Judge.

OSCAR J. NEGUS,
Puisne Judge.