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SCHEDULE

Paragraph 2

PART 1

Form 9A.4

Rule 9A.4(1)

Form of written record of state of preparation

IN THE HIGH COURT OF JUSTICIARY

AT *(place)*

WRITTEN RECORD OF STATE OF PREPARATION

in the case of

HER MAJESTY'S ADVOCATE

against

[A.B.] *(address)*

[or Prisoner in the Prison of *(place)*]

Preliminary hearing: *(date)*

	<i>Prosecutor</i>	<i>Accused's legal representative</i>
Name:	<i>(name)</i>	<i>(name)</i>
Address:	<i>(address)</i>	<i>(address)</i>

E-mail address:

Telephone number:

Reference number:

The prosecutor and the accused's legal representative record their state of preparation as set out in the Schedules.

(Signed)

Prosecutor

(Date and place)

(Signed)

Accused's legal representative

(Date and place)

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<p style="text-align: center;">SCHEDULE 1 (Prosecutor)</p> <p style="text-align: center;"><i>In this Schedule, unless otherwise stated, references to sections are to sections of the Criminal Procedure (Scotland) Act 1995</i></p> <p>Plea</p> <p>1. Has a plea of guilty been accepted on behalf of Her Majesty’s Advocate?</p> <p>If the answer to the question is yes, the following questions are not applicable.</p>	<p><i>*delete as appropriate</i></p> <p>Yes/No*</p>
<p>Communication with the defence</p> <p>2. Did the advocate depute and defence counsel or solicitor advocate communicate prior to the preliminary hearing? If so, when and by what means did communication take place?</p>	
<p>Preliminary issues</p> <p>3. Has notice been given on behalf of Her Majesty’s Advocate of a preliminary issue within the meaning of section 79(2)(b)?</p> <p>If the answer to the question is yes, attach a copy of each notice.</p>	<p>Yes/No*</p>
<p>Objections to admissibility of evidence</p> <p>4. Is there any objection to the admissibility of any evidence you wish to raise on behalf of Her Majesty’s Advocate despite not having given notice of a preliminary issue within the meaning of section 79(2)(b)?</p> <p>If the answer to the question is yes, specify each objection to the admissibility of evidence and summarise the reasons for not having given notice under section 79(2)(b):—</p>	<p>Yes/No*</p>

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<p>Other applications/notices</p> <p>5. Has any of the following been lodged with the court on behalf of Her Majesty's Advocate?</p> <ul style="list-style-type: none">- A child witness notice under section 271A(2)- A vulnerable witness application under section 271C(2)- An application under section 275(1) (application to admit evidence relating to the character and conduct of complainer)- An application under section 288F(2) (application for an order prohibiting the accused from conducting defence in person at trial)- An application under section 271P(1) (application for a witness anonymity order) <p>If the answer to the question is yes, attach a copy of each application or notice.</p>	<p>Yes/No*</p>
<p>Other matters</p> <p>6. Are there any other matters which might be disposed of with advantage before the trial? For instance, are there any outstanding compatibility or devolution minutes, section 67 notices or applications for recovery of documents?</p> <p>If the answer to the question is yes, specify each matter which might be disposed of with advantage before the trial:—</p>	<p>Yes/No*</p>

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<p>Agreements and admissions of evidence</p> <p>7. Have any facts and documents been the subject of a minute under section 256(2) (minute of admission or agreement)?</p> <p>If the answer to the question is yes, attach a copy of each minute.</p>	<p>Yes/No*</p>
<p>Duty to seek agreement of evidence</p> <p>8. Specify any steps which have been taken under section 257 (duty to seek agreement of evidence):—</p>	
<p>Uncontroversial evidence</p> <p>9. Has either party served a statement under section 258(2) (statement of uncontroversial evidence) on the other party?</p> <p>If the answer to the preceding question is yes,</p> <ul style="list-style-type: none"> (i) attach a copy of each statement (ii) specify any matters which are deemed to have been conclusively proved:— (iii) attach a copy of any notice of challenge under section 258(3) and (iv) attach a copy of any application under section 258(4A) (application for direction that a challenge in a notice under section 258(3) is to be disregarded) 	<p>Yes/No*</p>

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<p>Witnesses</p> <p>10. Specify which of the witnesses included within the list of witnesses are required:—</p> <p><i>[indicate which, if any, of these witnesses is a child witness: (“CW” or vulnerable witness: (“VW”)]</i></p>	
<p>Availability of witnesses</p> <p>11. Specify any dates on which any of the witnesses specified in paragraph 9 above would not be available to give evidence and indicate the reason (if known):—</p>	
<p>Preparation for trial</p> <p>12. Are you ready, if necessary, to proceed to trial?</p> <p>If the answer to the question is no, specify the reason(s) you are not ready to proceed to trial and the date by which you will be ready to proceed to trial.</p>	Yes/No*

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<p><i>In addition, if your answer to the question is no, or the answer by the defence to question 15 of schedule 2 is no, provide the following information:—</i></p> <ol style="list-style-type: none"> 1. The date on which the accused appeared on petition 2. Disclosure: under reference to the explanation provided in question 15 of schedule 2 of the need for further enquiry to be carried out, details of the dates on which any productions or statements mentioned there were disclosed and an explanation of why disclosure was made at that stage. 3. In a legally aided case the date on which the Scottish Legal Aid Board were informed that the case was likely to be prosecuted in the High Court. 	
<p>Estimated length of trial</p> <p>13. Specify how long you estimate that the trial, if any, will last.</p>	
<p>Name of advocate depute</p> <p>14. Specify the name of the advocate depute and specify any dates on which it is known that he or she will not be available:—</p>	

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<p>Equipment</p> <p>15. Will any of the following be required at the trial diet?</p> <ul style="list-style-type: none">- screens- display of video-tape evidence- playback of police interview audio-tape- document camera- CD/DVD evidence in computer format (parties must supply laptop PC or other means of display)- equipment for giving evidence by closed circuit television camera- other equipment <p>If yes, specify:</p>	Yes/No*
<p>Interpreters</p> <p>16. Will an interpreter be required for the trial diet?</p> <p>If the answer is yes, please provide details:—</p>	Yes/No*

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<p style="text-align: center;">SCHEDULE 2 (Legal Representative of [A.B.]</p> <p style="text-align: center;"><i>In this Schedule, unless otherwise stated, references to sections are to sections of the Criminal Procedure (Scotland) Act 1995</i></p> <p>Plea</p> <p>1. Has the prosecutor accepted a plea of guilty?</p> <p>If the answer to the question is yes, the following questions are not applicable.</p>	<p><i>*delete as appropriate</i></p> <p>Yes/No*</p>
<p>Section 196</p> <p>2. Is the accused aware of the terms of section 196?</p>	<p>Yes/No*</p>
<p>Preliminary pleas</p> <p>3. Has notice been given on behalf of the accused of a preliminary plea within the meaning of section 79(2)(a)?</p> <p>If the answer to the question is yes, attach a copy of each notice.</p>	<p>Yes/No*</p>
<p>Communication with the Crown</p> <p>4. Did defence counsel or solicitor advocate and the advocate depute communicate prior to the preliminary hearing? If so, when and by what means did the communication take place?</p>	
<p>Preliminary issues</p> <p>5. Has notice been given on behalf of the accused of a preliminary issue within the meaning of section 79(2)(b)?</p> <p>If the answer to the question is yes, attach a copy of each notice.</p>	<p>Yes/No*</p>

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<p>Objections to admissibility of evidence</p> <p>6. Is there any objection to the admissibility of any evidence which you wish to raise on behalf of the accused despite not having given notice of a preliminary issue within the meaning of section 79(2)(b)?</p> <p>If the answer to the question is yes, specify each objection to the admissibility of evidence and summarise the reasons for not having given notice under section 79(2)(b):—</p>	Yes/No*
<p>Other applications/notices</p> <p>7. Has any of the following been lodged with the court on behalf of the accused?</p> <ul style="list-style-type: none">– A child witness notice under section 271A(2)– A vulnerable witness application under section 271C(2)– An application under section 275(1) (application to admit evidence relating to the character and conduct of complainer)– An application under section 288F(2) (application for an order prohibiting the accused from conducting defence in person at trial)– An application under section 271P(1) (application for a witness anonymity order) <p>If the answer to the question is yes, attach a copy of each application or notice.</p>	Yes/No*

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<p>Defence</p> <p>8. Has any of the following been lodged with the court on behalf of the accused?</p> <ul style="list-style-type: none"> - a plea of special defence or notice of intention to lead evidence calculated to exculpate the accused by incriminating a co-accused under section 78(1) - notice of witnesses or productions under section 78(4) - a defence statement under section 70A within the timescales set down in that section <p>If the answer to the question is yes, attach a copy of each application or notice.</p>	<p>Yes/No*</p>
<p>Other matters</p> <p>9. Are there any other matters which might be disposed of with advantage before the trial? For instance, are there any outstanding compatibility or devolution minutes, section 67 notices or applications for recovery of documents?</p> <p>If the answer to the question is yes, specify each matter which might be disposed of with advantage before the trial:—</p>	<p>Yes/No*</p>
<p>Agreements and admissions of evidence</p> <p>10. Have any facts and documents been the subject of a minute under section 256(2) (minute of admission or agreement)?</p> <p>If the answer to the question is yes, attach a copy of each minute.</p>	<p>Yes/No*</p>

<p>Duty to seek agreement of evidence</p> <p>11. Specify any steps which have been taken under section 257 (duty to seek agreement of evidence):—</p>	
<p>Uncontroversial evidence</p> <p>12. Has either party served a statement under section 258(2) (statement of uncontroversial evidence) on the other party?</p> <p>If the answer to the preceding question is yes,</p> <ul style="list-style-type: none">(i) attach a copy of each statement(ii) specify any matters which are deemed to have been conclusively proved:—(iii) attach a copy of any notice of challenge under section 258(3) and(iv) attach a copy of any application under section 258(4A) (application for direction that a challenge in a notice under section 258(3) is to be disregarded)	Yes/No*

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<p>Witnesses</p> <p>13. Specify which of the witnesses included within the list of witnesses are required:—</p> <p><i>[indicate which, if any, of these witnesses is a child witness: (“CW” or vulnerable witness: (“VW”)]</i></p>	
<p>Availability of witnesses</p> <p>14. Specify any dates on which any of the witnesses specified in paragraph 9 above would not be available to give evidence and indicate the reason (if known):—</p>	
<p>Preparation for trial</p> <p>15. Are you ready, if necessary, to proceed to trial?</p> <p>If the answer to the question is no, specify the reason(s) you are not ready to proceed to trial and the date by which you will be ready to proceed to trial.</p>	Yes/No*

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<p><i>In addition, provide the following information:—</i></p> <ol style="list-style-type: none">1. The date on which agents were instructed to act on behalf of the accused.2. If the case is legally aided, the date on which legal aid was granted.3. Under reference to the witnesses and productions on the lists attached to the indictment the dates on which disclosed material was downloaded.4. If the case is legally aided, the date on which the agent was advised that sanction was granted for the instruction of counsel.5. The date on which counsel was instructed.6. The date on which consultation with counsel took place.7. A brief description of the steps taken by way of preparation, including, where relevant, the taking of precognitions, the investigation of the defence and the instruction of expert opinion or reports. Give details of the dates on which these steps were taken.	
<p>Estimated length of trial</p> <p>16. Specify how long you estimate that the trial, if any, will last.</p>	
<p>Name of counsel or solicitor advocate</p> <p>17. Specify the name of counsel or solicitor advocate and specify any dates on which it is known that he or she will not be available:—</p>	

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<p>Equipment</p> <p>18. Will any of the following be required at the trial diet?</p> <ul style="list-style-type: none"> - screens - display of video-tape evidence - playback of police interview audio-tape - document camera - CD/DVD evidence in computer format (parties must supply laptop PC or other means of display) - equipment for giving evidence by closed circuit television camera - other equipment <p>If yes, specify:</p>	<p>Yes/No*</p>
<p>Interpreters</p> <p>19. Will an interpreter be required for the trial diet?</p> <p>If the answer is yes, please provide details:—</p>	<p>Yes/No*</p>

Paragraph 3(2)

PART 2

Form 23A.1-A

Rule 23A.1

Form of petition for issue of letter of request under section 273(2) or 273A(2) of the Criminal Procedure (Scotland) Act 1995

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE
CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

[or UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*)

AT (*place*)]

PETITION

of

HER MAJESTY'S ADVOCATE

[or [A.B.] (*address*)

[or Prisoner in the prison of (*place*)]]

PETITIONER

HUMBLY SHEWETH

1. That the petitioner [or [C.D.]], along with (*name(s) of co-accused*),] has appeared on petition [or been indicated] [or charged] in your Lordships' [or Lordship's court at the instance of Her Majesty's Advocate [or the prosecutor fiscal at (*place*)] [or the petitioner] with the crime of (*specify*).
2. That no indictment has been served on the petitioner [or [C.D.]] in respect of the said crime and that accordingly the court in which any trial of the petitioner [or [C.D.]] in respect of the said crime for which he stands committed is not yet known. [or that the trial of the petitioner [or [C.D.]] is to take place in your Lordships' [or Lordship's] court [sitting at [(*place*)] on [(*date*)].
3. That (*name of witness*) residing at (*address*) in the country or territory of (*specify*) is a witness whose evidence the petitioner intends to adduce in the course of the trial. He seeks to adduce that evidence through a live television link in that country or territory under section 273 of the Criminal Procedure (Scotland) Act 1995 [or in another part of the United Kingdom under section 273A of the Criminal Procedure (Scotland) Act 1995.]
4. That the evidence to the effect specified in the schedule attached to this petition, which it is averred that the said witness is able to give, is necessary for the proper adjudication of the trial.

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5. That (*name of court*) is a court or tribunal exercising jurisdiction in the said country or territory of (*specify*) being a country or territory outside the United Kingdom. [*or that (name of court) is a court or tribunal in (specify country) exercising its jurisdiction outside of Scotland but within the United Kingdom.*]
6. That English is [not] the official language or one of the official languages of the said country or territory.
7. That the law of the said country or territory provides for evidence to be taken by live television link [in accordance with the following procedure:- (*specify, if known*)].
- [8. That there would be no unfairness to the accused if such evidence were to be given through a live television link.]

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S] [*OR THE COURT*]:

- (1) to appoint intimation of this petition and schedule to be made to (*specify*);
- (2) to appoint parties to be heard thereupon on the earliest practicable date hereafter; and
- (3) thereafter, on being duly satisfied in terms of section 273(3) [*or 273A(4)*] of the Criminal Procedure (Scotland) Act 1995, to issue a letter of request to (*state judge or tribunal within whose jurisdiction the witness is a resident*) for assistance in facilitating the giving of evidence by the said witness through a live television link; and to do otherwise as to your Lordship[s] shall seem proper.

ACCORDING TO JUSTICE, etc.

(signed)

[Solicitor for petitioner]

(Address and telephone number of solicitor)

Paragraph 4(2)

PART 3

Form 40.2

Rule 40.2(2)

Form of minute of notice of intention to raise a compatibility issue or devolution issue

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE CLERK AND LORDS COMMISSIONERS OF JUSTICIARY [UNTO THE HONOURABLE THE SHERIFF OF *(name of sheriffdom)*]

AT *(place)*

MINUTE

by

[P.C.] *(address)*

[*or Prisoner in the Prison of (place)*]

HUMBLY SHEWETH, that:

1. [Name of accused] has been indicted at the instance of Her Majesty's Advocate with a preliminary hearing in the High Court of Justiciary sitting at *(place)* on *(date)*.
2. [P.C.] intends to raise a compatibility issue within the meaning of section 288ZA(2) of the Act of 1995 [*or a devolution issue within the meaning of Schedule 6 to the Scotland Act 1998*] on the following grounds (here specify the facts and circumstances and contentions of law which are alleged to give rise to the compatibility issue [*or devolution issue*]).
3. A copy of this minute has been duly intimated to Her Majesty's Advocate [and to *(name(s) of co-accused)*] [and, in relation to a devolution issue, to the Advocate General for Scotland] conform to execution[s] attached to this minute.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S]:

to determine the compatibility issue [*or devolution issue*] at the preliminary hearing;

IN RESPECT WHEREOF

[Solicitor for minuter]

(Address and telephone number of solicitor)

(Place and date)

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Form 40.3

Rule 40.3(2)

Form of minute of notice of intention to raise a compatibility issue or devolution issue

UNTO THE HONOURABLE THE SHERIFF OF (*name of sheriffdom*)

AT (*place*)

[or UNTO THE JUSTICES in the JUSTICE OF THE PEACE COURT OF (*name of district*)]

AT (*place*)

MINUTE

by

[C.S.] (*address*)

[or Prisoner in the Prison of (*place*)]

HUMBLY SHEWETH, that:

1. [*Name of accused*] has been charged at the instance of [P.F.] procurator fiscal at (*place*) with the crime [*or offence*] of (*specify*) and an intermediate diet [*or trial diet*] is fixed for (*specify date*).
2. [C.S.] intends to raise a compatibility issue within the meaning of section 288ZA(2) of the Act of 1995 [*or a devolution issue within the meaning of Schedule 6 to the Scotland Act 1998*] on the following grounds (here specify the facts and circumstances and contentions of law which are alleged to give rise to the compatibility issue [*or devolution issue*]).
3. A copy of this minute has been duly intimated to said [P.F.], procurator fiscal [and to (*name(s) of co-accused*)] [and, in relation to a devolution issue, to the Advocate General for Scotland] conform to execution[s] attached to this minute.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S]:

to determine the compatibility issue [*or devolution issue*] at the intermediate diet [*or before the trial diet has commenced*].

IN RESPECT WHEREOF

[Solicitor for minuter]

(Address and telephone number of solicitor)

(Place and date)

Form 40.9

Rule 40.9(1)

Form of application under section 288AA(5) of the Criminal Procedure (Scotland) Act 1995 or paragraph 13 of Schedule 6 to the Scotland Act 1998

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

APPLICATION FOR PERMISSION TO APPEAL TO THE SUPREME COURT

under section 288AA(5) of the Criminal Procedure (Scotland) Act 1995 [*or* paragraph 13 of Schedule 6 to the Scotland Act 1998]

by

(*specify*)

(*address*)

APPLICANT

HUMBLY SHEWETH, that:

1. On (*date*) the High Court (that is a court that consisted of two or more judges of that court) determined a compatibility issue [*or* devolution issue].
2. The applicant seeks the permission of the court to appeal the determination to the Supreme Court on the following grounds:-

(*here, specify —*

- (i) *the grounds of appeal;*
- (ii) *a summary of the reasons why permission to appeal should be granted; including whether any of the grounds of appeal raise an issue of general public importance;*
- (iii) *where the application is late, the reasons for allowing the application late.)*

ACCORDING TO JUSTICE, etc.

(*Signed*)

Applicant (*or agent for the applicant*)