

## SCHEDULE 2

### CRIMINAL PROCEDURE RULES 1996

#### *PART I*

#### *Preliminary and administration*

#### **CHAPTER 2**

#### **SERVICE OF DOCUMENTS**

##### **Service on Crown**

**2.1.** Any document that requires to be sent to or served on the Lord Advocate or the prosecutor under any enactment or rule of law shall be sent to or served on, as the case may be—

- (a) if it relates to a case set down for trial in the High Court, the Crown Agent;
- (b) if it relates to a case set down for trial in the sheriff court or district court, the appropriate procurator fiscal.

##### **Citation in solemn proceedings**

**2.2.**—(1) Subject to rule 2.4 (service on witnesses), this rule applies to the citation of, and service on, an accused under section 66 of the Act of 1995 (service and lodging of indictment, etc).

(2) Service shall be effected by an officer of law—

- (a) delivering the document to the accused personally;
- (b) leaving the document in the hands of a member of the family of the accused or other occupier or employee at the proper domicile of citation of the accused;
- (c) affixing the document to the door of, or depositing it in, the proper domicile of citation of the accused; or
- (d) where the officer of law serving the document has reasonable grounds for believing that the accused, for whom no proper domicile of citation has been specified, is residing at a particular place but is unavailable—
  - (i) leaving the document in the hands of a member of the family of the accused or other occupier or employee at that place; or
  - (ii) affixing the document to the door of, or depositing it in, that place.

(3) In this rule, “proper domicile of citation” means the address at which the accused may be cited to appear at any diet relating to the offence with which he is charged or an offence charged in the same proceedings as that offence or to which any other intimation or document may be sent.

##### **General provisions for service**

**2.3.**—(1) Subject to the following paragraphs of this rule, the citation of, or the service of any document on, a person under or by virtue of the Act of 1995, these Rules or any other enactment shall, unless otherwise provided in the relevant enactment, be effected in the same manner, with the necessary modifications, as the citation of an accused in summary proceedings under section 141 of that Act (manner of citation) or under rule 2.2 of these Rules (citation in solemn proceedings).

(2) The citation of a probationer to appear before a court following a conviction on indictment under section 232 (probation orders: failure to comply with requirement), or section 233 (probation

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orders: commission of further offence), of the Act of 1995 shall be effected on the probationer in the same manner, with the necessary modifications, as the citation of an accused under rule 2.2 or by post.

(3) The citation in Form 29.3 of a person to attend a diet fixed for taking his precognition on oath under section 291 of the Act of 1995 (precognition on oath of defence witnesses) shall be made by personal service on him by an officer of law acting on the instructions of the accused or his solicitor.

### **Service on witnesses**

**2.4.**—(1) Service of a citation by the prosecution or defence on a witness in any proceedings may, in the first instance, be by post.

(2) Where citation of a witness has been attempted by post but has not been effected, or the witness has not returned Form 8.2-D or Form 16.6-B, as the case may be, within the period prescribed in rule 8.2(3) or 16.6(1), as the case may be, citation of that witness shall be effected by an officer of law delivering the document to the witness personally.

### **Service by post**

**2.5.**—(1) Subject to any provision in the Act of 1995, service by post shall be by registered post, ordinary first class post or the first class recorded delivery service.

(2) Where the citation of, or service on, any person is effected by post under these Rules, the date of citation shall be deemed to be the day after the date of posting.

### **Forms of execution of service**

**2.6.**—(1) The execution of service of a citation and notice to appear of a person accused on indictment referred to in rule 8.2(1) (citation of accused and witnesses) shall be in Form 2.6-A.

(2) The execution of service of a complaint on an accused shall be in Form 2.6-B.

(3) The execution of personal service of a citation of a witness cited to appear at a trial on indictment shall be in Form 2.6-C.

(4) The execution of personal service of a citation of a witness cited to appear at a trial on summary complaint shall be in Form 2.6-D.

(5) The execution of a citation of a probationer under section 232(1) (failure to comply with requirement of probation order), or section 233(1) (commission of further offence while on probation), of the Act of 1995 shall be in Form 2.6-E.

(6) The execution of a citation or service under rule 2.3(1) (general provisions for service) shall, with the necessary modifications, be in Form 2.6-F.

### **Proof of service furth of Scotland**

**2.7.** Where any citation of an accused is served in England, Wales or Northern Ireland by an officer effecting such service in accordance with section 39(3) of the Criminal Law Act 1977(1) (citation of person charged with crime or offence to appear before a court in Scotland), the evidence of—

- (a) that officer on oath, or
- (b) written execution of service by him,

shall be sufficient evidence of that service.

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(1) 1977 c. 45; section 39(3) was amended by paragraph 79 of Schedule 7 to the Criminal Justice (Scotland) Act 1980 (c. 62).

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