

FORM 9A.4

Form of written record of state of preparation

Rule 9A.4(1)

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> |
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| 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>SCHEDULE 1 (Prosecutor)</p> <p><i>In this Schedule, unless otherwise stated, references to sections are to sections of the Criminal Procedure (Scotland) Act 1995</i></p> | <p>*delete as appropriate</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>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> |
| <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> <p>- A child witness notice under section 271A(2)</p> | <p>Yes/No*</p> |

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| <ul style="list-style-type: none"> - 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>5A. If an application under section 275(1) (application to admit evidence relating to the character and conduct of complainer, etc.) has been lodged (whether on behalf of the Crown or on behalf of the accused), has the complainer (i) been told of the content of the application;(ii) been invited to comment on the accuracy of any allegations within it; (iii) been asked to state any objections which the complainer might have to the granting of the application?</p> <p>If the answer to question 5A is no, set out the reasons why (i) to (iii) have not occurred.</p> | Yes/No* |
| <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> | Yes/No* |
| <p>Video evidence of a graphic nature</p> <p>6A.Is it proposed (whether on behalf of the Crown or the defence) that the jury be shown video evidence which includes graphic images of violence?</p> <p>If the answer to the question is yes, have parties discussed how that evidence is to be presented so as minimise the risk of lasting adverse effects on jury members and others? In particular, have parties discussed i) whether any matters shown in the video can be agreed to avoid some or all the</p> | Yes/No |

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| <p>video being shown to the jury and ii) whether it is necessary to show the video more than once?</p> | |
| <p>Agreements and admissions of evidence 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 8. Specify any steps which have been taken under section 257 (duty to seek agreement of evidence):-</p> | |
| <p>Uncontroversial evidence 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> <p>(i) attach a copy of each statement</p> | <p>Yes/No*</p> |

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| <p>(ii) specify any matters which are deemed to have been conclusively proved:-</p> <p>(iii) attach a copy of any notice of challenge under section 258(3) and</p> <p>(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> | |
| <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 10 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 your 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> <p><i>In addition, if your answer to the question is no, or the answer by</i></p> | <p>Yes/No*</p> |

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| <p><i>the defence to question 15 of schedule 2 is no, provide the following information :-</i></p> <p>1. The date on which the accused appeared on petition</p> <p>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.</p> <p>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> | |
| <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> | |
| <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 | <p>Yes/No*</p> |

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| <p>- other equipment</p> <p>If yes, specify:</p> | |
| <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> | <p>Yes/No*</p> |

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| <p>SCHEDULE 2 (Legal Representative of [A.B.]</p> <p><i>In this Schedule, unless otherwise stated, references to sections are to sections of the Criminal Procedure (Scotland) Act 1995</i></p> | <p>*delete as appropriate</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>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>Information for accused</p> <p>(2A) Has the accused been given the information and form described in rule 9A.3A(2) or (3)?</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>Yes/No*</p> |

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| <p>If the answer to the question is yes, attach a copy of each notice.</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> |
| <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> | <p>Yes/No*</p> |
| <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</p> | <p>Yes/No*</p> |

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| <p>application or notice.</p> | |
| <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 plea and 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> | |

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| <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> <p>(i) attach a copy of each statement</p> <p>(ii) specify any matters which are deemed to have been conclusively proved:-</p> <p>(iii) attach a copy of any notice of challenge under section 258(3) and</p> <p>(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> | <p>Yes/No*</p> |
| <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 13 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 your 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> <p><i>In addition, provide the following information:—</i></p> <p>1. The date on which agents were instructed to act on behalf of the accused.</p> <p>2. If the case is legally aided, the date on which legal aid was</p> | <p>Yes/No*</p> |

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| <p>granted.</p> <p>3. Under reference to the witnesses and productions on the lists attached to the indictment the dates on which disclosed material was downloaded.</p> <p>4. If the case is legally aided, the date on which the agent was advised that sanction was granted for the instruction of counsel.</p> <p>5. The date on which counsel was instructed.</p> <p>6. The date on which consultation with counsel took place.</p> <p>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> | |
| <p>Estimated length of trial 16. Specify how long you estimate that the trial, if any, will last.</p> | |
| <p>Name of counsel or solicitor advocate 13. 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> | |
| <p>Equipment 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> |

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| <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> |