

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

SCHEDULE

Paragraph 2(7)

PART 1

**FORM 8.2—Form of notice to accused to appear under section 66(6) of the Criminal Procedure (Scotland) Act 1995 where the charge in the indictment is of committing a sexual offence to which section 288C, or an offence to which section 288E, of the Criminal Procedure (Scotland) Act 1995 applies.**

Rules 8.2(2), 9A.3 and 12.7

**IMPORTANT NOTICE**

**(CITATION)**

Court Reference:.....

Prosecution Reference: .....

TO: *(name) (date of birth) (address)*

**A CRIMINAL CASE IS BEING BROUGHT AGAINST YOU**

A document has been prepared which sets out the criminal charges against you.

That document (the "indictment") is attached to this notice.

**YOU MUST APPEAR** at *(place)* **High Court of Justiciary** *(address)* on *(date)* at *(time)* for a preliminary hearing [or at *(place)* **Sheriff Court** *(address)* on *(date)* at *(time)* for a first diet and on *(date)* at *(time)* for a trial diet.] at which you will be required to answer the criminal charges against you in the indictment.

Because you are being charged with at least one sexual offence or a serious offence where a witness is under the age of twelve years old

- (1) if you are tried for the offence, your defence may be conducted only by a lawyer;
- (2) it is therefore in your interests, if you have not already done so, to get the professional assistance of a solicitor;
- (3) if you do not engage a solicitor for the purposes of your defence at the preliminary hearing or the trial, the court will do so.

**IF YOU DO NOT ATTEND THE COURT, A WARRANT MAY BE ISSUED FOR YOUR ARREST**

*(Signed)*

Prosecutor

*(Name, address, e-mail address and telephone number)*

*(Place and date)*

PART 2

**FORM 21.4Form of certificate of authentication of a prior statement for the purposes of section 260(4) of the Criminal Procedure (Scotland) Act 1995**

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Rule 21.4

Prosecution reference.....

Court reference.....

I, *(insert name and designation of person authenticating)*, HEREBY CERTIFY THAT this document *[or the attached document]*, comprising *[this and] the following (insert number) pages [or (insert number) hours, (insert number) minutes and (insert number) seconds of recorded time]* is a full and accurate record of evidence given by *(insert name and designation of person who gave the prior statement and brief details of the nature, place and date of the proceedings during which the statement was made)*.

*(Signed)*

*(Date)*

### PART 3

**FORM 21.6—A Form of notice of intention to rely on presumption as to identification under section 281A of the Criminal Procedure (Scotland) Act 1995**

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Rule 21.6(1)

**IN THE HIGH COURT OF JUSTICIARY**

*[or IN THE SHERIFF COURT*

*AT (place)]*

**NOTICE OF INTENTION TO RELY ON PRESUMPTION AS TO IDENTIFICATION**

**by**

**HIS MAJESTY'S ADVOCATE *[or THE PROCURATOR FISCAL, (place)]***

**in the case against**

*(insert name(s) of accused)*

Prosecution reference.....

Court reference.....

To: *(name and address of accused)*

**TAKE NOTICE:**

(1) That a report stating the fact[s] of an identification of *(insert name of accused identified)* in an **identification parade** or other **identification procedure** by a witness, and the name of that witness, has been lodged under section 281A of the Criminal Procedure (Scotland) Act 1995 by the prosecutor as a production in advance of trial.

(2) That the prosecutor intends to rely on a presumption that the person named in the report as having been identified by the witness is the person of the same name who appears in answer to the indictment *[or complaint]*.

(3) That if you do not challenge [any of] the fact[s] in the report within seven days after the date of service of this notice it shall be presumed under section 281A of the above-mentioned Act that the person named in the report as having been identified by the witness is the person who appears in answer to the indictment *[or complaint]*.

Served on *(date)* by me by *(state method of service)*.

*(Signed)*

Prosecutor

*(Name, address, e-mail address and telephone number)*

*(Place and date)*

**FORM 21.6—B Form of notice of challenge under section 281A(2) of the Criminal Procedure (Scotland) Act 1995**

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rule 21.6(2)

**NOTICE OF INTENTION TO CHALLENGE FACTS STATED IN REPORT OF IDENTIFICATION**

by

[A.B.] (*address*)

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

in

HER MAJESTY'S ADVOCATE [*or THE PROSECUTOR GENERAL, (place)*]

against

(*insert name(s) of accused*)

Prosecution reference.....

Court reference.....

NOTICE IS HEREBY GIVEN under section 281A(2) of the Criminal Procedure (Scotland) Act 1995 that [A.B.] intends to challenge the following fact[s] stated in the report of an identification prior to trial lodged by the prosecutor as production number [*insert production number*] served on (*date*):-

(*here state or refer to the fact(s) challenged*)

(Signed)

Accused

[*or Legal representative for accused*]

(*Name, address and e-mail address and telephone number of solicitor*).

**PART 4**

**FORM 22.1 Form of child witness notice under section 271A(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 sheriff/dout)* AT *(place)*]

CHILD WITNESS NOTICE

by

HER MAJESTY'S ADVOCATE [or THE PROCURATOR FISCAL, *(place)*]

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

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

Prosecution reference.....

Court reference.....

HUMBLY SHEWETH:

1. That *(A.B.) (date of birth)* [along with *(name(s) of co-accused)*] has been indicted on *(date of indictment)* at the instance of Her Majesty's Advocate with a preliminary hearing [or a trial diet] in the High Court of Justiciary sitting at *(place)* on *(date)* [or with a first diet on *(date)* and a trial diet on *(date)* in the sheriff court of *(place)*].

2. That *(A.B.)* is charged with *(specify charge)*, which is an offence to which section 288C [or section 288E] of the Criminal Procedure (Scotland) Act 1995 applies [or and an order has been made under section 288F(2) of the Criminal Procedure (Scotland) Act 1995].

3. That the applicant has cited [or intends to cite] *(C.D.) (date of birth)* as a witness who is to [or *(A.B.)* may] give evidence at, or for the purposes of, the trial.

4. That *(C.D.)* [or *(A.B.)*] is a child witness under section 271(1)(a) of the Criminal Procedure (Scotland) Act 1995 [and was under the age of twelve on the date of commencement of proceedings].

5. The following special measure[s] is [or are] considered the most appropriate for the purpose of taking the evidence of *(C.D.)* [or the applicant]:

*(here specify any special measure(s) sought)*

[and that the special measure(s) of *(here specify special measure(s), other than the standard special measure(s) sought)* is [or are] not a standard special measure under section 271A(14) of the Act of 1995.

The reason[s] this [or these] special measure[s], other than the standard special measure[s], is [or are] considered the most appropriate is [or are] as follows:-

*(here specify reason(s) for the special measure(s), other than the standard special measure(s) sought)*.

6. [or Authorisation of the use of no special measures is considered the most appropriate for the taking of evidence of *(C.D.)* [or the applicant] for the following reasons:-

*(here specify the reasons for no special measures being sought).*

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7. That [C.D.] [or [A.B.]] and the parent[s] of [or person[s] with parental responsibility for] [C.D.] [or [A.B.]] under section 271E(4) of the Act of 1995 have expressed the following view[s]:—

*(here set out the view(s) expressed, how and when they were obtained).*

8. [That other information considered relevant to this application is as follows:—

*(here set out any other information relevant to the child witness notice).]*

9. That the applicant has intimated a copy of the Notice on [A.B.] [or the legal representative of [A.B.]] [or on the Crown Agent] [or the Procurator Fiscal].

**MAY IT THEREFORE PLEASE YOUR LORDSHIP[S]—**

- (a) to authorise the special measure[s] sought; and [or
- (b) to authorise the giving of evidence without the benefit of special measures];
- (c) or to do otherwise as to your Lordship[s] shall seem proper;
- (d) to require the clerk of court to intimate the order to *(specify)*.

ACCORDING TO JUSTICE, etc.

*(Signed)*

[A.B.]

[or Legal representative of A.B.]

[or Prosecutor]

*(Address, e-mail address and telephone number of agent).*

**FORM 22.4**Form of application for review of arrangements for taking evidence under section 271D of the Criminal Procedure (Scotland) Act 1995

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

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

MINUTE

by

HER MAJESTY'S ADVOCATE [or THE PROCURATOR FISCAL, *(place)*]

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

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

in

HER MAJESTY'S ADVOCATE [or THE PROCURATOR FISCAL, *(place)*]

against

*[A.B.] (address)*

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

Prosecution reference.....

Court reference.....

HUMBLY SHEWETH:

1. That *[A.B.]*, along with *(names of co-accused)* has been indicted at the instance of Her Majesty's Advocate.
2. That the Minuter has cited [or intends to cite] *[C.D.]* as a witness who is to [or *[A.B.]* may] give evidence at, or for the purposes of, the trial. That *[C.D.]* [or *[A.B.]*] is a vulnerable witness under section 271(1) of the Criminal Procedure (Scotland) Act 1995.
3. That the current arrangements for taking the evidence of *[C.D.]* [or *[A.B.]*] are *(here specify current arrangements)*.
4. That the current arrangements should be reviewed as *(here specify reasons)* for review.
5. That an order should be made to *(here specify the order sought)*.
6. That *[C.D.]* [or *[A.B.]*] and the parent[s] of [or person[s] with parental responsibility for] *[C.D.]* [or *[A.B.]*] under section 271(4) of the Act of 1995 have expressed the following view[s]:  
*(here set out the view(s) expressed, how and when they were obtained)*.
7. That a copy of this Minute has been duly intimated conform to the execution[s] attached to this Minute.

MAY IT THEREFORE PLEASE YOUR LORDSHIP[S]

- (a) to fix a diet for hearing this application and to order intimation of this application and the diet to all parties;
- (b) thereafter, after hearing all the parties, to make an order *(specify)*;
- (c) or to do otherwise as to your Lordship[s] shall seem proper;
- (d) to require the clerk of court to intimate the order to *(specify)*.

IN RESPECT WHEREOF

*(Signed)*

[Prosecutor]

[or *[A.B.]*]

[or Legal representative of *[A.B.]*]

*(Name, address, e-mail address, telephone number of agent)*

*(Place and date)*.

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**FORM 22.7 Form of notice of prohibition of personal conduct of defence in certain cases involving child witnesses under the age of twelve under section 288E of the Criminal Procedure (Scotland) Act 1995**

Rule 22.7

**IMPORTANT NOTICE**

HER MAJESTY'S ADVOCATE [*or* THE PROCURATOR FISCAL, (*place*)]

against

[A.B.] (*address*)

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

Prosecution reference.....

Court reference.....

To: (*name*), (*date of birth*), (*address*)

You have been charged with at least one serious offence in which a child witness under the age of twelve is to give evidence at or for the purposes of the trial, therefore

- (1) if you are tried for the offence, your defence may be conducted only by a lawyer;
- (2) it is in your interests, if you have not already done so, to get the professional assistance of a solicitor;
- (3) if you do not engage a solicitor for the purpose of your defence at the preliminary hearing [*or* first diet] or the trial, the court will do so.

(*Signed*)

Prosecutor

(*Name, address, e-mail address, and telephone number*)

(*Place and date*)

**FORM 22.8—A Form of minute seeking prohibition of the personal conduct of defence by the accused under section 288F of the Criminal Procedure (Scotland) Act 1995**



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Rule 22.8(1)

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)*]

MINUTE

by

HER MAJESTY'S ADVOCATE [or THE PROCURATOR FISCAL *(place)*]

in

HER MAJESTY'S ADVOCATE [or THE PROCURATOR FISCAL *(place)*]

against

[A.B.] *(address)*

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

Prosecution reference.....

Court reference.....

HUMBLY SHEWETH:

1. That [A.B.] along with *(name(s) of co-accused)* has been indicted at the instance of Her Majesty's Advocate in the High Court of Justiciary [or in the sheriff court] at *(place)* and a diet of *(specify)* has been fixed for *(date)*.

2. That [C.D.] is a witness who is to [or [A.B.] may] give evidence at, or for the purposes of, the trial. That [C.D.] [or [A.B.]] is a vulnerable witness under section 271(F) of the Criminal Procedure (Scotland) Act 1995 as *(here state the reasons the witness is a vulnerable witness)*.

3. That the Minuter applies for an order prohibiting [A.B.] from conducting his [or her] defence in person at the trial and in any victim statement proof relating to any offence to which the trial relates for the following reasons:—

*(here state reasons)*.

4. That the offence in the indictment is not one to which sections 288C or 288E of the Criminal Procedure (Scotland) Act 1995 applies.

5. That a copy of this Minute has been duly intimated conform to the execution(s) attached to this Minute.

MAY IT THEREFORE PLEASE YOUR LORDSHIPS—

- (a) to fix a diet for hearing this application and to order intimation of this application and the diet to all the parties;
- (b) thereafter, on being satisfied in terms of section 288I(3) of the Criminal Procedure (Scotland) Act 1995, to make an order prohibiting [A.B.] from conducting his [or her] defence in person at the trial and in any victim statement proof;
- (c) or to do otherwise as to your Lordship[s] shall seem proper;
- (d) to require the clerk of court to intimate the order to *(specify)*.

IN RESPECT WHEREOF

*(Signed)*

Prosecutor

*(Name, address, e-mail address, telephone number)*

*(Place and date)*

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**FORM 22.8—B Form of notice to accused where an order granted prohibiting the personal conduct of defence by the accused under section 288F of the Criminal Procedure (Scotland) Act 1995**

Rule 22.8(5)

Prosecution reference.....

Court reference.....

To: *(name and address of accused)*

You have been charged with an offence where a witness, who is to give evidence at, or for the purposes of, the trial, is *[or you are]* a vulnerable witness under section 271(1) of the Criminal Procedure (Scotland) Act 1995.

On *(date)* at the High Court of Justiciary *[or in the Sheriff court]* at *(place)* an order was made under section 288F(2) of that Act prohibiting you from personally conducting your defence to this charge.

**TAKE NOTICE THAT**

- (1) if you are tried for the offence, your defence may be conducted only by a lawyer;
- (2) it is therefore in your interests, if you have not already done so, to get the professional assistance of a solicitor;
- (3) if you do not engage a solicitor for the purposes of your defence at the preliminary hearing *[or first diet]* or the trial, the court will do so.

*(Signed)*

Prosecutor

*(Name, address, e-mail address and telephone number)*

*(Place and date)*