

SCHEDULE 2

Paragraph 4(7)

PART 1

FORM 26 Form of citation of witness or haver

Rule 18.8(1)

(date)

CITATION

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

To [A.B.] *(design)*

(Name) who is pursuing/defending a case against *(name)* [*or is a (specify) in the case of (name) against (name)*] has asked you to be a witness. You must attend the above sheriff court on *(insert date)* at *(insert time)* for that purpose, [*and bring with you (specify documents)*].

If you

- would like to know more about being a witness
- are a child under the age of 16
- think you may be a vulnerable witness within the meaning of section 11(1) of the Vulnerable Witnesses (Scotland) Act 2004 (that is someone the court considers may be less able to give their evidence due to mental disorder or fear or distress connected to giving your evidence at the court hearing)

you should contact *(specify the solicitor acting for the party or the party litigant citing the witness)* for further information.

If you are a vulnerable witness (including a child under the age of 16) then you should be able to use a special measure (such measures include use of a screen, a live TV link or a supporter, or a commissioner) to help you give evidence.

Expenses

You may claim back money which you have to spend and any earnings you have lost within certain specified limits, because you have to come to court on the above date. These may be paid to you if you claim within specified time limits. Claims should be made to the person who has asked you to attend court. Proof of any loss of earnings should be given to that person.

If you wish your travelling expenses to be paid before you go to court, you should apply for payment to the person who has asked you to attend court.

Failure to attend

It is very important that you attend court and you should note that failure to do so may result in a warrant being granted for your arrest. In addition, if you fail to attend without any good reason, having requested and been paid your travelling expenses, you may be ordered to pay a penalty not exceeding £250.

Status: This is the original version (as it was originally made).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

If you have any questions about anything in this citation, please contact *(specify the solicitor acting for the party or the party litigant citing the witness)* for further information

Signed

[P.Q.], Sheriff Officer,

or [X.Y.], *(add designation and business address)*

Solicitor for the pursuer *[or defender]* *[or (specify)]*

PART 2

FORM 26B Form of child witness notice

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

VULNERABLE WITNESSES (SCOTLAND) ACT 2004 Section 12

Received the day of 20

(Date of receipt of this notice)

.....(signed)

Sheriff Clerk

CHILD WITNESS NOTICE

Sheriff Court

.....20

Court Ref. No.

1. The applicant is the pursuer [or defender] in the action by [A.B] (design) against [C.D.] (design).

2. The applicant has cited [or intends to cite] [E.F.] (date of birth) as a witness.

3. [E.F.] is a child witness under section 11 of the Vulnerable Witnesses (Scotland) Act 2004 [and was under the age of sixteen on the date of the commencement of proceedings].

4. The applicant considers that the following special measure[s] is [are] the most appropriate for the purpose of taking the evidence of [E.F.] [or that [E.F.] should give evidence without the benefit of any special measure]:-

(delete as appropriate and specify any special measure(s) sought).

5. [(a) The reason[s] this [these] special measure[s] is [are] considered the most appropriate is [are] as follows:-

(here specify the reason(s) for the special measures(s) sought)].

OR

[(b) The reason[s] it is considered that [E.F.] should give evidence without the benefit of any special measure is [are]-

(here explain why it is felt that no special measures are required).

6. [E.F.] and the parent [s] of [or person[s] with parental responsibility for] [E.F.] has [have] expressed the following view[s] on the special measure[s] that is [are] considered most appropriate [or the appropriateness of [E.F.] giving evidence without the benefit of any special measure]:-

(delete as appropriate and set out the view(s) expressed and how they were obtained).

7. Other information considered relevant to this application is as follows:-

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

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8. The applicant asks the court to—

- (a) consider this child witness notice;
- (b) make an order authorising the special measure[s] sought; *or*
- (c) ~~make an order authorising the giving of evidence by [E.F.] without the benefit of special measures.~~

(delete as appropriate)

(Signed)

[A.B. *or* C.D.]

[*or* Representative of A.B. [*or* C.D.]] *(include full designation)*

NOTE: This form should be suitably adapted where section 16 of the Act of 2004 applies.

FORM 26C Form of vulnerable witness application

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

Rule 18A.3

VULNERABLE WITNESSES (SCOTLAND) ACT 2004 Section 12

Received theday of20.....

(Date of receipt of this notice)

.....(signed)

Sheriff Clerk

VULNERABLE WITNESS APPLICATION

Sheriff Court

.....20

Court Ref. No.

1. The applicant is the pursuer [or defender] in the action by [A.B] (design) against [C.D.] (design).
2. The applicant has cited [or intends to cite] [E.F.] (date of birth) as a witness.
3. The applicant considers that [E.F.] is a vulnerable witness under section 11(1)(b) of the Vulnerable Witnesses (Scotland) Act 2004 for the following reasons:-
(here specify reasons witness is considered to be a vulnerable witness).
4. The applicant considers that the following special measure[s] is [are] the most appropriate for the purpose of taking the evidence of [E.F.]:-
(specify any special measure(s) sought).
5. The reason[s] this [these] special measure[s] is [are] considered the most appropriate is [are] as follows:-
(here specify the reason(s) for the special measures(s) sought).
6. [E.F.] has expressed the following view[s] on the special measure[s] that is [are] considered most appropriate:-
(set out the views expressed and how they were obtained).
7. Other information considered relevant to this application is as follows:-
(here set out any other information relevant to the vulnerable witness application).
8. The applicant asks the court to-
 - (a) consider this vulnerable witness application;

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(b) make an order authorising the special measure[s] sought.

(Signed)

[A.B. or C.D.]

[or Representative of A.B. [or C.D.]] (include full designation)

NOTE: This form should be suitably adapted where section 16 of the Act of 2004 applies

FORM 26D Form of certificate of intimation

Rule 18A.4(2)

VULNERABLE WITNESSES (SCOTLAND) ACT 2004 Section 12

CERTIFICATE OF INTIMATION

Sheriff Court

.....20.....

Court Ref. No.

I certify that intimation of the child witness notice *[or vulnerable witness application]* relating to *(insert name of witness)* was made to *(insert names of parties or solicitors for parties, as appropriate)* by *(insert method of intimation; where intimation is by facsimile transmission, insert fax number to which intimation sent)* on *(insert date of intimation)*.

Date:

(Signed)

Solicitor *[or Sheriff Officer]*

(include full business designation)

FORM 26E Form of application for review

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

Rule 18A.6(1)

VULNERABLE WITNESSES (SCOTLAND) ACT 2004 Section 13

Received theday of.....20....

(date of receipt of this notice)

.....(signed)

Sheriff Clerk

APPLICATION FOR REVIEW OF ARRANGEMENTS FOR VULNERABLE WITNESS

Sheriff Court.....20...

Court Ref. No.

1. The applicant is the pursuer [or defender] in the action by [A.B.] (design) against [C.D.] (design).

2. A proof [or hearing] is fixed for (date) at (time).

3. [E.F.] is a witness who is to give evidence at, or for the purposes of, the proof [or hearing]. [E.F.] is a child witness [or vulnerable witness] under section 11 of the Vulnerable Witnesses (Scotland) Act 2004.

4. The current arrangements for taking the evidence of [E.F.] are (here specify current arrangements).

5. The current arrangements should be reviewed as (here specify reasons for review).

6. [E.F.] [and the parent[s] of [or person[s] with parental responsibility for] [E.F.]] has [have] expressed the following view[s] on [the special measure[s] that is [are] considered most appropriate] [or the appropriateness of [E.F.] giving evidence without the benefit of any special measure]:-

(delete as appropriate and set out the view(s) expressed and how they were obtained).

7. The applicant seeks (here specify the order sought).

(Signed)

[A.B. or C.D.]

[or Representative of A.B. [or C.D.]] (include full designation)

NOTE: This form should be suitably adapted where section 16 of the Act of 2004 applies.

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

Rule 18A.7(2)

VULNERABLE WITNESSES (SCOTLAND) ACT 2004 Section 13
CERTIFICATE OF INTIMATION

Sheriff Court

.....20.....

Court Ref. No.

I certify that intimation of the review application relating to *(insert name of witness)* was made to *(insert names of parties or solicitors for parties, as appropriate)* by *(insert method of intimation; where intimation is by facsimile transmission, insert fax number to which intimation sent)* on *(insert date of intimation)*.

Date:

(Signed)

Solicitor [*or* Sheriff Officer]

(include full business designation)