

SCHEDULE 2

CRIMINAL PROCEDURE RULES 1996

PART VI

Evidence

CHAPTER 24

EVIDENCE ON COMMISSION

Applications to take evidence on commission

24.1.—(1) An application to the court by the prosecutor or the defence under section 272(1)(b) of the Act of 1995 for the appointment of a commissioner to examine a witness to whom that section applies, shall be made by petition—

- (a) where the accused has appeared on petition under Part IV of the Act of 1995 (petition procedure) but an indictment has not been served on him, in Form 24.1-A presented to the High Court; or
- (b) where an indictment or a complaint has been served on the accused, in Form 24.1-B presented to the appropriate court.

(2) A petition referred to in paragraph (1) shall—

- (a) where it relates to proceedings in the High Court or to proceedings in respect of which the court where the trial is to take place is not yet known, be lodged with the Clerk of Justiciary; or
- (b) where it relates to proceedings in the sheriff court, be lodged with the sheriff clerk.

(3) A petition in relation to section 272(1)(b)(i) of the Act of 1995 (examination of witness ill or infirm) shall be accompanied by an appropriate medical certificate duly certified on soul and conscience by a qualified medical practitioner.

(4) Such an application made to the High Court may be disposed of by a single judge of that court.

(5) The High Court or the sheriff, as the case may be, shall—

- (a) order intimation on the other party or parties to the proceedings;
- (b) subject to paragraph (6), allow such time for lodging answers as appears appropriate; and
- (c) fix a diet for hearing the petition and answers (if any).

(6) The High Court or the sheriff, as the case may be, may dispense with answers to the petition on cause shown.