

ACT OF ADJOURNAL (CRIMINAL PROCEDURE RULES) 1996 SI 1996/513

SCHEDULE 2

CRIMINAL PROCEDURE RULES 1996

PART III Solemn proceedings

CHAPTER 9A PRELIMINARY HEARINGS (HIGH COURT OF JUSTICIARY)

Notice of preliminary pleas and preliminary issues

9A.1 (1) Any notice given under section 72(3) (notice of preliminary pleas) or section 72(6)(b)(i) (notice of preliminary issues) of the Act of 1995 shall be by minute in Form 9A.1.

(2) A minute under paragraph (1) shall be lodged with the Clerk of Justiciary and served on every other party by the minuter.

Applications to dispense with preliminary hearings

9A.2 (1) An application to dispense with a preliminary hearing shall made in Form 9A.2.

(2) Prior to making an application under paragraph (1), the parties shall consult with the Clerk of Justiciary as to a suitable date for a trial diet.

(3) An application under paragraph (1) shall indicate whether or not a date for a trial diet has been agreed by the parties with the Clerk of Justiciary and shall give details of any applicable time limits under section 65 of the Act of 1995.

(4) On the lodging of an application under paragraph (1), the Clerk of Justiciary shall attach it to the record copy of the indictment and place it before a judge in chambers.

(5) The order made by the judge in chambers in respect of the application shall be-

- (a) recorded by endorsation on the record copy of the indictment;
- (b) signed by the Clerk of Justiciary;
- (c) entered in the record of proceedings; and
- (d) intimated by the Clerk of Justiciary to the applicants or their solicitors.

(6) The Clerk of Justiciary shall send to the governor of any institution in which any accused is detained a copy of any order of the court dispensing with a preliminary hearing.

Notice to appear where preliminary hearing deserted

9A.3 A notice referred to in section 72C(4) of the Act of 1995 (notice to appear at further preliminary hearing) shall be in Form 8.2-B or, where the charge is of committing a sexual offence to which section 288C of the Act of 1995 (prohibition of personal conduct of defence in cases of certain sexual offences) applies, Form 8.2-C.

Written record of state of preparation

9A.4 (1) A written record referred to in section 72E of the Act of 1995 (written record of the state of preparation in certain cases) shall be in Form 9A.4 and shall contain the information indicated in that form.

(2) A written record under paragraph (1) may be lodged by sending a copy by facsimile or other electronic means followed by the lodging of the principal and the time and date of lodging shall be the date and time on which the copy was received by the Clerk of Justiciary.

(3) A written record under paragraph (1) which is lodged after 2pm on the last date for lodging under section 72E of that Act shall be deemed to have been lodged on the next day after that date.

Proceedings at preliminary hearing

9A.5 (1) Any order under section 72(9)(a) (appointment of further diet) of the Act of 1995 shall be intimated by the Clerk of Justiciary to the parties or their solicitors.

(2) On the making of an order mentioned in paragraph (1), the Clerk of Justiciary shall send a copy of the order to the governor of any institution in which the accused is detained.

(3) On the appointment of a trial diet, the Clerk of Justiciary shall intimate the date of that diet to the governor of any institution in which the accused is detained.

Applications for leave to appeal

9A.6 (1) An application for leave to appeal to the High Court under section 74(1) of the Act of 1995 against a decision of the High Court at a preliminary hearing shall be made by motion to the court at that hearing immediately following the making of the decision in question, and shall be granted or refused at that time.

(2) A decision made under this rule shall be recorded in the record of proceedings.

Note of appeal

9A.7 (1) An appeal under section 74(1) of the Act of 1995 against a decision of the High Court at a preliminary hearing shall be made by lodging a note of appeal in Form 9A.7 with the Clerk of Justiciary.

(2) The appellant shall send a copy of a note of appeal under paragraph (1) to the other parties.

Abandonment of appeal

9A.8 (1) An appellant who has taken an appeal under section 74(1) of the Act of 1995 (appeals against decision at a preliminary hearing) may abandon the appeal at any time before the hearing of the appeal.

(2) An abandonment of such appeal shall be made by lodging a minute of abandonment in Form 9A.8.