

**THE EVIDENCE (SPECIAL MEASURES) ACT**

**REGULATIONS**  
*(under section 12(1))*

**The Evidence (Special Measures) (Video Recorded Evidence) (Criminal Proceedings) Regulations, 2015** L.N. 110B/2015

**RULES**  
*(under section 12(3))*

**The Evidence (Special Measures) (Criminal Jurisdiction) (Judicature) (Supreme Court) Rules, 2016** L.N. 69A/2016

## THE EVIDENCE (SPECIAL MEASURES) ACT

REGULATIONS  
(under section 12(1))THE EVIDENCE (SPECIAL MEASURES) (VIDEO RECORDED EVIDENCE)  
(CRIMINAL PROCEEDINGS) REGULATIONS, 2015*(Made by the Minister on the 2nd day of July, 2015)*

L.N. 110B/2015

## PART I—Preliminary

1. These Regulations may be cited as the Evidence (Special Measures) (Video Recorded Evidence) (Criminal Proceedings) Regulations, 2015. Citation.

2. In these Regulations— Interpretation.

“Constabulary Force” means—

(a) the Jamaica Constabulary Force; or

(b) the Rural Police appointed under the Constables (District) Act;

“guardian” includes the legal guardian or other person in custody of a witness who has a mental disorder within the meaning of the Mental Health Act;

“master copy” means one of the audio visual recording media used to record the interview of a witness and which is recorded simultaneously with other similar recording media in the presence of the witness;

“parent” includes the birth parent, putative, foster or adoptive parent, legal guardian or other person having the care or custody of a child witness;

“recording medium” includes any removable physical audio recording medium; such as a magnetic tape, optical disc or solid state memory, which can be played and copied;

“working copy” means an audio visual recording media, other than the master copy, used to record the interview of a witness and which is recorded simultaneously with other similar recording media in the presence of the witness, or after the making of the master copy is complete.

3. Pursuant to section 3 of the Act, these Regulations shall apply to the video recording of the interview of a witness, other than an accused, in criminal proceedings where it is intended that the video recording produced therefrom is to be offered as evidence in the criminal proceedings. Application.

Procedures preliminary to conducting video recorded interview

4.—(1) Where the witness to be interviewed is a child witness or a person who has a mental disorder within the meaning of the Mental Health Act, the interviewing officer shall, before the interview is conducted—

- (a) explain to the parent or guardian of the witness the purpose for which the interview is to be conducted and recorded; and
- (b) provide the parent or guardian with a confirmation form, as set out in Form I of the Schedule, and request that the parent or guardian affix his signature to the form confirming that—
  - (i) the purpose of and the process involved in the video recording of the interview have been explained to him; and
  - (ii) it is intended that the video record be used as the evidence of the witness at the trial.

Schedule.

(2) Subject to paragraph (3), the failure or refusal by the parent or guardian to affix his signature to a confirmation form shall not preclude—

- (a) the interviewing officer from conducting the interview;
- (b) the production of a video record of the interview; or
- (c) the use of the video record as the evidence of the witness.

(3) Where the parent or guardian does not sign the confirmation form, the interviewing officer shall indicate on the form the reason for the parent or guardian refusing or failing to sign.

#### *PART II—The Interview*

Interviews to be conducted by interviewing officer.

5. The interview of a witness shall be conducted by an interviewing officer in an interview room equipped for the purpose, or any other facility which is designated by the Commissioner of Police for that purpose, subject to the satisfaction of the Commissioner of Police that the provisions of the Act have been complied with.

Persons who shall be present at video recording of the interview of the witness.

6.—(1) For the purposes of these Regulations, the following persons shall be present at the video recording of the interview of a witness—

- (a) subject to paragraph (2), the interviewing officer, who shall be a member of a Constabulary Force and shall be specially trained to conduct video recorded interviews of witnesses, including vulnerable witnesses;
- (b) the witness;
- (c) the person operating the equipment to be used to conduct the video recording;

(d) where necessary any one or more of the following—

- (i) the investigating officer in the matter in relation to which the interview is to be conducted;
- (ii) an intermediary, who shall be, available—
  - (A) to assist a witness who may have communication difficulties during the interview process, and to explain questions or answers without changing the substance in relation thereto; and
  - (B) to advise the interviewing officer, on the manner in which questions may be put to the witness, having regard to the age and mental capacity of the witness;
- (iii) an interview supporter, who shall be available during an interview to provide emotional support to the witness, including making a request that a break be taken in the interview;
- (iv) an interpreter.

(2) The investigating officer in a matter in relation to which an interview shall be conducted shall not be the interviewing officer in the same or a related proceedings.

7. During the conducting and video recording of an interview of a witness, the following persons shall be present in the interview room, to the exclusion of all other persons—

Persons who shall be in the interview room during video recording of an interview.

- (a) the interviewing officer;
- (b) the witness who is being interviewed; and
- (c) where necessary one or both of the following—
  - (i) an interpreter;
  - (ii) an intermediary,

however, where the witness being interviewed is a child witness or a person who has a mental disorder within the meaning of the Mental Health Act, an intermediary shall be present.

8.—(1) Subject to paragraph (2), the following persons shall be present in a room in close proximity to the interview room during the conducting and video recording of the interview of a witness—

Persons to be present in room in close proximity to interview room during the video recording of an interview.

- (a) the person who is to operate the equipment to be used to conduct the video recording;
- (b) the investigating officer; and
- (c) where necessary, an interview supporter.

(2) During an interview, the categories of persons specified in paragraph (1) shall be present in the room to the exclusion of all other persons.

Commence-  
ment of video  
recording of  
interview of  
witness.

9.—(1) The consent to the video recording of an interview of a witness shall be voluntarily given by the witness.

(2) The camera in the interview room shall be placed in such a manner so as to ensure that there is maximum coverage of the room, and all persons present in the interview room during the recording of the interview shall be visible at all times on the video record.

(3) The recording medium for the interview shall be new and previously unused.

(4) Where the witness has indicated his readiness to be interviewed, the interviewing officer shall instruct the person operating the equipment used to conduct the video recording to—

- (a) remove the recording medium from the manufacturer's sealed packaging in the presence of the witness;
- (b) load the recording equipment; and
- (c) set it to record.

Requirements  
for video  
recording.

10. Pursuant to regulation 9, the following additional requirements shall be satisfied in relation to a video record that has been made in accordance with the provisions of these Regulations—

- (a) at the commencement of the recording of the interview, each person in the interview room shall identify himself so that his identity may be recorded;
- (b) the interviewing officer shall state the date and time at which the interview commences so that the date and time may be recorded;
- (c) where there is an interpreter present, the interpreter shall be seen and heard on the video record making a verbal declaration that he will accurately and completely translate the words of the witness and the interviewing officer; and
- (d) the video record shall show that there is an analogue clock clearly visible to everyone in the interview room except the witness being interviewed.

11.—(1) Subject to paragraph (2), during an interview the interviewing officer may direct that a break be taken. Breaks in  
interview.

(2) Where the interviewing officer directs that a break shall be taken in the interview, he shall indicate on the recording medium—

- (a) that a break shall be taken;
- (b) the estimated duration of the break to be taken; and
- (c) the reason for which the break shall be taken.

(3) Where the break being taken is for a short duration and the interviewing officer and the witness do not leave the interview room, the recording equipment shall not be turned off, and when the recording of the interview recommences, it shall continue on the same recording medium, and the date and time at which the recording recommences shall be recorded and the interviewing officer shall confirm that this is a continuation of the interview of the witness that was being recorded at the time of the break.

(4) Where the break is for more than thirty minutes and the provisions of paragraph (2) have been complied with, the interviewing officer shall turn off the recording equipment, but the recording medium shall not be removed.

(5) Pursuant to paragraph (4), where the recording is recommenced it shall continue on the same recording medium and the date and time at which the recording recommences shall be recorded and the interviewing officer shall confirm that it is a continuation of the statement of the witness that was being recorded at the time of the break.

(6) Where the interviewing officer decides to conclude the interview prematurely and it is estimated that the interview will continue at another time, being in excess of twelve hours from the time of conclusion, the fact that the video recording is concluding prematurely, the reasons for it and the time shall be recorded on the recording medium, and the recording equipment shall be turned off and the recording medium shall be removed.

(7) Where pursuant to paragraph (6), the recording medium is removed, the procedure for conclusion of a video recording set out in regulation 14 and 15(1), (2), (3), (4) and (5), shall be followed and where the recording is recommenced, the recording shall continue on a new recording medium and the interviewing officer shall, in addition to complying with regulation 10—

- (a) ensure that the interview recommences, as close as possible to the point at which it was prematurely concluded; and
- (b) at the beginning of the new video recording, state—

- (i) that the video recording is a new recording of an interview that started on another recording medium;
- (ii) the reason for the premature conclusion of the previous session of the interview;
- (iii) the date and time at which the recording of the earlier video record began; and
- (iv) the time at which the recording of the earlier video record ended.

Changing the recording media.

**12.—(1)** In instances where the recording medium is not of sufficient capacity to record the entire interview of a witness, further recording media shall be used.

(2) Where under paragraph (1), the recording medium is changed, the recording medium shall be removed from the recording equipment and regulations 15(1) and 17 shall apply with appropriate modifications as the circumstances may reasonably require.

(3) A person operating the recording equipment shall inform the interviewing officer when the recording medium only has a short time left to record.

(4) Where, pursuant to subsection (3), the person operating the recording equipment indicates to the interviewing officer that the recording medium has only a short time left to record, the interviewing officer shall indicate on the recording that—

- (a) the recording medium is coming to an end;
- (b) he is completing this part of the video recording; and
- (c) the video recording will continue on a new recording medium.

(5) The interviewing officer shall instruct the person operating the recording equipment to remove the recording medium from the recording equipment and insert a new recording medium which has been removed from the manufacturer's sealed packaging in the presence of the witness, and the recording equipment shall then be set to record.

Failure of recording equipment.

**13.—(1)** If there is a failure of the recording equipment which can be rectified immediately, the procedures set out in regulation 11 shall be followed, with appropriate modifications as the circumstances may reasonably require.

(2) When the recording is resumed, the interviewing officer shall—

- (a) record and explain on the video recording—

- (i) the reason for the break in recording; and
- (ii) the date and time at which the recording of the earlier video recording began and the time at which it ended; and

(b) ensure that the video recording is recommenced as close as possible to the time of the failure of the recording equipment.

14.—(1) After the conclusion of the video recording, the witness shall be offered the opportunity to review his recorded interview.

Conclusion of video recording.

(2) At the conclusion of the recording the time shall be recorded and the recording equipment shall be switched off.

### PART III—*Handling of Video Record*

15.—(1) The recording media shall be removed from the recording equipment and labeled as the master copy, and two additional copies, hereinafter referred to as the “working copies”, shall be made and labelled in the presence of witness.

Procedure for securing storage of video record.

(2) The interviewing officer shall ensure that there shall be three video records made of the interview.

(3) Pursuant to paragraph (2), the video records shall be—

- (a) a master copy; and
- (b) two working copies of the master copy.

(4) The master copy of a video record shall be—

- (a) sealed in an envelope with a certificate in the form set out as Form II in the Schedule; and
- (b) placed in the safe custody of the Jamaica Constabulary Force.

Schedule.

(5) The working copies shall be—

- (a) identified as the working copies by a certificate in the form set out as Form II in the Schedule; and
- (b) placed in the custody of the Jamaica Constabulary Force.

(6) The Jamaica Constabulary Force shall keep, in the manner approved by the Commissioner of Police, a record of—

- (a) the date on which the master copy and the working copies of the video record are placed in the custody of the Jamaica Constabulary Force;



- (b) the name, badge number and rank of the member of the Jamaica Constabulary Force who received the master copy and the working copies of the video record; and
- (c) the particulars of any person who has been granted access to or custody of the master copy and the working copies from that date and the reasons therefor.

(7) A record of every person who viewed, or had custody of, the working copy shall be kept with it.

(8) The record under paragraph (7) shall include—

- (a) the name, occupation and signature of the person who viewed, or had custody of, the working copy; and
- (b) the date on which that person viewed the working copy or, as the case may require, the period during which the person had custody of it.

Overall responsibility for securing storage of video records.

**16.** The Commissioner of Police has responsibility to oversee the equipping of the police stations across Jamaica for the secure storage of video records of interviews conducted pursuant to these Regulations.

Distribution of working copy to prosecution.

**17.** A working copy of the video record shall be given to the prosecution where—

- (a) a charge is brought against a person accused of committing the offence to which the interview on the video record relates; and
- (b) it is decided that the accused shall be prosecuted.

Defence counsel to receive a working copy of video record.

**18.—(1)** Where—

- (a) an accused has retained defence counsel or defence counsel has been appointed by the court; and
- (b) there is a video record of the interview of the witness in the criminal proceedings for which defence counsel has been retained or appointed,

the prosecution shall issue a request in writing to the Crime Officer of the Division in charge of the police station at which the working copy of the video record was stored, for another working copy of the video record to be issued to the prosecution for service on the defence counsel.

(2) Pursuant to paragraph (1), the prosecution shall serve the working copy—

- (a) in the case of a preliminary inquiry, no less than seven days before the date on which the video record shall be submitted in evidence at the preliminary inquiry;

- (b) in the case where the accused is to be tried summarily or on indictment, within fourteen days after the accused has pleaded not guilty.

(3) Immediately upon receipt of a working copy of the video record, the defence counsel shall complete, in duplicate, a form as set out as Form III of the Schedule as proof of receipt of a working copy from the prosecution.

Schedule.

(4) Where, in accordance with paragraph (3), defence counsel completes the Form as required, both the prosecution and defence counsel shall keep a copy of the completed form.

19.—(1) Where in a single proceeding—

- (a) there is more than one accused; and
- (b) each accused is represented by a different defence counsel in the same proceeding,

Working copies where multiple defence counsel for multiple accused.

the prosecution shall, subject to paragraph (2), issue a request in writing to the Crime Officer of the Division in charge of the police station at which the working copy of the video record was stored requesting that additional working copies of the video record be issued to the prosecution for service on each defence counsel.

(2) A request issued under paragraph (1) shall indicate that for the particular proceeding—

- (a) there is more than one accused person;
- (b) each accused person is represented by defence counsel who is different from defence counsel representing the other accused person in the same proceeding;
- (c) the prosecution is requesting that the Crime Officer of the Division referred to in paragraph (1), issue a directive that additional working copies of the video record commensurate with the total number of defence counsel (less defence counsel who received one of the original working copies from the prosecution in the proceeding) be made available to the prosecution for service on each defence counsel.

(3) Where the prosecution receives additional working copies of the video record under this regulation, the prosecution shall serve a working copy on each defence counsel and the procedure set out in regulation 18(2) to (4) shall apply.

Restrictions on accessibility distribution demonstration and viewing of working copies.

**20.—(1)** Subject to paragraph (2), where working copies of a video record have been given to the prosecution and defence counsel, no person other than such prosecution or defence counsel shall be given access to the working copies of the video record.

(2) Notwithstanding paragraph (1), a member of a Constabulary Force who is authorized under these Regulations to gain access to working copies of a video record may make a working copy of the video record available for viewing—

- (a) by an attorney-at-law, where the police require the assistance of that attorney-at-law to determine—
  - (i) what charges may be laid in relation to the statement made by a witness during the course of the interview that is the subject of the video record; or
  - (ii) whether, in relation to the matter to which the video record is connected, court proceedings may be instituted;
- (b) subject to paragraph (3), by a person—
  - (i) who is suspected of having committed an offence to which the video record relates;
  - (ii) who has been charged with an offence in relation to which the video record may be used in evidence; or
  - (iii) against whom an information has been filed or an indictment has been preferred in relation to an offence, in relation to which the video record may be used in evidence;
- (c) by the witness whose interview is recorded on the video record, for the purpose of refreshing his memory before giving evidence in court or being cross-examined in court;
- (d) for the purpose of making a transcript of the working copy, by a member of a Constabulary Force;
- (e) by an attorney-at-law representing the witness or the Crown in the matter to which the video record relates;
- (f) by a Judge or Resident Magistrate, to determine whether the video record is admissible in a criminal proceeding or whether it contravenes any enactment or rule of law; or
- (g) to enable the Commissioner of Police or any other member of a Constabulary Force to discharge his duties under any other enactment.

(3) Whether or not an accused person has legal representation, the accused shall not be issued with a copy of a video record.

(4) Where an accused person is charged with a criminal offence in relation to which there is a video record of a witness, the accused shall be—

- (a) permitted, in the presence of a member of a Constabulary Force, to view the video record; and
- (b) issued with a transcript of the video record.

(5) Each prosecution and defence counsel who has been supplied with a working copy of a video record shall keep it in safe custody.

(6) The prosecution and defence counsel may only use a working copy for the following purposes—

- (a) preparing the case in the criminal proceedings to which the video record relates;
- (b) showing the video record to any expert from which advice is being sought in connection with the criminal proceeding;
- (c) in the case of defence counsel, to give advice to the person who is being represented in the criminal proceeding to which the video record relates.

(7) A person to whom the prosecution and defence counsel is authorized to show the working copy under paragraph (6) shall view the working copy only in the presence of the prosecution or defence counsel, as the case may be.

21.—(1) Subject to regulation 19, a person shall not make a copy of, or edit, a video record without obtaining the permission of the court to do so.

Power to copy or edit a video record.

(2) Subject to paragraph (1), only a member of a Constabulary Force, who is authorised by the Commissioner of Police, may make a copy of the video record or edit a working copy of the video record.

#### PART IV—*Transcript of Video Record*

22.—(1) Subject to paragraph (3), the prosecution shall serve on an accused, who is not represented by an attorney-at-law, a transcript of the video record of the interview of a witness.

Prosecution to serve transcript on accused or attorney-at-law.

(2) Subject to paragraph (3), where an accused is represented by an attorney-at-law, the prosecution shall serve on the attorney-at-law representing the accused, a transcript of the video record of the interview of a witness.

(3) The prosecution shall serve the transcript—

- (a) in the case of a preliminary enquiry, no less than seven days before the date on which the video record shall be submitted in evidence at the preliminary enquiry;
- (b) in the case where the accused is to be tried summarily, or on indictment, within fourteen days before the date of the trial.

(4) A copy of the transcript shall be kept with the master copy of the video record.

Member of Constabulary Force to prepare transcript.

23.—(1) Every transcript of a video record shall be prepared by a member of a Constabulary Force other than the investigating officer in the criminal proceedings in which the accused is involved.

(2) The transcript of a video record prepared under these Regulations shall be deemed to be the written statement of the witness whose interview was recorded.

Certification of transcript.

24. A transcript prepared under these Regulations shall be valid only upon certification of its validity as an accurate transcript of the video record by the investigating officer in the matter to which the transcript relates.

*PART V—Retention, Return, and Destruction of Video Records*

Court to retain video record until proceedings complete then destroy record.

25.—(1) Where a video record is admitted into evidence into criminal proceedings, the video record shall be retained by the court until the completion of the proceedings.

(2) Upon the completion of the proceedings in which a video record was admitted into evidence, the Court Administrator or the Registrar of the Court, as the case may be, shall, as soon as reasonably practicable after the completion of the proceedings—

- (a) destroy every working copy of the video record in the possession of the Court pertaining to the completed proceedings; and
- (b) return to the Crime Officer of the Division in charge of the police station at which the video record was made, the master copy of the video record or, as the case may be, the video record that was admitted into evidence.

(3) Where no criminal proceedings have been brought against an accused person, neither the master copy nor the working copy of the video record shall be destroyed.

Defence counsel to return video record.

26. Every defence counsel in possession of a video record shall return the video record to the prosecution as soon as practicable where—

- (a) defence counsel ceases to represent the accused person in the matter to which the video record relates; or

- (b) the criminal proceedings to which the video record relates have either been determined or discontinued.

27. Where criminal proceedings to which any video record in the possession of the prosecution relates have been either determined or discontinued, the prosecution shall return forthwith to the Crime Officer of the Division in charge of the police station at which the video record was stored every video record in his possession that pertains to the proceedings, including the video record returned by defence counsel in accordance with regulation 26.

Prosecution to return video record.

28. Where a working copy of a video record is returned under regulations 26 and 27, the Commissioner of Police shall cause the video recording to be destroyed forthwith.

Police to destroy returned working copies of video record.

29.—(1) No master copy of a video record created under these Regulations shall be destroyed.

Master copy of video record not to be destroyed.

(2) Every master copy returned to a Constabulary Force shall be stored for safekeeping in such manner as may be determined by the Commissioner of Police.

THE EVIDENCE (SPECIAL MEASURES)(VIDEO RECORDED EVIDENCE)(CRIMINAL PROCEEDINGS) REGULATIONS, 2015

SCHEDULE

(Regulation 4)

FORM I

THE EVIDENCE (SPECIAL MEASURES) ACT

CONFIRMATION FORM

THE EVIDENCE (SPECIAL MEASURES) (VIDEO RECORDED EVIDENCE) (CRIMINAL PROCEEDINGS) REGULATIONS, 2015 (Under Regulation 4)

1. Name of witness \_\_\_\_\_

Date of Birth of witness \_\_\_\_\_

(State whether witness has a mental disorder within the meaning of the Mental Health Act) \_\_\_\_\_

2. I/we, \_\_\_\_\_ am/are the person/ (name of parent of witness) the persons who has/have the parental/guardianship responsibility for \_\_\_\_\_

(name of witness)

I/We, confirm the following—

(a) that the purpose of and process involved in the video recording of the interview of \_\_\_\_\_ have been explained (name of witness) to me/us by \_\_\_\_\_; (name and rank of member of Constabulary Force)

(b) I/We, am/are aware that it is intended that the video record be used as the evidence of \_\_\_\_\_ at a trial arising (name of witness) from the evidence provided in the video recorded interview; and

(c) I/We, am/are aware that failure to affix my/our signature(s) to this Form shall not preclude—

(i) \_\_\_\_\_ from being interviewed; (name of witness)

(ii) the production of a video record of the interview; or

(iii) the use of the video record as the evidence of the witness.

\_\_\_\_\_  
Signature of parent(s) of witness

\_\_\_\_\_  
Signature of Interviewing Officer

\_\_\_\_\_  
Date

SCHEDULE, *cont'd.*

(This part is to be completed only where parent(s) refuses/refuse to affix his/her/their signature to the form).

I \_\_\_\_\_ hereby confirm

(name of interviewing officer)

that all matters referred to under paragraph (2) of this Form have been explained to

\_\_\_\_\_ and he/she/they have refused

(his/her/their)

(name of parent/parents)

(name of guardian/guardians)

to affix signature(s) above for the following reasons—

List reasons

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\_\_\_\_\_  
*Signature of Interviewing Officer*

\_\_\_\_\_  
*Date*



THE EVIDENCE (SPECIAL MEASURES) ACT

Certificate for Video Record of Interview

- 1. Type of copy \_\_\_\_\_ (Specify whether master copy or working copy)
  - 2. Type of recording \_\_\_\_\_ (Specify whether videotape, DVD or other)
  - 3. Police Reference number of video record \_\_\_\_\_
  - 4. Court File number (if applicable) \_\_\_\_\_
  - 5. Date of interview \_\_\_\_\_
  - 6. Name of witness interviewed \_\_\_\_\_
  - 7. Date of birth of witness interviewed \_\_\_\_\_
  - 8. Name and rank of Interviewing Officer \_\_\_\_\_
  - 9. Name and designation of other persons present \_\_\_\_\_
  - 10. Reasons for interview \_\_\_\_\_
  - 11. Location where interview was recorded \_\_\_\_\_
  - 12. Time interview commenced \_\_\_\_\_
  - 13. Time interview concluded \_\_\_\_\_
  - 14. Duration of interview \_\_\_\_\_
  - 15. Number of recording media used and number in series of recording media \_\_\_\_\_
  - 16. Number of breaks in interview \_\_\_\_\_
  - 17. Reasons for breaks \_\_\_\_\_
  - 18. Reasons for premature conclusion (if applicable) \_\_\_\_\_
- Other \_\_\_\_\_

I certify that the contents of this certificate are correct.

Date \_\_\_\_\_

Signed \_\_\_\_\_  
Signature of Interviewing Officer

FORM III (Regulation 18)  
THE EVIDENCE (SPECIAL MEASURES) ACT

Certificate of Receipt  
(To be completed out in duplicate)

Pursuant to Regulation 18 of the Evidence (Special Measures) (Video Recorded Evidence) (Criminal Proceedings) Regulations, 2015

Name of Defence Counsel \_\_\_\_\_

This is to certify that I have been provided with video record no.( ) of an interview between \_\_\_\_\_ and \_\_\_\_\_  
(name of interview officer) (name of witness)

A copy of the certificate relating to the video record of the interview is herewith attached.

I/We undertake that whilst the recording is in my/our possession I/we shall—

- (a) not make or permit any other person to make a copy of the recording;
- (b) not release the recording to; \_\_\_\_\_  
(name of accused person)
- (c) not make or permit any disclosure of the recording or its contents to any person except when in my/our opinion it is strictly necessary in the interests of the witness and/or the interests of justice;
- (d) ensure that the recording is always kept in a locked, secure container and not left unattended in vehicles or otherwise unprotected;
- (e) return the recording to you when I am/ we are no longer professionally involved in the matter; and
- (f) record details of the name of any person allowed access to a recording together with details of the source of the authorisation granted to him or her.

Date \_\_\_\_\_

Date \_\_\_\_\_

Signature of Defence Counsel

Signature of member of the prosecution

Witness

## THE EVIDENCE (SPECIAL MEASURES) ACT

RULES  
(under section 12(3))THE EVIDENCE (SPECIAL MEASURES) (CRIMINAL JURISDICTION)  
(JUDICATURE) (SUPREME COURT) RULES, 2016*(Made by the Committee on the 1st day of February, 2016)*

L.N. 69A/2016

## PART I—Preliminary

1. These Rules may be cited as the Evidence (Special Measures) (Criminal Jurisdiction) (Judicature) (Supreme Court) Rules, 2016. Citation.
2. In these Rules— Interpretation.
- “Act” means the Evidence (Special Measures) Act, 2012;
- “child witness” has the meaning assigned to it under the Act;
- “court” means the Supreme Court of Judicature of Jamaica;
- “live link direction” means a direction issued by the court under Part II of the Act that a witness party may give evidence by live link;
- “party” means a party to a criminal proceedings;
- “Regulations” means the Evidence (Special Measures) (Video Recorded Evidence) (Criminal Proceedings) Regulations, 2015;
- “special measure” has the meaning to it under the Act;
- “video recording direction” means a direction issued by the court under Part II of the Act that a video recording of an interview of a witness be admitted as evidence in chief of the witness in criminal proceedings;
- “vulnerable witness” has the meaning assigned to it under the Act.
3. These Rules shall apply— Application of Rules.
- (a) where the court may, on an application or on its own motion, issue a direction in relation to a special measure under section 3 of the Act in any of the following cases—
- (i) to allow for a witness to give evidence by live link pursuant to section 6 of the Act;

- (ii) to allow for the video recording of a statement of a witness to be admissible as evidence in chief of the witness pursuant to section 7 of the Act;
- (b) where the court may, on an application or on its own motion, issue a direction in relation to a special measure under section 4 of the Act;
- (c) where the court may revoke or vary a live link direction, under section 6(3) of the Act or a video recording direction under section 7(7) of the Act.

Meaning of witness.

4. For the purposes of these Rules, 'witness' means a person (other than the accused, save and except in the circumstances provided in section 4 of the Act) for whose benefit an application or a direction for a special measure is made.

#### *PART II—General Provisions*

Meaning of witness.

5.—(1) A party who is desirous of introducing the evidence of a witness who is the subject of an application for a special measure direction shall—

- (a) inform the witness of the decision of the court as soon as reasonably practicable; and
- (b) explain to the witness the arrangements that, as a result of the special measure direction, will be made for him to give evidence.

(2) Whether the application has been heard in open court or in chambers the court shall announce at a hearing in open court the reasons for a decision—

- (a) to issue, revoke or vary a direction in relation to a special measure; or
- (b) to refuse to do so.

Power of court to vary requirements under these Rules.

6.—(1) The court may—

- (a) shorten or extend a time limit (even after it has expired) under these Rules; and
- (b) allow an application or representation to be made in a different form to the one prescribed in the Schedule, or to be made orally.

Schedule.

(2) A person who wants to be granted an extension of time in relation to a time limit under these Rules shall—

- (a) apply for such extension when serving the application or representations for which it is needed; and
- (b) explain the delay.

7. Form III, as provided for in Part I of the Schedule, may be used to make an application under these Rules where no other form has been prescribed.

Form to be used for making of application where no other form is prescribed.  
Exercise of the powers of the court.

8.—(1) The court may decide whether or not to issue, revoke or vary a direction in relation to a special measure—

- (a) at a hearing, in open court or in chambers, or without a hearing;
- (b) in a party's absence, if that party—
  - (i) applied for the direction, revocation or variation; or
  - (ii) has had at least 5 days in which to make representations and have not done so.

(2) Pursuant to paragraph (1), if the application is to be determined at a hearing, the Registrar shall notify the parties of the time and place of the hearing.

9.—(1) This Rule shall apply where—

- (a) an applicant serves an application for a special measure direction, or for its variation or revocation; and
- (b) the application includes information which the applicant thinks ought not to be revealed to the other party to the criminal proceedings.

Application containing information to be withheld from other party.

(2) The applicant shall—

- (a) omit that information from the part of the application that is served on the other party;
- (b) mark the other part of the application to show that, unless the court otherwise directs, the information is only for the court; and
- (c) in that other part, explain why the applicant has withheld that information from the other party.

(3) Any hearing of an application to which this Rule applies—

- (a) shall be conducted in chambers, unless the court otherwise directs; and
- (b) if the court so directs, may be, wholly or in part, in the absence of the other party from whom information has been withheld.

(4) At any hearing of an application to which this Rule applies—

- (a) the general rule is that the court shall consider, in the following sequence—
  - (i) representations first by the applicant and then by the other party, in all the parties' presence, and then

- (ii) further representations by the applicant, in the absence of the other party from whom the information has been withheld.

(5) Notwithstanding the provisions of sub-rule (4), the court may direct other arrangements for the hearing.

**PART III—Live Link Direction**

**10.—(1)** A party who wants the court to exercise its power to issue a live link direction shall—

- (a) make an application to the court in Form 1 as provided for in Part I of the Schedule;
- (b) file the application in the Registry of the court; and
- (c) serve the application on any other party to the criminal proceedings.

(2) An application under paragraph (1) shall be made within 5 days of the first appearance of the accused before the Circuit Court at which the evidence is to be given.

**11.** An application under Rule 10 shall—

- (a) explain how the witness is eligible for assistance by means of a live link direction having regard to the circumstances provided in section 3(1)(a) of the Act;
- (b) explain why the giving of the evidence by virtue of a live link direction would be appropriate in the interests of administration of justice in accordance with section 3(5) of the Act;
- (c) state any view that the witness has expressed about—
  - (i) his eligibility for assistance by means of the live link direction;
  - (ii) the likelihood that the live link direction would improve the quality of his evidence;
- (d) in the case in which a child witness does not wish for the provisions of section 3(6) of the Act to apply, provide the court with such information that it may need to assess the views of the child witness;
- (e) unless the court otherwise directs, identify the place from which the witness will give evidence;
- (f) if the applicant wishes the witness to be accompanied by another person while giving evidence—

Application  
for live link  
direction.

Form 1.  
Part I.  
Second  
Schedule.

Contents of  
application  
for live link  
direction.

- (i) name that person, if possible; and
- (ii) explain why it is appropriate for the witness to be accompanied;
- (g) provide for any other material on which the applicant relies; and
- (h) request a hearing, if the applicant wants one and explain why the hearing is needed.

**12.** A party who wishes to oppose an application for a live link direction (the opposing party) shall—

Response in opposition to an application for live link direction.

- (a) within 5 days of receiving a copy of the application, provide a response in writing and file the response in the Registry;
- (b) serve the response on the other party;
- (c) request a hearing, if the party wants one and explain why the hearing is needed;
- (d) include in the response, an address for service and contact information, including an email address where applicable.

**13.—(1)** Representations made pursuant to rule 12 opposing a live link direction shall set out, as appropriate—

Contents of representations to oppose live link direction.

- (a) why the witness is not eligible to give evidence by means of a live link direction;
- (b) if the witness is eligible to give evidence by means of a live link direction in accordance with section 3(1) of the Act, why the live link direction would not be likely to be appropriate in the interests of the administration of justice.

(2) Where representations in relation to a response under rule 12 include information that the opposing party thinks ought not to be revealed to the applicant, the opposing party shall comply with the provisions of rule 9.

**14.** After expiry of the period referred to in rule 12(a), an application for a live link direction shall be determined by the court in the manner provided for in rule 8.

Determination of application by court.

**15.** Where an application for a live link direction in respect of a witness has been refused, no further application for such a direction may be made in respect of that witness unless there has been a material change of circumstances which must be specified in the application.

Restriction on further applications for live link direction.

**16.—(1)** Pursuant to section 6(3) of the Act, a party who wants the court to vary or revoke a live link direction shall—

Variation or revocation of live link direction.

- (a) make an application to the court, in writing promptly, and in any event, within 10 days of becoming aware of the grounds for doing so;

- (b) file the application in the Registry;
- (c) serve the application on any other party to the criminal proceedings; and
- (d) request a hearing if the party wants one and explain why the hearing is needed.

(2) Representations in relation to the application under paragraph (1) shall—

- (a) explain what material change in circumstances has taken place since the live link direction was issued (or last varied if applicable); or
- (b) explain why it is appropriate to revoke or vary the live link direction in the interests of administration of justice.

(3) Where the party making the representations (first mentioned party) wishes to include information that it thinks ought not to be revealed to the other party to the criminal proceedings, the first mentioned party shall comply with the provisions of rule 9.

17.—(1) A party who wishes to oppose an application under rule 16 shall—

- (a) provide a response in writing promptly, and in any event, within 10 days of becoming aware of the grounds for doing so;
- (b) file the response in the Registry;
- (c) serve the response on any other party; and
- (d) ask for a hearing if the party wants one and explain why the hearing is needed.

(2) Representations in relation to a response under paragraph (1) shall explain why the conditions prescribed by section 6(3) of the Act have not been met.

(3) After expiry of the period referred to in paragraph (1)(a), an application to revoke or vary a live link direction shall be determined by the court in the manner provided in rule 8.

*PART IV—Live Link Direction in relation to an Accused*

18.—(1) Pursuant to section 4(1) of the Act, a party who wants the court to exercise its power to issue a live link direction in relation to an accused, shall—

- (a) make an application to the court, in Form I as provided for in Part I of the Schedule;
- (b) file the application in the Registry; and

Response to and determination of application to vary or revoke a live link direction.

Application for live link direction in relation to an accused.

Part I. Schedule.



(c) serve the application on any other party to the criminal proceedings.

(2) An application under paragraph (1) shall be made within 5 days of the first appearance of the accused before the Circuit Court at which the evidence is to be given.

19. An application under rule 18 shall—

- (a) explain how the accused is eligible for assistance by means of a live link direction in accordance with section 4(1) of the Act;
- (b) explain why the giving of the evidence by virtue of a live link direction would be appropriate in the interests of administration of justice;
- (c) report any views that the accused has expressed about—
  - (i) his eligibility for assistance by means of the live link direction;
  - (ii) the likelihood that the live link direction would improve the quality of his evidence;
- (d) if the accused wants a hearing, ask for one and explain why the hearing is needed.

Contents of application for live link direction in relation to an accused.

20.—(1) A party who wishes to oppose an application under rule 18 shall—

- (a) provide a response in writing promptly and in any event within 10 days of becoming aware of the grounds for doing so;
- (b) file the response in the Registry;
- (c) serve the response on any other party to the criminal proceedings; and
- (d) request a hearing, if the applicant wants one, and explain why the hearing is needed.

Response to and determination of application for live link direction in relation to an accused.

(2) Representations in relation to an application under paragraph (1) shall explain why the conditions prescribed under section 4(1) of the Act have not been met.

(3) After expiry of the period referred to in paragraph (1), the court shall make a determination in relation to an application for a live link direction in relation to an accused in the manner provided in rule 8.

21. Where an application for a live link direction in respect of an accused has been refused, no further application for such a direction may be made in respect of the accused unless there has been a material change of circumstances which must be specified in the application.

Restriction on further applications for live link direction in relation to an accused.

Application to revoke or vary live link direction in relation to an accused.

**22.—(1)** A party who wants the court to revoke or vary a live link direction, in relation to an accused shall—

- (a) make an application to the court, in writing promptly, and in any event, within 10 days of becoming aware of the grounds for doing so;
- (b) file the application in the Registry;
- (c) serve the application on the other party to the criminal proceedings; and
- (d) request a hearing, if the party wants one, and explain why the hearing is needed.

(2) Representations in relation to an application under paragraph (1) shall—

- (a) explain what material change in circumstances has taken place since the live link direction was issued (or last varied, if applicable); and
- (b) explain why it is appropriate to vary or revoke such direction in the interests of the administration of justice.

Response and determination of an application to revoke or vary a live link direction, in relation to an accused.

**23.—(1)** A party who wishes to oppose an application under rule 22 shall—

- (a) provide a response in writing, promptly and in any event, within 10 days of becoming aware of the grounds for doing so;
- (b) file the response in the Registry;
- (c) serve the response on any other party; and
- (d) request a hearing, if the party wants one, and explain why the hearing is needed.

(2) Representations in relation to a response under paragraph (1) shall explain why the conditions prescribed under section 6(3) of the Act have not been met.

(3) After expiry of the period referred to in rule 22, an application to revoke or vary a live link direction in relation to an accused shall be determined by the court in the manner provided for in rule 8.

#### *PART V—Video Recording Direction*

Application for video recording direction.  
Form I.  
Schedule.

**24.—(1)** A party who wants the court to exercise its power to issue a video recording direction in relation to a witness shall—

- (a) make an application to the court in Form I as provided for in Part I of the Schedule;

- (b) file the application in the Registry; and
- (c) serve the application on any other party.

(2) An application under paragraph (1) shall be made within 21 days of the first appearance of the accused before the court at which the video-recorded evidence is to be given.

25. An application under rule 24 shall—

- (a) include a Certificate For Video Record of the Interview in the manner prescribed in accordance with regulation 15 of the Regulations;
- (b) where the applicant does not want the court to admit all of the video recording of the interview as evidence, state, where applicable, the part of the video recording which the applicant wants the court to—
  - (i) copy or edit, in accordance with regulation 21 of the Regulations; and
  - (ii) admit as evidence;
- (c) attach any other material on which the applicant relies; and
- (d) attach a statement to confirm whether or not the witness will be available at the trial for cross examination.

Content of application for video recording direction. Form II. Schedule.

26. Where a video recorded interview of a witness is conducted through an intermediary pursuant to Regulation 6(1)(d)(ii) of the Regulations, the intermediary shall make a declaration in the manner provided in Form IV of Part II of the Schedule.

Declaration by intermediary.

27.—(1) A party who wishes to oppose an application made under rule 24 shall respond in writing promptly, and in any event, within 10 days of service of the application and shall—

- (a) file the response in the Registry;
- (b) request a hearing, if the party wants one and explain why the hearing is needed;
- (c) include in the response, an address for service and contact information including an email address, where applicable.

Part II. Schedule.

Response in opposition to an application for video recording direction.

(2) Representations in relation to the response made pursuant to paragraph (1) shall explain as appropriate—

- (a) why the witness is not eligible to give evidence by means of a video recording direction;
- (b) if the witness is eligible for assistance by means of a video recording direction, having regard to the circumstances provided

in section 3(1) of the Act, why the video recording direction would not be likely to be appropriate in the interests of the administration of justice.

Determination of application by court.

**28.** After the expiry of the period referred to in rule 27(1), an application for video recording direction shall be determined by the court in the manner provided for in rule 8.

Variation or revocation of video recording direction.

**29.—(1)** Pursuant to section 7(7) of the Act, a party who wants the court to revoke or vary a video recording direction shall—

- (a) make an application to the court, in writing promptly, and in any event, within 10 days of becoming aware of the grounds for doing so;
- (b) file the application in the Registry;
- (c) serve the application on any other party; and
- (d) request a hearing, if the applicant wants one, and explain why the hearing is needed.

(2) An application under paragraph (1) shall—

- (a) identify which condition of the direction or an applicable rule of court that has not been complied with;
- (b) state the material change in circumstances that has taken place since the video recording direction was given;
- (c) state why it is appropriate in the interests of administration of justice to revoke or vary the video recording direction.

Response to an application to revoke or vary a video recording direction and determination by the court.

**30.—(1)** A party who wishes to oppose an application under rule 29 shall—

- (a) provide a response, in writing, promptly and in any event, within 10 days of becoming aware of the grounds for doing so;
- (b) file the response in the Registry;
- (c) serve the response on any other party to the criminal proceedings; and
- (d) request a hearing, if the applicant wants one, and explain why the hearing is needed.

(2) Representations in relation to an application under paragraph (1) shall explain why the conditions prescribed by section 7(7) of the Act have not been met.

(3) After expiry of the period referred to in paragraph (1)(a), the court shall make a determination in relation to the application to revoke or vary the video recording direction in the manner provided for in rule 8.

PART VI—Provisions as to Service

31. A document may be served on—

Personal  
Service.

- (a) an individual, by handing it to the individual or leaving it with him or her;
- (b) an individual, who is legally represented in the case by handing it to or leaving it with the attorney-at-law representing the individual.

32.—(1) A document may be served on a person by addressing it to the person and leaving it at the appropriate address for service as provided for in paragraph (2).

Service of a  
document.

(2) Pursuant to paragraph (1), the address for service under this rule on—

- (a) an individual, is an address where it is reasonably believed that he or she will receive it;
- (b) an individual who is represented by an attorney-at-law, is the office of the attorney-at-law;
- (c) a law enforcement or prosecuting agency, is the office for that agency from which the case is being conducted.

(3) The address for service may be an alternative address to that in rule 32(2) where any enactment allows for service upon that alternative address.

33.—(1) An application which would otherwise be served on a minor who is not also a patient must be served on—

Service on  
minors and  
patients.

- (a) one of the minor's parents or guardians; or
- (b) if there is no parent or guardian, on the person with whom the minor resides or who is responsible for the care of the minor.

(2) Where a person is authorized under the Mental Health Act to conduct the proceedings in the name of the patient or on the patient's behalf, an application must be served on that person and where no such person is authorized, the application shall be served on the person with whom the patient resides or, in the case of a minor, the person who is responsible for the care of the minor.

(3) The court may make an order permitting the application to be served on the minor or the patient, or on some person other than the person specified in paragraphs (1) and (2).

(4) The court may order that, although the provisions of this rule have not been complied with, the application is to be treated as properly served.

THE EVIDENCE (SPECIAL MEASURES) (CRIMINAL JURISDICTION) (JUDICATURE) (SUPREME COURT) RULES, 2016

(5) An application for an order under paragraph (3) or (4) may be made without notice but must be supported by evidence on affidavit.

Date of Service.

34.—(1) A document which is served within the jurisdiction in accordance with these Rules shall be deemed to be served on the day shown in the following table—

<u>Method of Service</u>	<u>Deemed date of service</u>
Post	21 days after posting
Registered Post	21 days after the date indicated on the Post Office receipt.
Courier Delivery	3 business days after the date indicated on the courier receipt.
Leaving document at a permitted address	the business day after leaving the document.
FAX	if it is transmitted on (a) a business day before 4 pm: the day of transmission; or in any other case, (b) the business day after the day of transmission.
Other electronic method	the business day after transmission.

(2) Any document served after 4p.m. on a business day or at any time on a day other than a business day is treated as having been served on the next business day.

(3) In this rule “business day” means any day other than—

- (a) a Saturday, Sunday or Public Holiday; or
- (b) any other day on which the registry is closed.

Proof of Service.

35.—(1) Service is proved by an affidavit of service sworn by the person serving the document stating—

- (a) the date and time of service;
- (b) the precise place or address at which it was served;
- (c) the precise manner by which the person on whom it was served was identified; and
- (d) precisely how it was served.

(2) Service by fax is proved by an affidavit of service by the person responsible for transmitting the document to the person to be served and set out in the manner provided in paragraph (3).

(3) The affidavit under paragraph (2) must exhibit—

- (a) a copy of the document served;
- (b) a copy of any cover sheet to that document; and
- (c) a copy of the transmission record,

and must state—

- (i) the date and time of transmission; and
- (ii) the fax number to which it was sent.

36.—(1) A party may use an alternative method of service to those set out in rules 31 to 33.

Alternative  
methods of  
service.

(2) Where a party—

- (a) chooses an alternative method of service; and
- (b) the court is asked to take any step on the basis that the application has been served,

the party who served the application must file evidence on affidavit proving that the method of service was sufficient to enable the other party to the criminal proceedings to ascertain the contents of the application.

(3) An affidavit under paragraph (2) must:

- (a) give details of the method of service used;
- (b) show that—
  - (i) the person intended to be served was able to ascertain the contents of the documents; or
  - (ii) it is likely that he or she would have been able to do so;
- (c) state the time when the person served was or was likely to have been in a position to ascertain the contents of the documents; and
- (d) exhibit a copy of the documents served.

(4) The court must:

- (a) consider the evidence; and
- (b) endorse on the affidavit whether it satisfactorily proves service.

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(5) Where the court is not satisfied that the method of service chosen was sufficient to enable a party to the criminal proceedings to ascertain the contents of the application, the court must fix a date, time and place to consider whether service has been satisfactory and give at least 3 days' notice to the applicant.

(6) An endorsement made pursuant to paragraph (4)(b) may be set aside on good cause being shown.



SCHEDULE

(Rules 6, 7, 10, 18,  
24, 25 and 26)

**PART I**  
**FORM I**  
**APPLICATION FOR A SPECIAL MEASURES DIRECTION**  
*(Rules 10, 18 and 24)*

*Case details:*

Name of accused:

Court: \_\_\_\_\_

Case reference number:

Charge(s):

How to use this form. This form includes notes to help you complete it. They explain when a witness may be eligible for the assistance of special measures (live link or video recording direction).

1. Complete the box above and give details required in the boxes below. You must complete Parts A and B in all cases, and Parts C to E as appropriate.

If you use an electronic version of this form, the boxes will expand. If you see a paper version and need more space, you may attach extra sheets.

2. Sign and date the completed form.
3. Send a copy of the completed form to:
  - (a) the court; and
  - (b) each other party.

**PART A: Information about this application**

A1. Do you want a hearing of this application?

No  Yes  If yes, explain why and file Form II to this Schedule with this application.

A2. Is this application late?

No  Yes  If yes, explain why.

<sup>1</sup>In some circumstances, an applicant may omit information from the copy of this application that is served on another party: see Rule

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(JUDICATURE) (SUPREME COURT) RULES, 2016**

SCHEDULE, *cont'd.*

<b>A3.</b>	Have you ever applied for a special measures direction for the witness in the case before?	
	No <input type="checkbox"/>	Yes <input type="checkbox"/>
	If yes, give details and explain what has changed since then.	
<b>PART B: Information about the witness</b>		
<b>B1. Witness' details</b>		
Name of Witness:		
Date of Birth:		
<b>B2.</b>	Explain how the witness is eligible for assistance. <sup>2</sup> Tick the category. If the witness is eligible because of physical disability, physical disorder or mental disorder or fear or distress, give details and explain why the witness is unlikely to be available to the court, or the quality of the witness' evidence is likely to be diminished as regards its completeness, coherence or accuracy.	
	Child Witness	<input type="checkbox"/>
	Sexual Offence Complainant	<input type="checkbox"/>
	Physical disability, physical disorder, or mental order	<input type="checkbox"/>
	Fear or distress	<input type="checkbox"/>
	Accused <sup>3</sup>	<input type="checkbox"/>
<b>B3.</b>	Explain why special measures would be likely to improve the quality of the witness' evidence.	
<b>B4.</b>	Explain why the special measure is appropriate in the interests of the administration of justice.	
<b>B5.</b>	Which special measure(s) would be likely to maximise as far as practicable the quality of the witness' evidence? Tick what you propose.	
	Evidence by live link	<input type="checkbox"/> complete Part C
	Video Recorded interview as evidence in chief	<input type="checkbox"/> complete Part D

<sup>2</sup> See sections 2(2) and 3 of the Act.

<sup>3</sup> See section 4(1) of the Act for guidance.

SCHEDULE, *cont'd.*

B6. *What has been done to help the witness express an informed opinion about special measures? Care must be taken to explain to the witness (a) what is meant by special measures, (b) what measure(s) may be available, and (c) what they would involve for the witness.*<sup>4</sup>

B7. *What views has the witness expressed about:*

- (a) his or her eligibility?
- (b) whether special measures would be likely to improve the quality of his or her evidence?
- (c) the measure(s) that you propose?

The views, concerns and requests expressed by the witness, or on his or her behalf, must be set out in detail.

B8. *Attach any other information required by these Rules.*

**PART C: Live Link Direction**

C1. *Do you want the witness to give evidence?*

using the court's own live link?

from somewhere else?

Tick which you propose. If you want the witness to give evidence by live link from somewhere else, answer question 2.

C2. *Explain why you want the witness to give evidence from somewhere else.*

Give the address from which you propose the witness should give evidence, unless you want the court to direct that the address need not to be revealed.

<sup>4</sup>If the witness does not want a special measure, he or she should be asked to explain why. The witness should also be told that if he or she changes his or her mind as the trial approaches, a further application to the court can be made.

**THE EVIDENCE (SPECIAL MEASURES) (CRIMINAL JURISDICTION)  
(JUDICATURE) (SUPREME COURT) RULES, 2016**

SCHEDULE, *cont'd.*

C3. *Who do you propose should accompany the witness while he or she gives evidence? Give that person's name, if known, and relationship to the witness (if any).*

C4. *Why would that person be an appropriate companion for the witness? Include the witness' own views.*

**PART D: *Video Recording Direction***

D1. *When was the interview?..... (date)*

D2. *Was the interview conducted through an intermediary?*  
 No       Yes       *If yes, complete Part E as well.*

D3. *Was any aid to communication used in conducting the interview?*  
 No       Yes       *If yes, give details.*

D4. *How long is the full version of the recording? ..... (hours/minutes)*

D5. *Do you want the court's permission to edit part of the recording?*  
 No       Yes       *If yes, give details.*

D6. *Do you want the court's permission to copy all or part of the recording?*  
 No       Yes       *If yes, give details.*

D7. *Has an edited version been prepared for use in evidence?*  
 No       Yes       *If yes, give details.*

SCHEDULE, *cont'd.*

D8. *When did you serve:*

(a) the full version? ..... (date)

(b) the edited version (if any)?..... (date)

D9. *Do you want the court's permission for the witness to give evidence in chief otherwise than by means of the video recording?*

No

Yes

If yes, explain why.

PART E: *Intermediary*

E1. *Describe the witness' communication needs and the proposed arrangements for questioning the witness: Attach any relevant report, including an intermediary's assessment if available. 'Ground rules' for questioning must be discussed between the court, the advocates and the intermediary before the witness gives evidence, to establish (a) how questions should be put to help the witness understand them, and (b) how the proposed intermediary will alert the court if the witness has not understood, or needs a break.*

E2. *Give the proposed intermediary's (a) name and (b) (if relevant) occupation, skills and professional qualifications.*

E3. *Is the intermediary known, or related, to the witness?*

No

Yes

If yes, give details.

E4. *Has the intermediary been used in any other part of the investigation or pre-trial preparation?*

No

Yes

If yes, give details.

THE EVIDENCE (SPECIAL MEASURES) (CRIMINAL JURISDICTION)  
(JUDICATURE) (SUPREME COURT) RULES, 2016

SCHEDULE, cont'd.

E5. *Where a video recorded interview was conducted through an intermediary, was that intermediary the person named above?*

No

Yes

If no, attach an additional Part E in respect of that intermediary, giving the details requires by questions 3, 4 and 5.

E6. *Did that intermediary make a declaration?<sup>5</sup>*

No

Yes

**PART F: *Supporting Material***

Have you included with this application any other material required by the Rules?

No

Yes

If yes, list it here.

Signed:

.....

[Prosecutor]

[accused/attorney-at-law]

Date:

<sup>5</sup>The declaration required by rule 26.

SCHEDULE, *cont'd.*

**FORM II**  
**NOTICE OF HEARING OF SPECIAL MEASURES APPLICATION**

**Case details:**  
**Name of accused:**  
**Court:**  
**Case reference number:**  
**Charge(s):**

TAKE NOTICE that the Application for [state particular measure] will be heard before a Judge of the Supreme Court of Judicature of Jamaica situate at [state location of where court will be sitting] on the day of 20 at in the morning/afternoon.

DATED THE DAY OF , 20 \_\_\_\_

SIGNED .....

Applicant/Applicant's Attorney-at-Law

To: Respondent/Other Party (as the case may be)  
[Address]

Filed by:

SCHEDULE, cont'd.

FORM III



APPLICATION FOR COURT ORDERS

Case details:

Name of accused:

Court:

Case reference number:

Charge(s):

Applicant, (name) of (address) seeks the following orders:

The grounds on which the Applicant is seeking the orders are as follows:

The Applicant estimates the likely length of the hearing to be:

NOTICE: This Application will be heard by a Judge in [Chambers] [Open Court] on the day of, 20 at , at a.m./p.m.

DATED THE DAY OF , 20 \_\_\_\_

SIGNED.....

Applicant/Applicant's Attorney-at-Law

To: Respondent/Other Party (as the case may be)

[Address]

Filed by: