



Protocol Annex Court of Trial Protocol for Category 2 and 3 Offences

Defendant:

CRI:

Defendant's lawyer:

Prosecutor:

Instructions:

- This annex must be completed in any case that includes a protocol offence and filed by the prosecutor five working days before case review or otherwise directed by the Court.
- If the defendant is represented by a lawyer, this annex must be jointly completed by the prosecutor and the defendant's lawyer. In any other case, this annex must be completed by the prosecutor.
- To assist the Court in the protocol determination:
 - Any submissions or other material that the prosecutor or the defendant's lawyer wishes the Court to consider must be set out in, or be attached to, this annex.
 - If the prosecutor or defendant's lawyer submits that any of the matters in section 67(4)(b) of the Criminal Procedure Act 2011 require consideration by the Court he or she must identify each relevant matter and supply sufficient case details.

Stage-3 qualifying offence: (sections 86A and 86D of the Sentencing Act 2002)

The case **MUST** be transferred to the High Court because the defendant is charged with a stage-3 qualifying offence: Prosecutor to tick if the defendant is charged with a stage-3 qualifying offence.

Appropriate court for trial

Prosecutor: Prosecutor to tick District Court or High Court.

District Court

High Court

Defendant's lawyer: Defendant's lawyer to tick District Court or High Court.

District Court

High Court

Protocol class

Class 1: Prosecutor to tick if any offence in Class 1 of the protocol is identified in this annex.

Class 2: Prosecutor to tick if any offence in Class 2 of the protocol is identified in this annex.

Class 3: Prosecutor to tick if any offence in Class 3 of the protocol is identified in this annex.

Jointly charged defendants

Is the defendant jointly charged?

Prosecutor to tick yes or no, and if yes, to list any jointly charged defendant(s) below.

Yes

No

Jointly charged defendant(s):

Has a protocol determination been made in respect of any jointly charged defendant?

Prosecutor to tick yes or no, and if yes, to specify the outcome of that determination below.

Yes

No

Outcome of the determination:

Class 1 – specified offence: (section 66(2)(a) of the Criminal Procedure Act 2011)

Is the defendant charged with any offence(s) in Class 1 of the Protocol?

Prosecutor to tick yes and, if so, to list the Class 1 protocol offence(s).

Yes No

CRN: _____ Charge: _____

CRN: _____ Charge: _____

CRN: _____ Charge: _____

CRN: _____ Charge: _____

Class 2 – specified offence with specified feature(s): (section 66(2)(b) of the Criminal Procedure Act 2011)

Is the defendant charged with any offence(s) in Class 2 of the Protocol?

Prosecutor to tick yes or no, and if yes, to list the Class 2 protocol offence(s) and the specified features.

Yes No

CRN: _____ Charge: _____

Feature(s): _____

CRN: _____ Charge: _____

Feature(s): _____

CRN: _____ Charge: _____

Feature(s): _____

Class 3 – features of the case: (section 66(2)(b) of the Criminal Procedure Act 2011)

Is the defendant charged with any offence(s) in Class 3 of the Protocol?

Prosecutor to tick yes or no, and if yes, to list the Class 3 protocol offence(s).

Yes No

CRN: _____ Charge: _____

CRN: _____ Charge: _____

CRN: _____ Charge: _____

Features of the case: *Prosecutor and defendant’s lawyer to each identify any feature(s) applying to the Class 3 protocol offence*

Offences of dishonesty involving more than \$1,000,000

Prosecutor Yes No

Defendant’s lawyer Yes No

A difficult issue of law is likely to be involved or a prosecution for the offence is rare or novel	Prosecutor	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	Defendant's lawyer	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Public concern about the alleged offending	Prosecutor	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	Defendant's lawyer	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Conviction would lead to a likelihood of preventive detention being imposed	Prosecutor	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	Defendant's lawyer	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
The offence is a repealed offence similar in nature to an offence in Class 1	Prosecutor	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	Defendant's lawyer	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
The offence is a repealed offence similar in nature to an offence in Class 2 and the offending features one of the relevant aggravating factors listed there	Prosecutor	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	Defendant's lawyer	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
The offence is a category 2 offence which, because of the complexity of the issues involved or the public concern connected with the offending, should be considered for transfer to the High Court	Prosecutor	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	Defendant's lawyer	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

Other matters: *Prosecutor and defendant's lawyer may include any submissions or other material below*

Prosecutor:

Defendant's lawyer:

 Prosecutor
 Dated:

 Defendant's lawyer
 Dated: