



IMPORTANT INFORMATION FOR DEFENDANTS
Committed for Trial to the Supreme Court or District Court
(Commonwealth Prosecutions)
Magistrates Court of South Australia

www.courts.sa.gov.au

Criminal Procedure Act 1921 (SA)

Section 115(4)

Judicial Act 1903 (Cth)

Section 69(3)

Notice to Defendant

- If you are on bail, you will be required to appear before a Judge of the Court to which you have been committed on at a.m.
- If you are in custody, arrangements will be made for you to appear before the Court on the day on which you are required.
- If you plead not guilty before the Judge, you will be remanded for trial and the Judge will adjourn your case to a particular date and time for a directions hearing.
- Directions hearings are held so that arrangements can be made for the trial, including the fixing of the date for the trial.
- There may be more than one directions hearing and you will be required to attend on each occasion, unless excused by the Judge.

Reduction for a Plea of Guilty

When a person is sentenced to imprisonment, the Court may reduce the length of the sentence if the person pleads guilty to the offence. The amount of discount will depend on how early the plea of guilty takes place and the circumstances of the case.

Defence Case Statement

General

The prosecution is required to give you (or your lawyer) a prosecution case statement setting out a summary of the facts alleged against you and other information relating to your trial. This must be provided to you 6 weeks before your arraignment in the Supreme or District Court.

You are required to file in Court and give to the prosecution a defence case statement not more than 4 weeks after being given the prosecution case statement.

A defence case statement must include:

- (1) any facts and any elements of the offence set out in the prosecution case statement that you admit; and
- (2) any witnesses that you want the prosecution to call (if the witnesses have provided a statement but are not amongst the list of witnesses the prosecution intends to call at trial); and
- (3) an indication of whether you –
 - consent to any of the prosecution applications included in the prosecution case statement;
 - intend to introduce expert evidence or evidence of alibi (in which case you will also be required to comply with the requirement to give notice of your intention to introduce expert or alibi evidence – see section 124 of the *Criminal Procedure Act 1921*);
 - agree with the prosecution estimate of the length of the prosecution case;
 - will apply for trial by judge alone;
 - require an interpreter (and if so, the language that the interpreter will be required to interpret);
 - intend to raise any of the following prior to trial
 - issues relating to joinder or severance;
 - issues relating to cross-admissibility of evidence;
 - challenges to the legality of any searches;
 - applications for stay of proceedings;
 - issues relating to chain of evidence or continuity of custody of exhibits;
 - points of law.

Changes to Defence Case Statement

If any information or material included in your case statement subsequently changes or information or material is obtained or occurs after your case statement has been filed, you must disclose the information, material or occurrence to the prosecution as soon as possible. You may do this in the form of an updated defence case statement.

Notice of Defence Case Statement to other Defendant where jointly charged

If you are jointly charged with 1 or more defendants, your case statement must be given to each other defendant in accordance with any orders made by the Court.

Alibi Evidence

Alibi evidence is evidence that you were at some place other than the scene of the alleged offence(s) at the relevant time.

If you wish to call **alibi evidence** at your trial and the evidence was not given at your committal hearing, written notice of your intention to call the evidence must be given to the prosecution at the same time that the defence case statement is filed in Court and given to the prosecution.

The notice **MUST**:

- (a) contain a summary of the facts that you wish to establish by calling the alibi evidence; and
- (b) include the **name** and **address** of the witness you intend to call to give the alibi evidence; and
- (c) contain any other particulars and be in the form required by the *Supreme/District Court Criminal Rules*.

And **must be delivered or posted to The Director of Public Prosecutions at**

11th Floor
45 Grenfell Street or GPO Box 2562 or DX 455
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If you **do not** give notice you may not be able to call **alibi evidence**, and the Prosecutor and the Court may be able to comment to the jury on your failure to give notice of that evidence before the trial.

If you **do** give notice the Prosecutor may not, after the close of the Prosecution case, give evidence in rebuttal of your **alibi evidence** unless given leave by the Court.

Information which you may be required to give to the Prosecution

The Court may authorise the prosecution to serve you with a notice or notices requiring you to provide information in relation to the following matters.

NOTIFICATION OF PROSECUTION WITNESSES WHO ARE NOT REQUIRED

This is another way in which the trial might be shortened where some of the evidence is not in dispute.

The Court may require you to notify the prosecution in writing whether you consent to the prosecution not calling witnesses to prove the admissibility of the following kinds of evidence:

- (a) documentary, audio, visual, or audiovisual evidence of surveillance or interview;
- (b) other documentary, audio, visual or audiovisual evidence;
- (c) exhibits.

If you fail to comply with such a notice, the Court will assume you have no objection.

NOTICE OF DEFENCES

The Court may require you to give written notice to the prosecution if you intend to call evidence at the trial which tends to establish that –

- you are mentally unfit to stand trial; or
- you were mentally incompetent to commit the alleged offences; or
- the circumstances of the alleged offence(s) occurred by accident; or
- you were entitled to any property which is the subject of the offence(s); or
- you were acting for a defensive purpose.

The Court may also require you to give written notice to the prosecution if you intend to call evidence at the trial:

- relating to the defences of provocation, automatism, necessity or duress; or
- that you were intoxicated at the time of the alleged offence(s).

If you fail to give the prosecution notice of any of these matters, you may call evidence about them but the prosecutor or the Court or both may comment to the jury on your failure to give notice.

Expert Evidence

If expert evidence is to be called for the defence at the trial, written notice of your intention to call the evidence must be given to the prosecution at the same time that the defence case statement is filed in Court and given to the prosecution, or if the evidence does not become available to the defence until later, or if any expert information already provided to the prosecution in a written notice changes, as soon as practicable after such evidence becomes available or the defence becomes aware of such changes.

The notice must set out the name and qualifications of the expert and describe the general nature of the evidence and what it tends to establish.

The notice must be given in the form required by the *Supreme/District Court Criminal Rules*.

If you wish to introduce expert psychiatric evidence or other expert medical evidence relevant to your mental state or medical condition at the time of the alleged offence(s), the Court may require you to submit to an examination by an independent expert approved by the Court.

If you fail to submit to a psychiatric or other medical examination as required by the Court, the Court may not allow you to call expert psychiatric or medical evidence which you wish to tender to the Court.

If you fail to comply with any other requirement in relation to expert evidence, you may not be allowed to call the evidence without the Court's permission and the prosecutor or the Court may comment on your non-compliance to the jury.

Notice to Defendant

Section 69(3) of the *Judiciary Act 1903 (Cth)* provides:

"Any person committed for trial for an offence against the laws of the Commonwealth may at any time within fourteen days after committal and before the jury is sworn apply to a Justice in Chambers or to a Judge of the Supreme Court of a State for the appointment of counsel for his or her defence. If it be found to the satisfaction of the Justice or Judge that such person is without adequate means to provide defence for himself or herself, and that it is desirable in the interests of justice that such an appointment should be made, the Justice or Judge shall certify this to the Attorney-General, who may if he or she thinks fit thereupon cause arrangements to be made for the defence of the accused person or refer the matter to such legal aid authorities as the Attorney-General considers appropriate. Upon committal the person committed shall be supplied with a copy of this subsection."