



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

www.courts.sa.gov.au

Summary Procedure Act, 1921 (SA) - Section 107(5) and the Judiciary 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 you will be taken to the Court on the day on which you are required to appear.
- 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.

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, **you must** give written notice of the evidence to the Director of Public Prosecutions **within seven (7) days from the date on which you were committed for trial.**

The notice **MUST BE IN WRITING AND CONTAIN:**

- 1 a summary setting out with reasonable particularity the facts sought to be established by that evidence;
- 2 the **name** and **address** of any witness by whom the evidence is to be given;

and **MUST BE DELIVERED OR POSTED** to The Commonwealth Director of Public Prosecutions at

11 th Floor	or	GPO Box 2562
45 Grenfell Street		ADELAIDE, SA 5001
ADELAIDE, SA 5000	or	DX 455

If you **do not** give notice you will still be able to call **alibi evidence**, but the Prosecutor and the Judge will 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 Judge.

INFORMATION WHICH YOU MAY BE REQUIRED TO GIVE TO THE DIRECTOR OF PUBLIC PROSECUTIONS

The Judge presiding over a directions hearing may authorise the Director of Public Prosecutions to serve you with a notice or notices requiring you to provide information in relation to the following matters.

ADMITTING FACTS

The Judge may authorise the Director of Public Prosecutions to serve on you a notice to admit certain facts about your case.

The purpose of this procedure is to shorten the trial, if possible, by agreeing matters which are not in dispute. This saves the calling of some of the witnesses.

You are not required to admit these facts, but if you unreasonably fail to admit them and you are convicted of the offence(s) with which you are charged, the Court may take your failure to admit the facts into account in fixing sentence.

You would unreasonably fail to admit such facts if, for example, you claimed privilege against incriminating yourself as a reason for not making the admission and made the prosecution prove facts which were not seriously contested at your trial.

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 Judge may require you to notify the Director of Public Prosecutions 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 Judge may require you to give written notice to the Director of Public Prosecutions if you intend to call evidence at the trial which tends to establish that –

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

The Judge may also require you to give written notice to the Director of Public Prosecutions if you intend to call evidence at the trial relating to the defences of provocation, automatism, necessity or duress.

If you fail to give the Director of Public Prosecutions notice of any of these matters, you may call evidence about them but the prosecutor or the Judge 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 Director of Public Prosecutions on or before the date of the first directions hearing or, if the evidence does not become available to the defence until later, as soon as practicable after it becomes available to the defence.

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 Form No. 15 of 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 Judge 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 will 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 will not be allowed to call the evidence without the Court's permission and the prosecutor or the Judge may comment on your non-compliance to the jury.

Notice to Defendant

Section 69(3) of the *Judiciary Act 1903 (Commonwealth)* 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.”