

To be inserted by Court

Case Number:

Date Filed:

FDN:

Hearing Date and Time:

Hearing Location:

NOTICE TO DEFENDANT OF PENALTY HEARING

Criminal Procedure Act 1921 s 27C(3)

[MAGISTRATES/YOUTH/ENVIRONMENT RESOURCES AND DEVELOPMENT] Select one COURT OF SOUTH AUSTRALIA
CRIMINAL JURISDICTION

[FULL NAME]
Informant

v

[FULL NAME]
Defendant/Youth

To the Parties

There will be a hearing at the date and time set out at the top of this Form. If there is no attendance by or on behalf of a party, the Court may proceed to make orders without further warning.

To [the] [Defendant/Youth] [number] [name]: WARNING

You have been convicted in your absence of

- the charge in the Information dated [date].
- all of the charges in the Information dated [date].
- counts[s] [number(s)] in the Information dated [date].

This matter has been adjourned for a hearing at the date, time and location at the top of this Form.

The matter has been adjourned for the purpose of the Court considering any application by you to set aside the conviction (see important notice below) and determining the appropriate penalty or penalties for the conviction[s].

This may include:

- imprisonment;**
- disqualification or suspension of your driver's licence or learner's permit;**
- an order for compensation and/or forfeiture;**
- your being sentenced on the basis that you have been previously convicted of a like offence**

If you wish to apply to set aside the conviction or make submissions on penalty, you **must** attend the hearing or have a solicitor attend for you. You and your solicitor have the right to appear before the Court to make submissions on the question of penalty.

Next section should be displayed if first option above (imprisonment) displayed

If you fail to attend, the Court may:

- **proceed in your absence**, or
- issue a **warrant for your arrest**.

Next section should be displayed if first option above (imprisonment) NOT displayed

If you fail to attend, the Court may **proceed in your absence**

If you are unable to attend on the hearing date set out above, you should contact the Registry of the [Court] to request another hearing date to be fixed. This can be done by calling [phone no of Court] or by emailing [email of Court].

If you need an interpreter, you must advise the Court immediately of the language and any dialect you require.

Application to set aside conviction

Section 76A of the *Criminal Procedure Act 1921* provides that the Court may, on its own initiative or on the application of any party, set aside a conviction or order provided the Court is satisfied that:

- (a) the parties consent to have it set aside; or
- (b) the conviction or order was made in error; or
- (c) it is in the interest of justice to set aside the conviction or order.

If the Court sets aside a conviction, the Court will arrange to re-hear the proceeding.

If you wish to make an application to set aside the conviction, you must complete a Form 171B interlocutory Application for Set Aside and Re-hearing **within 14 days of receiving notice of this order**. This can be done through the CourtSA portal or by returning the completed Form to the Registry of the Court within this time period.

You or your solicitor must then attend the hearing at the date, time and location set out at the top of this Form to support your application.

Service

This notice must be served by the prosecution on the [Defendant/Youth] personally in accordance with section 27C(3)(f) of the *Criminal Procedure Act 1921* no later than 14 days before the hearing.