

Instructions for filling out an application to vacate a hearing date

These are instructions. It is important to complete this form with your own details and based on your own circumstances. If you need more help get legal advice.

Attachment C



Form 1 – APPLICATION TO VACATE A HEARING DATE

PARTS A & B MUST BE COMPLETED IN FULL PRIOR TO THE APPLICATION BEING LODGED IN PERSON BY THE APPLICANT OR THE APPLICANT'S REPRESENTATIVE

Note: This application will be dealt with in Chambers unless there is good reason for it to be listed before a Court. This application, together with all relevant information should be submitted in writing not less than **21 days** before the hearing date **OR**, in the case of urgent circumstances arising after that time, as soon as practicable before the date of hearing.

You will be advised of the outcome of the application and the date on which it is next listed (where applicable).

You must lodge all relevant supporting documentation with this application.

PART A (Applicant to complete)

Name of the matter: Write your full name.....

Date listed for hearing Write the date your hearing was originally listed for.....Time

estimate Write the length of time as stated in court or in the Local Court Listing Advice.....

Place listed for hearing Write the name of the local court where your hearing is listed, for example
Downing CentreLocal Court

Offence(s) List the offences you have pleaded not guilty to

Application lodged on behalf of the Write "defence".....(Prosecution/defence)

Name of applicant: Signature:

Write your full name and then your signature

(Informant/Defendant/Representative) Address: If you are representing yourself, cross out both
"Informant" and "Representative". Write your home address

Date:...../...../..... Write the date you signed this form Phone: Fax:

Write the best phone number to contact you on and your fax number (if you have one)

I apply to vacate the hearing date for the following reasons:

(Please provide as much information as possible in support of the application - attach additional pages if more space required)

.....
You should provide detailed information about why the hearing date needs to be changed. Where relevant you should attach copies of documents, such as a letter from a doctor or airline tickets.

Examples of why you may need a new hearing date include:

- one of your witnesses has a good reason for not being able to attend on the hearing date, for... example they will be overseas.
- you or someone close to you will be undergoing or recovering from serious medical treatment on the hearing date.
- any other good reason why you cannot attend the hearing on the date scheduled by the court.

Alert: You should get legal advice about whether you have a good reason for applying to vacate the hearing date

If the application has arisen because of the non-availability of any relevant person in the matter, including witnesses, legal representatives or a defendant you must provide answers to the following questions:

You should fill out this section if the reason you need to move the hearing date is because either you or one of your witnesses cannot attend court on the date scheduled for the hearing.

1. When was this person first notified of the hearing date? (date)

If you need a new hearing date because you cannot attend:

- write the date of the mention when the magistrate set the hearing date, or
- if you sent in a Written Notice of Pleading, write the date you received the court's letter informing you of the hearing date.

If you need a new hearing date because your witness cannot attend, write the date you told your witness about the date of the hearing.

2. Was the event which has caused this person to be unavailable arranged before or after the person became aware of the hearing date?

- Write "after" if the event which prevents you or your witness from attending the hearing was arranged after you were, or you witness was, informed of the hearing date.
- Write "before" if the event was arranged before you were, or your witness was, informed of the hearing date.

3. If before, why was the court advised that this date was a suitable date for hearing?

Explain why you didn't tell the court about the event that prevents you or your witness from attending when you were at court for the mention or you sent in your Written Notice of Pleading.

4. If after, why did this person arrange another commitment for the day of hearing?

Explain why you, or your witness (or someone else) organised the event even though you or your witness knew that you had a hearing date on the same day. You may wish to explain why the event could not be scheduled for another date.

5. Why is it essential for this person to be present at the hearing?

If you (the defendant) need a new hearing date because you cannot attend, explain that you are representing yourself and that you need to be present in court to conduct your defence.

If you need a new hearing date because your witness cannot attend, you should get legal advice about whether your witness is essential to your defence.

Contact address (include telephone number/e-mail)

Applicant Write the best phone number that the court can contact you on, your email..... address and your street address.....
Respondent Write the name & phone number..... of the prosecutor (if you don't know the prosecutor's.. name, write the name of the police officer in charge of your case, which will be listed on your court attendance notice).

PART B (Other party to complete - a faxed copy is sufficient) If you are making this application you need to send or fax this form to the prosecutor for them to complete.

If the prosecutor is making the application and you have received this form to complete, you should get legal advice about how you should respond.

(Note: Adjournments will not be granted simply because both parties consent to an adjournment)

I agree with this application. I have notified the applicant of my unavailable dates

I do not agree to this application because:

.....
.....

I do/do not wish to be present if the application is heard in court

Name of other party:

(Informant/Defendant/Representative) Signed:

(Delete where not applicable) Address:

Date: Phone: Fax:

PART C (Court/office use only) You do not need to fill out this part of the form

APPLICATION:

GRANTED - NEW HEARING DATE IS.....

REFUSED - WILL BE HEARD IN COURT (NO:) ON...../...../.....

.....
Magistrate

Date:..../..../....

- COPY TO:
1. List Office/Registry
 2. Police Prosecutors
 3. Other (specify)