

Rehearings

July 2012

What do these words mean?

Words that are highlighted in **bold** are explained in our *What do these words mean?* fact sheet.

What is a rehearing?

A rehearing means your case is heard all over again.

You can ask for a rehearing if you did not go to court for your **hearing**. Sometimes, if you did not turn up, the magistrate will:

- listen to the **charges** against you
- find you guilty
- decide on a **penalty**, and
- make an order **sentencing** you without you being there to tell your side of the story.

This is called an **ex parte** hearing.

If the magistrate makes an order without you there, the court will **serve** a notice in writing to your address.

This notice tells you what order the magistrate made. It will also tell you that you can apply for a rehearing. You have 28 days from the date you get the notice to apply for a rehearing.

How do I apply for a rehearing?

Go to the Magistrates' Court and tell the court staff that you want to apply to come back to court for a rehearing.

The court staff will give you an *Application for a rehearing* form. Fill it in, sign it and give it to the registrar.

You must also **serve** a copy of your application on the **informant**. You have seven days to do this after you file your application form.

Can the informant ask for a rehearing?

The **informant** can apply for a rehearing on your behalf. If this happens the informant will give you a notice that tells you when you have to go to court for the rehearing.

What happens to the orders against me?

After you file the *Application for a rehearing* form at court, the orders the magistrate had made against you when you were not there will be **stayed**. This means that they are put on hold until the magistrate decides if your case can be heard again.

This does not apply to orders against your drivers licence.

What if the magistrate ordered that my licence be cancelled, suspended or varied?

You will also have to apply to **stay** these orders.

The application for staying these orders is on the *Application for a rehearing* form. Sign and date this part of the form too.

What happens at the rehearing?

Go to court on the date set for your rehearing. The magistrate will look at your application for the rehearing and decide whether your case can be heard again.

What if I did not know that I had to go to court?

The magistrate will grant you a rehearing if they believe that you did not know you had been **charged** with the **offence**.

This might have happened if you were not served with the **charge sheet**. The magistrate will set aside the orders and give you a rehearing.

If you are **pleading** guilty to the charges against you, the magistrate may hear the case against you on that day. See our *Pleading guilty* fact sheet.

If you are pleading not guilty, the magistrate will adjourn your case to another date. See our *Pleading not guilty* fact sheet.

What if I do not go to court for the rehearing

Your application will be struck out and you will need the court's permission to apply again for another rehearing. The court may not agree to this. If this happens you will have to follow the order that was made at the ex parte hearing.

Where can I get help?

Law Institute of Victoria

Referral to a private lawyer

Tel: 9607 9550

Victoria Legal Aid

Legal Help

Free legal help by telephone and information about Victoria Legal Aid services

Tel: 9269 0120 or 1800 677 402 (country callers)

Website

www.legalaid.vic.gov.au