

Guide for Defendants for Manitoba Provincial Offences

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Introduction

The purpose of this guide is to provide defendants with general information about the court process for charges under a provincial offence. A provincial offence is an offence under any Manitoba provincial statute, regulation or municipal bylaw. The guide does not cover every circumstance that might arise in your case.

I have been charged with a provincial offence, what should I do?

You can be charged with a provincial offence;

- by a ticket
- by an Information, which is a sworn document that outlines your charges. This is a more formal process and requires you appear in court.

If you received a **ticket**, you must choose one of the three options indicated on your ticket before the final response date.

Option 1: Pay the fine indicated

You may admit the offence and pay the fine indicated. Payment must be received by the Provincial Court Office before the final response date indicated on your ticket. For payment methods refer to your ticket or visit www.gov.mb.ca/justice/tickets/payment.html.

Option 2: Admit the offence but seek a reduced fine or time to pay

Call the Provincial Offences Court at 204-945-3156. A Clerk will schedule you an appointment to appear before a Judicial Justice of the Peace by telephone. During your appointment, you will explain to the Justice why your fine should be reduced or why you need more time to pay.

Option 3: Dispute the charge and request a hearing

Disputing the charge means that you do not admit the offence that you were charged with. To dispute a charge, call the Provincial Offences Court at 204-945-3156. A Clerk will schedule an appointment to speak with a Crown Attorney for Pre-Hearing Discussions. At the appointment, you will be able to explain why you are disputing the offence to the Crown Attorney. The Crown Attorney may offer a resolution without having to proceed with a hearing. You do not need to accept any resolution you are

offered and may proceed with setting a hearing if you wish. If a hearing is set, you will be provided with notice of the court date, time and location through mail or email.

If you were charged by an Information with a provincial offence, you may have been given a Summons, Appearance Notice, Promise to Appear or other court order that will indicate the time and place you must attend court. You will be required to attend 408 York or another Provincial Court office in Manitoba on the date provided and your matter will proceed in accordance with Provincial Court practices.

If you are late or fail to attend court at the time and place noted in your Summons, Appearance Notice or Promise to Appear, and at any subsequent time and place required by the court:

- the court may proceed to hear and determine the matter in your absence;
- a warrant may be issued to compel your appearance; or
- you may be charged under The Provincial Offences Act with the offence of failing to attend court and, if convicted, you may be liable to a fine of not more than \$5,000 or to imprisonment for a term not exceeding six months, or both.

How do I get more information about the offence with which I was charged?

The Ticket, Summons, Appearance Notice or Promise to Appear you received will specify the offence and Act that you are being charged under. You can visit the Manitoba Laws Website at http://web2.gov.mb.ca/laws/statutes/index_ccsm.php.

Do I need someone to represent me at the hearing?

You may appear and act personally or by a representative at the hearing. If you want a lawyer or paid agent to represent you, you should arrange for one as soon as possible so they have time to prepare for your case.

To authorize another person to appear or act on your behalf, you must provide him/her with your written authorization to present to the court. If the name on this ticket is a corporation, you will be required to provide proof of your authority to appear or act. Additional information and authorization forms may be obtained by visiting: https://www.gov.mb.ca/justice/tickets/pubs/auth_appear.pdf

You or your representative should be prepared to produce photo identification such as a driver's licence or passport. If another person acts on your behalf and you are convicted

of the offence, you will be responsible for payment of any fine or other penalty that the court may order.

Where can I find a representative?

The following resources may be available if you want to find a lawyer or get legal information and advice:

The Community Legal Education Association (must qualify for services)

Visit www.communitylegal.mb.ca or phone 204-943-2382

Law Phone-In & Lawyer Referral Program

Visit www.communitylegal.mb.ca/programs/law-phone-in-and-lawyer-referral-program or phone 204-943-2305 or toll free 1-800-262-8800 (from outside Winnipeg only)

Legal Aid Manitoba (must qualify for services)

Visit www.legalaid.mb.ca or phone 204-985-8500 or toll free 1-800-261-2960

Legal Help Centre (must qualify for services)

Visit www.legalhelpcentre.ca or phone 204-258-3096

University of Manitoba Law Centre

Visit <http://legalhelpcentre.ca/university-of-manitoba-law-centre> or phone 204-985-5206

What do I need to do before my hearing?

If required, request an interpreter

If you or your witness(es) require an interpreter, let the Crown Attorney know during your pre-dispute hearing discussions. The Crown will arrange for an interpreter and provide them with the information needed to participate in the hearing. For more

information, refer to the Manitoba Courts Interpretation Services Guidelines located at www.manitobacourts.mb.ca/general-information/interpretation-guidelines.

I have a witness I wish to call to give evidence?

A witness is **a person who testifies under oath at hearing and can only give evidence regarding information of which he or she has personal knowledge.**

Witnesses are not permitted to watch or participate in the hearing until it is their turn to testify. **Note: Your witness(es) cannot be in the same room with you during the hearing or they will be prohibited from testifying.**

Contact your witness to attend the hearing

If you wish to call witnesses during your hearing, notify the Crown Attorney during your pre-hearing discussions. If you wish to call witnesses during your hearing, notify the Crown Attorney during your pre-hearing discussion. At that time it will be discussed as to whether the witness(es) will appear in person or if arrangements will be made to permit evidence to be given through the use of audio or video conferencing.

Prepare your evidence

Any evidence you plan on bringing to your hearing is subject to the rules of evidence for court proceedings. Any file or document (photo, video, etc.) you wish to file as evidence should be emailed to pocregionaldisputehearings@gov.mb.ca no later than 2 days before the day of your hearing. You can contact the Legal Help Centre for assistance with this at www.legalhelpcentre.ca or phone 204-258-3096.

What should I do if I want to resolve my matter before the dispute hearing date?

If you responded to your ticket wishing to dispute the offence your matter will have been set down for a formal hearing. At any point before the day of the hearing, if you decide you no longer wish to dispute the offence you can call the Provincial Offences Court at 204-945-3156 or 1-800-282-8069 ext. 3156.

On the day of your hearing, you will have the opportunity to discuss your ticket with the Crown Attorney when you check in. This one on one discussion will allow you to explain why you are disputing the offence and see if you can come to a resolution before the hearing. If you are not satisfied with the resolution offered to you, you may decline and proceed with the hearing.

What happens on the day of the hearing?

On the day of your hearing, you will be required to attend the court at the time and place indicated on your Notice of Hearing. Check in with the attending Crown Attorney to confirm you have arrived. When the hearing begins you will be called when your matter is to be heard. Multiple hearings are heard in the same day so there may be other people in attendance. Expect to be in court for multiple hours.

The Crown Attorney will call their evidence first. This may include but is not limited to police officers, civilian witnesses, and documents. You will be given an opportunity to ask questions of any witness the Crown Attorney calls upon. Once the Crown Attorney has provided all their evidence, you may call any evidence you wish in accordance with the rules of evidence. The Crown Attorney will be given the opportunity to ask questions of any witness you call. Once you have provided all of your evidence the Crown Attorney will present why you should be convicted of the offence. You are then given an opportunity to present why the charges against you should be dismissed.

What if I am convicted of the offence?

If you are convicted of an offence the justice may impose any penalty authorized by law for that offence. You and the Crown Attorney are each given an opportunity to present what that penalty should be. If there is a fine listed on your ticket the Crown Attorney will be requesting that a fine be imposed as well as any additional penalty they feel is appropriate.

Convictions for certain offences under The Highway Traffic Act and The Drivers and Vehicles Act may be sent to Manitoba Public Insurance and may affect your Driver Safety Rating. Visit the Manitoba Public Insurance website located at www.mpi.mb.ca/en/DL/DL/DSR/Pages/DSROverview.aspx for more information.

What if my charge is dismissed?

If your charge is dismissed you will not receive any penalty and are free to leave.

What if I don't agree with the justice's decision?

If you are appealing the conviction, you should be aware that there are certain limitations and rules that need to be followed. An appeal on a ticket may be made in the Court of Queen's Bench only if it raises a legal issue, and only if it relates to the conviction itself and not the amount of the fine.

A person who is convicted of a provincial offence charged by an Information may appeal the conviction, sentence, or any other order made by a justice to the Court of Queen's Bench. Similarly, the Attorney General or Crown Attorney may appeal a dismissal of a charge, sentence or any other order made by a justice.

An Application for Leave to Appeal and Notice of Appeal must be filed in the Court of Queen's Bench within 30 days of the court decision. There is a fee to file the appeal. For additional information call your nearest Court of Queen's Bench Location. Visit <http://www.manitobacourts.mb.ca/court-of-queens-bench/location-and-contact-info/> for contact information.

Where can I get more information?

- Telephone: 204-945-3156 or Toll Free: 1-800-282-8069 ext. 3156
- Online: www.gov.mb.ca/justice/tickets/index.html

The Provincial Offences Act sets out the procedures that must be followed in respect of proceedings. The Act can be viewed online at <http://web2.gov.mb.ca/laws/statutes/2013/c04713e.php#A>.