

Plea Agreement Discussions

What is a plea agreement?

A plea agreement is an agreement between the prosecutor and the accused person or suspect (either through himself or his attorney), where the accused agrees to plead guilty to an offence (based on the charge) and fulfils the obligations within the agreement. In exchange, the prosecutor agrees to take a particular course of action.

What course of action may be taken by the prosecutor?

- i. Dismiss other charges;
- ii. Withdrawal/ discontinuation of the original charge;
- iii. Reduction of the charge to a lesser offence;
- iv. Recommend to the court a particular sentence;
- v. Undertaking not to oppose a request by the accused or his attorney, for a particular sentence;
- vi. Agreement that a specific sentence is appropriate;
- vii. Undertaking not to institute charges against family members or friends of the accused where there is evidence to have them charged;
- viii. Undertaking to recommend summary trial rather than trial on indictment;

When can a plea discussion be held?

A plea discussion can be done at any time and must be concluded before conviction. It can even be done before a charge is laid.

How can a plea discussion begin?

The accused person, or his attorney, should write to the prosecutor stating their proposal and the reason for such proposal.

What happens after a plea agreement has been signed?

The plea agreement documents shall be filed with the Registrar of the High Court. The matter will be scheduled for a plea agreement hearing before a judge of the High Court. The judge after hearing the parties will decide whether it will accept or reject the plea agreement.

A plea agreement can be withdrawn at any time before entering a plea at the plea agreement hearing.

What follows if the court accepts the plea agreement?

Where the court accepts the plea agreement, the accused person shall plead guilty to the charge.

What occurs if the court rejects the plea agreement?

The matter will be set for trial. The accused has the right to request that the matter be tried before another judge.