

(5) If the court is satisfied that the agreement complies with the requirements of subsection (1)(b)(i) and (iii), the court shall require the accused to plead to the charge and order that the contents of the agreement be disclosed in court.

(6) (a) After the contents of the agreement have been disclosed, the court shall question the accused to ascertain whether—

- (i) he or she confirms the terms of the agreement and the admissions made by him or her in the agreement;
- (ii) with reference to the alleged facts of the case, he or she admits the allegations in the charge to which he or she has agreed to plead guilty; and
- (iii) the agreement was entered into freely and voluntarily in his or her sound and sober senses and without having been unduly influenced.

(b) After an inquiry has been conducted in terms of paragraph (a), the court shall, if—

- (i) the court is not satisfied that the accused is guilty of the offence in respect of which the agreement was entered into; or
- (ii) it appears to the court that the accused does not admit an allegation in the charge or that the accused has incorrectly admitted any such allegation or that the accused has a valid defence to the charge; or
- (iii) for any other reason, the court is of the opinion that the plea of guilty by the accused should not stand,

record a plea of not guilty and inform the prosecutor and the accused of the reasons therefor.

(c) If the court has recorded a plea of not guilty, the trial shall start *de novo* before another presiding officer: Provided that the accused may waive his or her right to be tried before another presiding officer.

(7) (a) If the court is satisfied that the accused admits the allegations in the charge and that he or she is guilty of the offence in respect of which the agreement was entered into, the court shall proceed to consider the sentence agreement.

(b) For purposes of paragraph (a), the court—

- (i) may—
  - (aa) direct relevant questions, including questions about the previous convictions of the accused, to the prosecutor and the accused; and
  - (bb) hear evidence, including evidence or a statement by or on behalf of the accused or the complainant; and
- (ii) must, if the offence concerned is an offence—
  - (aa) referred to in the Schedule to the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997); or
  - (bb) for which a minimum penalty is prescribed in the law creating the offence,

have due regard to the provisions of that Act or law.

(8) If the court is satisfied that the sentence agreement is just, the court shall inform the prosecutor and the accused that the court is so satisfied, whereupon the court shall convict the accused of the offence charged and sentence the accused in accordance with the sentence agreement.

(9) (a) If the court is of the opinion that the sentence agreement is unjust, the court shall inform the prosecutor and the accused of the sentence which it considers just.

(b) Upon being informed of the sentence which the court considers just, the prosecutor and the accused may—

- (i) abide by the agreement with reference to the charge and inform the court that, subject to the right to lead evidence and to present argument relevant to sentencing, the court may proceed with the imposition of sentence; or
- (ii) withdraw from the agreement.

(c) If the prosecutor and the accused abide by the agreement as contemplated in paragraph (b)(i), the court shall convict the accused of the offence charged and impose the sentence which it considers just.