



New South Wales

Crimes (General) Amendment (Notice of Defence of Substantial Impairment) Regulation 1998

under the

Crimes Act 1900

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes Act 1900*.

J. W. Shaw

Attorney General

Explanatory note

As a result of the *Crimes Amendment (Diminished Responsibility) Act 1997*, section 23A of the *Crimes Act 1900* provides that a person who would otherwise be guilty of murder is not to be convicted of murder if the person's capacity or judgment was so substantially impaired by an abnormality of mind as to warrant reducing the liability for murder to manslaughter.

Section 405AB of that Act prevents the defendant from adducing evidence tending to prove a contention that the defendant is not liable to be convicted of murder by virtue of section 23A unless the defendant gives notice, as prescribed by the regulations, to the Director of Public Prosecutions of the intention to raise that contention.

This Regulation prescribes the form in which a notice under section 405AB of the *Crimes Act 1900* is to be given and provides that any such notice must be given at least 35 days before the commencement of the trial.

This Regulation is made under the *Crimes Act 1900*, including sections 405AB and 582 (the general regulation making power).

1998 No 187

Clause 1 Crimes (General) Amendment (Notice of Defence of Substantial Impairment) Regulation 1998

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1 Name of Regulation

This Regulation is the *Crimes (General) Amendment (Notice of Defence of Substantial Impairment) Regulation 1998*.

2 Commencement

This Regulation commences on 3 April 1998.

3 Amendment of Crimes (General) Regulation 1995

The *Crimes (General) Regulation 1995* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 4A

Insert after clause 4:

4A Notice of intention to adduce evidence of substantial impairment

For the purposes of section 405AB (1) of the Act, notice of a defendant's intention to raise the contention that the defendant is not liable to be convicted of murder by virtue of section 23A of the Act must:

- (a) be given at least 35 days before the date on which the trial is listed to commence, and
- (b) be in or to the effect of Form 4.

[2] Schedule 1, Form 4

Insert after Form 3:

Form 4

(Clause 4A)

CRIMES ACT 1900

(Section 405AB)

NOTICE OF INTENTION TO ADDUCE EVIDENCE OF SUBSTANTIAL IMPAIRMENT

R v *(insert name of defendant)*

To the Director of Public Prosecutions:

(Insert full name of defendant) has been committed for trial on a charge of murder. The trial is listed for hearing on *(insert date of commencement of trial)* at *(insert court where trial will be held)*.

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Schedule 1 Amendments

In accordance with section 405AB of the *Crimes Act 1900*, notice is given to the Director of Public Prosecutions that the defendant intends to adduce evidence tending to prove a contention by the defendant that the defendant is not liable to be convicted of murder by virtue of section 23A of the *Crimes Act 1900*.

The defendant intends to rely on the evidence of the following persons in support of that contention:

list the name, occupation and address of each person to be called by the defendant, and include (in relation to each such person) a short statement of the particulars of the evidence that the person proposes to give—if more space is needed, attach material to this form

Signature of defendant/defendant's legal practitioner

(Date)