



New South Wales

Criminal Procedure Amendment (Sexual Assault Communications Privilege) Act 2002 No 13

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Criminal Procedure Amendment (Sexual Assault Communications Privilege) Act 2002 No 13

Act No 13, 2002

An Act to amend the *Criminal Procedure Act 1986* to make further provision with respect to sexual assault communications privilege. [Assented to 15 May 2002]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Criminal Procedure Amendment (Sexual Assault Communications Privilege) Act 2002*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

3 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 148 What is a protected confidence?

Omit paragraph (a) from the definition of *counselling communication* in section 148 (4).

Insert instead:

- (a) made in confidence by a person (the *counselled person*) to another person (the *counsellor*) who is counselling the person in relation to any harm the person may have suffered, or

[2] Section 148 (4), definition of “counselling communication”

Omit “relationship” from paragraph (b).

Insert instead “counselling”.

[3] Section 148 (4), definition of “counselling communication”

Omit “who is counselling or otherwise treating, or has counselled or otherwise treated, the counselled person at any time for any emotional or psychological condition of the person” from paragraph (d).

Insert instead “who is counselling, or has at any time counselled, the person”.

[4] Section 148 (5)

Insert after section 148 (4):

- (5) For the purposes of this section, a person *counsels* another person if:
 - (a) the person has undertaken training or study or has experience that is relevant to the process of counselling persons who have suffered harm, and
 - (b) the person:
 - (i) listens to and gives verbal or other support or encouragement to the other person, or

- (ii) advises, gives therapy to or treats the other person,
whether or not for fee or reward.

[5] Schedule 2 Savings, transitional and other provisions

Insert after clause 24:

Part 6 Provisions consequent on Criminal Procedure Amendment (Sexual Assault Communications Privilege) Act 2002

25 Application of Part 7

- (1) The amended Part does not apply in relation to criminal proceedings the hearing of which began before it was amended. The Part, as in force before it was amended, continues to apply in relation to such proceedings.
- (2) The amended Part applies in relation to a requirement (whether by subpoena or other procedure) to produce a document on or after its amendment even if the requirement was issued before it was amended.
- (3) The amended Part applies in respect of a protected confidence whether made before or after it was amended.
- (4) In this clause:
amended Part means Part 7 as amended by the amending Act.
amending Act means the *Criminal Procedure Amendment (Sexual Assault Communications Privilege) Act 2002*.
protected confidence has the meaning it has in Part 7.

[Second reading speech made in—
Legislative Assembly on 21 March 2002
Legislative Council on 7 May 2002]

BY AUTHORITY