



New South Wales

Criminal Procedure Amendment (Pre-trial Disclosure) Act 2018 No 47

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Criminal Procedure Amendment (Pre-trial Disclosure) Act 2018 No 47

Act No 47, 2018

An Act to amend the *Criminal Procedure Act 1986* to give effect to recommendations of the statutory review of the Act with respect to the mandatory pre-trial disclosure of certain evidence and other matters in proceedings for indictable offences; and for other purposes. [Assented to 27 September 2018]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Criminal Procedure Amendment (Pre-trial Disclosure) Act 2018*.

2 Commencement

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

Schedule 1 Amendment of Criminal Procedure Act 1986 No 209

[1] Section 142 Prosecution's notice

Insert after section 142 (1) (c1):

- (c2) if the prosecutor proposes to adduce at the trial the transcript of an audio or a visual recording, a copy of that transcript,

Note. This paragraph does not require the prosecution's notice to contain copies of transcripts of recorded statements (within the meaning of section 289D) unless the prosecutor proposes to adduce such transcripts at the trial.

[2] Section 143 Defence response

Insert after section 143 (1) (g):

- (h) if any expert witness is proposed to be called at the trial by the accused person, a copy of each report by that witness that is relevant to the case and on which the accused person intends to rely,
- (i) notice as to whether the accused person proposes to raise any issue with respect to the continuity of custody of any proposed exhibit disclosed by the prosecutor,
- (j) notice of any significant issue that the accused person proposes to raise regarding the form of the indictment, severability of the charges or separate trials for the charges,
- (k) if the prosecutor disclosed an intention to adduce at the trial any audio or visual recording or the transcript of any audio or visual recording:
 - (i) any request that the accused person has that the recording or transcript be edited (other than in circumstances to which subsection (2) (d) relates), and
 - (ii) particulars sufficient to clearly identify the edits that the accused person requests.

[3] Section 143 (2) (a), (c) and (f)

Omit the paragraphs.

[4] Section 144 Prosecution response to defence response

Insert after section 144 (d):

- (d1) if the accused person has requested any editing of any audio or visual recording, or the transcript of any audio or visual recording, that the prosecutor intends to adduce at the trial, notice as to:
 - (i) whether the prosecutor disputes any of the requested editing, and
 - (ii) which requested edits are disputed, if any,

[5] Schedule 2 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of Criminal
Procedure Amendment (Pre-trial Disclosure) Act
2018**

Case management provisions

- (1) An amendment made by the amending Act applies only in respect of proceedings in which the indictment was presented or filed after the commencement of the relevant amendment.
- (2) Accordingly, a provision of Division 3 of Part 3 of Chapter 3, as in force before its amendment by the amending Act, continues to apply in respect of proceedings in which the indictment was presented or filed before the commencement of the relevant amendment.
- (3) In this clause:
amending Act means the *Criminal Procedure Amendment (Pre-trial Disclosure) Act 2018*.

[Second reading speech made in—

Legislative Assembly on 15 August 2018

Legislative Council on 19 September 2018]