



New South Wales

Criminal Procedure Amendment (Evidence) Regulation 2006

under the

Criminal Procedure Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Criminal Procedure Act 1986*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The *Criminal Procedure Act 1986* permits the admission of a record of evidence given by a complainant in a sexual assault proceeding in any new trial that is ordered following an appeal.

The object of this Regulation is to reinstate clauses that were inserted in the *Criminal Procedure Regulation 2000* by the *Criminal Procedure Amendment (Evidence) Act 2005*, but inadvertently not carried forward into the *Criminal Procedure Regulation 2005* (which replaced the 2000 regulation). Those clauses relate to the giving of notice of the prosecution's intention to tender any such record of evidence.

This Regulation is made under the *Criminal Procedure Act 1986*, including sections 4 (the general regulation-making power), 306B (3) (a) and 306F.

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Clause 1 Criminal Procedure Amendment (Evidence) Regulation 2006

Criminal Procedure Amendment (Evidence) Regulation 2006

under the

Criminal Procedure Act 1986

1 Name of Regulation

This Regulation is the *Criminal Procedure Amendment (Evidence) Regulation 2006*.

2 Amendment of Criminal Procedure Regulation 2005

The *Criminal Procedure Regulation 2005* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Clauses 23A and 23B

Insert after clause 23:

23A New trials of sexual assault proceedings—notice of intention to tender record of original evidence of complainant

A notice given by the prosecutor to the accused person under section 306B (3) (a) of the Act must:

- (a) specify whether the record or records to be tendered by the prosecutor in the new trial proceedings are an audio visual recording, an audio recording or a transcript of the evidence given by the complainant in the original proceedings, and
- (b) if a record to be tendered is an audio visual recording or audio recording, contain information to the effect that the accused person and his or her counsel are entitled to listen to or view the recording at a place nominated by the prosecutor and set out the name of the person responsible for arranging access to the recording.

23B Procedure for obtaining access to record of original evidence of complainant

- (1) This clause sets out the procedure for obtaining access to listen to or view an audio visual recording or audio recording of the original evidence of the complainant for the purposes of section 306F of the Act.
- (2) On receipt of a notice under section 306B (3) (a) of the Act specifying the prosecutor's intention to tender in proceedings an audio visual recording or audio recording of the original evidence of the complainant, the accused person, or his or her counsel, may give the responsible person a notice in writing that he or she requires access to the recording.
- (3) A responsible person who receives a notice that complies with this clause must give the accused person and his or her counsel (if any) access to listen to or view the recording as soon as practicable after the day on which the responsible person receives the notice.

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Schedule 1 Amendment

- (4) The responsible person may give any person accompanying the accused person, or his or her counsel, who has been engaged to assist the accused person's case access to listen to or view the recording.
- (5) In this clause:
responsible person means the person nominated by the prosecutor in the notice under section 306B (3) (a) of the Act as the person responsible for arranging access to the recording (as referred to in clause 23A (b)).

BY AUTHORITY
