



New South Wales

Witness Protection Regulation 2006

under the

Witness Protection Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Witness Protection Act 1995*.

CARL SCULLY, M.P.,
Minister for Police

Explanatory note

The object of this Regulation is to prescribe the forms to be used to permit a participant in a witness protection program (established and maintained under the *Witness Protection Act 1995* or under a law of the Commonwealth, another State or a Territory) who has been provided with a new identity not to disclose his or her former identity if the participant would otherwise be required by law to do so.

This Regulation replaces, without substantial variation, the *Witness Protection Regulation 2001*. That Regulation will be repealed on 1 September 2006 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation is made under the *Witness Protection Act 1995* and, in particular, under sections 24 (Non-disclosure of former identity of participant) and 42 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature.

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Witness Protection Regulation 2006*.

2 Commencement

This Regulation commences on 1 September 2006.

Note. This Regulation replaces the *Witness Protection Regulation 2001* which is repealed on 1 September 2006 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
the Act means the *Witness Protection Act 1995*.
- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.
- (3) Notes in this Regulation (other than in a Form) do not form part of this Regulation.

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Clause 4 Witness Protection Regulation 2006

Part 2 Prescription of forms

Part 2 Prescription of forms

4 Form permitting non-disclosure of former identity (participant under NSW witness protection program)

For the purposes of section 24 (1) of the Act, the prescribed form is Form 1.

5 Form permitting non-disclosure of former identity (participant under complementary witness protection law)

For the purposes of section 24 (5) of the Act, the prescribed form is Form 2.

Part 3 Savings

6 Saving

Any act, matter or thing that had effect under the *Witness Protection Regulation 2001* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

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Witness Protection Regulation 2006

Schedule 1 Forms

Schedule 1 Forms

Form 1 **Permission for non-disclosure of former identity (participant under NSW witness protection program)**

(Clause 4)

(Witness Protection Act 1995, section 24 (1))

On [date], [new identity of participant] (“the participant”) was provided with a new identity under the witness protection program operating in New South Wales.

The participant is required by or under [law that requires disclosure, including section number of Act if relevant] to disclose the participant’s former identity for the purpose of [purpose].

Pursuant to the *Witness Protection Act 1995*, I, [name, rank and position], the duly appointed delegate of the Commissioner of Police, give the participant permission not to disclose the participant’s former identity to any person as required by that law for that purpose.

Signed:

Date:

Note. Section 24 of the Act enables permission to be given to a participant who has been provided with a new identity not to disclose his or her former identity if the participant would otherwise be required by law to do so. In such a case, it is lawful for the participant in any proceedings or for any purpose in respect of the law concerned to claim that the participant’s new identity is his or her only identity.

This permission remains valid while the participant retains that new identity even though the participant’s participation in the witness protection program may have been terminated.

This document must be surrendered by the participant in accordance with any notice issued under section 21 (5) of the Act if the participant’s participation in the program is terminated and action is taken by the Commissioner of Police to restore the participant’s former identity.

Form 2 **Permission for non-disclosure of former identity (Participant under a complementary witness protection law)**

(Clause 5)

(Witness Protection Act 1995, section 24 (5))

On [date], [new identity of participant] (“the participant”) was provided with a new identity under the witness protection program operating under [complementary witness protection law].

The participant is required by or under [law that requires disclosure, including section number of Act if relevant] to disclose the participant’s former identity for the purpose of [purpose].

Pursuant to the *Witness Protection Act 1995*, I, [*name, rank and position*], the duly appointed delegate of the Commissioner of Police, give the participant permission not to disclose the participant's former identity to any person as required by that law for that purpose.

Signed:

Date:

Note. This permission remains valid while the participant retains his or her new identity even though the participant's participation in the witness protection program concerned may have been terminated.

This permission is subject to the complementary witness protection law referred to above.