



New South Wales

Witness Protection Regulation 2017

under the

Witness Protection Act 1995

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

TROY GRANT, MP
Minister for Police

Explanatory note

The object of this Regulation is to remake, with minor amendments, the *Witness Protection Regulation 2012*, which is repealed on 1 September 2017 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes certain forms to be used to permit a participant in a witness protection program (under the *Witness Protection Act 1995* or a corresponding 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 even if the participant would otherwise be required by law to do so.

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

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature.

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1 Name of Regulation

This Regulation is the *Witness Protection Regulation 2017*.

2 Commencement

This Regulation commences on 1 September 2017 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Witness Protection Regulation 2012*, which is repealed on 1 September 2017 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Witness Protection Act 1995*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes in this Regulation (other than in a Form) do not form part of this Regulation.

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 as set out in Schedule 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 as set out in Schedule 1.

6 Saving

Any act, matter or thing that, immediately before the repeal of the *Witness Protection Regulation 2012*, had effect under that Regulation continues to have effect under this Regulation.

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.