



New South Wales

Evidence Amendment Regulation 1997

under the
Evidence Act 1995

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Evidence Act 1995*.

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Attorney General

Explanatory note

Clause 5 of the *Evidence Regulation 1995* sets out the requirements for the contents of a notice of intention to adduce evidence of a “first-hand hearsay” representation where the maker of the representation will not be called as a witness.

Clause 6 sets out the requirements:

- (a) for the content of notices of intention to adduce evidence of a person’s character, reputation or conduct or of a tendency that the person has or had to prove that a person has or had a tendency to act in a particular way or to have a particular state of mind, and
- (b) for the content of notices of intention to adduce similar fact evidence to prove a fact by coincidence reasoning.

Clauses 5 and 6 currently require the notices to set out the addresses of persons who made the representations and of witnesses, respectively, in criminal and civil proceedings.

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Explanatory note

The objects of this Regulation are:

- (a) to omit the requirement in criminal proceedings to include the addresses of persons who made representations, and of witnesses, in notices referred to in clauses 5 and 6 but to enable courts to make orders directing that such addresses be disclosed (Schedule 1, other than Schedule 1 [4]), and
- (b) to correct a cross reference (Schedule 1 [4]).

This Regulation is made under the Evidence Act 1995, including sections 99 and 197 (the general regulation-making power).

Evidence Amendment Regulation 1997

1 Name of Regulation

This Regulation is the *Evidence Amendment Regulation 1997*.

2 Commencement

This Regulation commences on 25th April 1997.

3 Amendment of Evidence Regulation 1995

The *Evidence Regulation 1995* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in clause 3 (1) in alphabetical order:

address includes a private, business or official address.

[2] Clause 5 Exceptions to hearsay rule—notices of previous representations

Omit “and addresses” from clause 5 (2) (c) (ii).

[3] Clause 5 (2) (c) (iii)

Insert at the end of clause 5 (2) (c) (ii):

, and

(iii) in a civil proceeding — the address of each person so named,

[4] Clause 5 (6)

Omit “subsection (2) (a)”. Insert instead “subclause (2) (a)”.

[5] Clause 5 (7), (8)

Insert after clause 5 (6):

(7) On the application of a party in a criminal proceeding, the court may make an order directing the notifying party to disclose the address of any person named in a notice given under this clause by whom, or to whom, a representation referred to in the notice was made.

(8) The direction may be given on such terms as the court thinks fit.

[6] Clause 6 The tendency rule and the coincidence rule—form of notices

Omit “and addresses” from clause 6 (2) (b) (ii).

[7] Clause 6 (2) (b) (iii)

Insert at the end of clause 6 (2) (b) (ii):

, and

- (iii) in a civil proceeding — the address of each person so named,

[8] Clause 6 (3) (b) (ii)

Omit “and address”.

[9] Clause 6 (3) (b) (iii)

Insert at the end of clause 6 (3) (b) (ii):

, and

- (iii) in a civil proceeding — the address of each person so named,

[10] Clause 6 (4), (5)

Insert after clause 6 (3):

- (4) On the application of a party in a criminal proceeding, the court may make an order directing the notifying party to disclose the address of any person named in a notice given under this clause who saw, heard or otherwise perceived conduct or events referred to in the notice.
- (5) The direction may be given on such terms as the court thinks fit.