

## SOUTH AUSTRALIA

### SUPREME COURT WITNESS PROTECTION ACT RULES 2009

The *Supreme Court Witness Protection Act Rules 2009*, dated 25 May 2009, came into operation on 1 July 2009 (*South Australian Government Gazette*, 25 June 2009, p.2947).

#### 1 Short Title

These Rules may be cited as the “Supreme Court Witness Protection Act Rules 2009”.

#### 2 Commencement

These Rules will come into operation on 1 July 2009, or upon their gazettal, whichever is the later.

#### 3 Interpretation

In these Rules –

*the Act* means the *Witness Protection Act 1996* (SA);

*the Commissioner* means the Commissioner of Police;

*the Director* means the Director of Public Prosecutions.

#### 4 Applications under Sections 17 and 21 of the Act:

- (1) An application for an order under s 17 or s 21 of the Act is to be made by an application using Form 1 in the Schedule;
- (2) The application is to be supported by an affidavit, or affidavits, setting out the relevant facts and circumstances, sworn, in the case of applications under s 17 by the Commissioner, or the delegate of the Commissioner, to make the affidavit, and in the case of applications under s 21 by the person seeking the order, or some other person on that person’s behalf;
- (3) Upon receiving oral notification that an application is to be made, the Registrar will appoint a time for the hearing of the application by a Judge;
- (4) The application and any affidavit or affidavits tendered in support thereof are not to be filed in the Registry, but are to be tendered to the Judge on the hearing of the application, together with minutes of the order or orders sought;
- (5) The Judge may make such order or orders under the Act as may be necessary and may give such consequential directions to give effect to the orders and to ensure the confidentiality of the proceedings as the Judge shall think fit;
- (6) When the Judge makes an order, the Judge will arrange for the seal of the Court to be affixed to the formal order, and will provide a copy of the sealed order to the applicant.
- (7) At the conclusion of the hearing of the application, the application, the order (if made), the affidavit or affidavits in support and any other documents relating to the application will be placed in a sealed envelope and will be held by the Registrar in a secure repository. Such envelope is not to be opened without the written direction of a Judge.

#### 5 Disclosure of Information – Section 24

- (1) Disclosure of the information required by s 24(5) of the Act is to be made by the Director:

- (a) in proceedings in the Supreme Court or in the District Court, immediately after the first status conference;
  - (b) in proceedings in the Magistrates Court, immediately after the first pre-trial conference;
  - (c) when the Director is not aware of the circumstances referred to in s 24(1) at the times referred to in (a) or (b) above, forthwith after the Director does become aware of them.
- (2) Upon receipt of an oral request by or on behalf of the Director, the Registrar will appoint a time for the making of the disclosure to a Judge of the Supreme Court in Chambers.
- (3) The receipt of the disclosure will be in private.
- (4) The disclosure is to be in the form of a written memorandum containing the relevant information. Such memorandum together with minutes of any order sought pursuant to s 24(9) are to be tendered to the Judge in a sealed envelope and are not to be lodged in the Registry or entered up in the Cause Book.
- (5) The Judge may make such order under s 24(9) of the Act as is appropriate in the circumstances and shall give such consequential directions to ensure the confidentiality of the proceedings as the Judge sees fit.
- (6) Any order made by the Judge under this Rule does not require the seal of the Court to be affixed to it and may be valid and effectual for all purposes if signed by the Judge. A copy of any order made is to be provided to the Director and when the proceedings are in the District Court or the Magistrates Court also to those Courts in a sealed envelope which is only to be opened by the Judge or Magistrate presiding at the trial of the proceedings.
- (7) At the conclusion of the disclosure, all documents relating to the disclosure are to be placed in a sealed envelope and thereafter are to be retained by the Registrar in a secure repository. Such envelope is not to be opened without the written direction of a Judge.

**SCHEDULE  
FORM 1**

**Application Under Witness Protection Act 1996**

s 17, s 21

.....[*Insert name and address of applicant*]

applies to the Supreme Court under section [*insert appropriate section number*] of the *Witness Protection Act 1996* for the following orders:

[*Set out the order or orders sought*].

The grounds upon which the application is made are:

[*Set out the grounds*].

The witness entered into a Memorandum of Understanding under s 10 of the Act/under [*Insert reference to the applicable corresponding provision of a complimentary Witness Protection Law*] [*Delete whichever is inapplicable*] on [*Insert date*]. – [*See Note One*].

Dated ..... day of .....20....

..... [Sign]

.....[*Insert name and address of applicant*]

**Notes:**

1. This section of the Form need be completed in relation to applications under s 17 of the *Witness Protection Act 1996* only.
2. By virtue of s 17(12), proceedings under s 17 of the *Witness Protection Act* must be conducted in private.