

SUPREME COURT OF TASMANIA

PRACTICE DIRECTION

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The following Practice Direction is published by direction of the Chief Justice, the Honourable Justice Alan Blow OAM.

RECORDINGS OF SPECIAL HEARINGS UNDER THE EVIDENCE (CHILDREN AND SPECIAL WITNESSES) ACT 2001, s 6

Section 6(1) of the *Evidence (Children and Special Witnesses) Act 2001* makes provision for a judge to order that the whole of the evidence of an "affected child" (including cross-examination and re-examination) be taken at a special hearing, audio-visually recorded, and presented to the Court at trial in the form of that audio-visual recording, with the child not being present at the trial.

When an order is made under that subsection, the Court will take responsibility for recording the evidence, preserving the recording until trial, and, if necessary, editing the recording. Editing may be necessary in a number of situations. For example, if there has been an objection to a question, and argument about the objection while the recording continues, it would be appropriate to edit out the argument and perhaps any unanswered or withdrawn question.

When evidence is recorded pursuant to s 6(1), the following will be followed, subject to any direction or order of the trial judge:

- 1 A transcript of the special hearing will be prepared and provided to all counsel.
- 2 Counsel will be asked whether they wish the recording to be edited before the trial and, if so, to confer and agree upon the passages that are to be edited out. A list of the passages to be edited out must then be provided to the Court.
- 3 If counsel are unable to agree as to the editing of the recording, the trial judge will convene a directions hearing. The associate to the trial judge should be advised as

to details of the editing sought, any editing agreed to, and the proposed editing that is not agreed to.

- 4 Where editing is agreed to, or ordered by the trial judge, the Court will arrange for the preparation of an edited DVD.
- 5 Each edited DVD will be checked by staff of the Court to ensure that the editing has been done correctly.
- 6 Counsel will also have the right to check the editing if they so request.