

SUPREME COURT OF TASMANIA

CIRCULAR TO PRACTITIONERS

No. 18 of 2013

18 October 2013

WARNINGS ABOUT ALIBI AND OPINION EVIDENCE

Criminal Code ss368A and 368B

Following recent amendments to the *Criminal Code* s368B which commenced on 1 September 2013, it is now necessary for accused persons to be warned of the requirement to give notice of an intention to rely on certain opinion evidence (in addition to the usual alibi warning: s368A).

Instead of delivering the warning orally, the Judges have approved a form of written warning to be provided to the accused. A copy of the written warning is attached.

Arrangements have been made to ensure that a supply of these written warnings is available in all courtrooms on remand days, and at remote locations at which accused persons appear by video-link e.g. prisons and the Ashley Youth Detention Centre.

J A Connolly
REGISTRAR

SUPREME COURT OF TASMANIA WARNINGS ABOUT EVIDENCE

WARNING No 1 – ALIBI EVIDENCE

If your case goes to trial, you may not be permitted at your trial to give evidence of an alibi, or to call witnesses in support of an alibi, unless you (or your lawyer) give the Director of Public Prosecutions written notice of that alibi and of those witnesses.

When must the notice be given?

The notice must be given within 7 days from today. There is one exception to that rule. If you are charged with maintaining a sexual relationship with a young person under the age of 17 years, the time limit is not 7 days in relation to any such charge. Instead, the notice must be given no later than the close of the evidence for the prosecution during your trial.

What is an alibi?

If you want to say that you were somewhere else at the time when a crime was committed, that is called an alibi.

WARNING No 2 – OPINION EVIDENCE

If you wish to rely on opinion evidence, such as opinion evidence from an expert witness, you (or your lawyer) must give the Director of Public Prosecutions a written notice about the evidence and every witness who will give it.

When must the notice be given?

If the opinion evidence is available now, you must give the notice within 7 days from today. Otherwise you must give the notice as soon as practicable after the opinion evidence becomes available to you.

What information must I give?

The notice must contain the following information:

- The name of the witness.
- The business address of the witness.
- The qualifications of the witness to give opinion evidence.
- The substance of the opinion evidence.
- Details of the acts, facts, matters and circumstances on which the witness has based his or her opinion.

FURTHER INFORMATION

Full details of these matters are set out in sections 368A and 368B of the Criminal Code. If you have access to the internet, you can use Google to find the Criminal Code by keying in "Criminal Code Tasmania".