

Brief outline of procedure

SECTION 41G EVIDENCE ACT

SPECIAL HEARINGS

1. Court commences. Witness and support person are waiting outside the remote witness room.
2. Accused arraigned.
3. Judge deals with pre-hearing issues which have not been capable of resolution at the directions hearing **IT IS VERY IMPORTANT THAT THESE ISSUES ARE FLAGGED AND IF POSSIBLE DEALT WITH AT DIRECTIONS HEARING.**
 - Questions of admissibility.
 - Is prosecution seeking to put specialist knowledge before the court as to competency?
 - Are previous representations (hearsay) relied upon and, if so, for what purpose?
 - Are they matters to be reserved for the trial judge?
 - Will the evidence-in-chief be via VATE/evidence/combination?
 - Prosecution should be in a position to advise as to the identity of the support person and relationship to the complainant.

- Judge will confirm whether arrangements have been made for witness to have access to any exhibits or other material at the remote location.
4. Judge will ascertain from counsel likely duration of these matters and advise witness support person.
 5. Judge authorises the support person and tipstaff if appropriate to be present in the room while the witness is giving evidence
 6. Witness brought into the remote witness room and competency determined, pursuant to old s.23 for matters commenced prior to 1 December 2006 and pursuant to new procedure for matters commenced thereafter. After judge has asked appropriate questions, witness is asked to wait outside the remote witness room (older child where competency clear may remain in room). Judge announces brief ruling as to whether the witness is competent to give evidence and whether the witness will give sworn or unsworn evidence.
 7. VATE tape is played. During that time, witness may be present in the remote witness facility or may wait outside. No recording is made while the VATE is being played.
 8. When the VATE is finished, the witness is asked to wait outside so tapes can be changed to red tape, upon which pre-recording occurs.

9. Where there is no VATE tape, or after the VATE tape is finished, tape is changed to red Special Hearing recording tape. (*When red tape is being used- equivalent of jury present so if you wish to raise a matter in the absence of the jury need to change back to black tape,- so counsel need to pause so that can occur*)
10. With the witness waiting outside the remote witness room, judge records preamble in relation to procedure.
11. Witness is brought into the room so that jury can see size, etc and
12. once seated will display headshot only (in some country locations the view may be different and need to be adjusted once the witness is seated).
13. Evidence-in-chief.
14. Cross-examination.
15. Re-examination.
16. Judge announces pre-recording is now complete. Special hearing tape is paused.
17. Witness is asked to wait outside the witness room while the tape is checked.
18. Tape is checked by tipstaff in the presence of counsel to make sure recording has occurred correctly.
19. Witness is excused.