

Observations or Recordings in Breach of Privacy s 227A(2) (Commencement date: 8 Dec 2005)

The prosecution must prove that:

- 1. The defendant observed¹ or visually recorded² another person's genital or anal region³ where a reasonable adult would expect to be afforded privacy in relation to that region;**
- 2. The observation or visual recording was done without the other person's consent;⁴**
- 3. The observation or visual recording was made for the purpose of observing or visually recording the other person's genital or anal region.**

Note: s 227C provides for an excuse from criminal responsibility for law enforcement officers acting in the course of their duty and for persons acting in the course of duty with respect to persons in lawful custody or under a supervision order.

¹ Observe means observe by any means (s 207A).

² Visually record a person means record by any means, moving or still images of the person or part of the person (s 207A).

³ Genital or anal region of a person means the person's genital or anal region when the region is covered by underwear or bare (s 227A(3)).

⁴ Consent would appear to have normal meaning and not that defined in s 348 in relation to Chapter 32.