

**Legislative Council—No 91A**

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 25 September 2013

South Australia

**Evidence (Identification) Amendment Bill 2012**

A BILL FOR

An Act to amend the *Evidence Act 1929*.

---

## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Evidence Act 1929*

- 4 Insertion of section 34AB  
34AB Identity parade evidence
  - 5 Substitution of Schedule 1  
Schedule 1—Review of identity parade evidence
    - 1 Inquiry into and report on operation of section 34AB
- 

## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Evidence (Identification) Amendment Act 2012*.

#### 2—Commencement

- 5 This Act will come into operation on a day to be fixed by proclamation.

#### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

### Part 2—Amendment of *Evidence Act 1929*

#### 10 4—Insertion of section 34AB

After section 34A insert:

##### 34AB—Identity parade evidence

- 15 (1) In a criminal trial, evidence of the identity of an offender is not to be excluded merely because it was obtained other than by means of an identity parade involving a presentation of a line-up of persons.
- (2) In a criminal trial, evidence of the identity of an offender obtained by means of an identity parade is to be excluded unless—
  - (a) —
    - 20 (i) the identity parade was conducted in accordance with—
      - (A) the procedures prescribed by the regulations; and

(B) any orders or directions of the  
Commissioner of Police; and

(ii) an audiovisual record of the identity parade was  
made and kept in accordance with the regulations;  
or

(b) the judge is satisfied that, despite the failure to comply with  
any of the requirements of paragraph (a), the interests of  
justice require the admission of the evidence.

(3) In a criminal trial where the identity of the offender is in issue, the  
judge must, if evidence of the identity of the offender is admitted,  
inform the jury—

(a) of the need for caution before accepting identification  
evidence; and

(b) of the reasons for the need for caution, both generally and in  
the circumstances of the case.

(4) In giving any such information, the judge is not required to use any  
particular form of words but may not suggest that identification  
evidence obtained from an identity parade by any means other than  
by a presentation of a line-up of persons is inherently or intrinsically  
less reliable than evidence obtained from an identity parade by such  
means.

(5) In this section—

*identity parade* means a contemporaneous presentation (whether in  
person in a line-up or by means of images) of a number of persons to  
a witness for the purpose of identifying a person suspected of having  
committed an offence.

## 5—Substitution of Schedule 1

Schedule 1—delete the Schedule and substitute:

### **Schedule 1—Review of identity parade evidence**

#### **1—Inquiry into and report on operation of section 34AB**

(1) The Minister must, within 12 months after the commencement of this  
clause, appoint a person—

(a) to review the operation of section 34AB of this Act as  
inserted by the *Evidence (Identification) Amendment  
Act 2013*; and

(b) report on the extent to which the operation of that section,  
and the regulations and any orders or directions of the  
Commissioner of Police made pursuant to that section—

(i) facilitate the gathering of quality identification  
evidence; and

(ii) reflect scientific best practice; and

- 5
- (iii) protect the rights of people with disability or cultural and linguistic diversity.
  - (2) A report on the review must be provided to the Minister within 3 months after the commencement of the review.
  - (3) The Minister must, within 12 sitting days after receipt of the report under this clause, cause a copy of the report to be laid before each House of Parliament.