

Legislative Council—No 215

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South Australia

Summary Offences (Interviewing Vulnerable Witnesses) Amendment Bill 2017

A BILL FOR

An Act to amend the *Summary Offences Act 1953*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Summary Offences (Interviewing Vulnerable Witnesses) Amendment Act 2017*.

2—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 *Summary Offences Act 1953*

3—Section 74EC—Admissibility of evidence of interview

- (1) Section 74EC—delete "prescribed person" wherever occurring and substitute in each case:

prescribed interviewer

- (2) Section 74EC(1)(b)—delete "prescribed person's" and substitute:

prescribed interviewer's

- (3) Section 74EC—after subsection (1) insert:

- (1a) If a person to whom this Division applies is to be interviewed as a potential witness in relation to the investigation of any other offence, evidence of the interview may be admissible under section 13BA of the *Evidence Act 1929* if—

- (a) an audio visual recording of the interview is made in accordance with the regulations; and
- (b) the interview is conducted by a prescribed interviewer; and
- (c) the manner in which the interview is conducted meets the prescribed requirements to the prescribed extent.

(1b) If a prescribed interviewer's conduct and recording of an interview does not meet the requirements of subsection (1a)(c), the court may nevertheless admit evidence of the interview if satisfied that the interests of justice require the admission of the evidence despite the prescribed interviewer's non-compliance.

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(4) Section 74EC(2)—after "subsection (1)(b)" insert:

or (1b)

Schedule 1—Transitional provision

1—Transitional provision

10 (1) An audio visual record of a statement of a witness to whom this subclause applies
made to an investigating officer after the commencement of Part 5 of the SAVW Act
and before the commencement of Part 2 of this Act as part of a formal interview
process in relation to the investigation of an alleged offence (other than a serious
15 offence against the person) may be admissible under section 13BA of the *Evidence
Act 1929* as evidence in the trial of a charge of the offence as if the recording had been
made pursuant to Division 3 of Part 17 of the *Summary Offences Act 1953* in
accordance with the requirements of that Division as in force following the
commencement of Part 2 of this Act.

(2) Subclause (1) applies to a witness who is—
20 (a) a child of or under the age of 14 years; or
(b) a person with a disability that adversely affects the person's capacity to give a
coherent account of the person's experiences or to respond rationally to
questions.

(3) In this clause—
25 *interview* and *investigating officer* have the same meanings as in section 74C of the
Summary Offences Act 1953;
serious offence against the person has the same meaning as in section 74EA of the
Summary Offences Act 1953;
SAVW Act means the *Statutes Amendment (Vulnerable Witnesses) Act 2015*.