

South Australia

Evidence Regulations 2007

under the *Evidence Act 1929*

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Legislative history

1—Short title

These regulations may be cited as the *Evidence Regulations 2007*.

3—Interpretation

In these regulations—

Act means the *Evidence Act 1929*.

3AAA—Domestic violence proceedings—recorded evidence

- (1) If a statement in a section 13BB recording is in a language other than English, that statement must be translated into English, either in the recording or in a transcript made at a later time.
- (2) If a transcript is made in accordance with subregulation (1), the transcript must accompany the recording to which it relates if—
 - (a) the defendant elects to listen to or view the recording before it is admitted into evidence in proceedings; or
 - (b) the recording is admitted into evidence in proceedings.
- (3) If a person translates a statement in a section 13BB recording in accordance with subregulation (1)—
 - (a) the person must state, in the form of an affidavit, that the statement was accurately translated into English; and
 - (b) if the recording is admitted into evidence in proceedings—the affidavit must accompany the recording.

- (4) The court may require that a translation made in accordance with subregulation (1) be verified (in such manner as the court may direct) as an accurate translation of the relevant statement.
- (5) A person who has possession of, or access to, a section 13BB recording must not allow access to the recording by another person except—
- (a) for the legitimate purposes of any proceedings in which the recording has been admitted into evidence or to which the recording relates; or
 - (b) for use by a public official for purposes connected with their official functions; or
 - (c) as may be authorised by the prosecution.

Maximum penalty: \$5 000.

- (6) A complainant gives *informed consent* to the making of a recording for the purposes of the definition in section 13BB(10) of the Act if the consent is given in accordance with the following requirements:
- (a) a police officer must tell the complainant—
 - (i) that the police officer is recording the complainant; and
 - (ii) that the recording may be used in court; and
 - (b) the complainant must indicate (whether by words or conduct) that they consent to the making of the recording.
- (7) For the purposes of subregulation (6)(b) (and without limiting the manner in which a complainant may indicate that they consent to the making of a recording), a lack of objection to a recording may, in the circumstances, constitute a sufficient indication of consent to the recording.
- (8) In this regulation—

public official has the same meaning as in section 67G of the Act;

section 13BB recording means a recording made by a police officer that is, or may be, admissible in proceedings for a domestic violence offence under section 13BB of the Act.

3AA—Identity parades

- (1) For the purposes of section 34AB(2)(a)(i) of the Act, reasonable steps must be taken when making an audio visual record of an identity parade to ensure that—
- (a) the witness identifying, or attempting to identify, a person alleged to have committed an offence is visible at all relevant times during the conduct of the identity parade; and
 - (b) if the witness indicates that a person taking part in, or whose image is included in, the parade is alleged to have committed an offence—that person or image (as the case requires) is visible at the time the witness gives the indication; and
 - (c) anything said by the witness, and any other person present, during the conduct of the identity parade is recorded.

- (2) For the purposes of section 34AB(2)(a)(i) of the Act, the Commissioner of Police must keep an audio visual record of an identity parade relating to a person until—
- (a) if the person has been charged with an offence to which the identity parade relates but is subsequently discharged—the day on which the person is so discharged; or
 - (b) if the person has been convicted or acquitted of an offence to which the identity parade relates—
 - (i) if an appeal has not been lodged within the period provided for lodging an appeal against the conviction or acquittal—the end of the period; or
 - (ii) if an appeal has been lodged within the period provided for lodging an appeal against the conviction or acquittal—the appeal lapses or is finally determined,
 whichever is the later; or
 - (c) if the person to whom the record relates has not been charged with an offence to which the identity parade relates—until the end of the period within which the person can be charged with the offence.

3A—Approved process

- (1) For the purposes of section 45C(5) of the Act, the third party insurance document imaging system is an approved process for the reproduction of third party insurance documents.
- (2) For the purposes of this regulation—
 - (a) a third party insurance document is a document provided to, or produced by or on behalf of, the Motor Accident Commission for the purposes of Part 4 of the *Motor Vehicles Act 1959* or third party insurance provided under that Part; and
 - (b) the third party insurance document imaging system is the system used for reproducing third party insurance documents that have been captured and stored as digital data, being a system that the Motor Accident Commission is satisfied protects the integrity and security of the data and is subject to regular independent audit (at intervals not exceeding 2 years) to ensure its correct operation.

Note—

At the commencement of this regulation the system comprised the Document Imaging Claims Environment and the Allianz Claims Environment.

4—Prescribed South Australian courts

Pursuant to paragraph (e) of the definition of *South Australian court* in section 59IA of the Act, the following courts and tribunals are South Australian courts for the purposes of Part 6C of the Act:

- (a) the Environment, Resources and Development Court;
- (b) the South Australian Employment Tribunal;
- (f) the Youth Court of South Australia.

5—Operation of section 59IQ(4)

For the purposes of subsection (4) of section 59IQ of the Act, the provisions of that subsection are extended to the Magistrates Court.

6—Fee for authorised news media representative

- (1) The fee prescribed for the purposes of section 69A of the Act in respect of an authorised news media representative must be paid not later than 1 June in each year for the next financial year.
- (3) If, however, the fee is paid for a term of less than 12 months, the fee payable is a proportion of the relevant fee, being the proportion that the number of whole months in the term bears to 12 months.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Formerly

Evidence (General) Regulations 2007

Revocation of regulations

The *Evidence Regulations 2007* were revoked by Sch 1 of the *Evidence Regulations 2022* on 1.9.2022.

Legislation revoked by principal regulations

The *Evidence Regulations 2007* revoked the following:

Evidence (Prescribed Courts) Regulations 1999

Principal regulations and variations

Year	No	Reference	Commencement
2007	29	<i>Gazette 29.3.2007 p962</i>	1.4.2007: r 2
2008	218	<i>Gazette 14.8.2008 p3633</i>	14.8.2008: r 2
2010	136	<i>Gazette 10.6.2010 p2974</i>	1.7.2010: r 2
2011	150	<i>Gazette 9.6.2011 p2409</i>	1.7.2011: r 2
2012	149	<i>Gazette 31.5.2012 p2544</i>	1.7.2012: r 2
2013	123	<i>Gazette 6.6.2013 p2297</i>	1.7.2013: r 2
2014	126	<i>Gazette 19.6.2014 p2631</i>	1.7.2014: r 2
2014	198	<i>Gazette 3.7.2014 p3129</i>	7.7.2014: r 2
2015	79	<i>Gazette 18.6.2015 p2603</i>	1.7.2015: r 2
2016	154	<i>Gazette 23.6.2016 p2413</i>	1.7.2016: r 2
2017	44	<i>Gazette 16.5.2017 p1268</i>	1.7.2017: r 2
2017	161	<i>Gazette 22.6.2017 p2436</i>	1.7.2017: r 2
2018	89	<i>Gazette 21.6.2018 p2219</i>	1.7.2018: r 2
2019	104	<i>Gazette 13.6.2019 p1952</i>	1.7.2019: r 2
2019	188	<i>Gazette 18.7.2019 p2748</i>	1.9.2019: r 2
2020	104	<i>Gazette 4.6.2020 p2916</i>	1.7.2020: r 2

Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
r 1	varied by 218/2008 r 4	14.8.2008
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>14.8.2008</i>
r 3	varied by 218/2008 r 5	14.8.2008
r 3AAA	inserted by 188/2019 r 4	1.9.2019
r 3AA	inserted by 198/2014 r 4	7.7.2014
r 3A	inserted by 218/2008 r 6	14.8.2008
r 4	varied by 44/2017 r 4	1.7.2017
	(c), (d), (e) deleted by 44/2017 r 4	1.7.2017
r 6		
r 6(1)	substituted by 104/2020 r 4	1.7.2020
<i>r 6(2)</i>	<i>deleted by 104/2020 r 4</i>	<i>1.7.2020</i>
<i>Sch 1</i>	<i>substituted by 136/2010 r 4</i>	<i>1.7.2010</i>
	<i>substituted by 150/2011 r 4</i>	<i>1.7.2011</i>
	<i>substituted by 149/2012 r 4</i>	<i>1.7.2012</i>
	<i>substituted by 123/2013 r 4</i>	<i>1.7.2013</i>
	<i>substituted by 126/2014 r 4</i>	<i>1.7.2014</i>
	<i>substituted by 79/2015 r 4</i>	<i>1.7.2015</i>
	<i>substituted by 154/2016 r 4</i>	<i>1.7.2016</i>
	<i>substituted by 161/2017 r 4</i>	<i>1.7.2017</i>
	<i>substituted by 89/2018 r 4</i>	<i>1.7.2018</i>
	<i>substituted by 104/2019 r 4</i>	<i>1.7.2019</i>
	<i>deleted by 104/2020 r 5</i>	<i>1.7.2020</i>
<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>14.8.2008</i>

Historical versions

14.8.2008
1.7.2010
1.7.2011
1.7.2012
1.7.2013
1.7.2014 (electronic only)
7.7.2014
1.7.2015
1.7.2016
1.7.2017
1.7.2018
1.7.2019

1.9.2019