

South Australia

## **Criminal Law (Forensic Procedures) Variation Regulations 2003**

under the *Criminal Law (Forensic Procedures) Act 1998*

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Criminal Law (Forensic Procedures) Variation Regulations 2003*.

#### **2—Commencement**

These regulations come into operation on the day on which they are made.

#### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## Part 2—Variation of *Criminal Law (Forensic Procedures) Regulations 1999*

### 4—Insertion of regulation 3A

After regulation 3 insert:

#### 3A—Corresponding laws

The following laws, as in force from time to time, are prescribed for the purposes of the definition of *corresponding law* in section 3 of the Act:

- (a) the *Crimes (Forensic Procedures) Act 2000* of the Australian Capital Territory;
- (b) Part 1D of the *Crimes Act 1914* of the Commonwealth;
- (c) the *Crimes (Forensic Procedures) Act 2000* of New South Wales;
- (d) sections 31, 31A, 31B, 51 and 70B of the *Juvenile Justice Act* of the Northern Territory;
- (e) Part VII Division 7 of the *Police Administration Act* of the Northern Territory;
- (f) Chapter 8 of the *Police Powers and Responsibilities Act 2000* of Queensland;
- (g) the *Forensic Procedures Act 2000* of Tasmania;
- (h) Part III Division 1 Subdivision 30A of the *Crimes Act 1958* of Victoria;
- (i) the *Criminal Investigation (Identifying People) Act 2002* of Western Australia.

### 5—Variation of regulation 4—Persons qualified to carry out forensic procedures

- (1) Regulation 4(c)—delete paragraph (c) and substitute:
  - (c) a police officer who has satisfactorily completed a course of training approved for the purpose by the Minister is qualified to carry out a non-intrusive forensic procedure consisting of one or more of the following:
    - (i) the taking of a sample of hair from a person's body;
    - (ii) the taking of a sample of fingernail or toenail, or material from under a fingernail or toenail;
    - (iii) the taking of a sample of biological or other material from an external part of the body;
    - (iv) the taking of a sample by buccal swab;

- (v) the taking of a sample of blood by finger-prick for the purpose of obtaining a DNA profile;
  - (vi) the taking of an impression or cast of a wound.
- (2) Regulation 4—after its present contents as amended by this regulation (now to be designated as subregulation (1)) insert:
- (2) A forensic procedure consisting of the taking of a sample of blood by finger-prick for the purpose of obtaining a DNA profile should only be carried out by a police officer, in accordance with subregulation (1)(c)(v), if—
    - (a) it is not appropriate, in the circumstances, to take a sample by buccal swab for the purpose of obtaining a DNA profile; and
    - (b) it is not reasonably practicable to have the sample of blood taken by a medical practitioner or registered nurse.

## **6—Substitution of regulation 4A**

Regulation 4A—delete the regulation and substitute:

### **4A—Registration of orders**

- (1) The Minister will maintain a register of orders for the purposes of section 51 of the Act (the *Register*).
- (2) The Register—
  - (a) may be kept in electronic form; and
  - (b) must contain the following particulars in relation to each order:
    - (i) the date on which and place at which the order was made;
    - (ii) the name of the court or authority that made the order;
    - (iii) the name of the person against whom the order was made;
    - (iv) the terms of the order.
- (3) Where the Minister has entered into an arrangement with the Minister responsible for the administration of a corresponding law in accordance with section 51(1) of the Act, the Minister will, at the request of the Minister responsible for the administration of the corresponding law, register an order made under the corresponding law in the Register.
- (4) An order made under the law of the Commonwealth or of another State or a Territory of the Commonwealth may be registered, in accordance with section 51(2), in the Register only if such registration is authorised by an arrangement entered into under section 51(1).

- (5) In any proceedings an apparently genuine document purporting to be a certified copy of, or extract from, the Register will be accepted, in the absence of proof to the contrary, as proof of the matters specified in the copy or extract.

### **7—Variation of Schedule—Fees**

Schedule, clause 1—delete "videotape recording provided under section 16 or 38" and substitute:

audiovisual record provided under section 13G, 13H, 16 or 38

#### **Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor's Deputy**

with the advice and consent of the Executive Council  
on 2 October 2003

No 199 of 2003

AGO0369/02CS