

South Australia

Evidence Variation Regulations 2014

under the *Evidence Act 1929*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Evidence Variation Regulations 2014*.

2—Commencement

These regulations will come into operation on the day on which section 4 of the *Evidence (Identification Evidence) Amendment Act 2013* comes into operation.

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 *Evidence Regulations 2007*

4—Insertion of regulation 3AA

After regulation 3 insert:

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.

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

with the advice and consent of the Executive Council
on 3 July 2014

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