

South Australia

Intervention Orders (Prevention of Abuse) (Recorded Evidence) Variation Regulations 2019

under the *Intervention Orders (Prevention of Abuse) Act 2009*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Intervention Orders (Prevention of Abuse) (Recorded Evidence) Variation Regulations 2019*.

2—Commencement

These regulations come into operation on the date on which section 12 of the *Statutes Amendment (Domestic Violence) Act 2018* 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 *Intervention Orders (Prevention of Abuse) Regulations 2011*

4—Variation of regulation 3—Interpretation

Regulation 3—after the definition of *Act* insert:

recorded evidence means a recording containing evidence of a relevant person (within the meaning of section 28A of the Act) made by a police officer that is, or may be, admissible in evidence in accordance with section 28A of the Act.

5—Insertion of regulations 4BA to 4BC

After regulation 4B insert:

4BA—Translation of recorded evidence (section 28A of Act)

- (1) If a statement in recorded evidence 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 recorded evidence to which it relates if—
 - (a) the defendant elects to listen to or view the recorded evidence before it is admitted into evidence in proceedings; or
 - (b) the recorded evidence is admitted into evidence in proceedings.
- (3) If a person translates a statement in recorded evidence 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 recorded evidence is admitted into evidence in proceedings—the affidavit must accompany the recorded evidence.
- (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.

4BB—Access to recorded evidence (section 28A of Act)

- (1) A police officer who intends to ask the Court to admit recorded evidence in proceedings for the making, or variation, of an intervention order may give the defendant unrestricted or restricted access to the recorded evidence.
- (2) If a police officer decides to give the defendant restricted access, the police officer must give the defendant a notice (a *recorded evidence access notice*) that complies with this section.

- (3) The recorded evidence access notice must—
- (a) indicate that the police officer has determined to give the defendant restricted access to the recorded evidence; and
 - (b) state that the defendant's access to the recorded evidence is subject to the following conditions:
 - (i) the condition that the recorded evidence will be available for the defendant to listen to or view (as the case may require) under the supervision of a police officer at a place specified in the notice and at a time to be arranged at the request of the defendant;
 - (ii) any other conditions the police officer considers necessary or desirable to protect the relevant person who is the subject of the recorded evidence and to prevent unauthorised reproduction or dissemination; and
 - (c) set out the manner in which the defendant may request access to the recorded evidence, including the name and contact details of the person who is responsible for arranging access to the recorded evidence on behalf of the police officer.

- (4) A person who is given restricted access to recorded evidence by a police officer under this regulation must not contravene a condition of access.

Maximum penalty: \$5 000.

- (5) In this regulation—

access—a person gives another person access to recorded evidence if the person—

- (a) retains possession of the recorded evidence but allows the other to listen to or view the recorded evidence; or
- (b) gives the other a physical or digital copy of the recorded evidence; or
- (c) provides the other with rights to access a digital copy of the recorded evidence;

restricted access to recorded evidence means access subject to conditions imposed under this regulation;

unrestricted access to recorded evidence means access that is not subject to conditions imposed under this regulation.

4BC—Allowing access to recorded evidence (section 28A of Act)

- (1) A person who has possession of, or access to, recorded evidence must not allow access to the recorded evidence by another person except—
- (a) for the legitimate purposes of any proceedings in which the recorded evidence has been admitted into evidence or to which the recorded evidence relates; or
 - (b) for use by a public official for purposes connected with their official functions; or
 - (c) as may be authorised by the police officer who made the application for the making, or variation, of an intervention order.

Maximum penalty: \$5 000.

- (2) In this regulation—

public official means—

- (a) a police officer; or
- (b) a person who holds an office or position in the employment in the State or an instrumentality or agency of the State.

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 18 July 2019

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