

JU301*

Evidence Act 1906

Evidence (Visual Recording of Interviews with Children) Amendment Regulations 2014

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Evidence (Visual Recording of Interviews with Children) Amendment Regulations 2014*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Evidence (Visual Recording of Interviews with Children) Regulations 2004*.

4. Regulation 1 amended

In regulation 1 delete “*Children*”) and insert:

Children and Persons with Mental Impairment)

5. Regulation 3 amended

Delete regulation 3(1) and insert:

- (1) In these regulations —

Commissioner of Police means the Commissioner of Police appointed under the *Police Act 1892* section 5;

department means the department of the Public Service principally assisting in the administration of the *Children and Community Services Act 2004*;

relevant person means a person —

- (a) who is a member of the Police Force; or
- (b) authorised by the Commissioner of Police under regulation 4A; or
- (c) who is an officer as defined in the *Children and Community Services Act 2004* section 3;

section means a section of the Act.

6. Regulation 4A inserted

After regulation 3 insert:

4A. Authorisation of persons

The Commissioner of Police may, by notice in writing, authorise a person who is engaged by the Western Australian Police Service under a contract for services, or otherwise, to be a relevant person for the purposes of these regulations.

7. Regulation 4 replaced

Delete regulation 4 and insert:

4. Prescribed class of persons — s. 106HA(1)(a) and (1a)(a)

For the purposes of section 106HA(1)(a) and (1a)(a) a person is of the prescribed class if —

- (a) the person is a relevant person and has successfully completed a training course about conducting interviews of a kind mentioned in section 106HA(1) or (1a) —
 - (i) provided by the Western Australian Police Service; or
 - (ii) provided by the department; or
 - (iii) approved in writing by the Commissioner of Police;
- or
- (b) the person —
 - (i) is a member of the police force or police service of the Commonwealth or of another State or a Territory; and
 - (ii) is authorised under a law of the Commonwealth or of another State or a Territory to conduct interviews with a child or a person with a mental impairment in the circumstances set out in section 106HA(1)(a) or (1a)(a).

8. Regulation 6A inserted

After regulation 5 insert:

6A. Prescribed requirements and the extent to which they are to be met — s. 106HA(1a)(b)

For the purposes of section 106HA(1a)(b) an interview meets the prescribed requirements if it was —

- (a) conducted in such a manner that, as far as is practicable, statements made by the person with a mental impairment in the interview were not elicited by the use of leading questions; and
- (b) conducted in such a manner that it is apparent that the person —
 - (i) understands that the giving of evidence is a serious matter and that the person must tell the truth; and

- (ii) has a level of cognitive functioning that enables the person to give an intelligible account of his or her experiences;
- and
- (c) conducted or recorded in a manner that provides all, or most, of the following information —
 - (i) the date on which the recording was made;
 - (ii) the place at which the recording was made;
 - (iii) the identity of all persons who were present at any time during the interview;
 - (iv) any breaks in the interview, the time the break commenced and concluded and the reasons for the break.

9. Regulation 7 amended

- (1) In regulation 7(1)(a)(i) delete “106HA(1)(a); and” and insert:

106HA(1)(a) or (1a)(a); and

- (2) Delete regulation 7(2)(c) and insert:

- (c) details showing that the person is a person of a class prescribed under section 106HA(1)(a) or (1a)(a).

R. KENNEDY. Clerk of the Executive Council.