

Western Australia

Evidence Amendment Act 2004

As at 07 Oct 2004

No. 24 of 2004

Extract from www.slp.wa.gov.au, see that website for further information

Western Australia

Evidence Amendment Act 2004

CONTENTS

1.	Short title	1
2.	Commencement	2
3.	The Act amended	2
4.	Section 50B inserted	2
	50B. DNA evidentiary certificate	2

Western Australia

Evidence Amendment Act 2004

No. 24 of 2004

An Act to amend the *Evidence Act 1906*.

[Assented to 7 October 2004]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Evidence Amendment Act 2004*.

s. 2

2. Commencement

This Act comes into operation on a day fixed by proclamation.

3. The Act amended

The amendment in this Act is to the *Evidence Act 1906**.

[* *Reprint 12 as at 10 October 2003.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2003, Table 1, p. 128 and
Act No. 4 of 2004.]*

4. Section 50B inserted

After section 50A the following section is inserted —

“

50B. DNA evidentiary certificate

(1) In this section —

“**authorised officer**” means the person who holds the
office prescribed for the purposes of this
definition;

“**business day**” means a day that is not a Saturday,
Sunday or public holiday;

“**DNA profile**” means the result from DNA analysis;

“**examination**”, of a thing, includes testing the thing;

“**forensic scientist**” means a person, or a person who
holds an office, prescribed for the purposes of this
definition;

“**hearing day**”, for a criminal proceeding, means the
day fixed for the start of the trial of the
proceeding;

“**party**”, to a criminal proceeding, means the
prosecutor or a person charged in the proceeding;

“thing” includes anything in or on or otherwise attached to the thing.

- (2) This section applies to a criminal proceeding.
- (3) A certificate purporting to be signed by a forensic scientist and stating any of the following matters is evidence of the matter —
 - (a) that a stated thing was received at a stated laboratory on a stated day;
 - (b) that the thing was examined at the laboratory on a stated day or between stated days;
 - (c) that a DNA profile was, or a stated number of DNA profiles were, obtained from the thing;
 - (d) that a forensic scientist —
 - (i) examined the laboratory’s records relating to the receipt, storage and examination of the thing, including any examination of the thing that was done by a person other than the forensic scientist; and
 - (ii) confirms that the records indicate that all quality assurance procedures for the receipt, storage and examination of the thing that applied in the laboratory at the time the thing was examined were complied with.
- (4) If a party intends to rely on the certificate, the party must —
 - (a) at least 10 business days before the hearing day, give a copy of the certificate to each other party; and
 - (b) at the hearing, call the forensic scientist to give evidence, unless the parties agree otherwise.

s. 4

- (5) If the authorised officer receives a written request from a party for a copy of the laboratory's records relating to the receipt, storage and examination of the thing, the authorised officer must give the party a copy of the records within 7 business days after receiving the request.
- (6) If a party intends to dispute a matter stated in the certificate, the party must, at least 5 business days before the hearing day, give the authorised officer and each other party written notice of the matter to be disputed.
- (7) A party disputing a matter stated in the certificate may, with the leave of the court, require the party relying on the certificate to call any person involved in the receipt, storage or examination of the thing to give evidence at the hearing.
- (8) The court may give leave only if satisfied —
 - (a) that an irregularity may exist in relation to the receipt, storage or examination of the thing about which the person to be called is able to give evidence; and
 - (b) that it is in the interests of justice that the person be called to give evidence.
- (9) Any equipment used in examining the thing at the laboratory is taken to have given accurate results in the absence of evidence to the contrary.
- (10) A document required to be given under this section may be given personally, by post or by facsimile or another form of electronic communication.
- (11) On application made to it, the court may, before or after a time fixed under this section expires, extend or abridge the time by an order fixing, extending or

abridging the time, whether or not the application is made before the time expires.

- (12) The Governor may make regulations for the purposes of the definitions of “authorised officer” and “forensic scientist” in subsection (1).

”.
