

Evidence (Domestic Violence Proceedings) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 109

Made under the

Evidence Act 1977

General outline

Short title

Evidence (Domestic Violence Proceedings) Amendment Regulation 2022

Authorising law

Section 103C and 135 of the *Evidence Act 1977* (Evidence Act)

Policy objectives and the reasons for them

The purpose of the *Evidence (Domestic Violence Proceedings) Amendment Regulation 2022* (the Amendment Regulation) is to set the scope of a pilot enabling video recorded statements taken by trained police officers to be used as an adult victim's evidence-in-chief in domestic and family violence (DFV) related criminal proceedings (VRE pilot) by prescribing the types of criminal proceedings and the courts and places of hearings to which the pilot will apply.

Section 103C of the Evidence Act limits the application of the provisions relating to the VRE pilot to a 'domestic violence proceeding', which is defined as a criminal proceeding that:

- relates to a charge for a domestic violence offence, whether or not the proceeding also relates to other offences;
- is the type of criminal proceeding is prescribed by regulation; and
- is held at a court and place prescribed by regulation.

Achievement of policy objectives

The policy objective is achieved by prescribing:

- the types of proceedings for the VRE pilot as summary proceedings under the *Justices Act 1886* and committal proceedings; and
- the places for proceedings for the VRE pilot as the Ipswich Magistrates Court and the Southport Magistrates Court.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Evidence Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation supports the operationalisation of the VRE pilot which will enable video recorded statements taken by trained police officers to be used as an adult victim's evidence-in-chief in DFV related criminal proceedings.

The Amendment Regulation sets to scope of the pilot as summary and committal proceedings at the Ipswich and the Southport Magistrates Courts. The VRE pilot will be subject to an independent evaluation which will enable evidence about the victim's experience and potential for unintended consequences, together with other practical and financial impacts for courts, police and prosecutors to be properly assessed.

Administrative and operational costs for government associated with the implementation of the VRE pilot will be funded from within existing resources. A detailed assessment of the resourcing and financial impacts of the VRE pilot will be an important component of the evaluation of the pilot.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

Consultation on a draft of the Amendment Regulation was undertaken with legal, DFV and other interested stakeholders. The Chief Justice, Chief Judge, and Chief Magistrate were also consulted.

Queensland Law Society, Legal Aid Queensland and Queensland Domestic Violence Services Network raised potential operational matters with the VRE pilot. The Department of Justice and Attorney-General will continue to work with the Queensland Police Service and stakeholders in relation to operational issues that may arise with the VRE pilot.

The Department of Justice and Attorney-General has self-assessed the Amendment Regulation to be excluded from further regulatory impact analysis under exclusion category (j) of the *Queensland Government Guide to Better Regulation* on the basis that it is a regulatory proposal relating to police powers and administration, general criminal laws, and the administration of courts.