



Evidence Amendment Regulations 2010 (No. 1)¹

Select Legislative Instrument 2010 No. 17

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Evidence Act 1995*.

Dated 25 February 2010

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

ROBERT McCLELLAND
Attorney-General

1 Name of Regulations

These Regulations are the *Evidence Amendment Regulations 2010 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Evidence Regulations 1995*

Schedule 1 amends the *Evidence Regulations 1995*.

Schedule 1 Amendments

(regulation 3)

[1] Paragraph 6 (3) (a)

omit
related

[2] Subregulation 7 (1)

after
128
insert
or 128A

[3] Paragraphs 7A (a) and (b)

substitute
(a) section 128 of the **Evidence Act 2008** (Vic);
(b) section 11 of the *Evidence Act 1906* (WA);
(c) section 128 of the *Evidence Act 2001* (Tas).

[4] Schedule, Form 1

substitute

**Form 1 Certificate under section 128 or 128A of
the *Evidence Act 1995***

(regulation 7)

[Set out heading to action or matter]

**CERTIFICATE UNDER SECTION 128 OR 128A OF THE
*EVIDENCE ACT 1995***

This Court certifies under section 128*/128A* of the *Evidence Act 1995* of the Commonwealth that evidence in these proceedings by *[state name of witness]* on *[state date or dates]*, a record of which is attached to this certificate*, is evidence*/information* to which subsection 128 (7)*/128A (8)* of that Act applies.

[A transcript, or other record, of the evidence is to be attached to this certificate, and duly authenticated by the court or its proper officer.]

Dated:

L.S.

(affix seal)

Judge or magistrate of the Court

**Delete if not applicable*

Note Subsection 128 (7) of the *Evidence Act 1995* provides as follows:

- (7) In any proceeding in an Australian court:
 - (a) evidence given by a person in respect of which a certificate under this section has been given; and
 - (b) evidence of any information, document or thing obtained as a direct or indirect consequence of the person having given evidence;cannot be used against the person. However, this does not apply to a criminal proceeding in respect of the falsity of the evidence.

Subsection 128A (8) of the *Evidence Act 1995* provides as follows:

- (8) In any proceeding in an Australian court:
 - (a) evidence of information disclosed by a relevant person in respect of which a certificate has been given under this section; and
 - (b) evidence of any information, document or thing obtained as a direct result or indirect consequence of the relevant person having disclosed that information;cannot be used against the person. However, this does not apply to a criminal proceeding in respect of the falsity of the evidence concerned.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.