



Jaclyn Symes MP

Attorney-General
Minister for Resources

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Evidence (Miscellaneous Provisions) Act 1958

Evidence (Examination of Witnesses Outside the State) Regulations 2021

RECOMMENDATION

It is recommended to the Governor in Council that, under section 152 of the **Evidence (Miscellaneous Provisions) Act 1958**, the Evidence (Examination of Witnesses Outside the State) Regulations 2021 be made.

Advice from the Chief Parliamentary Counsel is submitted as required by section 13 of the **Subordinate Legislation Act 1994**.

A Regulatory Impact Statement for these Regulations has not been prepared. As the Minister responsible for the administration of the **Evidence (Miscellaneous Provisions) Act 1958**, I have issued an exemption certificate under section 8(1)(b) of the **Subordinate Legislation Act 1994**.

Under my hand, the following certificates are attached:

- (a) a composite certificate under section 12B(2) of the **Subordinate Legislation Act 1994** comprised of:
 - (i) a certificate of exemption from the requirement to lodge a Regulatory Impact Statement under section 7 of the **Subordinate Legislation Act 1994**, in accordance with section 8(1)(b) of that Act; and
 - (ii) a consultation certificate, in accordance with section 6 of the **Subordinate Legislation Act 1994**; and
- (b) a Human Rights Exemption Certificate under section 12A(3)(a) of the **Subordinate Legislation Act 1994**.

Dated: 19 / 04 / 2021

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Subordinate Legislation Act 1994

COMPOSITE CERTIFICATE

(Section 12B(2))

CONSULTATION CERTIFICATE AND EXEMPTION CERTIFICATE

(Sections 6 and 8)

Evidence (Examination of Witnesses Outside the State) Regulations 2021

I, Jaclyn Symes MP, Attorney-General and Minister responsible for administering the **Evidence (Miscellaneous Provisions) Act 1958**, certify under the **Subordinate Legislation Act 1994** that, in my opinion –

- (a) under section 6 of that Act there has been consultation in accordance with the guidelines made under that Act and –
 - (i) the matters to be dealt with under the proposed Evidence (Examination of Witnesses Outside the State) Regulations 2021 do not impinge upon or unduly affect the area of responsibility of any other Minister, and there is no overlap or duplication of, or conflict with, any other existing or proposed statutory rule, legislation or stated government policy; and
 - (ii) the need for, and scope of the proposed Evidence (Examination of Witnesses Outside the State) Regulations 2021 have been considered and the Supreme Court of Victoria and the County Court of Victoria have been consulted in accordance with the guidelines made under the **Subordinate Legislation Act 1994**.

and

- (b) under section 8(1)(b) of that Act the proposed Evidence (Examination of Witnesses Outside the State) Regulations 2021 are exempt from the requirement to prepare a Regulatory Impact Statement under section 7 of that Act.

The reason for forming this opinion is that the proposed rule prescribes the courts and persons in other States and Territories that are a 'judicial authority' for the purposes of section 9G of the **Evidence (Miscellaneous Provisions) Act 1958** and therefore is a rule which relates only to a court or tribunal or the procedure, practice or costs of a court

or tribunal under section 8(1)(b) of the **Subordinate Legislation Act 1994**.

Accordingly, a Regulatory Impact Statement is not required for these Regulations.

Dated: 19 / 04 / 2021



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Subordinate Legislation Act 1994

HUMAN RIGHTS EXEMPTION CERTIFICATE

(Section 12A(3)(a))

Evidence (Examination of Witnesses Outside the State) Regulations 2021

I, Jaclyn Symes MP, Attorney-General and Minister responsible for administering the **Evidence (Miscellaneous Provisions) Act 1958**, certify under section 12A(3)(a) of the **Subordinate Legislation Act 1994** that, in my opinion, the proposed Evidence (Examination of Witnesses Outside the State) Regulations 2021 is a rule which relates only to a court or tribunal or the procedure, practice or costs of a court or tribunal, and is exempt from the requirement to prepare a Human Rights Certificate under section 12A(1) of that Act.

Dated: 19 / 04 / 2021

Jaclyn Symes MP
Attorney-General





PARLIAMENTARY COUNSEL VICTORIA

Your Reference: CD/21/182571
Our Reference: 21-024/22366: KMM

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SUBORDINATE LEGISLATION ACT 1994 SECTION 13 CERTIFICATE

Proposed statutory rule : Evidence (Examination of Witnesses Outside the State) Regulations 2021

Authorising Act : Evidence (Miscellaneous Provisions) Act 1958

Date of print of proposed statutory rule : 25 March 2021

A proposed statutory rule that is to be made by, or with the consent or approval of, the Governor in Council must be submitted to the Chief Parliamentary Counsel for the issue of a certificate by the Chief Parliamentary Counsel specifying whether the proposed statutory rule —

(a) *appears to be within the powers conferred by the authorising Act;*

(b) *appears without clear and express authority being conferred by the authorising Act —*

(i) *to have a retrospective effect; or*

(ii) *to impose a tax, fee, fine, imprisonment or other penalty; or*

(iii) *to shift the legal burden of proof to a person accused of an offence; or*

(iv) *to sub-delegate powers delegated by the authorising Act;*

(a) so appears OF THE EXECUTIVE COUNCIL

(b)

(i) if made on or before 16 May 2021, does not so appear;

(ii) does not so appear;

(iii) does not so appear;

(iv) does not so appear;



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| (c) <i>appears to be consistent with the general objectives of the authorising Act;</i> | (c) so appears; |
| (d) <i>appears to be consistent with and to achieve the objectives set out in the proposed statutory rule and, if the proposed statutory rule is to amend an existing statutory rule, appears to be consistent with the objectives set out in the existing statutory rule;</i> | (d) so appears; |
| (e) <i>appears to be inconsistent with principles of justice and fairness;</i> | (e) does not so appear; |
| (f) <i>appears significantly or substantially to overlap or conflict with any other statutory rule or legislation;</i> | (f) does not so appear; |
| (g) <i>is expressed as clearly and unambiguously as is reasonably possible.</i> | (g) is so expressed. |



Marina Farnan

MARINA FARNAN

Chief Parliamentary Counsel

Date : 29 March 2021

This certificate relates to the circumstances as at the date of the certificate.