

Interpretation for ss. 120 to 132

- [121.](#) WA court may take evidence or receive a submission by video link or audio link
- [122.](#) Counsel entitled to practise
- [123.](#) Recognized court may take evidence or receive a submission from a person in this State
- [124.](#) Recognized court's powers
- [125.](#) Recognized court may make orders
- [126.](#) Enforcement of an order under section 125
- [127.](#) Privileges, protection and immunity of participants in proceedings in a recognized court
- [128.](#) Recognized court may administer an oath in the State
- [129.](#) Assistance to a recognized court
- [130.](#) Contempt of a recognized court
- [131.](#) Regulations for fees and expenses relating to the use of a video link or an audio link
- [132.](#) Operation of other laws



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 120

120. Interpretation for ss. 120 to 132

(1) In this section and sections 121 to 132, unless the contrary intention appears --

"audio link" means facilities (including telephone) that enable, at the same time, a court at one place to hear a person giving evidence or making a submission at another place and vice versa;

"Australia" includes the Territories of the Commonwealth (whether internal or external) for the government of which as a Territory provision is made by any Commonwealth Act;

"participating jurisdiction" means --

(a) another State or a Territory in which provisions of an Act in terms substantially corresponding to this section and sections 121 to 132, are in force; or

(b) any other jurisdiction outside the State prescribed to be a participating jurisdiction;

"recognized court" means a court or tribunal of a participating jurisdiction --

(a) that is authorised by the provisions of an Act of that jurisdiction in terms substantially corresponding to this section and sections 121 to 132 to direct that evidence be taken or a submission be made by video link or audio link from this State; or

(b) that is prescribed to be a recognized court;

"tribunal" of a State or Territory means a person or body authorised by or under a law of the State or Territory to take evidence on oath or affirmation;

"video link" means facilities (including closed circuit television) that enable, at the same time, a court at one place to see and hear a person giving evidence or making a submission at another place and vice versa;

"WA court" means --

(a) the Supreme Court; or

(b) a court or tribunal established in this State under a written law.

(2) In this section and sections 121 to 132, a reference to a place outside the State shall be taken to refer to a place outside the State whether within or outside Australia.

[Section 120 inserted by No. 48 of 1998 s.9⁹.]

Use of video links or audio links by WA courts

[Heading inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 121

121. WA court may take evidence or receive a submission by video link or audio link

(1) Subject to this section, a WA court may, on its own initiative or on the application of a party to a proceeding in or before the court, direct that in that proceeding evidence be taken or a submission be received by video link or audio link from a person at a place, whether in or outside this State, that is outside the courtroom or other place where the court is sitting.

(2) The court shall not make such a direction unless the court is satisfied that --

- (a) the video link or audio link is available or can reasonably be made available; and
- (b) the direction is in the interests of justice.

(3) For the purposes of taking evidence or receiving a submission by video link or audio link from a place in this State in accordance with such a direction, the place shall be taken to be part of the court.

(4) For the purposes of taking evidence or receiving a submission by video link or audio link from a place in a participating jurisdiction, the court may exercise in that place any of its powers that the court is permitted, under the law of the jurisdiction, to exercise in that place.

[Section 121 inserted by No. 48 of 1998 s.9⁹.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 122

122. Counsel entitled to practise

Despite section 76(1) of the *Legal Practitioner's Act 1893*, a person who is entitled to practise as a legal practitioner in a participating jurisdiction is entitled to practise as a barrister, solicitor or both --

(a) in relation to the examination, cross-examination or re-examination of a witness in the participating jurisdiction whose evidence is being given by video link or audio link before a WA court; and

(b) in relation to the making of a submission by video link or audio link from the participating jurisdiction in a proceeding before a WA court.

[Section 122 inserted by No. 48 of 1998 s.9.]

Use of video links or audio links in this State by recognized courts

[Heading inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 123

123. Recognized court may take evidence or receive a submission from a person in this State

A recognized court may, for the purposes of a proceeding in or before it, take evidence or receive a submission by video link or audio link from a person in this State.

[Section 123 inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 124

124. Recognized court's powers

(1) For the purposes of the proceeding the recognized court may exercise in this State any of its powers in relation to the taking of evidence or the receipt of a submission except its powers --

- (a) to punish for contempt; and
- (b) to enforce or execute its orders or process.

(2) The laws of the participating jurisdiction (including rules of court) that apply to the proceeding in that jurisdiction also apply, by force of this subsection, to the practice and procedure of the recognized court in taking evidence or receiving a submission by video link or audio link from a person in this State.

(3) For the purposes of the court exercising its powers under subsection (1), the place in this State where the evidence is given or the submission is made shall be taken to be part of the court.

[Section 124 inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 125

125. Recognized court may make orders

Without limiting section 124, the recognized court may, by order --

- (a) direct that the proceeding, or a part of the proceeding, be conducted in private;
- (b) require a person to leave a place in this State where the giving of evidence or the making of a submission is taking place or is going to take place; or
- (c) prohibit or restrict the publication of evidence given in the proceeding or of the name of a party to, or a witness in, the proceeding.

[Section 125 inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 126

126. Enforcement of an order under section 125

(1) An order under section 125 shall be complied with.

(2) Subject to rules of court, the order may be enforced by the Supreme Court as if the order were an order of that court.

(3) Without limiting subsection (2), a person who contravenes the order --

- (a) shall be taken to be in contempt of the Supreme Court; and
- (b) is punishable accordingly,

unless the person establishes that the contravention should be excused.

[Section 126 inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 127

127. Privileges, protection and immunity of participants in proceedings in a recognized court

(1) A person acting judicially in a proceeding in or before a recognized court has, in connection with evidence being taken or a submission being received by video link or audio link from a person in this State, the same privileges, protection and immunity as a judge of the Supreme Court.

(2) A person appearing as a legal practitioner in a proceeding in or before a recognized court has, in connection with evidence being taken or a submission being received by video link or audio link from a person in this State, the same protection and immunity as a barrister has in appearing for a party in a proceeding, in or before the Supreme Court.

(3) A person appearing as a witness in a proceeding in or before a recognized court by video link or audio link from this State has the same protection as a witness in a proceeding in or before the Supreme Court.

[Section 127 inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 128

128. Recognized court may administer an oath in the State

(1) A recognized court may, for the purpose of obtaining in the proceeding by video link or audio link the testimony of a person in this State, administer an oath or affirmation in accordance with the practice and procedure of the recognized court.

(2) Evidence given by a person on oath or affirmation so administered is, for the purposes of *The Criminal Code*, testimony given in a judicial proceeding.

[Section 128 inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 129

129. Assistance to a recognized court

An officer of a WA court may, at the request of a recognized court --

- (a) attend at the place in the State where evidence is to be or is being given, or submissions are to be or are being made, in the proceeding;
- (b) take such action as the recognized court directs to facilitate the proceeding; and
- (c) assist with the administering by the recognized court of an oath or affirmation.

[Section 129 inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 130

130. Contempt of a recognized court

(1) A person shall not, while evidence is being given or a submission is being made in this State by video link or audio link, in the proceeding in a recognized court --

(a) threaten, intimidate or wilfully insult any of the following:

- (i) a person acting judicially in the proceeding;
- (ii) a Master, Registrar, Deputy Registrar or other officer of that court who is taking part in or assisting in the proceeding;
- (iii) a person appearing in the proceeding as a legal practitioner;
- (iv) a witness in the proceeding; or
- (v) a juror in the proceeding;

(b) wilfully interrupt or obstruct the proceeding; or

(c) wilfully and without lawful excuse disobey an order or direction of the court.

(2) A person who contravenes subsection (1) is taken to commit a contempt of the Supreme Court and is punishable accordingly by that court.

[Section 130 inserted by No. 48 of 1998 s.9.]

General provisions relating to the use of video links or audio links

[Heading inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 131

131. Regulations for fees and expenses relating to the use of a video link or an audio link

The Governor may make regulations with respect to fixing and requiring the payment of fees and expenses relating to the taking of evidence or receiving of a submission by video link or audio link.

[Section 131 inserted by No. 48 of 1998 s.9.]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)



Western Australian Consolidated Legislation

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)

EVIDENCE ACT 1906 - SECT 132

132. Operation of other laws

Sections 120 to 132 are not intended to exclude or limit the operation of any other law of the State that makes provision for the taking of evidence or making of a submission --

- (a) in the State for the purpose of a proceeding in the State;
- (b) outside the State for the purpose of a proceeding in the State; and
- (c) in the State for the purpose of a proceeding outside the State.

[Section 132 inserted by No. 48 of 1998 s.9.]

[First Schedule omitted under the Reprints Act 1984 s.7(4)(f).]

[\[Index\]](#) [\[Table\]](#) [\[Search\]](#) [\[Notes\]](#) [\[Noteup\]](#) [\[Previous\]](#) [\[Next\]](#) [\[Download\]](#) [\[Help\]](#)