



Queensland

Recording of Evidence and Other Legislation Amendment Regulation (No. 1) 2013

Subordinate Legislation 2013 No. 40

made under the

Recording of Evidence Act 1962

Supreme Court of Queensland Act 1991

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Recording of Evidence and Other Legislation Amendment Regulation (No. 1) 2013*.

2 Commencement

This regulation commences on 5 April 2013.

Part 2 Amendment of Recording of Evidence Regulation 2008

3 Regulation amended

This part amends the *Recording of Evidence Regulation 2008*.

4 Omission of pt 2 (Transcriptions—Act, s 13(2)(e))

Part 2—
omit.

5 Replacement of pt 3, hdg (Fees—Act, section 13(2)(f))

Part 3, heading—
omit, insert—

‘Part 3 Provision of copies of records and transcriptions’.

6 Insertion of new pt 3, div 1

Part 3—

[s 7]

insert—

‘Division 1 Obtaining copies from the chief executive

‘4 Fees for copies provided by the chief executive under arrangements under s 5B of the Act

- ‘(1) Schedule 1 states the fees payable for copies of records or transcriptions that, under arrangements in place under section 5B of the Act, are available for purchase from the chief executive.

Note—

Arrangements may be put in place under section 5B of the Act to make copies of records or transcriptions available (by purchase or otherwise) from entities other than the chief executive. Schedule 1 does not apply in that case.

- ‘(2) The stated fees do not apply to the extent that, under the arrangements, a copy is to be provided to a person at no cost or at a cost that is less than the amount that would otherwise be payable under schedule 1.’.

7 Replacement of ss 5–7

Sections 5 to 7—

omit, insert—

‘Division 2 Judicial persons

‘5 Provision of copies of records or transcriptions to judicial persons

‘A copy of a record under the Act of a legal proceeding, or a copy of a transcription of a record under the Act of a legal proceeding, may be provided to a judicial person—

- (a) in printed or electronic form; and
- (b) even if the proceeding has ended.

Note—

Section 5B(3)(a) of the Act requires arrangements to be in place for the provision of copies of records and transcriptions to judicial persons at no cost.

‘Division 3 Entitlements to copies

‘6 Application of div 3

‘For section 5B(3)(b) of the Act, this division states the entitlements of persons to a copy of a record under the Act, or a copy of a transcription of a record under the Act, at no cost or at a cost that is less than the amount that would otherwise be payable.

‘7 Parties to legal proceedings—financial hardship

- ‘(1) The chief executive may waive payment by a person of all or part of the amount that would otherwise be payable for a copy of a record under the Act of a legal proceeding, or a copy of a transcription of a record under the Act of a legal proceeding, if—
- (a) the person is a party to the legal proceeding; and
 - (b) the chief executive is satisfied that payment of the amount, or full amount, would cause the person financial hardship.
- ‘(2) The person is entitled to the copy for free, or on payment of the relevant amount, as decided under subsection (1).’.

8 Insertion of new s 8A

After section 8—

insert—

[s 8]

‘8A Victim of personal offence

- ‘(1) A victim of a personal offence the subject of a criminal proceeding in the Supreme Court or the District Court is entitled to 1 free copy (a *free copy*) of—
- (a) an existing transcription of a record under the Act of the proceeding; or
 - (b) if a transcription does not exist—the part of a record under the Act, consisting of an audio recording, of the proceeding.
- ‘(2) If the victim is a child, each of the following persons is entitled to a free copy instead of the victim—
- (a) each parent of the child;
 - (b) the child’s legal representative.
- ‘(3) If the victim is an adult who has died as a result of the personal offence, each person who is a spouse, parent, child or sibling of the victim is entitled to a free copy.
- ‘(4) A free copy may be issued—
- (a) if the copy is a transcription mentioned in subsection (1)(a)—in printed or electronic form; and
 - (b) to a person entitled to the copy under this section or to one of the following—
 - (i) the person’s legal representative;
 - (ii) a guardian appointed for the person under the *Guardianship and Administration Act 2000*;
 - (iii) an attorney appointed by the person under an enduring power of attorney under the *Powers of Attorney Act 1998*; and
 - (c) even if the criminal proceeding to which the copy relates has ended.
- ‘(5) For subsection (2), a parent of a victim who is a child—
- (a) includes a person who exercises parental responsibility for the child, including a person who is granted

guardianship of the child under the *Child Protection Act 1999* or who otherwise exercises parental responsibility for the child under a decision or order of a federal court or a court of a State; but

(b) does not include a person standing in the place of a parent of a child on a temporary basis.

‘(6) A reference in this section to a child, parent or sibling of a victim includes a reference to a person who, under Aboriginal tradition or Island custom, is regarded as a child, parent or sibling of the victim.

‘(7) In this section—

personal offence means an indictable offence committed, or alleged to have been committed, against the person of someone.

victim, of a personal offence, means a person against whom the offence is committed or alleged to have been committed.’.

9 Amendment of sch 1 (Fees)

(1) Schedule 1, heading, ‘section 5’—

omit, insert—

‘section 4’.

(2) Schedule 1, item 4—

omit.

Part 3 Amendment of Criminal Practice Rules 1999

10 Rules amended

This part amends the *Criminal Practice Rules 1999*.

[s 11]

11 Omission of r 60 (Access to transcript)

Rule 60—

omit.

12 Amendment of sch 6 (Dictionary)

Schedule 6, definition *trial transcript*—

omit, insert—

‘trial transcript means a transcription of a record under the *Recording of Evidence Act 1962* of a trial proceeding.’.

ENDNOTES

- 1 Made by the Governor in Council on 4 April 2013.
- 2 Notified in the gazette on 5 April 2013.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.

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