



Queensland

Recording of Evidence Regulation 2018

Subordinate Legislation 2018 No. 132

made under the

Recording of Evidence Act 1962

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Recording of Evidence Regulation 2018*.

2 Commencement

This regulation commences on 2 September 2018.

3 Definitions

The dictionary in schedule 2 defines particular words used in this regulation.

Part 2 Provision of copies of records and transcriptions

Division 1 Provision of copies by chief executive

4 Fees for copies provided by chief executive under arrangements under s 5B of 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.
- (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.

Division 2 Provision of copies to judicial persons

5 Provision of copies

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 form 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 providing copies of records and transcriptions to judicial persons at no cost.

Division 3 Provision of copies to particular persons at no or reduced cost

6 Purpose of division

For section 5B(3)(b) of the Act, this division states the entitlements of particular 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) A person who is a party to a legal proceeding may apply to the chief executive, on the ground of financial hardship, for the waiver of all or part of an amount that would otherwise be payable for—
 - (a) a copy of a record under the Act of a legal proceeding;
or
 - (b) a copy of a transcription of a record under the Act of a legal proceeding.

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- (2) The application must be accompanied by, or include—
- (a) documents demonstrating the person’s financial hardship; or
- Examples of documents that may demonstrate financial hardship—*
bank statements, pay slips, Centrelink statements
- (b) if a relevant legal service represents the person in the legal proceeding or is otherwise assisting the person with the proceeding, a written notice by the service stating that—
- (i) the service represents the person in, or is assisting the person with, the proceeding; and
- (ii) the person meets the service’s means test, however described, for deciding applications for legal representation or legal assistance.
- (3) The chief executive may waive payment by the person of all or part of the amount if the chief executive reasonably believes there is a ground of financial hardship.
- (4) For subsection (3), a notice under subsection (2)(b) is evidence of the ground of financial hardship.
- (5) The person is entitled to the copy for free, or on payment of the relevant amount, as decided under subsection (3).
- (6) In this section—
- relevant legal service*** means—
- (a) Legal Aid Queensland established under the *Legal Aid Queensland Act 1997*; or
- (b) a community legal service within the meaning of the *Legal Profession Act 2007*, schedule 2.

8 Industrial registry and party to industrial proceeding

- (1) The industrial registry is entitled to 1 free copy of a transcription of a record under the Act of an industrial proceeding.

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- (2) A party to an industrial proceeding, or the party's legal representative, is entitled to 1 free copy of a transcription of a record under the Act of the proceeding if a copy of the transcription has been issued to the industrial registry.

Note—

The free copy of the transcription to which a party to an industrial proceeding is entitled under subsection (2) is available from the industrial registry.

- (3) The free copy may be issued—
- (a) in electronic form only; and
 - (b) even if the industrial proceeding has ended.
- (4) In this section—

industrial proceeding means a legal proceeding before—

- (a) the industrial relations commission; or
- (b) the industrial court; or
- (c) the registrar appointed under the *Industrial Relations Act 2016*.

industrial registry means the registry under the *Industrial Relations Act 2016*.

9 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 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 1 free copy instead of the victim—
- (a) each parent of the child;

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- (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, child, parent or sibling of the victim is entitled to 1 free copy.
- (4) The free copy may be issued—
 - (a) if the copy is a transcription mentioned in subsection (1)(a)—in printed form or electronic form; and
 - (b) to the person entitled to the copy under this section or to 1 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 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 the 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 any person.

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

10 Defendant in criminal proceeding

- (1) A defendant in a criminal proceeding in the Supreme Court or the District Court is entitled to 1 free copy of a transcription of a record under the Act of the proceeding.
- (2) The free copy may be issued—
 - (a) in printed form or electronic form; and
 - (b) to the defendant or the defendant’s legal representative; and
 - (c) even if the criminal proceeding has ended.

11 Government assessor or scheme manager under Victims of Crime Assistance Act 2009

- (1) This section applies to a government assessor or the scheme manager in performing any of the following functions under the *Victims of Crime Assistance Act 2009*—
 - (a) dealing with an application for assistance, or amendment of a grant of assistance, under chapter 3 of that Act;
 - (b) amending assistance under chapter 3, part 15 of that Act;
 - (c) recovering, for the State, an amount from a person under chapter 3, part 16 of that Act.
- (2) The government assessor or scheme manager is entitled to—
 - (a) 1 free copy of an existing transcription of a record under the Act of—

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- (i) a criminal proceeding relating to a relevant offence for the act of violence for which assistance is sought or has been granted; or
 - (ii) a proceeding under the *Domestic and Family Violence Protection Act 2012* relating to the act of violence for which assistance is sought or has been granted; or
- (b) free electronic access to the part of a record under the Act, consisting of an audio recording, of a proceeding mentioned in paragraph (a)(i) or (ii).
- (3) The copy mentioned in subsection (2)(a) may be issued—
 - (a) in printed form or electronic form; and
 - (b) even if the proceeding has ended.
- (4) In this section—

government assessor see the *Victims of Crime Assistance Act 2009*, schedule 3.

relevant offence, for an act of violence, see the *Victims of Crime Assistance Act 2009*, schedule 3.

scheme manager see the *Victims of Crime Assistance Act 2009*, schedule 3.

Part 3 Transitional provision

12 References to expired regulation

A reference in a document to the *Recording of Evidence Regulation 2008* may, if the context permits, be taken to be a reference to this regulation.

Schedule 1 Fees

section 4(1)

	\$
1 For issuing a copy of a transcription, in printed form or electronic form, of a record under the Act of a legal proceeding before the industrial relations commission—	
(a) first copy—for each page	4.45
(b) additional copy issued to the same person—for each page	1.05
2 For issuing a copy of a transcription, in printed form or electronic form, of a record under the Act of a legal proceeding, other than a proceeding before the industrial relations commission—	
(a) first copy—	
(i) for the first 1 to 8 pages of the copy	92.00
(ii) for each additional page after the first 8 pages	11.40
<i>Examples—</i>	
1 The fee for issuing a copy of a transcription totalling 5 pages is \$92.00.	
2 The fee for issuing a copy of a transcription totalling 12 pages is \$137.60, being \$92.00 for the first 8 pages and \$11.40 for each of the additional 4 pages.	
(b) additional copy issued to the same person—each page	1.45
3 For issuing a copy, if available in electronic form or cassette tape form, of a record under the Act of a legal proceeding—for each hour	37.75

Schedule 2 Dictionary

section 3

electronic form, in relation to a copy of a record under the Act or a transcription of a record under the Act, means a copy that is stored or recorded electronically.

Examples of electronic form—

- a copy stored on a computer disc
- a copy stored on a CD-ROM
- a copy stored on a computer hard drive
- a copy sent by email

printed form, in relation to a copy of a transcription of a record under the Act, means a copy that is produced on paper by longhand writing, typewriting or other means.

ENDNOTES

- 1 Made by the Governor in Council on 30 August 2018.
- 2 Notified on the Queensland legislation website on 31 August 2018.
- 3 The administering agency is the Department of Justice and Attorney-General.

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