



*Recording of Evidence Act 1962*

# **Recording of Evidence Regulation 2018**

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Queensland

# Recording of Evidence Regulation 2018

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# Recording of Evidence Regulation 2018

## 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

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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.
- (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.
- (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;
    - (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.

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- (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.

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- (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—
    - (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	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	4.55
	(b) additional copy issued to the same person—for each page	1.05
2	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	94.05
	(ii) for each additional page after the first 8 pages	11.65
	<i>Examples—</i>	
	1 The fee for issuing a copy of a transcription totalling 5 pages is \$94.05.	
	2 The fee for issuing a copy of a transcription totalling 12 pages is \$140.65, being \$94.05 for the first 8 pages and \$11.65 for each of the additional 4 pages.	
	(b) additional copy issued to the same person—for each page	1.50
3	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	38.60

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## 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.