



*Recording of Evidence Act 1962*

# **Recording of Evidence Regulation 2008**

**Current as at 1 July 2015**





Queensland

# Recording of Evidence Regulation 2008

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# Recording of Evidence Regulation 2008

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Recording of Evidence Regulation 2008*.

### 2 Commencement

This regulation commences on 30 August 2008.

### 3 Definitions—the dictionary

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

## Part 3 Provision of copies of records and transcriptions

### 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.

## **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.

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## 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 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 their representative, is entitled to 1 free copy of a transcription of a record under the Act of the industrial 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 Queensland Industrial Relations Commission; or
  - (b) the Industrial Court of Queensland; or

[s 8A]

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- (c) a registrar appointed under the *Industrial Relations Act 1999*.

## **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.



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- (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 Defendant in criminal proceeding

- (1) A defendant in a criminal proceeding in the Supreme Court or 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 proceeding has ended.

## 10 Applicant for compensation

- (1) This section applies to a person who may apply for a compensation order, or for a payment from the consolidated

[s 10A]

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fund, under the *Criminal Offence Victims Act 1995*, part 3 or section 46(2) for an offence.

- (2) The person is entitled to 1 free copy of the sentence for the offence.
- (3) The free copy may be issued—
  - (a) in printed form or electronic form; and
  - (b) to the person or to the person's legal representative.
- (4) In this section—

**sentence**, for an offence, means the part of the transcription of a record under the Act of the criminal proceeding for the offence containing the court's order as to punishment of the offender and any reasons for the order.

## **10A Application for financial assistance under the Victims of Crime Assistance Act 2009, ch 3**

- (1) This section applies if an application for financial assistance is made under the *Victims of Crime Assistance Act 2009*, chapter 3 for a relevant offence.
- (2) The government assessor dealing with the application is entitled to—
  - (a) 1 free copy of an existing transcription of a record under the Act of a criminal proceeding relating to the offence; or
  - (b) free electronic access to the part of a record under the Act, consisting of an audio recording, of a criminal proceeding relating to the offence.
- (3) The copy mentioned in subsection (2)(a) may be issued—
  - (a) in printed or electronic form; and
  - (b) even if the criminal proceeding has ended.
- (4) In this section—

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

*relevant offence* see the *Victims of Crime Assistance Act 2009*, schedule 3.

## **Part 4                      Repeal**

### **11            Repeal of Recording of Evidence Regulation 1992**

The Recording of Evidence Regulation 1992, SL No. 197 is repealed.

## **Part 5                      Transitional provisions**

### **13            Transitional provision—references to Recording of Evidence Regulation 1992**

A reference in any Act or document to the repealed *Recording of Evidence Regulation 1992* is, if the context permits, taken to be a reference to this regulation.

**Schedule 1      Fees**

section 4

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|---|---|-------|
| 1 | For issuing a copy of a transcription, in printed or electronic form, of a record under the Act of a legal proceeding before the industrial relations commission— |       |
|   | (a) first copy—each page  | 4.00  |
|   | (b) additional copy issued to the same person—each page   | 0.90  |
| 2 | For issuing a copy of a transcription, in printed or electronic form, of a record under the Act of another legal proceeding—                                      |       |
|   | (a) first copy—   |       |
|   | (i) the first 8 pages   | 83.00 |
|   | (ii) each extra page  | 10.30 |
|   | (b) additional copy issued to the same person—each page   | 1.30  |
| 3 | For issuing a copy, if available in electronic form or cassette tape form, of a record under the Act of a legal proceeding—each hour                              | 34.00 |

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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.

## 1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

## 2 Key

### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
<b>AIA</b>	= <b>Acts Interpretation Act 1954</b>	<b>(prev)</b>	= <b>previously</b>
<b>amd</b>	= <b>amended</b>	<b>proc</b>	= <b>proclamation</b>
<b>amd</b>	= <b>amendment</b>	<b>prov</b>	= <b>provision</b>
<b>t</b>			
<b>ch</b>	= <b>chapter</b>	<b>pt</b>	= <b>part</b>
<b>def</b>	= <b>definition</b>	<b>pubd</b>	= <b>published</b>
<b>div</b>	= <b>division</b>	<b>R[X]</b>	= <b>Reprint No. [X]</b>
<b>exp</b>	= <b>expires/expired</b>	<b>RA</b>	= <b>Reprints Act 1992</b>
<b>gaz</b>	= <b>gazette</b>	<b>reloc</b>	= <b>relocated</b>
<b>hdg</b>	= <b>heading</b>	<b>renu</b>	= <b>renumbered</b>
		<b>m</b>	
<b>ins</b>	= <b>inserted</b>	<b>rep</b>	= <b>repealed</b>
<b>lap</b>	= <b>lapsed</b>	<b>(retro</b>	= <b>retrospectively</b>
		<b>)</b>	
<b>notf</b>	= <b>notified</b>	<b>rv</b>	= <b>revised version</b>
<b>d</b>			
<b>num</b>	= <b>numbered</b>	<b>s</b>	= <b>section</b>

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
<b>o in c</b>	= <b>order in council</b>	<b>sch</b>	= <b>schedule</b>
<b>om</b>	= <b>omitted</b>	<b>sdiv</b>	= <b>subdivision</b>
<b>orig</b>	= <b>original</b>	<b>SIA</b>	= <b>Statutory Instruments Act 1992</b>
<b>p</b>	= <b>page</b>	<b>SIR</b>	= <b>Statutory Instruments Regulation 2012</b>
<b>para</b>	= <b>paragraph</b>	<b>SL</b>	= <b>subordinate legislation</b>
<b>prec</b>	= <b>preceding</b>	<b>sub</b>	= <b>substituted</b>
<b>pres</b>	= <b>present</b>	<b>unnum</b>	= <b>unnumbered</b>
		<b>m</b>	
<b>prev</b>	= <b>previous</b>		

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

<b>Reprint No.</b>	<b>Amendments included</b>	<b>Effective</b>	<b>Notes</b>
1	none	30 August 2008	
1A	2009 SL No. 182	28 August 2009	

<b>Reprint No.</b>	<b>Amendments included</b>	<b>Effective</b>	<b>Notes</b>
1B	—	31 August 2009	prov exp 30 August 2009
1C	2009 SL No. 181	1 September 2009	
1D	2009 SL No. 274	1 December 2009	
1E	2010 SL No. 155	1 July 2010	
1F	2011 SL No. 115	1 July 2011	
1G	2011 SL No. 166	1 September 2011	
1H	2012 SL No. 102	13 July 2012	

<b>Current as at</b>	<b>Amendments included</b>	<b>Notes</b>
5 April 2013	2013 SL No. 40	
1 July 2013	2013 SL No. 122	
1 July 2014	2014 SL No. 128	
1 July 2015	2015 SL No. 53	

## 4 List of legislation

### Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

### Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

### Recording of Evidence Regulation 2008 SL No. 267

made by the Governor in Council on 21 August 2008

notfd gaz 22 August 2008 pp 2651–6

ss 1–2 commenced on date of notification

remaining provisions commenced 30 August 2008 (see s 2)

exp 1 September 2018 (see SIA s 54)



Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.  
amending legislation—

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2009 SL No. 181**

notfd gaz 28 August 2009 pp 1491–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 September 2009 (see s 2)

**Recording of Evidence Amendment Regulation (No. 1) 2009 SL No. 182**

notfd gaz 28 August 2009 pp 1491–6  
commenced on date of notification

**Justice and Other Legislation (Victims of Crime Assistance) Amendment Regulation (No. 1) 2009 SL No. 274 pts 1, 4**

notfd gaz 27 November 2009 pp 1001–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 December 2009 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2010 SL No. 155**

notfd gaz 25 June 2010 pp 823–30  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2010 (see s 2)

**Justice (Fees) Amendment Regulation (No. 1) 2011 SL No. 115**

notfd gaz 1 July 2011 pp 589–96  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2011 (see s 2)

**Uniform Civil Procedure (Fees) and Other Legislation Amendment Regulation (No. 1) 2011 SL No. 166 pts 1, 3**

notfd gaz 26 August 2011 pp 995–7  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 September 2011 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2012 SL No. 102**

notfd gaz 13 July 2012 pp 820–5  
ss 1–2 commenced on date of notification  
remaining provisions commenced 13 July 2012 (see s 2)

**Recording of Evidence and Other Legislation Amendment Regulation (No. 1) 2013 SL No. 40 pts 1–2**

notfd gaz 5 April 2013 pp 490–1  
ss 1–2 commenced on date of notification  
remaining provisions commenced 5 April 2013 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2013 SL No. 122**

notfd gaz 28 June 2013 pp 739–47  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2013 immediately after the Uniform Civil Procedure and Another Rule Amendment Rule (No. 1) 2013 (see s 2)

**Justice Legislation (Fees) Amendment and Repeal Regulation (No. 1) 2014 SL No. 128 ss 1–2(1), 3 sch**

notfd <www.legislation.qld.gov.au> 27 June 2014  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2014 (see s 2(1))

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2015 SL No. 53 pts 1, 42**

notfd <www.legislation.qld.gov.au> 26 June 2015  
ss 1–2 commenced on date of notification  
remaining provisions commenced 1 July 2015 (see s 2)

## **5 List of annotations**

**PART 2—TRANSCRIPTIONS—ACT, s 13(2)(e)**

**pt hdg** ins 2009 SL No. 182 s 6  
om 2013 SL No. 40 s 4

**PART 3—PROVISION OF COPIES OF RECORDS AND TRANSCRIPTIONS**

**pt hdg** (prev pt 2 hdg) renum 2009 SL No. 182 s 3  
sub 2013 SL No. 40 s 5

**Division 1—Obtaining copies from the chief executive**

**div hdg** ins 2013 SL No. 40 s 6

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

s 4 prev s 4 ins 2009 SL No. 182 s 6  
om 2013 SL No. 40 s 4  
pres s 4 ins 2013 SL No. 40 s 6

**Division 2—Judicial persons**

**div hdg** ins 2013 SL No. 40 s 7

**Provision of copies of records or transcriptions to judicial persons**

s 5 (prev s 4) renum 2009 SL No. 182 s 5  
sub 2013 SL No. 40 s 7

**Division 3—Entitlements to copies**

**div hdg** ins 2013 SL No. 40 s 7

**Application of div 3**

s 6 (prev s 5) renum 2009 SL No. 182 s 5  
sub 2013 SL No. 40 s 7

**Parties to legal proceedings—financial hardship**

s 7 (prev s 6) amd 2009 SL No. 182 s 4  
renum 2009 SL No. 182 s 5  
sub 2013 SL No. 40 s 7

**Industrial Registry and party to industrial proceeding**

s 8 (prev s 7) renum 2009 SL No. 182 s 5

**Victim of personal offence**

s 8A ins 2013 SL No. 40 s 8

**Defendant in criminal proceeding**

s 9 (prev s 8) renum 2009 SL No. 182 s 5

**Applicant for compensation**

s 10 (prev s 9) renum 2009 SL No. 182 s 5

**Application for financial assistance under the Victims of Crime Assistance Act 2009, ch 3**

s 10A ins 2009 SL No. 274 s 8

**PART 4—REPEAL**

pt hdg (prev pt 3 hdg) renum 2009 SL No. 182 s 3

**Repeal of Recording of Evidence Regulation 1992**

s 11 (prev s 10) renum 2009 SL No. 182 s 5

**PART 5—TRANSITIONAL PROVISIONS**

pt hdg (prev pt 4 hdg) renum 2009 SL No. 182 s 3

**Transitional provision—fees**

s 12 (prev s 11) renum 2009 SL No. 182 s 5  
exp 30 August 2009 (see s 12(3))

**Transitional provision—references to Recording of Evidence Regulation 1992**

s 13 (prev s 12) renum 2009 SL No. 182 s 5

**SCHEDULE 1—FEES**

sch 1 sub 2009 SL No. 181 s 3 sch; 2009 SL No. 182 s 7; 2010 SL No. 155 s 3 sch;  
2011 SL No. 115 s 3 sch  
amd 2011 SL No. 166 s 13  
sub 2012 SL No. 102 s 3 sch  
amd 2013 SL No. 40 s 9  
sub 2013 SL No. 122 s 3 sch; 2014 SL No. 128 s 3 sch; 2015 SL No. 53 s 96