



Recording of Evidence Act 1962

Recording of Evidence Regulation 2008

Current as at 1 July 2018

Reprint note

This is the last reprint before expiry. Expired on 1 September 2018. See SIA s 54.

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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)

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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.

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

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

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- (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 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 financial assistance, under chapter 3 of that Act;
 - (b) amending financial assistance under chapter 3, part 15, division 2 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—
 - (i) a criminal proceeding relating to a relevant offence for the act of violence for which financial 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 financial 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 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 see the *Victims of Crime Assistance Act 2009*, schedule 3.

scheme manager 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 provision

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	4.45
(b) additional copy issued to the same person—each page	1.05
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	92.00
(ii) each extra page	11.40
(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—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.