



Queensland

Justice Legislation (COVID-19 Emergency Response—Proceedings and Other Matters) Regulation 2020

Subordinate Legislation 2020 No. 103

made under the

Coroners Act 2003

COVID-19 Emergency Response Act 2020

Crime and Corruption Act 2001

Criminal Code Act 1899

Evidence Act 1977

Justices Act 1886

Property Law Act 1974

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Justice Legislation (COVID-19 Emergency Response—Proceedings and Other Matters) Regulation 2020*.

2 Commencement

This part and part 2, division 3 are taken to have commenced on 19 March 2020.

3 Declaration

This regulation is made under the *COVID-19 Emergency Response Act 2020*, sections 8, 9, 13 and 17.

4 Definitions

In this regulation—

audio link means facilities, including telephone, that enable reasonably contemporaneous and continuous audio communication between persons at different places.

audio visual link means facilities that enable reasonably contemporaneous and continuous audio and visual communication between persons at different places and includes videoconferencing.

relevant period means the period that—

- (a) starts on the commencement of the provision in which the period is mentioned; and
- (b) ends on 31 December 2020.

Part 2 Modification of Acts

Division 1 Modification of Coroners Act 2003

5 Application of division

- (1) This division modifies a particular provision of the *Coroners Act 2003*.
- (2) In this division, a reference to the Act is a reference to the *Coroners Act 2003*.

6 Extension of particular period for giving annual report— Act, s 91ZB

- (1) This section applies in relation to an annual report that is required to be given under section 91ZB of the Act during the relevant period.
- (2) Section 91ZB(1) of the Act applies as if a reference in the subsection to 3 months were a reference to 6 months.

Division 2 Modification of Crime and Corruption Act 2001

7 Application of division

- (1) This division modifies particular provisions of the *Crime and Corruption Act 2001*.
- (2) In this division, a reference to the Act is a reference to the *Crime and Corruption Act 2001*.

8 Alternative method or process for giving and signing relevant notices

- (1) This section applies in relation to a relevant notice given during the relevant period.

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- (2) A requirement under the Act for the chairperson to give the relevant notice to a person is satisfied if the chairperson sends the notice by email to—
- (a) the person’s email address; or
 - (b) the email address of a lawyer representing the person.
- (3) However, the chairperson may give the relevant notice under subsection (2) only if the chairperson is satisfied—
- (a) that it is appropriate to give the notice electronically—
 - (i) to protect the health, safety and welfare of persons affected by the COVID-19 emergency; or
 - (ii) to facilitate the continuance of the public administration of the commission in circumstances where the commission’s public administration or other activities are disrupted by the COVID-19 emergency; and
 - (b) that—
 - (i) the person gave the commission the person’s email address or the email address of a lawyer representing the person for the purpose of receiving a notice under this section; or
 - (ii) a lawyer representing the person gave the commission the lawyer’s email address for the purpose of receiving a notice under this section.
- (4) The chairperson may give a notice that is electronically signed.
- (5) This section does not limit the operation of the *Acts Interpretation Act 1954*, part 10.
- (6) In this section—
- electronically sign***, in relation to a relevant notice, means sign the notice using a method—
- (a) that identifies the signatory for the notice and the signatory’s intention in relation to the contents of the notice; and

- (b) that is either—
 - (i) as reliable as appropriate for the purpose for which the notice is signed, having regard to all the circumstances, including any relevant agreement; or
 - (ii) proven in fact to have fulfilled the functions described in paragraph (a), by itself or together with further evidence.

relevant notice means a notice (however described) that may be given under chapter 3, part 1 of the Act.

9 Use of audio visual links or audio links for particular proceedings

- (1) This section applies in relation to a proceeding conducted under chapter 4, part 1 of the Act during the relevant period.
- (2) The presiding officer may conduct all or a part of the proceeding by the use of audio visual links or audio links if the presiding officer—
 - (a) considers it is appropriate having regard to whether it is practical for audio visual links or audio links to be used in the proceeding; and
 - (b) is satisfied it is appropriate—
 - (i) to protect the health, safety and welfare of persons affected by the COVID-19 emergency; or
 - (ii) to facilitate the continuance of the public administration of the commission in circumstances where its public administration or other activities are disrupted by the COVID-19 emergency.
- (3) Provisions of the Act applying to a proceeding are taken to apply with necessary modifications in relation to a proceeding conducted under this section.

10 Saving of operation of division

This division is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

Division 3 Modification of Criminal Code

11 Application of division

- (1) This division modifies particular provisions of the Criminal Code.
- (2) In this division, a reference to the Code is a reference to the Criminal Code.

12 Alternative method or process for presenting indictments—Code, ss 560 and 561

- (1) This section applies in relation to the presentation of indictments under section 560 or 561 of the Code during the relevant period.
- (2) A requirement under section 560 or 561 of the Code for a person to present an indictment is taken to be satisfied if the person presents the indictment by audio visual link or audio link.
- (3) A requirement mentioned in subsection (2) is taken to be satisfied even if an original signed indictment is given to a court before the presentation of the indictment by audio visual link or audio link.
- (4) Subsection (5) applies in relation to the presentation of an indictment by audio visual link or audio link if—
 - (a) a true copy of the signed indictment is given to the court electronically; and
 - (b) the original signed indictment is not before the court when the matter to which the indictment relates is mentioned.

- (5) A requirement under section 560 or 561 of the Code for the original signed indictment to be presented to the court is taken to be satisfied if the copy of the indictment is endorsed by a judge of the court.
- (6) Subsection (7) applies if a Crown Law Officer, a Crown prosecutor or a person appointed by the Governor in Council to present indictments (each a *relevant person*) proposes to present an indictment by audio visual link or audio link under this section.
- (7) In addition to any requirement under the *Bail Act 1980*, section 27 or the *Corrective Services Act 2006*, section 335 the relevant person must give the accused person notice that the indictment is to be presented by audio visual link or audio link and the date and time for the presentation of the indictment.
- (8) A reference in the Code to an indictment presented in court is taken to include a reference to an indictment presented under this section.

13 Alternative method for informing court of nolle prosequi—Code, s 563

- (1) This section applies in relation to an entry of nolle prosequi under section 563 of the Code during the relevant period.
- (2) Despite section 563 of the Code, a person is taken to have informed a court of a particular matter or thing if the person informs the court of the matter or thing by audio visual link or audio link.

Division 4 Modification of Evidence Act 1977

14 Application of division

- (1) This division modifies particular provisions of the *Evidence Act 1977*.

- (2) In this division, a reference to the Act is a reference to the *Evidence Act 1977*.

15 Videorecording of witness’s evidence to be viewed and heard in proceeding instead of direct testimony

- (1) This section applies in relation to a proceeding conducted during the relevant period.
- (2) The court may, of its own motion or upon application made by a party to the proceeding, order that a videorecording of the evidence of a person (a *relevant person*) or any portion of the evidence be made under any conditions stated in the order and that the videorecorded evidence be viewed and heard in the proceeding instead of the direct testimony of the relevant person.
- (3) However, the court may make an order mentioned in subsection (2) only if, in the court’s opinion—
- (a) the relevant person—
- (i) is at significantly greater risk from COVID-19 than members of the public generally, including because of the person’s age or health; or
- (ii) poses a risk to other persons because the person is affected by COVID-19; or
- Example of a person affected by COVID-19—*
a person given a direction under the *Public Health Act 2005* requiring the person to self-isolate
- (b) otherwise—it is appropriate to protect the health, safety and welfare of persons affected by the COVID-19 emergency.
- (4) Section 21A(5) to (8) of the Act applies to the giving of evidence under this section as if—
- (a) a reference in those provisions to an order, made under section 21A(2)(e) of the Act, for the making of a videorecording of the evidence of a special witness included a reference to an order made under this section

- for the making of a videorecording of evidence of a relevant person; and
- (b) any other reference to a special witness in those provisions included a reference to a relevant person.
- (5) Section 21AAA of the Act applies in relation to the evidence of a relevant person given under an order made under this section as if—
- (a) a reference in section 21AAA(1) to the evidence of a special witness contained in a videorecording made under section 21A, or a lawfully edited copy of the videorecording, included a reference to the evidence of the relevant person contained in a videorecording made under this section; and
 - (b) any other reference to a special witness in that section included a reference to the relevant person.
- (6) Nothing in this section limits the videorecording of evidence of a relevant person made under this section from being presented in a proceeding after the expiry of this section if the court considers it is in the interests of justice for the videorecording of the evidence to be presented.

16 Saving of operation of division

This division is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

Division 5 Modification of Justices Act 1886

17 Application of division

- (1) This division modifies particular provisions of the *Justices Act 1886*.
- (2) In this division, a reference to the Act is a reference to the *Justices Act 1886*.

18 Use of audio visual links or audio links for particular proceedings

- (1) This section applies in relation to a proceeding conducted during the relevant period if—
 - (a) a person is required to appear before a Magistrates Court for the proceeding under a notice to appear served on the person under the *Police Powers and Responsibilities Act 2000*, section 382; and
 - (b) the person is an adult.
- (2) The court may conduct a hearing of the proceeding by the use of audio visual links or audio links if the court—
 - (a) considers it is appropriate having regard to—
 - (i) whether it is practical for audio visual links or audio links to be used in the hearing; and
 - (ii) the interests of justice; and
 - (b) is satisfied it is appropriate—
 - (i) to protect the health, safety and welfare of persons affected by the COVID-19 emergency; or
 - (ii) to facilitate the continuance of the public administration of the court in circumstances where its public administration or other activities are disrupted by the COVID-19 emergency.
- (3) This section is in addition to, and does not limit, any other provision of the Act.

19 Alternative method or process for giving notice of adjournment

- (1) This section applies if—
 - (a) a Magistrates Court conducts a hearing of a proceeding by the use of audio visual links or audio links under section 18; and
 - (b) the hearing is adjourned.

- (2) The clerk of the court must give the person to whom the proceeding relates a notice in writing (a ***notice of adjournment***) informing the person of—
 - (a) the time and place to which the hearing is adjourned; and
 - (b) the purpose of the adjournment; and
 - (c) the person’s right to be heard at the adjourned hearing.
- (3) The clerk of the court may give the person, or a lawyer representing the person, the notice of adjournment electronically.
- (4) However, the clerk of the court may give the notice of adjournment under subsection (3) only if the clerk is satisfied—
 - (a) that it is appropriate to give the notice electronically—
 - (i) to protect the health, safety and welfare of persons affected by the COVID-19 emergency; or
 - (ii) to facilitate the continuance of the public administration of the court in circumstances where the court’s public administration or other activities are disrupted by the COVID-19 emergency; and
 - (b) that—
 - (i) the person gave the court an electronic address for the person, or a lawyer representing the person, for the purpose of receiving a notice under this section; or
 - (ii) a lawyer representing the person gave the court the lawyer’s electronic address for the purpose of receiving a notice under this section.

Examples of electronic address—

an email address or mobile phone number
- (5) This section is in addition to, and does not limit, any other provision of the Act, including, for example, a provision for the giving of a notice.

Division 6 Modification of Property Law Act 1974

20 Application of division

- (1) This division modifies particular provisions of the *Property Law Act 1974*.
- (2) In this division, a reference to the Act is a reference to the *Property Law Act 1974*.

21 Modification of particular provisions about attendance at particular place—Act, s 61

- (1) This section applies in relation to a contract for the sale of registered land if settlement of the contract must take place under section 61(2)(c) of the Act during the relevant period.
- (2) Section 61 of the Act applies as if section 61(2)(c) of the Act were omitted and the following provision were inserted—
 - (c) unless otherwise agreed by the parties, their solicitors or conveyancers, settlement of the contract must take place at—
 - (i) the office of the land registry nearest to the land at which the document relating to the conveyance may be lodged; or
 - (ii) if the office of the land registry mentioned in subparagraph (i) is closed because of the COVID-19 emergency—the registry of the Magistrates Court nearest to the land.
- (3) If settlement of the contract takes place under section 61(2)(c)(ii) of the Act as taken to be inserted under subsection (2), section 61(3A) of the Act applies as if a reference in that section to an office of the land registry were a reference to a registry of a Magistrates Court.

Part 3 **Expiry of regulation**

22 **Expiry**

This regulation expires on 31 December 2020.

ENDNOTES

- 1 Made by the Governor in Council on 25 June 2020.
- 2 Notified on the Queensland legislation website on 26 June 2020.
- 3 The administering agency is the Department of Justice and Attorney-General.

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