

Queensland



# **RECORDING OF EVIDENCE ACT 1962**

**Reprinted as in force on 19 July 1994  
(includes amendments up to Act No. 40 of 1992)**

**Reprint No. 1**

**This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy**

# Information about this reprint

This Act is reprinted as at 19 July 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- correct spelling and use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use expressions consistent with current legislative drafting practice (s 29)
- reorder definitions and other provisions consistent with current legislative drafting practice (ss 30 and 30A)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (ss 36, 37, 38, 39 and 40)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

**Also see Endnotes for—**

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint**
- **further information about editorial changes made in the reprint, including—**
  - **Table of changed citations and remade laws**
  - **Table of obsolete and redundant provisions**
  - **Table of renumbered provisions.**

# Queensland



## RECORDING OF EVIDENCE ACT 1962

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## **RECORDING OF EVIDENCE ACT 1962**

[as amended by all amendments that commenced on or before 19 July 19942]

### **An Act to make new provision for the recording of legal proceedings**

#### **Short title**

1. This Act may be cited as the *Recording of Evidence Act 1962*<sup>3-7</sup>.

#### **Meaning of terms**

4. In this Act—

“**court**” includes the Supreme Court and any Judge thereof, a District Court and any Judge thereof, the Industrial Court, a Magistrates Court, and any court established and constituted by or under any law of this State.

“**dictation-tape**” means a tape (other than a master-tape) containing the record or any part of the record made under this Act by mechanical means of a legal proceeding.

“**judicial person**” includes any Stipendiary Magistrate, Industrial Magistrate, justice, or coroner, and any arbitrator, commissioner, officer, registrar, or other person or body having by law or by consent of parties authority to hear or receive evidence or examine witnesses or other persons.

“**legal proceeding**” includes any proceeding (whether civil or criminal) in or before any court, any proceeding before justices, and any proceeding before any court, tribunal, or person (including any inquiry, examination, or arbitration) in which evidence is or may be given, as well as any part of any legal proceeding.

“**master-tape**” means the tape containing a complete record made under this Act by mechanical means of a legal proceeding.

“**mechanical means**”, in relation to the recording under this Act of any

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legal proceeding, means the recording by a tape recording machine or any mechanical, electronic, or other device (a **“mechanical device”**).

**“record under this Act”**, in relation to any legal proceeding, means the evidence (if any) and other matter (if any) recorded in any manner authorised by this Act.

**“recorder”** means a person holding for the time being the appointment under and for the purposes of this Act as a recorder.

**“shorthand reporter”** means a person holding for the time being the appointment under and for the purposes of this Act as a shorthand reporter.

**“tape”** means a tape or other item from which a record made under this Act by mechanical means may be reproduced.

**“transcription”**, in relation to any record under this Act, means the transcription to longhand writing, typewriting or other mode of the record.

### **Power to direct recording under this Act**

**5.(1)** In any legal proceeding in or before any court or judicial person, the court or judicial person may in its or the judicial person’s discretion, with or without any application for the purpose, direct that any evidence to be given and any ruling, direction, address, summing up, and other matter in the legal proceeding (or of any part of the legal proceeding in question) be recorded—

- (a) if a shorthand reporter is available—in shorthand; or
- (b) if a mechanical device and a recorder are available—by the mechanical device; or
- (c) if a shorthand reporter, mechanical device, and a recorder are available—in shorthand or by the mechanical device or partly in shorthand and partly by the mechanical device.

**(2)** The recording under this Act pursuant to any such direction shall be made by any 1 or more shorthand reporters who are available or, if the recording is made by mechanical means, under the supervision of or operation by a recorder or recorders who are available.

**Power to appoint shorthand reporters and recorders**

**6.(1)** The Governor in Council may from time to time for the purposes of this Act appoint fit and proper persons to be—

- (a) shorthand reporters;
- (b) in relation to the recording under this Act of legal proceedings by mechanical means—recorders.

**(1A)** However, if so requested by the court or judicial person who has directed the recording under this Act of the legal proceeding by shorthand or mechanical means, the Minister may appoint a shorthand reporter or, as the case may be, recorder for the purpose of a particular legal proceeding.

**(2)** A person may hold—

- (a) any such office in conjunction with any other office held by the person;
- (b) the office of shorthand reporter as well as the office of recorder.

**(3)** Subject to subsection (2), the provisions of this Act shall not prejudice or otherwise affect the application of the provisions of the *Public Service Management and Employment Act 1988* to any office referred to in subsection (1), or to any person appointed or deemed to be appointed to any such office, and shall not prejudice or otherwise affect any lawful exemption from those Acts of any such office or officer.

**(4)** The Minister may cause—

- (a) any appointment made under this section;
- (b) any appointment as a shorthand reporter continued by this Act in force for the purposes hereof;
- (c) any cancellation or other determination of any such appointment;

to be notified in the Gazette and judicial notice shall be taken of every such notification.

**Oath of office**

**7.** Every person appointed or deemed to have been appointed under this Act as a shorthand reporter and every person appointed under this Act as a recorder for the purposes of this Act shall before entering upon the duties of

the office under this Act take before a Judge, a Judge of a District Court, or a Stipendiary Magistrate, or in the case of a shorthand reporter or a recorder appointed by the Minister for the purpose of the recording under this Act of a particular legal proceeding, the court or judicial person before whom the legal proceeding is to be recorded (each of whom is hereby authorised to administer or cause to be administered the oath to such persons or person) the following oath (with such adaptations thereof as are necessary under the circumstances)—

‘I swear by Almighty God that I will faithfully record all legal proceedings which I am required to record, whether in shorthand or by mechanical means, under the *Recording of Evidence Act 1962*, and that I will faithfully transcribe or cause to be transcribed all legal proceedings recorded under that Act which I am required thereunder to transcribe’.

### **Persons recording under this Act to be officers of the court**

**8.** Every person recording under this Act any legal proceeding shall for the time being—

- (a) be an officer of the court or tribunal in or for which the person is required to record the evidence or other matter in the legal proceeding;
- (b) be under the direction of the court or judicial person in which or before whom the evidence or other matter in the legal proceeding is received or heard, in relation to the performing of the person’s duty in recording and, whilst the legal proceeding is in progress, transcribing or causing to be transcribed such evidence or other matter.

### **Transcription may be made by another officer**

**9.** The record under this Act of any legal proceeding may be transcribed at any time by or under the supervision of some shorthand reporter or recorder, as the case requires, other than the person who acted as the shorthand reporter or recorder at the making of the record.

**Record and transcription to be evidence**

**10.(1)** A record under this Act of a legal proceeding is to be received by a court or judicial person as evidence of anything recorded in the record.

**(2)** A transcription of a record under this Act that is certified as being a transcription held—

- (a) in the official records of the State Reporting Bureau; or
- (b) by the body responsible for the safe custody of court transcriptions;

by the officer in charge of those records or transcriptions is to be received by a court or judicial person as evidence of anything recorded in the transcription.

**Person giving evidence need not sign deposition etc.**

**11.(1)** Notwithstanding anything to the contrary contained in any Act, rule, or practice, in all cases where it is prescribed or required by law that the deposition of a witness is to be read over to and signed by the witness, or that any evidence or other matter is to be reduced to or taken down in writing or signed, or there is some other provision of the law to the like effect, it shall be sufficient for all purposes if the deposition, evidence, or other matter, as the case may be, is recorded under this Act.

**(2)** Any reference in any Act to the deposition of any witness or to the depositions of any witnesses taken shall, where the evidence of the witness or witnesses has been recorded under this Act, be read as a reference to a transcription of that record under this Act certified under section 10(2).

**(2A)** A transcription (certified as aforesaid) made under this Act of such a record need not be signed by the witness or by the court or judicial person in or before whom the deposition, evidence or other matter is taken or given.

**(3)** The record on a master-tape shall not be destroyed—

- (a) within the time allowed by law for instituting any appeal or application for a rehearing or review in relation to the legal proceeding in question; or
- (b) where an appeal or application for a rehearing or review or

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otherwise in relation to the legal proceeding in question is instituted—until that appeal or application is finally determined or otherwise terminated.

(4) The court or judicial person who directs that any legal proceeding be recorded by a mechanical device or who is hearing or may hear an appeal or application for a rehearing or review or otherwise in relation to such legal proceeding or who rehears or reviews or may rehear or review such legal proceeding may at any time—

- (a) make such order for the retention of the record made on the master-tape for such period and subject to such conditions as the court or judicial person thinks fit;
- (b) if—
  - (i) a transcription of the record has been made under this Act; and
  - (ii) the transcription has been certified as correct by the responsible shorthand reporter or recorder;

then, whether or not an order has been made under paragraph (a), by order authorise the destruction of the record on the master-tape.

(5) Subject to subsection (3) and to an order made under subsection (4) a record on a master-tape may be destroyed at any time—

- (a) after a transcription of the record has been made;
- (b) before such a transcription has been made if—
  - (i) the legal proceeding so recorded is not one in or before a court of record; or
  - (ii) the record is of a hearing *ex parte* by a Magistrates Court of a simple offence or breach of duty or is of some other prescribed class of legal proceeding in respect of a simple offence or breach of duty.

(6) A record on a dictation-tape may be destroyed at any time—

- (a) after a transcription of the record has been made; or
- (b) as prescribed.

**Offences**

**12.(1)** A person shall not directly or indirectly hold himself or herself out as—

- (a) a shorthand reporter; or
- (b) a recorder;

unless the person then holds such appointment under and for the purposes of this Act.

Maximum penalty—4 penalty units.

**(1A)** Proceedings for an offence against subsection (1) may be taken in a summary way under the *Justices Act 1886*.

**(2)** Any person (whether a shorthand reporter or a recorder or not) who—

- (a) wilfully records or transcribes or causes any other person to record or transcribe, in a false or incorrect manner any evidence or other matter required to be recorded under this Act;
- (b) unless authorised by or under this Act, destroys any record under this Act;
- (c) wilfully alters or falsifies or causes or permits anyone to alter or falsify any record under this Act or any transcription thereof or any certificate under and for the purposes of this Act;
- (d) wilfully certifies as correct any transcription of any record under this Act, which is false or incorrect;

shall be guilty of an indictable offence and is liable to imprisonment for 5 years.

**Regulations**

**13.(1)** The Governor in Council may from time to time make regulations providing for all or any purposes, whether generally or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or convenient to carry out the objects and purposes of this Act and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency.

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(2) Without limiting the generality of the foregoing provisions of this section and without derogating from the other provisions of this Act, regulations may be made for or in respect of all or any of the purposes, matters, and things following—

- (a) prescribing the functions and duties of shorthand reporters and recorders under and for the purposes of this Act;
- (b) providing for and regulating and controlling the custody and manner in which records under this Act and transcriptions thereof are to be kept and the period for which or circumstances when the same are to be retained unless sooner destroyed under this Act;
- (c) providing for and regulating and controlling the destruction of any records under this Act and providing for the keeping and future effectiveness of transcriptions of records so destroyed;
- (d) prescribing the type and class of equipment to be used if so prescribed in the recording of any legal proceeding by mechanical means and the manner in which it is to be operated;
- (e) providing for and regulating and controlling the making and issuing of transcriptions of any record under this Act and prescribing the persons to whom the same may be issued;
- (f) providing for and fixing the fees to be paid in respect of the recording of all or any legal proceedings, in respect of transcriptions and copies of transcriptions thereof, and in respect of other prescribed matters, or for any of these, and prescribing the persons by whom all or any such fees shall be payable and providing for the recovery of and exemptions from such fees;
- (g) prescribing penalties for any contraventions of the regulations, but so that no such penalty shall exceed \$200.

**ENDNOTES****1 Index to Endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 19 July 1994. Future amendments of the Recording of Evidence Act 1962 may be made in accordance with this reprint under section 49 of the Reprints Act 1992.

**3 List of legislation****Recording of Evidence Act 1962 No. 33**

date of assent 19 December 1962

commenced on date of assent

as amended by—

**Justices Acts and Other Acts Amendment Act 1968 No. 14 Pt 3**

date of assent 19 April 1968

commenced on date of assent

**Corrective Services (Consequential Amendments) Act 1988 No. 88 s 4**

date of assent 1 December 1988

commenced 15 December 1988 (see s 2(2) of Act and o in c pubd Gaz  
10 December 1988 p 1675)

**Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 Sch 6**

date of assent 14 November 1990

commenced on date of assent

**Justice Legislation (Miscellaneous Provisions) Act 1992 No. 40 s 163 Sch 1**

date of assent 14 August 1992

commenced on date of assent

**4 List of annotations****Key to abbreviations in list of annotations**

<b>amd</b>	=	<b>amended</b>
<b>Ch</b>	=	<b>Chapter</b>
<b>cl</b>	=	<b>clause</b>
<b>def</b>	=	<b>definition</b>
<b>Div</b>	=	<b>Division</b>
<b>hdg</b>	=	<b>heading</b>
<b>ins</b>	=	<b>inserted</b>
<b>om</b>	=	<b>omitted</b>
<b>prec</b>	=	<b>preceding</b>
<b>pres</b>	=	<b>present</b>
<b>prev</b>	=	<b>previous</b>
<b>(prev)</b>	=	<b>previously</b>
<b>prov</b>	=	<b>provision</b>
<b>Pt</b>	=	<b>Part</b>
<b>RA</b>	=	<b>Reprints Act 1992</b>
<b>renum</b>	=	<b>renumbered</b>
<b>Sdiv</b>	=	<b>Subdivision</b>
<b>sub</b>	=	<b>substituted</b>

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

**Short title**

s 1 sub 1992 No. 40 s 163 Sch 1

**Severability**

s 2 om 1992 No. 40 s 163 Sch 1

**Repeal of 6 Geo. 5 No. 26, Savings**

s 3 om 1992 No. 40 s 163 Sch 1

**Meaning of terms**

s 4 def **“Dictation-tape”** ins 1968 No. 14 s 19(a)  
 def **“Master-tape”** ins 1968 No. 14 s 19(b)  
 def **“Minister”** sub 1990 No. 80 s 3 Sch 6  
 om 1992 No. 40 s 163 Sch 1  
 def **“Tape”** ins 1968 No. 14 s 19(c)

**Record and transcription to be evidence**

s 10 sub 1992 No. 40 s 163 Sch 1

**Person giving evidence need not sign deposition, etc.**

s 11 amd 1968 No. 14 s 20; 1992 No. 40 s 163 Sch 1

**Offences**

s 12 amd 1988 No. 88 s 4(1); 1992 No. 40 s 163 Sch 1

**Regulations**

s 13 amd 1968 No. 14 s 21

**Publication of regulations, etc.**

s 14 om 1992 No. 40 s 163 Sch 1

**5 Table of changed citations and remade laws**TABLE OF CHANGED CITATIONS AND REMADE LAWS  
under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Public Service Act 1922	Public Service Management and Employment Act 1988	Public Service Management and Employment Act 1988 s 38(1)

**6 Table of obsolete and redundant provisions**TABLE OF OBSOLETE AND REDUNDANT PROVISIONS  
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A

**7 Table of renumbered provisions**TABLE OF RENUMBERED PROVISIONS  
under section 43 of the Reprints Act 1992

Original	Renumbered as
6, proviso	6(1A)
12(1)(a)	12(1)
12(1)(a)(i)	12(1)(a)
12(1)(a)(ii)	12(1)(b)
12(1)(b)	12(1A)