

Queensland



RECORDING OF EVIDENCE ACT 1962

**Reprinted as in force on 21 January 1997
(includes amendments up to Act No. 37 of 1996)**

Reprint No. 1A *

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* Minor differences in style between this reprint and another reprint with the same number are due to the conversion to another software program. The content has not changed.

Information about this reprint

This Act is reprinted as at 21 January 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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RECORDING OF EVIDENCE ACT 1962

[as amended by all amendments that commenced on or before 21 January 1997]

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

1 Short title

This Act may be cited as the *Recording of Evidence Act 1962*.

4 Meaning of terms

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.

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

5 Power to direct recording under this Act

(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.

6 Power to appoint shorthand reporters and recorders

(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 Act 1996* 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 that Act 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.

7 Oath of office

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’.

8 Persons recording under this Act to be officers of the court

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.

9 Transcription may be made by another officer

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.

10 Record and transcription to be evidence

(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.

11 Person giving evidence need not sign deposition etc.

(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 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—

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- (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.

12 Offences

(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.

13 Regulations

(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.

(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;

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- (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 the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 21 January 1997. Future amendments of the Recording of Evidence Act 1962 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key**Key to abbreviations in list of legislation and annotations**

| Key | Explanation | Key | Explanation |
|--------|--------------------------------|--------|---|
| AIA | = Acts Interpretation Act 1954 | prev | = previous |
| amd | = amended | (prev) | = previously |
| amdt | = amendment | proc | = proclamation |
| ch | = chapter | prov | = provision |
| def | = definition | pt | = part |
| div | = division | pubd | = published |
| exp | = expires/expired | R[X] | = Reprint No.[X] |
| gaz | = gazette | RA | = Reprints Act 1992 |
| hdg | = heading | reloc | = relocated |
| ins | = inserted | renum | = renumbered |
| lap | = lapsed | rep | = repealed |
| notfd | = notified | s | = section |
| o in c | = order in council | sch | = schedule |
| om | = omitted | sdiv | = subdivision |
| orig | = original | SIA | = Statutory Instruments Act 1992 |
| p | = page | SIR | = Statutory Instruments Regulation 1992 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum | = unnumbered |

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

| Reprint No. | Amendments included | Reprint date |
|-------------|-----------------------|--------------|
| 1 | to Act No. 40 of 1992 | 19 July 1994 |

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

| Name of table | Reprint No. |
|-----------------------------------|-------------|
| Changed citations and remade laws | 1 |
| Obsolete and redundant provisions | 1 |
| Renumbered provisions | 1 |

6 List of legislation

Recording of Evidence Act 1962 No. 33

date of assent 19 December 1962

commenced on date of assent

amending legislation—

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

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

7 List of annotations

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)

Power to appoint shorthand reporters and recorders

s 6 amd 1996 No. 37 s 147 sch 2

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