

DISTRICT COURT OF QUEENSLAND

PRACTICE DIRECTION NO 8 OF 2019

***EVIDENCE ACT – DIVISION 4A EVIDENCE
OF AFFECTED CHILDREN***

A videorecording of an affected child's evidence recorded pursuant to the provisions of Part 2, Division 4A of the *Evidence Act 1977* ("the Act"), whether pre-recorded or recorded during a trial, must be securely stored by the court. The court must also control the copying, editing, possession and giving up of possession of any videorecording of the evidence of an affected child recorded in Queensland. To this end, the Principal Registrar will take special responsibility for these matters. All videorecordings, whether recorded in Brisbane or at any of the court's regional or circuit centres, will be edited in Brisbane.

Draft orders for:

- (a) the pre-recording of evidence,
- (b) the editing of pre-recorded evidence, and
- (c) the supply of copies of pre-recorded evidence

are in the schedule.

1. The Director of Public Prosecutions must inform the court at the time of presentation of the indictment of the need to pre-record evidence of an affected child. At that time all parties must be prepared to indicate readiness to proceed with the pre-recording of evidence and supply a realistic estimate of time for the proposed hearing.
2. The Director of Public Prosecutions shall file a transcript of the affected witness's statement made pursuant to s.93A of the Act ("the s.93A transcript") on presentation of the indictment, with the indictment.
3. The Principal Registrar or the Principal Registrar's nominee shall ensure that any equipment used to videorecord evidence for the purpose of the Act is in good working order prior to the taking of evidence.
4. At the conclusion of the recording of the pre-recorded evidence of an affected child the Transcript Coordination Team (TCT) is directed to provide a transcript of the evidence of the affected child to the affected child witness team (ACW team) (ACW-Evidence@justice.qld.gov.au), the Director of Public Prosecutions, the legal representatives of the accused (or where an accused is not represented, to that accused).
5. Upon receipt of the transcript, the ACW team shall:
 - (a) for matters where the indictment is filed in Brisbane, place the transcript in a sealed envelope marked "not to be opened other than by order of a Judge" and place the sealed envelope on the file; and

- (b) for matters where the indictment was filed at a registry other than Brisbane, forward the transcript to the registrar of the relevant registry, together with instructions to place the transcript in a sealed envelope marked "not to be opened other than by order of a Judge" and to place the sealed envelope on the file.
- 6. No videorecording may be copied or edited until:
 - (a) a party applies to the court for an order that the videorecording be copied and/or edited, and a Judge so orders; or
 - (b) a Judge otherwise orders that the videorecording be copied or edited.
- 7. The application for an order that the videorecording be copied or edited shall be made within 21 days of the conclusion of the recording of the pre-recorded evidence and in accordance with Form 1 of the Criminal Practice Rules, filed in the registry of the place where the indictment was presented and served on the other party/parties within five (5) days of the hearing of the application.
- 8. Any editing order whether made in Brisbane or at any of the court's regional or circuit centres shall specify the parts of the videorecording to be edited by reference to the transcript (see draft order) and a copy of the order, together with a copy of the entire highlighted/marked transcript, shall be forwarded to the ACW team (ACW-Evidence@justice.qld.gov.au) by the registrar as soon as possible.
- 9. Upon an order being made for the copying, editing or supply of a videorecording:
 - (a) the Principal Register shall:
 - (i) cause the copying or editing of the videorecording to be undertaken in accordance with the order; and
 - (ii) cause copies to be made available for collection by the parties specified in the order; and
 - (b) each party shall collect its copy of the videorecording or edited videorecording within 5 working days of receipt of advice of its availability for collection and at least four (4) working days prior to the date appointed for the commencement of the trial ("the trial date").
- 10. The Principal Registrar shall cause the videorecording or edited videorecording to be delivered to the associate to the Judge who is to preside over the trial of the matter.
- 11. The Principal Registrar must:
 - (a) keep in safe custody all master videorecordings and a master copy of any videorecording edited pursuant to the Act ("the master edited videorecording"); and
 - (b) ensure that all copies of any videorecording or edited videorecording are kept in safe custody or released only in accordance with an order of the court.
- 12. The Principal Registrar must cause a register to be kept of:
 - (a) all master videorecordings;
 - (b) all master edited videorecordings;
 - (c) all copies of any videorecording or edited videorecording; and
 - (d) receipt or movements of any such videorecordings.

13. The Principal Registrar may cause copies of videorecordings to be destroyed in accordance with section 21AZG of the Act.
14. The Principal Registrar may cause a master videorecording to be destroyed after the minimum retention period, and, if there is an authorised destruction day for the videorecording, after the authorised destruction day, has passed.
15. In this Practice Direction:
 - (a) authorised destruction day has the meaning in the Act;
 - (b) master recording means the complete (unedited) videorecording of the affected child's evidence that is retained by the court as the master recording;
 - (c) minimum retention period for a master recording is 120 years.



Chief Judge KJ O'Brien
16 August 2019

<p>This PD has been reissued and supersedes any previous versions. <u>Previous versions:</u> 17 June 2005 15 September 2004</p>

ORDER FOR PRE-RECORDING OF EVIDENCE

Indictment Number:

In the District Court of Queensland at [*state the place*]
The Queen against [*name of accused*]

ORDER

Before: DCJ

Date of Order: [*Insert date of Order*]

Document initiating this hearing: Indictment – presented [*date*]

IT IS ORDERED THAT:

1. the evidence of [*name of affected child*] now aged [] years be taken and videorecorded at ____am/pm on [*date*] at [*place*];
2. the original videorecording of the affected child's evidence be securely stored by the Principal Registrar until the trial of this matter or further order.

IT IS FURTHER ORDERED THAT:

[*set out such other orders or directions as made by the judge*]

[*Signed*]
Deputy Registrar

ORDER FOR SUPPLY OF COPIES OF PRE-RECORDED EVIDENCE

Indictment Number:

In the District Court of Queensland at *[state the place]*
The Queen against *[name of accused]*

ORDER

Before: DCJ
Date of Order: *[Insert date of Order]*
Document initiating this hearing: Application dated *[date]*

IT IS ORDERED THAT:

1. *[Insert number of copies to be made]* copies be prepared of the original/edited* videorecording in relation to the evidence of *[name of affected child]*, pre-recorded pursuant to order dated *[insert date]*.
2. A copy be available to each of:
 - the Office of the Director of Public Prosecutions; and
 - the legal representative for the accused/each of the accused*and who, by this order, are authorised to have possession of such recording for the purposes only of these proceedings
3. No viewing of the copy of the videorecording is to take place except in the presence of those authorised persons.
4. No person shall be permitted to view the videorecording who is not directly involved in the preparation for the trial at which the videorecording in question is to be presented as part of the evidence.
5. The copy of the videorecording be collected from the Principal Registrar or their nominee by such person as is authorised by the Director of Public Prosecutions Office and by the legal representative for the accused/each of the accused*.
6. All copies of the videorecording in possession of the Office of the Director of Public Prosecutions and the legal representative for the accused/each of the accused* be returned to the Principal Registrar or their nominee at the expiration of 21 days after the trial has been completed.
7. Further copies of the videorecording must not be made without the further order or direction of a judicial officer.

IT IS FURTHER ORDERED THAT:

[set out such further orders or directions as made by the judge]

[Signed]
Deputy Registrar

** delete that which is not applicable*

ORDER FOR EDITING OF PRE-RECORDED EVIDENCE

Indictment Number:

In the District Court of Queensland at [*state the place*]
The Queen against [*name of accused*]

ORDER

Before: DCJ
Date of Order: [*Insert date of Order*]
Document initiating this hearing: Application dated [*date*]

IT IS ORDERED THAT:

1. The original videorecording of the evidence of [*name of affected child*] taken on [*date*] be edited.
2. Such editing to be limited to, and in accordance with the attached transcript.
3. Parts of the evidence to be edited are as indicated in the said transcript [*highlighted/marked*] by my associate.
4. Such editing be carried out by a person nominated by the Principal Registrar to edit or make changes to the recording.

IT IS FURTHER ORDERED THAT:

[*set out such further orders or directions as made by the judge*]

[*Signed*]
Deputy Registrar