

DISTRICT COURT OF QUEENSLAND
PRACTICE DIRECTION NO 1 OF 2005
REPEALS PRACTICE DIRECTION NO 2 OF 2004

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

Introduction:

Videotapes (under the Act these include CD's and audiotapes) of an affected child's evidence recorded pursuant to the provisions of the *Evidence (Protection of Children) Amendment Act 2003* ("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, delivery, recovery, storage and destruction of any videotape of the evidence of an affected child recorded in Queensland.

To this end, the Principal Registrar will take special responsibility for these matters. All videotapes whether recorded in Brisbane or at any of the court's regional or circuit centres will be stored, copied and edited in Brisbane. Thus the registrars of the court at places outside Brisbane must ensure, as soon as is practical after recording, that videotapes are delivered, by secure means, to the Principal Registrar in Brisbane. Further registrars outside Brisbane must also ensure that copies of orders made under the Act in respect of these videotapes are transmitted to the Principal Registrar as soon as possible, and that all videotapes are returned to the Principal Registrar at the conclusion of a trial, irrespective of the verdict.

Accordingly:

- All videotapes, no matter where originally recorded, shall be in the safe keeping of the Principal Registrar in Brisbane.
- The Principal Registrar shall ensure the delivery of videotapes to the place where the trial is to be held, that is, by causing the original videotape, or an edited tape, to be delivered to the associate to the Judge who is to preside over the trial of the matter.
- The Principal Registrar will also cause any copies, editing or delivery of copies to any person to be effected pursuant to the order of a Judge.
- The original videotape shall not be delivered or provided to any party.

Further:

1. The Director of Public Prosecutions must inform the court at the time of presentation of 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 *Evidence Act* ("the s.93A transcript") on presentation of the indictment, with the indictment.

3. With respect to indictments presented prior to 5 January 2004, the Director of Public Prosecutions shall file the s.93A transcript in the registry of the court where the trial is to be held at least ten (10) working days prior to the day appointed for the trial.
4. The Principal Registrar shall undertake the copying, editing, delivery, recovery, storage and destruction of any videotape of the evidence of an affected child pre-recorded or recorded in Queensland pursuant to the Act ("the original videotape") as ordered by the court.
5. The Principal Registrar shall keep in safe custody and cause a register to be kept of:
 - (a) all original videotapes;
 - (b) any copy of an original videotape made pursuant to the Act ("the copy videotape");
 - (c) any videotape edited pursuant to the Act ("the edited videotape");
 - (d) receipt or movements of any such videotapes.
6. At the conclusion of the recording of the pre-recorded evidence of an affected child:
 - (a) the State Reporting Bureau is directed to make available a transcript of the evidence of the affected child which has been recorded on the original videotape ("the transcript") to the Principal Registrar, the Director of Public Prosecutions and to the legal representatives of the accused and, where an accused is not represented, to that accused; and
 - (b) the State Reporting Bureau shall:
 - (i) cause the transcript to be placed in a sealed envelope marked "not to be opened other than by order of a Judge" ("the sealed envelope"); and
 - (ii) cause the sealed envelope to be forwarded to the registry where the indictment is filed.
 - (c) the Registrar of that registry shall note on the sealed envelope the date when the sealed envelope was placed on the file; and
 - (d) the original videotape shall be delivered to the Principal Registrar in Brisbane.
7. No copy of the original videotape shall be made by the Principal Registrar until:
 - (a) a party applies to the court for an order that the original videotape be copied and/or edited for the trial of the matter;
 - (b) a Judge orders that the videotape be copied or that the videotape be edited. Any editing order shall specify the parts of the transcript to be edited and the Judge's Associate shall forward to the Principal Registrar the entire transcript of the videotape with the passages to be edited highlighted/marked on the transcript (see draft order); and
 - (c) the application referred to in (a) 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 5 days of the hearing of the application.
8. Upon an order being made for the copying, editing or collection of a videotape:
 - (a) the Principal Registrar shall:
 - (i) cause a copy/copies of the videotape to be made; and
 - (ii) if so ordered, arrange for the collection by the parties specified in the order of a copy videotape or a copy of the edited videotape as the case may be.
 - (b) each party shall collect its copy of the videotape or edited videotape within 5 working days of receipt of the Principal Registrar's advice of its being available for collection and at least 4 working days prior to the date appointed for the commencement of the trial ("the trial date").

9. The Principal Registrar or officers delegated by the Principal Registrar shall be responsible to ensure that any equipment used to videotape evidence for the purpose of the Act is in good working order prior to the taking of evidence.
10. The original videotape, or any copy videotape or any edited videotape, shall be returned to the Principal Registrar for safe keeping until the Principal Registrar causes it to be destroyed.
11. The Principal Registrar may cause any copy videotape to be destroyed after the conclusion of the relevant proceedings.

PM Wolfe
Chief Judge
17 June 2005

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 recorded on video tape at ____ a.m. on [*date*] at [*place*]
2. that the original video taped recording of the affected child's evidence be forwarded to and retained in safe custody by the Principal Registrar at Brisbane 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 video taped recording 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 recording is to take place except in the presence of those authorised persons.
4. No person shall be permitted to view the tape who is not directly involved in the preparation for the trial at which the tape in question is to be presented as part of the evidence
5. The copy of the recording be collected from the Principal Registrar 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 video taped recording 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 at the expiration of 21 days after the trial has been completed;
7. Further copies of the recording 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

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 video taped recording 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