

SUPREME COURT OF QUEENSLAND

PRACTICE DIRECTION 4 of 2024

CRIMINAL JURISDICTION: SUPREME COURT

Purpose and application

1. The purpose of this Practice Direction is to outline the court procedures applicable to some aspects of criminal proceedings in the Supreme Court.
2. This Practice Direction should be read with PD 5 of 2024 – Criminal List – Brisbane.

Interpreters

3. Parties and their legal representatives should be familiar with the [Guideline for Working with Interpreters in Queensland Courts and Tribunals](#) and ensure any interpreter retained by them is provided with a copy of the Guideline.
4. Unless the court otherwise orders, a party to a criminal proceeding, who needs an interpreter to assist their comprehension of the proceeding or to interpret between the court and a witness (including an accused person giving evidence) must file and serve on the other party or parties to the proceeding an application for the appointment of an interpreter and supporting affidavit material.
5. The application should be filed no later than seven (7) days after the proceeding is set down for hearing (whether that be for sentence, a pre-trial application or trial) or 28 days prior to the hearing date, whichever is earlier.
6. The affidavit should:
 - (a) specify the language and the dialect (if applicable) of the non-English speaking party or witness and any special requirements;
 - (b) identify the source through which the engagement of an appropriately qualified and accredited interpreter might be arranged; and
 - (c) state by whom the interpreter's fees and expenses would be borne.
7. On the hearing of the application, which may be done on the papers if not opposed, the court may:
 - (a) direct the Registrar to locate and retain an interpreter;
 - (b) direct the Registrar to seek directions from a Judge should the Registrar encounter difficulty; and

- (c) make further or other orders as appropriate.
8. The court will bear the cost of interpreting the proceeding to an accused person where the interests of justice require the appointment of an interpreter for that purpose.
 9. Unless the court orders otherwise, the costs of interpreting between the court and a witness will be borne by the party calling the witness or giving evidence.
 10. When the interests of justice require, the costs of interpreting between the court and an accused person giving evidence will be borne by the court.
 11. Where an interpreter has been retained by the Registrar, and it becomes apparent prior to the hearing that their services will no longer be required, the Registrar must be advised immediately, so that the retainer may be terminated and costs not unnecessarily incurred.
 12. A registry officer will be designated to facilitate communications in relation to interpreters. That officer may be contacted at: courtinterpreters@courts.qld.gov.au.
 13. This Practice Direction does not affect the capacity of a party otherwise to engage, at that party's expense, an interpreter to assist a party's comprehension of a proceeding in court.

Prerecording of the evidence of affected children

14. The prosecution must inform the court at the time of presentation of an indictment of any need to prerecord evidence of an affected child, under part 2, division 4A of the [Evidence Act 1977](#) (Qld). A draft order for prerecording of evidence is set out in the **schedule** to this Practice Direction.
15. The prosecution must file a transcript of the affected child's statement made pursuant to s 93A of the *Evidence Act*, on presentation of the indictment, with the indictment.
16. At the conclusion of the recording of the prerecorded evidence of an affected child, the transcript service provider 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 and the lawyers acting for the accused (or where an accused is not represented, to the accused).
17. No videorecording of an affected child witness' evidence 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.

Draft orders for the supply of copies of prerecorded evidence and for editing of prerecorded evidence are set out in the **schedule** to this Practice Direction.

18. 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 prerecorded evidence, 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.
19. 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 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.
20. Each party shall collect its copy of the videorecording or edited videorecording within five (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.
21. The Principal Registrar may cause a master recording 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.
22. In this Practice Direction:
 - (a) "authorised destruction day" has the meaning given in the *Evidence 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; and
 - (c) "minimum retention period" for a master recording is 120 years.

Disposal of summary offences – sections 651 and 652 of the *Criminal Code*

23. [Section 651](#) of the *Criminal Code* empowers the Supreme Court to hear and decide summarily a charge of a summary offence, subject to s 652(2) to (4) and s 651(2). This Practice Direction sets out the administrative requirements which are designed to streamline the transmission of such charges to the Supreme Court.
24. Prior to making an application pursuant to [s 652\(2\)](#) of the *Criminal Code*, the applicant must lodge with the Director of Public Prosecutions an application for the consent of the Crown under s 651(2)(c). The application must set out the text of the summary charge(s) the applicant seeks to have transmitted, and the text of the indictable offence(s) with which the summary charge(s) would be heard. In the case of lengthy charges, a copy of the charges/counts may, alternatively, be attached to the application. A form of application is set out in the **schedule** to this Practice Direction.
25. Within 14 days of receipt of the application, the Director of Public Prosecutions is to notify the applicant in writing whether the Crown consents.
26. An application pursuant to s 652(2) must be made to the Registrar of the relevant court of summary jurisdiction not later than 14 days prior to the date set for the hearing of the indictable offence(s) in the Supreme Court.

27. In addition to the matters prescribed by s 652(3), the application must state that as at the time it is being made, an indictment has been presented or is to be presented in the Supreme Court at a specified place.
28. The defendant or the lawyer acting for the defendant must, at least 24 hours prior to the day on which the matter is to be heard in the Supreme Court, contact the Registrar of the relevant Supreme Court registry to confirm that the relevant documents have been received.
29. If the relevant documents have not been received and the Registrar is satisfied that the defendant has made a proper application in accordance with s 652(2) and (3) and this Practice Direction, the Registrar may arrange for the relevant documents to be transmitted forthwith.
30. If the original documents from the court of summary jurisdiction or true copies of those documents are not before the Supreme Court at the time the court deals with the indictable offences, the court will not deal with the summary offences or take them into account.
31. If the Supreme Court declines to deal with a charge of a summary offence brought before it, the Supreme Court will order that the transmitted charge be remitted to the originating court of summary jurisdiction.

Repeal

32. Practice Direction 4 of 2014 is repealed.



H Bowskill
Chief Justice
14 February 2024

SCHEDULE

ORDER FOR PRERECORDING OF EVIDENCE

Indictment Number:

In the Supreme Court of Queensland

The King against *[name of accused]*

ORDER

Before: J

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

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

THE COURT ORDERS 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.

THE COURT FURTHER ORDERS THAT:

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

[Signed]

Deputy Registrar

ORDER FOR SUPPLY OF COPIES OF PRERECORDED EVIDENCE

Indictment Number:

In the Supreme Court of Queensland

The King against *[name of accused]*

ORDER

Before: J

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

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

THE COURT ORDERS 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]*, prerecorded pursuant to order dated *[insert date]*.
2. A copy be available to each of:
 - the Office of the Director of Public Prosecutions, and
 - the lawyer acting for the accused/each of the accused*,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 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 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 Judge.

THE COURT FURTHER ORDERS THAT:

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

[Signed]

Deputy Registrar

* *Delete whichever is inapplicable.*

ORDER FOR EDITING OF PRERECORDED EVIDENCE

Indictment Number:

In the Supreme Court of Queensland

The King against *[name of accused]*

ORDER

Before: J

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

Document initiating this hearing: Application dated *[date]*

THE COURT ORDERS THAT:

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

THE COURT FURTHER ORDERS THAT:

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

[Signed]

Deputy Registrar

APPLICATION FOR CONSENT OF CROWN – s 651 *Criminal Code*

To: The Director of Public Prosecutions

[*Name of applicant, and address for service*] requests that the Crown consent pursuant to s 651(2)(c) of the *Criminal Code* to the Supreme Court's hearing and deciding the following summary offence(s) when dealing with the following indictable offence(s):

Indictable Offence

Indictment No.	Text of Charge	Location of Court	Date of hearing

(*for lengthy counts: as per attachment)

Summary Offences

Magistrates Court reference	Text of Charge	Court where charge pending

(*for lengthy charges: as per attachment)

.....
(Signature of applicant or
lawyer acting for applicant)

.....
DATED

To: The applicant

The Director of Public Prosecutions consents / does not consent* to the summary charge(s) shown in the above schedule being heard and decided when the Supreme Court deals with the above indictable offence(s) in the Supreme Court at

Name of officer giving consent:

Contact phone number and email address:

.....
(Signature of officer giving consent)

.....
DATED