



Western Australia

## **Justices (Recording of Depositions) Regulations 1987**

Compare between:

[10 Sep 2004, 01-a0-02] and [02 May 2005, 01-b0-06]





Reprinted under the  
*Reprints Act 1984* as at  
10 September 2004

Western Australia

Justices Act 1902

## Justices (Recording of Depositions) Regulations 1987

### 1. Citation

These regulations may be cited as the *Justices (Recording of Depositions) Regulations 1987*<sup>1</sup>.

### 2. Commencement

These regulations shall come into operation on the day on which section 8 of the *Acts Amendment (Recording of Depositions) Act 1986* comes into operation<sup>1</sup>.

### 3. Definition

In these regulations, unless the contrary intention appears —  
“**clerk**” means —

- (a) a clerk of petty sessions appointed under section 25A of the Act; or
- (b) the clerk of a coroner appointed under the *Coroners Act 1920*<sup>2</sup>.

**4. Application**

These regulations are made under section 73(1c) of the Act and apply *mutatis mutandis* to and in relation to recordings made under section 102 of the Act and section 13(1)(b) of the *Coroners Act 1920*<sup>2</sup>.

**5. Appointments**

- (1) The Under Secretary for Law<sup>3</sup> may appoint persons to record or transcribe depositions or to check transcripts of recorded depositions.
- (2) The Under Secretary for Law<sup>3</sup> may by instrument in writing delegate to a clerk any of his functions under this regulation other than this power of delegation.

**6. Oath**

A person appointed to record or transcribe depositions or to check transcripts shall not carry out any of the functions relating to that appointment until that person has taken the oath prescribed in Schedule 1.

**7. Duties of persons appointed to record depositions**

A person appointed to record depositions shall —

- (a) test the sound-recording apparatus, immediately prior to use, in accordance with the operator's manual of instructions;
- (b) before the commencement of the recording, clearly enter in writing on the tape or other medium used for the recording sufficient particulars to enable identification of the matter to be recorded;
- (c) monitor the sound-recording apparatus to ensure that the proceedings are being clearly and accurately recorded;
- (d) ensure that the safe custody of the recording is maintained during the course of proceedings; and

- (e) comply with any directions given concerning that person's duties by the court or the clerk.

**8. Duties of persons appointed to transcribe**

A person appointed to transcribe recorded depositions shall —

- (a) upon receipt of a recorded deposition, enter details of the matter to be transcribed in a register maintained for this purpose;
- (b) ensure that the safe custody of the recording is maintained while it is in the possession of that person; and
- (c) carefully transcribe into writing all recorded depositions directed to that person for that purpose and endorse appropriate identifying marks on each page of the transcript.

**9. Duties of persons appointed to check transcripts**

A person appointed to check transcripts shall —

- (a) ensure that the safe custody of recordings and transcripts is maintained while they are in the possession of that person; and
- (b) check transcripts of depositions against the recordings of those depositions to ensure that the transcripts are correct transcripts of the recordings.

**10. Certification of transcript**

Where a transcript of the recording of a deposition is prepared, the person by whom the transcript is prepared or, if the transcript is checked by a person other than the person by whom the transcript is prepared, the person by whom the transcript is checked shall certify in the form of Form 1 in Schedule 2 that the transcript is a correct transcript of the recording.

**11. Custody of transcripts and recordings**

The clerk shall have the custody of recordings and transcripts of depositions and shall —

- (a) maintain a register of all recorded depositions and transcripts of those recordings;
- (b) ensure that every tape or other medium on which a deposition is recorded is numbered consecutively or otherwise sufficiently marked for identification;
- (c) ensure that the recordings and transcripts are retained and preserved in a secure and orderly manner; and
- (d) produce recordings and transcripts out of his custody whenever so required by the Under Secretary for Law<sup>3</sup>, the court or under any written law.

**12. Directions for preparation of transcript**

The clerk shall give such directions as he considers necessary for ensuring that where a transcript is or may be required, a transcript is prepared, and for the purpose of enabling the transcript to be prepared the recording shall be produced out of the custody of the clerk.

**13. Application for transcript**

- (1) The clerk may furnish to an applicant a transcript of the recording of a deposition.
- (2) The fees prescribed for copies of documents in the *Justices Act (Courts of Petty Sessions Fees) Regulations* shall be payable on the issuing of copies of transcripts to applicants under subregulation (1).
- (3) Nothing in this regulation affects the operation of section 148 of the *Justices Act 1902* or section 745 of *The Criminal Code*.

**14. Erasure of recordings**

- (1) The recording of a deposition shall not be destroyed —
  - (a) within the time allowed by law for instituting an appeal, or applying for leave to appeal, or for a new trial, in respect of the proceeding to which the recording relates; or
  - (b) where an appeal or application for leave to appeal or for a new trial is instituted, until that appeal or application is finally determined or otherwise terminated.
- (2) The clerk, if he is satisfied that the destruction of a recording is not prohibited under subregulation (1), may cause a recording to be destroyed.

**15. Transmission of recordings**

Where a recording is transmitted for transcription, the person to whom the recording of a deposition is forwarded for transcription shall, upon receipt of the recording, acknowledge receipt of the recording to the clerk of the court from which the recording was forwarded.

**16. Notice of intention to allege incorrect transcription**

A notice of intention to raise an allegation that —

- (a) a deposition intended to be read as evidence on a trial under section 15(1)(e) of the *Coroners Act 1920*<sup>2</sup>;
- (b) a deposition intended to be produced and given in evidence under section 107(1) of the *Evidence Act 1906*;
- (c) a statement intended to be given in evidence against a defendant under section 103(1) of the Act; or
- (d) a deposition intended to be read as evidence on a trial under section 109(1) of the Act,

is an incorrect transcription of a recording shall be in the form of Form 2 in Schedule 2.

**Schedule 1**

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**Schedule 1**

[regulation 6]

**Oath**

I, .....  
swear that I shall faithfully discharge my functions and duties to  
record/transcribe/check transcripts of depositions under the *Justices Act 1902*.  
So help me God.



**Schedule 2**

**Forms**

Form 1

[regulation 10]

*JUSTICES ACT 1902*

**Certification of Transcript**

I ..... of.....  
Western Australia, a person appointed to transcribe (check transcripts of)  
recordings of depositions under the *Justices Act 1902*, hereby certify that the  
transcription of the recording of depositions on pages .....  
inclusive in the proceedings of ..... v .....  
(or as the case may be) is a correct transcription of the recording of the  
deposition.

Dated this                      day of                      20                      .  
.....

\_\_\_\_\_

Form 2

[regulation 15]

*JUSTICES ACT 1902*

**Notice of Intention to Allege Incorrect Transcription**

To the prosecutor  
..... v .....

Take notice that I .....  
intend to raise the allegation that a statement intended to be given in evidence  
against the above-named person is an incorrect transcription of a recording.

Particulars of allegation

## Notes

- <sup>1</sup> This is a reprint as at 10 September 2004 of the *Justices (Recording of Depositions) Regulations 1987*. The following table contains information about those regulations and any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Justices (Recording of Depositions) Regulations 1987</i>	10 Jul 1987 p. 2608-10	1 Aug 1987 (see r. 2 and <i>Gazette</i> 10 Jul 1987 p. 2607)

**Reprint 1: The *Justices (Recording of Depositions) Regulations 1987* as at 10 Sep 2004**

[These regulations were repealed as a result of the repeal of the \*Justices Act 1902\* by the \*Criminal Procedure and Appeals \(Consequential and Other Provisions\) Act 2004\* s. 4\(1\) \(No. 84 of 2004\) as at 2 May 2005 \(see s. 2 and \*Gazette\* 31 Dec 2004 p. 7129 and 7 Jan 2005 p. 53\)](#)

- <sup>2</sup> Repealed by the *Coroners Act 1996*.
- <sup>3</sup> The office of the Under Secretary for Law existed in the former Crown Law Department. Under the *Acts Amendment (Ministry of Justice) Act 1993* s. 69, unless the contrary intention appears, a reference, however expressed, in any law or document to the former Crown Law Department or an office or organisational unit within that department, is to be read as a reference to the Ministry of Justice, or the corresponding office or unit within the Ministry of Justice, as is appropriate. Under the *Alteration of Statutory Designations Order (No. 3) 2001*, a reference in law to the Ministry of Justice shall, unless the contrary is intended, be read and construed as a reference to the Department of Justice.