



Children's Court  
of Victoria

**THESE REGULATIONS  
COMMENCED ON  
2<sup>nd</sup> JUNE 2020**

**MELBOURNE CHILDREN'S  
COURT**

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**3<sup>rd</sup> June 2020**

**COVID-19 Omnibus (Emergency Measures) (Criminal Proceedings  
and Other Matters) Regulations 2020**  
**S.R. No. 45/2020**

These Regulations are dated 2<sup>nd</sup> June 2020 and commenced on the same day. They are made under s.4 of the *COVID-19 Omnibus (Emergency Measures) Act 2020*. Their purpose is to modify the application of various provisions of various Justice Acts. The majority of the Regulations are not relevant to the Children's Court of Victoria ['the CCV'].

This 2-page document summarizes the purposes and the provisions of those Regulations which are relevant to the CCV.

**PURPOSES RELEVANT TO THE CCV**

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- (a) to modify the witnessing, execution or signing of legal documents such as affidavits and undertakings under the *Bail Act 1977*;
- (b) to modify the conduct of proceedings under the *Criminal Procedure Act 2009*;
- (g) to modify the operation of witness summonses under the *Magistrates' Court Act 1989*.

**REGULATIONS RELEVANT TO THE CCV**

**(a) ADDITIONS TO BAIL ACT 1977**

**Capacity of child to enter into undertaking:** Existing s.16B of the BA provides that if, in the opinion of a bail decision maker granting bail to a child, the child does not have the capacity or understanding to enter into an undertaking, the child may be released on bail if the child's parent or some other person enters into an undertaking to produce the child at court.

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- **Alternative methods of entering into undertaking on behalf of a child:** **New s.16C of the BA** provides that the alternative methods of entering into an undertaking which are set out in new ss.17A & 17B also apply, with any necessary modifications, to the entering into of an undertaking under s.16B.

**Bail undertaking:** Existing s.5(1) of the BA provides that a grant of bail must require the accused to enter into a written undertaking to surrender into custody at the time and place of the hearing or trial specified in the undertaking. New ss.17A-17D expand the concept of a written undertaking.

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- **Electronic signature of undertaking by accused:** **New s.17A of the BA** sets out a complex procedure by which the bail decision maker or another authorized person may send copies of an undertaking of bail and a s.17 notice to the accused by electronic communication and the accused by return electronic communication confirms receipt and signs the undertaking by electronic signature.

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|  | <ul style="list-style-type: none"> <li>• <b>Undertaking by accused by audio ‘AL’ or audio visual ‘AVL’ means:</b> <b>New s.17B of the BA</b> provides that a court granting bail may direct that the undertaking of bail be entered by <b>AL</b> or <b>AVL</b> if the court considers that it is impracticable for the accused to enter into a written undertaking in person or by electronic communication. If the court gives such a direction, a complex procedure must then be followed.</li> <li>• <b>Electronic signature of undertaking by surety:</b> <b>New s.17C of the BA</b> sets out a complex procedure by which the bail decision maker or another authorized person may send copies of an undertaking of bail signed by the accused and a s.17 notice to the surety by electronic communication and the surety by return electronic communication confirms receipt and signs the undertaking by electronic signature.</li> <li>• <b>Electronic signature of affidavit of justification for bail by surety:</b> <b>New s.17D of the BA</b> sets out a complex procedure by which the bail decision maker or another authorized person may send the affidavit to the surety by electronic communication and the surety appearing by <b>AL</b> or <b>AVL</b> confirms that the particulars of the affidavit are true and correct and agrees to sign the affidavit by electronic signature.</li> </ul> |
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**(b) MODIFICATIONS TO CRIMINAL PROCEDURE ACT 2009**

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| <b>REG</b><br>7 | <ul style="list-style-type: none"> <li>• <b>Adjournment without appearance of parties:</b> <b>Modified s.121(1)(a) of the CPA</b> extends the maximum adjournment time from 14 days to 28 days if the parties have indicated in a case direction notice under s.118 that an adjournment of the committal mention hearing would assist them in determining how the matter should be dealt with.</li> </ul>              |
| <b>REG</b><br>9 | <ul style="list-style-type: none"> <li>• <b>Provision of prosecution material before first mention:</b> <b>Modified s.53A(2) of the CPA</b> requires the documents formerly required to be provided by police at the first mention hearing instead to be served on the accused or the legal practitioner representing the accused no less than 7 days before the date listed for the first mention hearing.</li> </ul> |

**(g) MODIFICATION TO MAGISTRATES’ COURT ACT 1989**

**Attendance of witnesses on adjournment:** Existing s.45 of the MCA provides that a person whose attendance before the Court in a criminal proceeding has been required by witness summons must-

- (a) attend at the time and place specified in the summons; and
- (b) if the proceeding is adjourned, attend at the time and place to which the proceeding has been adjourned, without the issue of a further summons- until excused by the Court.

**This is relevant to the CCV by operation of s.528(2)(a) of the CYFA.**

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| <b>REG</b><br>23 | <ul style="list-style-type: none"> <li>• <b>Temporary measures relating to witness summonses:</b> <b>New s.45(2) of the MCA</b> provides that a witness is not required to attend court on the date and time specified in a witness summons under paragraph (a), if the criminal proceeding is adjourned prior to the date and time specified in that summons.</li> </ul> |
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