



Children's Court
of Victoria

**THIS ACT WAS PASSED
ON 23 APRIL 2020 AND
WAS AMENDED FROM
21 OCTOBER 2020**

**MELBOURNE CHILDREN'S
COURT**

477 Little Lonsdale Street, Melbourne, Victoria, 3000
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COVID-19 Omnibus (Emergency Measures) Act 2020

COVID-19 Omnibus (Emergency Measures) and Other Acts Amendment Act 2020

1. The **original Act** (No. 11/2020) was passed on 23 April 2020 and commenced operation on 25 April. Its purpose is:

An Act to temporarily amend certain Acts, and to temporarily empower the making of regulations, to modify the application of the law of Victoria in certain respects for the purpose of responding to the COVID-19 pandemic.

2. The **Amendment Act** (No. 27/2020) was passed on 14 October 2020 and commences operation on 21 October. It extends the repeal date of the **original Act** until 26 April 2021.

3. This document summarizes the provisions of the **original Act** and of the **Amendment Act** which have some relevance to the ChCV. The provisions shaded in blue derive from the Amendment Act.

REGULATIONS

REGS RELEVANT TO THE ChCV ARE SUMMARISED AT THE END OF THIS DOCUMENT

COA
4(1)

• The Governor in Council, on the recommendation of the Attorney-General, may make regulations that disapply, or modify the application of, a **Justice Act provision** (other than a temporary emergency provision), a provision of a subordinate instrument made under a **Justice Act provision** or a relevant applied law that provides for or regulates any of 16 defined matters, most of which are procedural in nature.

3

• A **Justice Act provision** is one administered by any of the following Ministers, wholly or jointly: the A-G or the Ministers for Corrections, Police and Emergency Services, Victim Support or Youth Justice.

8(2)

• The Attorney-General must not recommend the making of a regulation under s.4 without the consent of the relevant Head of Jurisdiction.

BAIL ACT 1977

BA
34C

"BROUGHT BEFORE THE COURT"

(1) If a provision of the *Bail Act* requires that a person be **brought before** a court, that requirement is satisfied by the appearance before the court of either-
(a) a legal practitioner representing the person; or
(b) another person empowered by law to appear for the person.

- (2) For the purposes of the *Bail Act* a person may appear before a court-
- (a) personally; or
 - (b) by a legal representative appearing for the person; or
 - (c) by another person empowered by law to appear for the person.
- (3) An appearance by audio visual link ['AVL'] or audio link ['AL'] constitutes appearance for the purposes of the *Bail Act*.

CHILDREN, YOUTH AND FAMILIES ACT 2005

CYFA

ORAL PRE-SENTENCE REPORTS

**600G
to
600L**

These provisions permit the court to receive an oral PSR for a person in hearings under the CYFA and govern the content and use of such reports. The pre-conditions for giving an oral PSR are-

- The court is satisfied that preparation of an ordinary PSR is not practicable due to the COVID-19 pandemic.
- Unless the person is over 20y6m old, there has been a PSR prepared within the previous 6 months.
- The person and the Department of Justice and Community Safety both consent.
- The court is satisfied it is in the interests of justice to get an oral PSR.

**600M
to
600O**

ISOLATION IN DETENTION

These provisions relate to use of isolation in a remand or youth detention centre for the purposes of detection, prevention or mitigation of COVID-19 or other infectious disease.

600OA

MODIFICATION OF THE PERIOD OF A FAMILY REUNIFICATION ORDER [FRO] OR EXTENSION

The Court may specify a period in a FRO, or extend a FRO by a period, that will have the effect that the child will be placed in out of home care for a longer cumulative period than would otherwise be permitted under ss.287A(2) or (3) or 294A(1)(b) or 296(3) or (4) if-

- (a) the Court is satisfied that the progress of a parent of the child towards reunification has been impeded as a result of the COVID-19 pandemic;
- (b) the Court is satisfied that it is in the best interests of the child to do so;
- (c) the additional period specified does not exceed the period for which the parent's capacity to make progress towards reunification has been impeded as a result of the COVID-19 pandemic; and
- (d) the additional period of the FRO or the extension thereof will not have the effect that the child will be placed in out of home care for a cumulative period that is more than 6 months longer than would otherwise have been permitted under ss.287A(2) or (3) or 294A(1)(b) or 296(3) or (4).

Notes: 1. This section does not prevent periods being specified in increments under a particular provision, up to a total of 6 months.

2. Making or extending a FRO as permitted by this section can never have the effect that a child will be placed in out of home care for a cumulative period that is more than 30 months.

Commentary by Peter Power

It appears that this amendment has introduced an unintended ambiguity into s.287(1)(c). This sub-section provides, in relation to the **making** of an FRO, that a “*FRO, subject to this Division, remains in force for the period (not exceeding 12 months) specified in the order*”. Prior to s.600OA ss.287A(2) & 287A(3) always operated to **reduce** that 12 months maximum period by the period that the child had already been in out of home care as defined in ss.287A(1) & 287A(4) [OHC]. For example-

- if the child had been in OHC for 5 months, the maximum length of the FRO under s.287A(2) was $12-5=7$ months; whereas paradoxically
- if the child had been in OHC for 14 months, the maximum length of the FRO under s.287A(3) was $24-14=10$ months.

However, when read in conjunction with s.600OA there may be instances in which ss.287A(2) & 287A(3) operate to **increase** the 12 months maximum period set by s.287(1)(c). For example, provided that the pre-conditions in paragraphs (a), (b) & (c) of s.600OA(2) are met, if the child has been in OHC for 5 months the maximum length of the FRO under s.287A(2) read in conjunction with s.600OA(2)(d) is $12-5+6=13$ months.

Is it intended that this 13 month period is then to be reduced to 12 months to comply with s.287(1)(c) which expressly states that the period of a FRO is “*(not exceeding 12 months)*”? On the other hand, s.287(1)(c) is said to be “*subject to this Division*” and Division 6 includes s.287A. Which phrase is to take precedence? I don’t know. I think the question is moot.

However, this ambiguity does not arise in the case of the **extension** of an FRO since extensions are not governed by s.287(1)(c). When read in conjunction with s.600OA there may be instances in which ss.296(3) & 296(4) unambiguously operate to authorise an extension of a FRO for more than 12 months. For example, provided that the pre-conditions in paragraphs (a), (b) & (c) of s.600OA(2) are met, if the child has been in OHC for 14 months the maximum length of a FRO extension under s.296(4) when read in conjunction with s.600OA(2)(d) is $24-14+6=16$ months.

600Q	CONCILIATION CONFERENCE OR COUNSELLING BY AVL/AL A convenor of a conciliation conference under s.222, or a person conducting conciliation counselling under s.260 (in relation to an irreconcilable difference application), may conduct the conference or counselling by means of AVL or AL .
600R	YCO PLANNING MEETING OR GROUP CONFERENCE BY AVL/AL OR SUBMISSIONS A convenor of a YCO planning meeting [s.409Q] or a group conference [s.415] may require one or more of the participants to attend by AVL or AL or to participate by means or oral or written submissions.
600S 600T	YOUTH JUSTICE ATTENDANCE/REPORTING These provisions empower the Secretary to direct a young person required to attend a youth justice unit or to report to the Secretary, a youth justice or parole officer to do so in any manner directed, including by AVL or AL .
600U	NOTICE REQUIREMENTS TO APPEAR IN CERTAIN INTERIM ACCOMMODATION ORDER MATTERS MAY BE BYPASSED Despite the notice requirements in s.268 (variation of IAO), s.269 (breach of IAO) and s.270 (new IAO) for a person to appear or to cause another person to appear in person before the Court, the Court may deal with the matter in the absence of the person.

<p>600V</p> <p>600W</p>	<p style="text-align: center;">LOCATION OF CHILDREN'S COURT</p> <ul style="list-style-type: none"> Section 505 is amended to allow the Court to sit at any time and place, whether Gazetted or not and whether or not the Magistrates' Court is also sitting there. The Court may order that a hearing be held at an appropriate place that is not the 'proper venue' if- (a) a timely hearing cannot be held at the proper venue due to disruption caused by COVID-19; or (b) for any other appropriate reason. In determining an appropriate place the Court must first have regard to places closest to the 'proper venue'.
<p>600WA</p>	<p style="text-align: center;">ADDITIONAL POWERS OF CHILDREN'S COURT REGISTRARS</p> <p>Section 600WA(2) & (3): In lieu of the power under s.539(1)(d) of the CYFA a registrar has power to abridge or extend the bail of a person who has been granted bail in relation to a criminal proceeding. This power may be exercised in respect of a person who has been granted bail-</p> <ul style="list-style-type: none"> either on the day on which the person's proceeding is listed before the Court or on any other day; and either in the presence or absence of the parties. <p>Sections 600WA(4), (5), (6) & (7): A registrar has power-</p> <ul style="list-style-type: none"> to adjourn; or to abridge or extend the adjournment of; or to otherwise change the time or place of listing before the Court of- a criminal proceeding or a proceeding under the Family Violence Protection Act 2008, the Personal Safety Intervention Orders Act 2010 or the National Domestic Violence Order Scheme Act 2016. This power may be exercised- either on the day on which the proceeding is listed before the Court or on any other day; and either in the presence or absence of the parties. <p>Section 600WA(8): A registrar may exercise a power conferred by s.600WA on the application of a party or on the registrar's own initiative.</p> <p>Section 600WA(9): Nothing in s.600WA empowers a registrar to vary the amount or conditions of bail.</p> <p style="text-align: center;"><u>Commentary by Peter Power</u></p> <p>A question has arisen whether there is a conflict between s.5AA of the Bail Act 1977 and the amended powers of a registrar to extend or abridge a person's bail under s.600WA(2) & (3) of the CYFA. The provisions do not sit together comfortably but I believe they can be reconciled.</p> <p>Section 5AA(2) provides: "The court, at the first hearing following the grant of bail at which the child is present, must ensure that the conditions of bail imposed by the bail justice, police officer, sheriff or person authorised under s.115(5) of the Fines Reform Act 2014 comply with the requirements of s.5AAA(2). " Section 5AA(3) empowers the court to "make any variation to the conditions of bail that are necessary for the purposes of subsection (2)".</p> <p>Act No.26/2017 amended the Bail Act 1977 by repealing the definition of "court" and inserting a definition of "bail decision maker", meaning "any of the following empowered under this Act to grant bail, extend bail, vary the amount of bail or the conditions of bail or revoke bail- (a) a court..."</p>

	<p>A registrar exercising powers under s.600WA of the CYFA is not a "bail decision maker" within the definition in the Bail Act 1977 because the registrar's power to extend or abridge is not a power granted under the latter Act. Further, proposed s.600WA(9) of the CYFA makes it clear that a registrar extending or abridging bail under s.600WA has no power to vary the amount or conditions of bail. Hence a Children's Court registrar could not comply with the court's obligation under s.5AA(3) of the Bail Act.</p> <p>It follows, in my view, that s.5AA(2) should be read as providing that the court, at the first hearing following the grant of bail at which the child is present before a bail decision maker (viz. a judicial officer), must ensure that the conditions of bail imposed by the bail justice, police officer etc. comply with the requirements of s.5AAA(2).</p> <p>An alternative way of analysing s.5AA is that the word "hearing" does not apply to an essentially administrative proceeding conducted by a registrar under s.600WA of the CYFA.</p> <p>On this analysis there is no conflict between s.600WA of the CYFA and s.5AA of the Bail Act. However, the over-riding purpose of s.5AA is to check that conditions of bail set prior to the court's involvement comply with s.5AAA(2) and to vary any which do not. Accordingly, as a matter of good practice, the first mention at which the child is present should be listed before a judicial officer so that s.5AA can be complied with at the earliest opportunity. If no judicial officer is available, a registrar does have power to extend bail in these circumstances but cannot vary it.</p>
<p>600X</p> <p>600Y</p> <p>600Z</p>	<p style="text-align: center;">ADDITIONAL METHODS OF SERVICE</p> <ul style="list-style-type: none"> • Section 600X details 5 methods of service additional to those contained in s.593. They include- (a) confirmed electronic service; (b), (d) & (e) registered postal, personal or confirmed electronic service on the person's legal representative. • Personal service can be effected by placing a copy of the document on a surface in the presence of the other person. See also s.420ZM of the <i>Criminal Procedure Act</i> (as amended). • Section 600Z details 5 methods of service, similar to those in s.600X, which are additional to those contained in s.594 relating to "service on parent or child or other person".
<p>600ZA</p>	<p style="text-align: center;">BAIL JUSTICE IAO HEARINGS SUSPENDED</p> <ul style="list-style-type: none"> • The references to bail justice interim accommodation order hearings in ss.242(3), 247A(3), 269(5), 269(7), 270(8) are suspended. • The references to "24 hours" in ss.269(5) & 270(8) are taken to be references to "one working day". • The consequence is that for the period of these temporary amendments there will no longer be any bail justice IAO hearings. There is no change to bail justice requirements in Criminal Division proceedings.
<p>600ZB</p>	<p style="text-align: center;">'BEST INTERESTS' PROVISIONS AND THE AMENDMENTS</p> <ul style="list-style-type: none"> • The 'best interests' provisions in Part 1.2 of the CYFA do not apply to ss.600A to 600O. • The provisions in Part 1.2 of the CYFA do apply to ss.600OA to 600ZA except to the extent that they relate to Chapter 5 (Children and the criminal law) or Chapter 7 (in relation to a matter under Chapter 5).

530	POWER OF ADJOURNMENT BROADENED
	Section 530 of the CYFA is a broad power of adjournment for both the Family Division and the Criminal Division of the ChCV and is probably intended to ‘cover the field’. Section 530(5) is amended to allow a child on remand or in secure welfare to appear before the Court by AVL or AL in accordance with the emergency powers in Part IX of the amended <i>Evidence (Miscellaneous Provisions) Act</i> . Compare added s.420ZJ of the <i>Criminal Procedure Act</i> discussed below.

CORRECTIONS ACT 1986

ALTERATION TO PRISON VISITS & MANDATORY QUARANTINE ETC
Added Part 10B of the <i>Corrections Act</i> allows for alterations to prison regimes as a consequence of the COVID-19 pandemic, including prohibition or restriction of visitor access to prisons and/or visits by AL , AVL or other means, mandatory quarantine of prisoners entering prisons, restrictions on the movement and placement of prisoners and COVID-19 based assessment and treatment of prisoners. However, there is no equivalent amendment of the CYFA in relation to detainees in youth justice detention centres.

COURT SECURITY ACT 1980

CSA 7A(3)	“SECURITY, GOOD ORDER OR MANAGEMENT” BROADENED
	In addition to s.2(2), a reference in the CSA to “the security, good order or management of the court premises” also includes- (a) the health of all persons who work at, attend or are in custody at the court premises during the COVID-19 pandemic; and (b) a direction made by an authorised officer under Part 10 of the <i>Public Health and Wellbeing Act 2008</i> in relation to the COVID-19 pandemic at the court premises.

CRIMES (MENTAL IMPAIRMENT AND UNFITNESS TO BE TRIED) ACT 1997

CMIA 120(1)	COURT MAY DETERMINE MATTERS WITHOUT A HEARING
These four amendments shaded in blue are technical changes primarily to correct errors and to remove ambiguities.	The court may decide any issue (other than a prescribed issue) or may determine any of the following matters (other than a prescribed matter), entirely on the basis of written submissions and without the appearance of the parties— (e) a review of a supervision order [SO] under s.38ZI(2); or (f) an application under s.38ZN for a variation of a custodial SO or a variation or revocation of a non-custodial SO; or (g)(h) a further review of a SO under s.38ZO(3) or 38ZP(2).

CRIMINAL PROCEDURE ACT 2009

Section 528(2)(b) of the CYFA provides that unless the contrary intention appears in the CYFA or any other Act, the <i>Criminal Procedure Act</i> in relation to proceedings in the Magistrates’ Court (other than s.54(2) [Summary case conference], Division 2 of Part 2.3 [Notice to appear] and Chapter 6 [Appeals and cases stated]) apply with any necessary modifications in the Children’s Court and to proceedings in the Court.

<p>CPA 420ZI</p>	<p>MEANING OF 'ATTEND' BROADENED</p> <p>The meaning of 'attend' in s.3 of the CPA is broadened to include the new temporary amendments to the EMPA (see below).</p>
<p>420ZJ</p>	<p>POWER OF ADJOURNMENT BROADENED</p> <p>This provision broadens the power of adjournment in s.331(6)(b) of the CPA to enable an adjournment to be abridged to enable an accused to be brought to a place where AL facilities exist to enable a hearing to be held or continued. It is not certain whether this has application in the ChCV but it is more likely that s.530 of the CYFA is intended to 'cover the field'.</p>
<p>420ZK</p>	<p>AVL OR AL ATTENDANCE FOR GROUND RULES HEARING</p> <p>A person required to attend a ground rules hearing must do so by AVL or AL and not by being physically present in court unless appropriate facilities do not exist or the court orders otherwise.</p>
<p>420ZL</p>	<p>COURT MAY DECIDE ISSUES WITHOUT A HEARING</p> <ul style="list-style-type: none"> • A court may decide any issue in a criminal proceeding (other than a pre-trial issue under s.199 of the CPA or a prescribed issue) entirely on the basis of written submissions and without the appearance of the parties if- <ul style="list-style-type: none"> (a) the court is satisfied that it is in the interests of justice to do so; and (b) whether or not the parties consent to the court doing so. • In determining whether it is in the interests of justice to decide an issue entirely on the basis of written submissions and without the appearance of the parties, the court must have regard to- <ul style="list-style-type: none"> (a) the right of an accused to be present at their trial; (b) the right of an accused to a fair hearing; (c) the nature of the issue; (d) whether the accused or the offender (as the case requires) has had the opportunity to obtain legal advice; and (e) whether the parties consent to the court doing so.

EVIDENCE (MISCELLANEOUS PROVISIONS) ACT 1958

<p>EMPA 170</p>	<p>PRACTICE DIRECTIONS, STATEMENTS OR NOTES</p> <p>The President may from time to time issue practice directions, statements or notes relating to the exercise by the court of its discretion in the making of a direction under s.42E(1).</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <ul style="list-style-type: none"> • Section 42E(1) of the EMPA provides that subject to s.42F and any rules of court, a court may, on its own initiative, or on the application of a party, direct that a person may appear before, or give evidence or make a submission to, the court by AVL or AL from any place within or outside Victoria, or outside Australia, that is outside the courtroom or other place where the court is sitting. • Section 42F contains special provisions with respect to a person who is a child in proceedings in the Family Division or an appeal from the Family Division. </div>
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171	The court's power to make a direction under s.42E(1) is subject to the President's direction, statement or note issued under s.170.
172	<p>APPEARANCE BY AL OF A NON-ACCUSED CHILD</p> <ul style="list-style-type: none"> Section 42F(7) which prohibits a court from making a direction under s.42E(1) that a child appear before, or give evidence or make a submission to, the court by AL is suspended. However, a court must not make direction under s.42E(1) that a child appear before, or give evidence or make a submission to, the court by AL unless it is satisfied that exceptional circumstances apply.
169	<ul style="list-style-type: none"> 'Exceptional circumstances' includes but is not limited to a state of emergency declared under s.198 of the <i>Public Health and Wellbeing Act 2008</i> in an area where an accused is required to appear before a court or required to transit through in order to appear before a court.
179	<p>APPEARANCE BEFORE COURT OF A CHILD ACCUSED</p> <ul style="list-style-type: none"> Section 42O is amended to provide that unless the court otherwise directs, an accused who is a child and is required to appear, or be brought, before a court is required to appear, or be brought, physically before the court. This requirement applies whether or not the accused is being held in custody.
180 & 181(4)-181(5)	<ul style="list-style-type: none"> However, a court, on its own initiative, may direct that a child accused appear before it by AVL [or AL if s.181(5) is satisfied] if the court is satisfied that the appearance by AVL or AL is- <ul style="list-style-type: none"> (a) necessary for the purposes of the court's case management generally; and (b) consistent with the interests of justice; and (c) reasonably practicable in the circumstances.
182	<p>TECHNICAL REQUIREMENTS FOR AL</p> <p>Section 182 sets out very prescriptive and cumbersome technical requirements for an AL by which an accused appears before a court.</p>
FAMILY VIOLENCE PROTECTION ACT 2008	
PERSONAL SAFETY INTERVENT'N ORDERS ACT 2010	
FVPA 207B PSIA 181B	<p>In relation to interim extension orders-</p> <ul style="list-style-type: none"> the reference to "28 days" in ss.107(2) & 107(4) of the FVPA is amended to "3 months"; and the reference to "28 days" in ss.84(2) & 84(4) of the PSIA is amended to "3 months".
OATHS AND AFFIRMATIONS ACT 2018	
OAA 49B	<p>ELECTRONIC SIGNATURES AND INITIALS</p> <p>A requirement under the OAA that a deponent or an authorised affidavit taker sign or initial an affidavit, jurat or other document may be satisfied by the deponent or the authorised affidavit taker signing or initialling the affidavit, jurat or other document by electronic means.</p>

49C	<p style="text-align: center;">EXPANSION OF “IN THE PRESENCE OF”</p> <p>Section 25(1) of the OAA sets out 5 things that the deponent of an affidavit must do in the presence of an authorised affidavit taker. Section 25(2) requires the deponent to say the prescribed oath or affirmation aloud in the presence of the authorized affidavit taker.</p> <p>A requirement under the OAA that a deponent or an authorised affidavit taker do a thing in relation to an affidavit in each other's presence may be satisfied by the deponent and the authorised affidavit taker doing the thing by means of AL or AVL.</p>
49D	<p style="text-align: center;">REQUIREMENTS RELATING TO ORIGINAL DOCUMENTS</p> <p>A requirement under the OAA that an authorised affidavit taker sign or initial the original copy of an affidavit, jurat or other document may be satisfied by the authorised affidavit taker signing or initialling a scanned hard copy or an electronic copy of the affidavit, jurat or other document.</p>
49E	<p style="text-align: center;">REQUIREMENTS IF A THING IS DONE ELECTRONICALLY OR BY MEANS OF AL OR AVL</p> <p>The authorised affidavit taker must, in addition to stating the matters referred to in s.27(1)(a), state the following in the jurat-</p> <ul style="list-style-type: none"> (a) that the affidavit, as signed and notated by the authorised affidavit taker, was signed or initialled by the deponent by electronic means; (b) that specified things in respect of the affidavit were done by means of AL or AVL; (c) that the affidavit, jurat or other document is a scanned hard copy or an electronic copy, not an original.
49F	<p style="text-align: center;">INABILITY TO COMPLY WITH REQUIREMENTS USE OF PURPORTED AFFIDAVIT</p> <p>If a court considers that it is desirable, in the interests of justice, to admit a purported affidavit in evidence in particular proceedings, the court may do so if the court is satisfied that-</p> <ul style="list-style-type: none"> (a) compliance with the OAA in relation to the purported affidavit was not reasonably practicable; and (b) the purported affidavit states the reasons why compliance with those requirements was not reasonably practicable.



Children's Court
of Victoria

THESE REGULATIONS
COMMENCED ON
12 MAY 2020

MELBOURNE CHILDREN'S
COURT

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**COVID-19 Omnibus (Emergency Measures)(Electronic Signing
and Witnessing) Regulations 2020**
S.R. No. 34/2020

These Regulations are dated 12 May 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 ChCV.

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

PURPOSES RELEVANT TO THE ChCV

REG 1	To modify the application of various provisions of- (a) the <i>Electronic Transactions (Victoria) Act 2000</i> ; and (b) the <i>Oaths and Affirmations Act 2018</i> - to further provide for electronic signatures, witnessing the signing of documents by audio visual link AVL and related matters.
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REGULATIONS RELEVANT TO THE ChCV

(a) MODIFICATIONS OF THE *Electronic Transactions (Vic) Act*

The following regulations in “**Division 3 – Signatures and witnessing**” modify the application of various provisions of the *ETVA*:

REG 7	Meaning of requirement for a signature: For the purposes of Division 3, s.9 of the <i>ETVA</i> applies.
8	Meaning of writing their signature: For the purposes of Division 3, s.9 of the <i>ETVA</i> applies.
9	When a signature appears on a copy of a document: For the purposes of Division 3, s.9 of the <i>ETVA</i> applies.
10	Transaction involving remote witnessing: The application of s.7(1) of the <i>ETVA</i> is modified as set out in reg.10.
11	Consent in relation to signatures: Expansion to concept of ‘consent’ in s.9(1) of the <i>ETVA</i> .
12	Persons signing different copies of a document: Modifies the operation of s.9(1) of the <i>ETVA</i> where there are requirements for more than one signature on the same document.

13	Nothing in Division 3 applies a provision of the <i>ETVA</i> to a transaction, or to a requirement for a signature, to which that provision does not otherwise apply.
14	Nothing in the above regulations is to be taken to limit any requirement imposed by a Victorian law under which a person must not write something without first being satisfied of certain matters.
(b) MODIFICATIONS OF THE <i>Oaths and Affirmations Act</i>	
The following regulations in Part 3 modify the application of various provisions of the <i>OAA</i> :	
REG 16	Use of audio visual link in making of statutory declaration: Section 30 of the OAA is modified to allow the making of a statutory declaration by AVL if the conditions in reg.16(4) are met.
17	Use of audio visual link in assisting a person to make a statutory declaration: Section 32 of the OAA is modified to allow a person to assist another person to make a statutory declaration when both persons are appearing before each other by AVL if the conditions in reg.17(4) are met.
18	Electronic signatures, initials, etc: Sections 30 & 32 of the OAA are modified to allow a reference to a person signing, initialling, dating or writing anything else on a document to be read as including the person- (a) doing that to the document by electronic means; and (b) making on the document a statement that indicating that the thing was done by electronic means in accordance with this regulation.
19	Nothing in the above regulations is to be taken to limit any requirement imposed by the <i>OAA</i> under which a person must not write something without first being satisfied of certain matters.



Children's Court
of Victoria

THESE REGULATIONS
COMMENCED ON
19 MAY 2020

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COVID-19 Omnibus (Emergency Measures) (Integrity Entities)
Regulations 2020
S.R. No. 38/2020

These Regulations are dated 19 May 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 ChCV.

This 1-page document summarizes the purposes and the provisions of those Regulations which are relevant to the ChCV.

PURPOSES RELEVANT TO THE ChCV

**REG
1(d)**

To modify the application of various provisions of the *Oaths and Affirmations Act 2018* to further provide for service, attendance by audio visual link **AVL** and related matters.

REGULATIONS RELEVANT TO THE ChCV

(d) MODIFICATIONS OF *Oaths and Affirmations Act 2018*

**REG
27**

Oath or affirmation to be said aloud: **Section 9 of the OAA** is amended to read:

A person who takes an oath or makes an affirmation must say the words of the oath or affirmation aloud in the presence of the administering officer or, if the person who takes the oath or makes the affirmation does so by means of **AVL** or **AL**, by saying the words of the oath or affirmation aloud while appearing before the administering officer by **AVL** or **AL**.

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Reasonable modifications may be made: **Section 15 of the OAA** is amended to read:

(1) Without limiting section 14, the administering officer may make reasonable modifications to the process of taking an oath or making an affirmation if the person taking the oath or making the affirmation has a disability that prevents the person from doing so in accordance with this Part.

(2) For the avoidance of doubt, the process of taking an oath or making an affirmation referred to in subsection (1) includes taking an oath or making an affirmation by means of **AVL** or **AL**.

Examples

- 1 A hearing impaired person may read and sign an oath or affirmation instead of saying it aloud.
- 2 A person who is unable to speak may be able to listen to an oath or affirmation being read and nod assent.



Children's Court
of Victoria

THESE REGULATIONS
COMMENCED ON
2 JUNE 2020

MELBOURNE CHILDREN'S
COURT

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

These Regulations are dated 2 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 ChCV.

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

PURPOSES RELEVANT TO THE ChCV

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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 ChCV

(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.

	<ul style="list-style-type: none"> • Undertaking by accused by audio ‘AL’ or audio visual ‘AVL’ means: New s.17B of the BA provides that a court granting bail may direct that the undertaking of bail be entered by AL or AVL 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. • Electronic signature of undertaking by surety: New s.17C 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 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. • Electronic signature of affidavit of justification for bail by surety: New s.17D of the BA 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 AL or AVL confirms that the particulars of the affidavit are true and correct and agrees to sign the affidavit by electronic signature.
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(b) MODIFICATIONS TO CRIMINAL PROCEDURE ACT 2009

REG 7	<ul style="list-style-type: none"> • Adjournment without appearance of parties: Modified s.121(1)(a) of the CPA 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.
REG 9	<ul style="list-style-type: none"> • Provision of prosecution material before first mention: Modified s.53A(2) of the CPA 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.

(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 ChCV by operation of s.528(2)(a) of the CYFA.

REG 23	<ul style="list-style-type: none"> • Temporary measures relating to witness summonses: New s.45(2) of the MCA 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.
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Children's Court
of Victoria

**THESE REGULATIONS
ARE NOT YET IN
OPERATION**

**MELBOURNE CHILDREN'S
COURT**

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

These Regulations are made under s.4 of the *COVID-19 Omnibus (Emergency Measures) Act 2020*. They are not yet in operation. The majority of the Regulations are not relevant to the ChCV.

This 1-page document summarizes the provisions of those Regulations which are relevant to the ChCV.

REGULATIONS RELEVANT TO THE ChCV	
MODIFICATIONS TO <i>CRIMES ACT 1958</i>	
Sections 464U(11) & 464V(6) of the CA required a child respondent, the subject of an application for a forensic procedure, to be physically present at court. The amendments [as with a similar amendment for adult respondents under s.464T(4)] are designed to enable the respondent to appear by AVL as an alternative to being physically present in court.	
REG 32	Court order for a forensic procedure for a child: Modified s.464U(11) of the CA provides: "Except on an application made in accordance with section 464V or 464W, the Children's Court must not make an order under subsection (7) unless the child is present in court or appearing by AVL ".
REG 33	Compulsory attendance at hearings once interim order made: Modified s.464V(6) of the CA provides: "If the court makes an interim order- (a) it must adjourn the further hearing of the application to enable the compulsory procedure to be conducted; and (b) section 464T or 464U (as the case requires) applies to the further hearing; and (c) the further hearing may be conducted by audio visual link; and (d) the person on whom the compulsory procedure is conducted must attend the further hearing and may do so by AVL ."