

**TAKING OF EVIDENCE BY VIDEO-LINK UNDER THE
HAGUE CONVENTION OF 18 MARCH 1970 ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR
COMMERCIAL MATTERS**

COUNTRY PROFILE

STATE NAME: Australia

PROFILE UPDATED ON: 08/08/2017

Part I: State

1. Contact Details

CHAPTER I (Letters of Request)

- a) Are the contact details on the Central Authority(ies) designated by YOUR STATE up-to-date on the Evidence Section of the Hague Conference website?**

The contact details for the Central Authority are still correct.

Additional Authority: Please update the address for the Supreme Court of Western Australia:

David Malcolm Justice Centre
Level 11, 28 Barrack Street
PERTH Western Australia 6000

Phone numbers remain the same

- b) Would YOUR STATE be in favour of specifying a person or department within the Central Authorities who would assist in the processing of Letters of Request where the use of video-links has expressly been requested? (e.g to arrange the video-link or provide technical assistance)?**

The relevant Additional Authority will be responsible for making any arrangements for video-link.

- c) What arrangements are there for ensuring that there is a contact person with whom the requesting authority can liaise and who is available of the day of the hearing to operate the video-link facilities (e.g is there a booking system)?**

Each Additional Authority has different processes; more information on this is below.

CHAPTER II (Taking of Evidence by Diplomatic Officers, Consular Agents and Commissioners)

- d) Would YOUR STATE be in favour of specifying an entity or authority, in addition to the relevant authority/diplomatic or consular agent/commissioner that would assist in processing applications where the use of video-links has expressly been requested (e.g to arrange the video-link or provide technical assistance)?**

Letters of Request for evidence under Chapter II should be sent to the Central Authority for assessment and will be forwarded to the appropriate authority for action.

e) What arrangements are there for ensuring that there is a contact person with whom the Court of Origin can liaise and who is available on the day of the hearing to operate the vide-link facilities (e.g is there a booking system)?

This is determined on a case-by-case basis and the person managing the request is likely to contact the Court of Origin to make any necessary arrangements.

Part II – Relevant Legislation and Court Systems

Australia is a federation made up of six states and two internal territories. Each Australian State and Territory has different laws and processes and therefore the way in which they may deal with taking evidence via video-link may differ. On this basis, please note that the contributions to this Questionnaire below have come directly from each Australian State or Territory.

Abbreviations:

“**NSW**” – New South Wales

“**QLD**” - Queensland

“**WA**” – Western Australia

“**SA**” – South Australia

“**VIC**” – Victoria

“**TAS**” – Tasmania

The Northern Territory provided the following comment and did not respond to each question individually:

“Very few matters arising under the Hague Convention as the Northern Territory (NT) is a relatively small jurisdiction compared to some of the other Australian States.

Over the last 5 years or so the NT have only had two matters that have fallen under the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters 1970 (the Evidence Convention). Both of these matters did not proceed because the persons required to give evidence were unable to be located.

The Supreme Court of the Northern Territory does have Video Link facilities available and if required, the facilities can be made available for the matters that may arise under the Hague Evidence Convention. Generally the Court charges for the use of Video Link facilities.”

A response was not received from the Australian Capital Territory.

a) Does YOUR STATE, in the application of Article 27 (ie internal law or practice), allow for a foreign Court to directly take evidence by video-link?

This depends on each Australian State and Territory:

NSW	<p>NSW - Under NSW law, a foreign court is not entitled to <u>directly</u> take evidence from a witness located in NSW by video-link.</p> <p>However, NSW law does not prevent a witness, who is located in NSW, from voluntarily giving evidence from NSW by video-link in proceedings in a foreign court. Such request is ordinarily arranged privately between the parties outside of the Convention, and NSW courts have no role to play in the giving of such evidence (except on a case by case basis, lending the use of its AVL IT facilities, if requested to do so by a foreign court, in the interests of judicial comity). That is, in the above circumstances, the law of NSW does not govern the giving of that evidence.</p>
WA	<p>Yes. For the purposes of proceedings not relating to the commission of an offence or an alleged offence, a person nominated by a requesting court or tribunal or, if no such person is nominated, the Attorney General, may make an application to the Supreme Court of Western Australia under section 116 of the <i>Evidence Act 1906</i> (WA) (Act) for an order for evidence to be obtained in Western Australia. The application must be made pursuant to a request issued by or on behalf of a foreign court or tribunal, and the evidence to which the application relates must be obtained for the purpose of proceedings either instituted before the requesting court or whose institution is contemplated.</p> <p>Upon such an application, the Court then has the power make an order to obtain evidence in Western Australia as may appear to the Court to be appropriate for the purpose of giving effect to the request in pursuance of which the application was made: subsection 117(1) of the Act.¹</p> <p>Further, a court or tribunal of a participating jurisdiction that is authorised by legislation of that jurisdiction to direct that evidence be taken by video-link may, for the purposes of a proceeding in or before it, take evidence from a person in Western Australia under section 123 of the Act. However, unless the jurisdiction is prescribed to be a participating jurisdiction, this is confined to the courts or tribunals of the States or Territories comprising the Commonwealth of Australia. At the time of writing, there were no jurisdictions prescribed for this purpose.²</p>
QLD	<p>There is no legislative basis for a Foreign Court to take evidence in Queensland. The evidence must be taken by Queensland Courts in legal proceedings in Queensland commenced for the purposes of giving effect to any foreign evidence request.</p>

¹ See sections 115-118A of the Act and Order 39 of the Rules of the Supreme Court 1971 (WA) (Rules).

² See sections 120-130 of the Act.

SA	Section 59F of the <i>Evidence Act 1929 (SA)</i> permits taking of foreign evidence. SA was not aware of any agreements with other Contracting States that would impede taking evidence by video-link.
VIC	Taking of video-link evidence is subject to a Court order. Where video-link has been expressly requested, a judge will need to make an order for evidence to be taken via video-link. The party requesting the video-link on behalf of the Requesting State/Authority Court would, through the Requested State, be responsible for organising a video-link if required. A judge will need to approve the video-link and Court Registry will require an order from a judge to proceed with any video-link.

b) Please indicate the legal basis or applicable protocols (i.e, relevant laws, regulations, practice, etc.) for the use of video-links in the taking of evidence in YOUR STATE, either under the Convention or independent of the Convention (see. e.g Art. 27(b) and (c))

This depends on each Australian State and Territory:

NSW	<p>The legal basis for the use of video-link in the taking of evidence in NSW (that is, independent of the Convention), is the <i>Evidence (Audio and Audio Visual Links) Act 1998 (NSW)</i>. That statute does not provide for foreign tribunals to take evidence by video-link from witnesses in NSW.</p> <p>Part 4 of the <i>Evidence on Commission Act 1995 (NSW)</i>, together with Part 52 of the <i>Uniform Civil Procedure Rules 2005 (NSW)</i> regulates the taking of evidence on commission in NSW, upon a request being made under Chapter 1 of the Convention.</p> <p>The Act and the Rules provide for obtaining evidence in NSW. The Act and the Rules do not provide for the local witness to give evidence directly in the foreign tribunal's proceedings by audio-visual link. Rule 52.2 of the UCPR (in combination with r. 24.13) provides for evidence on commission to be recorded in NSW by video, and for that recording to be sent to the foreign tribunal with a transcript of the witness' oral evidence.</p>
WA	<p>Sections 115-118A of the <i>Evidence Act 1906 (WA)</i> and Order 39 of the <i>Rules of the Supreme Court 1971</i> are the legal basis/applicable protocols in relation to a foreign court taking evidence in the Supreme Court of Western Australia. The orders the Court may make in this regard under section 117 are sufficiently broad to permit the use of video-links in the taking of evidence.</p> <p>Sections 120 and 121 of the Act and Supreme Court of Western Australia Consolidated Practice Direction 1.2.7 are the legal basis/applicable protocols in relation to a "WA Court" taking evidence by video-link from a person at a place outside Western Australia.</p> <p>Sections 120 and 122-130 of the Act are the legal basis for a "recognised court" taking evidence by video-link from a person in Western Australia.</p>

QLD	Under Rule 392 of the <i>Uniform Civil Procedure Rules 1999</i> (Qld), the use of video link facilities in Queensland to receive evidence is subject to the discretion of the Court. A copy of the Rules can be located at https://www.legislation.qld.gov.au/Acts_SLs/Acts_SL_S.htm
-----	--

TAS	<p><i>Evidence on Commission Act 2001</i> (TAS) provides for matters relating to evidence obtained in Tasmania for other jurisdictions and examination of witnesses outside Tasmania.</p> <p>Also <i>Supreme Court Rules 2000</i> Part 39 - deals with obtaining evidence for external court or tribunal.</p> <p><i>Evidence (Audio and Audio Visual Links) Act</i> (1999) –s6 - A Tasmanian court may, on the application of a party to a proceeding before the court or on its own motion, direct that evidence be taken, or submissions made, by audio link or audio visual link, from a participating State, from any place outside Australia other than New Zealand, or from any place within Tasmania other than the courtroom or other place at which the court is sitting.</p>
VIC	<p><i>Supreme Court (General Civil Procedure) Rules 2015</i> - Order 41A.</p> <p><i>Supreme Court (Criminal Procedure) Rules 2008</i> - Rules 2.36 (3) and 2.53 (2),(3).</p> <p><i>Evidence(Miscellaneous Provisions) Act 1958</i> - Part IIA</p> <p>See also Video-link Application Guide on the Victorian Supreme Court website.</p>

c) Does YOUR STATE have any agreements with other Contracting States that derogate from the Convention when taking evidence by video-link (see Art 28 and Art 32)

The Agreement on Judicial Assistance in Civil and Commercial Matters and Co-operation in Arbitration between Australia and the Kingdom of Thailand [1998] ATS 18 and the Treaty on Judicial Assistance in Civil and Commercial Matters between Australia and the Republic of Korea [2000] ATS 5 allow for the taking of evidence via video-link.

d) Please indicate which courts permit, or have the facilities for, the taking of evidence by video-link. If possible, indicate where relevant information on videoconferencing facilities in courts can be found online:

This depends on each Australian State and Territory:

NSW	<p>All courts in NSW have the facilities for the taking of evidence from witnesses by video-link in local proceedings. However, under the <i>Evidence on Commission Act 1995</i> (NSW), only the Supreme Court of NSW has power to take evidence on commission for the purpose of giving effect to a request under Chapter 1 of the Convention. Neither that Act, nor the Supreme Court's inherent jurisdiction, confers power on the Court to compel a local witness to give evidence by video-link in foreign proceedings.</p>
WA	<p>The Supreme Court of Western Australia permits, or has facilities for, the taking of evidence by video-link in 33 locations around Western Australia.</p> <p>These locations can be obtained from the Supreme Court of Western Australia website.</p>
QLD	<p>All courts.</p>

TAS	The Supreme Court of Tasmania website features information about video links for private room hire use and for the conduct within the Tasmanian judicial jurisdiction. A guideline is being developed that articulates technical requirements and court exceptions for video links. All Tasmanian Supreme Court sites have the ability to host and record video links.
SA	An authorised South Australian Court under section 59D of the <i>Evidence Act 1929 (SA)</i> includes the South Australian Supreme, District and Magistrates Court. All have access to video-link facilities but the facilities are not embedded in each court room, hence sufficient time is required to liaise with the relevant Court to ensure the facilities are available and operational on a particular day. This would require notice to contact person to ensure the necessary facilities are made available. At a practical level, the video-link equipment is often managed and operated by individual Courts (Supreme, District and Magistrates Courts) who sit at various locations throughout the State.
VIC	Supreme Court of Victoria see: Video-link Application Guide. Email - videolink@supcourt.vic.gov.au

Part III – Technical and security aspects

- a) Does YOUR STATE use licensed software (which ensures support for technical and security matters) for the taking of evidence by video-link?**

This depends on each Australian State and Territory:

WA	Yes however the Court Technology Officer was unable to provide further details.
QLD	Yes - Cisco Unified Communications Manager
TAS	Yes - Tasmanian Supreme Court utilises Polycom maintenance contract
VIC	Yes - see Supreme Court of Victoria Video-link Application Guide

- b) What are the specifications of the video-link technology in use in YOUR STATE, including, if any, the minimum standards or mechanisms used to secure the communications and any recordings made?**

This depends on each Australian State and Territory:

QLD	Codec - Cisco SX & MX Series, configured @ 512Kbps Video and audio standards - Standard & High definition Type of network - IP & ISDN (IP preferred) Type of encryption for signals in secure transmissions – Not in use Split screen capability – Yes, utilising PiP configuration Document cameras – Yes - Lumens, Canon & WolfVision Multipoint connections – Yes Additional specifications or capabilities – None Protocols and other practices – Establishment of video calls managed through Court registries.
TAS	Codec - Polycom Group 500 series and Polycom Group 700 series codec Video and audio standards - 700 - 720p Type of network - IP only, no in-house bridge service to ISDN Type of encryption for signals in secure transmissions – 786 Split screen capability – Yes Document cameras – No Multipoint connections – No Additional specifications or capabilities – Share Content Protocols and other practices – N/A
SA	The systems are usually ISDN. They have split-screen capability and multi-point connections. The Court Officer would test the equipment video-link facilities in advance of the hearing.
VIC	Codec - Supreme Court only CODEC 1, CODEC 2, CODEC 3, OHC 1 Type of network - ISDN Protocols and other practices – See Supreme Court Video-link Application Guide

- c) Can evidence be taken via commercial providers (ie Skype)**

This depends on each Australian State and Territory:

WA	Yes, but not Skype.
QLD	No, currently do not support cross-platform integration with other VC providers such as Microsoft (Skype).

TAS	Yes, Skype - This is an ad-hoc option for the Court, not recommended, but it has been done on several occasions in the past and recorded well.
-----	--

d) Does YOUR STATE have a procedure for testing connections and the quality of transmissions before the hearing?

This depends on each Australian State and Territory:

WA	There are no formal procedures for testing connections and the quality of transmissions before a hearing. However, it is common practice for the Court Technology Officer to conduct a test call before a hearing.
QLD	Yes, Courts IT section has test facilities in place for in-court staff to test video connections prior to the commencement of any court proceedings.
TAS	Yes - ICT Manager does not recommend video link proceed until satisfied. Judge approves / rejects based on the test and recommendation from the ICT Manager. Tasmania Supreme Court has ICT Manager that can test connections etc.
SA	The Court Officer would test the equipment video-link facilities in advance of the hearing.
VIC	Once an order is obtained from the Supreme Court approving the person appearing via video-link, a video-link setup form is required to be completed with the Supreme Court order and booked by emailing videolink@support.vic.gov.au and contacting relevant Technical support staff. The Supreme Court Tech Support can be contacted on +61 (3) 9603 2410.

e) Does YOUR STATE have any requirements as to the hearing room, e.g should be located in a court, should have a camera view of the whole room or a view of all the parties etc?

This depends on each Australian State and Territory:

WA	<p>In circumstances where a "WA court" has directed that evidence be taken by video-link under section 121 of the <i>Evidence Act 1906 (WA)</i>, Consolidated Practice Direction 1.2.7(5) requires that the person intending to call the witness use reasonable endeavours to ensure that:</p> <ol style="list-style-type: none"> a) the room from which the video-link is to be broadcast is able to be closed off such that only the witness and any other person as permitted by the Court are in the room; b) the quality of the video-link is of a standard that is sufficient to provide continuous uninterrupted video images and clear and audible audio feed, so as to be easily seen and heard by the Court; c) where a video-link is used, the witness is dressed appropriately for court, as if the witness were giving evidence in person in the courtroom; and d) the arrangements made with the venue from which the video-link is to be broadcast maintain the dignity and solemnity of the court, consistent with the venue being treated as part of the court for this purpose.
----	---

	This Practice Direction does not apply to evidence taken in Western Australia pursuant to sections 117 or 123 of the <i>Evidence Act 1906</i> (WA).
QLD	Yes - In a court or hearing room, the cameras are placed to provide a view of participants. Courtrooms have cameras positioned to provide a continuous view of the presiding Judicial Officer (i.e. Judge, Magistrate), and views of the various parties (including witnesses). Matters involving vulnerable witnesses utilise a remote room with video conferencing facilities. These rooms have a view of the witness as well as a whole room view.
TAS	Yes - Subject to the conditions described in the <i>Evidence (Children and Special Witnesses) Act 2001</i> . This Act allows for special witnesses to give evidence in private outside the court room. The Supreme Court video facilities have been established primarily for these purposes but may also be utilised for other purposes, such as Hague Convention proceedings.
SA	Location – it would usually be the case that the evidence is taken in the Court precincts but there may be instances where the authorised Court permits it being taken in another location. Note that some Courts have video-conferencing suites which are small rooms adjacent to courtrooms where witnesses can give evidence.
VIC	See Video-link Application Guide

Part IV – Use of Video-Links under both chapters – legal considerations³

a) Must a court order directing the use of video-links first be obtained from the requesting State (Chapter I)/State of Origin (Chapter II)?

It is unclear whether Australian Courts require a court order from the Requesting State prior to the taking of evidence. However, certain Australian States may need to issue an order allowing evidence to be taken via video link. This is outlined as follows:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	Subsection 116(1) of the <i>Evidence Act 1906</i> (WA) merely requires that there be a request by a court or tribunal in relation to the evidence to be taken in Western Australia. A formal court order from the requesting State/State of Origin to this effect is not required, nor is a court order for the evidence to be obtained by video-link.
QLD	Under Rule 392 of the <i>Uniform Civil Procedure Rules 1999</i> (Qld), the use of video link facilities in Queensland to receive evidence is subject to the discretion of the Court.
TAS	An application is to be filed in accordance with section 4 of the <i>Evidence on Commission Act 2001</i> and <i>Supreme Court Rules 2000</i> Part 39.
VIC	A Court Order is required from the Supreme Court of Victoria.

b) Are there any restrictions on what types of evidence can be taken by video-link or how it is to be taken?

This depends on each Australian State and Territory:

³ These responses are only in relation to Chapter I

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	<p>There is a restriction on the types of evidence that can be taken. In this regard, paragraph 116(1)(b) of the <i>Evidence Act 1906 (WA)</i> requires that the evidence to which an application relates is to be obtained for the purposes of proceedings which either have been instituted before the requesting court or whose institution before that court is contemplated.</p> <p>There are no legal restrictions on how evidence by video-link is to be taken. Section 117 of the <i>Evidence Act 1906 (WA)</i> and Order 39 rule 3 of the <i>Rules of the Supreme Court 1971 (WA)</i> enables the Court to make a number of orders in this regard, as long as an order does not require any particular steps to be taken unless they are steps that can be required in relation to obtaining evidence for the purposes of proceedings in the Supreme Court: subsection 117(4).</p>
QLD	No. However, please note that issues such as type of evidence and length of evidence may be factors considered in whether the Court will exercise its discretion to grant leave for the use of video link facilities.
TAS	No.
VIC	See answer to Part II (b) above.

c) Are there any specific restrictions on how evidence gathered via video-link can be handled and distributed, or do the usual rules for evidence obtained in person apply?

This depends on each Australian State and Territory:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	<p>There are specific restrictions on how any video-tape of evidence given by video-link can be handled and distributed.</p> <p>Under section 106MA of the <i>Evidence Act 1906 (WA)</i>, a person commits an offence who, without authority, has a visual recording of evidence in her or his possession, or supplies or offers to supply a visual recording of evidence to any person. A person also commits an offence who, without authority, plays, copies, erases or permits a person to copy or erase a visual recording of evidence. In the case of a public official, a person has authority to do anything prohibited by this section for a purpose connected with the proceeding for which the recording was made or any resulting proceeding by way of an appeal. Any other person may have authority as conferred by a judge under ss 106K or 106RA of the <i>Evidence Act 1906 (WA)</i>.</p> <p>Section 106MB of the <i>Evidence Act 1906 (WA)</i> prohibits a person from broadcasting a visual recording of evidence or any part of such a recording except with approval of the Court and in accordance with any condition attached to the approval.</p> <p>The usual rules for evidence apply in relation to evidence gathered via video-link that takes a different form.</p>

QLD	No - Please note that under the normal rules, there may be restrictions on the publication of names of minors or those associated with domestic violence proceedings.
VIC	See answer to Part II (b) above.

d) Are there any restrictions on the type of person who may be examined by video-link?

This depends on each Australian State and Territory:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	No.
QLD	No. However, this may be a factor which will be considered in whether the Court exercises its discretion. For example, a person who is otherwise unable to attend Court for any reason.
TAS	No – although criminal matters are excluded.
VIC	There are likely to be restrictions if the person is under 18 years of age.

e) Is it necessary to seek the consent of the parties to use video-link to take evidence?

This depends on each Australian State and Territory:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	No.
QLD	A party may refuse consent if it is inconvenient to examine or cross-examine a witness via video link. This will depend on the nature of the evidence to be given. It is usual practice to seek the consent of the parties for the use of video-link procedures.
TAS	No.
SA	The use of the video-link is subject to the judicial officer's discretion (see 59F(1) of the <i>Evidence Act 1929</i> (SA)) but does not appear to require the consent of the parties to the dispute. That would ordinarily be a matter for determination by the foreign court.
VIC	No. However, the Supreme Court is required to make an order.

f) Are there any restrictions on the location where the person should be examined (e.g in a courtroom, on the premises of an Embassy or diplomatic mission)?

This depends on each Australian State and Territory:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	In relation to evidence taken by video-link pursuant to section 117 of the <i>Evidence Act 1906</i> (WA) - no. In relation to evidence taken by video-link for proceedings in "WA courts", pursuant to section 121 of the <i>Evidence Act 1906</i> (WA), the applicant's obligations are listed at Part III (e) above.
QLD	Yes – Courtroom.
TAS	No.
VIC	Yes – however it will depend on the facilities available in the Supreme Court and will usually be required to be in a Courtroom.

g) Can a witness/expert be compelled to use video-links to give evidence?

This depends on each Australian State and Territory:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	Yes.

QLD	Yes, by way of subpoena and court order. See further explanation in answer to question (h) below.
TAS	No.
SA	The Court can compel a witness (section 59F(2) of the <i>Evidence Act 1929 (SA)</i> and has the same powers in relation to the taking of evidence as the requesting Foreign Court. Note also that a witness cannot be compelled to give evidence if he or she could not be compelled in the originating foreign court.

h) Please briefly outline the procedure/s, under Chapter I and Chapter II, for actually notifying or summoning the witness/ expert to give evidence by video-link, including any references to relevant laws, regulations or practice.⁴

This depends on each Australian State and Territory:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	<p>Subsection 117(4) of the <i>Evidence Act 1906 (WA)</i> allows the Court to make an order requiring any particular steps to be taken if those steps can be required to be taken in obtaining evidence in Supreme Court proceedings.</p> <p>The Court may therefore by subpoena/order, order a person to attend to give evidence as directed by the subpoena/order. The subpoena/order must specify the date, time and place for attendance. If the witness/expert is in Western Australia, the subpoena/order must be served personally on the addressee.⁵</p> <p>An addressee need not comply with the requirements of a subpoena/order to attend to give evidence unless conduct money has been handed or tendered to the addressee a reasonable time before the date on which attendance is required.⁶</p> <p>A failure to comply with a subpoena/order without lawful excuse constitutes contempt of court.⁷ The presiding judge may then make an order directing that the contemnor be arrested and brought before the Court as soon thereafter as the business of the Court permits, or may issue a warrant for the arrest of the contemnor. Upon hearing from the contemnor, the Court may punish or discharge her or him. Punishment may constitute imprisonment, a fine, or both.⁸</p> <p>In practice, the situation has never arisen where someone has not turned up for an examination. There have only been two cases over the last 25 years where the witnesses said they were not going to appear, but once they were advised that if they did not respond to the Court Order and appear as directed, then they could be arrested and</p>

⁴ Only answered in relation to Chapter I

⁵ Order 36B rules 2(1) and 3(5) of the *Rules of the Supreme Court 1971 (WA)*

⁶ Order 36B rule 6(1). (Note : it is not normal practice to hand over any conduct money for these matters) *Rules of the Supreme Court 1971 (WA)*

⁷ Order 36B rule 12(1) *Rules of the Supreme Court 1971 (WA)*

⁸ Order 55 *Rules of the Supreme Court 1971 (WA)*

	brought before the Court. When they were advised of this, they agreed to willingly attend and give their evidence.
QLD	Chapter 1 - Under rule 414 of the <i>Uniform Civil Procedure Rules 1999</i> (Qld), a party can file a request for a subpoena in a Queensland Proceeding to compel a person to attend court to give evidence or produce documents. If issued by the Court, the witness must attend Court on the date and time specified in the subpoena. Prior to the hearing, an application under Rule 392 must be made seeking leave of the Court for the witness to give evidence by video-link.
VIC	Pursuant to Court Order – Section 42 E(1) of the <i>Evidence (Miscellaneous Provisions) Act 1958</i> (VIC).

i) The law of which State governs the use of privileges? See Articles 11 and 21(e) of the Convention.

Australia has not made any specific declarations regarding the use of privileges, however the following Australian States have responded to this question:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	Law of the requested State, as provided for in section 118 of the <i>Evidence Act 1906</i> (WA). However, this section gives effect to privileges in similar proceedings in the place in which the requesting court exercises jurisdiction. ⁹ Section 118 of the <i>Evidence Act 1906</i> (WA) sets out the procedure for determining claims for privilege and contemplates evidence being withheld from the requesting court unless that court, on the matter being referred to it, dismisses the claim. ¹⁰
QLD	Chapter I – The law of the Requesting State and the law of the Requested State.
TAS	Part 2 <i>Evidence on Commission Act 2001</i> (TAS) deals with privilege. Section 6 provides that a person may not be compelled in (a) similar proceedings in Tasmania or (b) in similar proceeding in the place in which the requestion court exercises jurisdiction.
SA	The South Australian Court does have some power to allow the witness to decline answering some questions – section 59F (6) of the <i>Evidence Act 1929</i> (SA) but ultimately it would be for the Court.
VIC	The law of the Requesting State and the law of the Requested State, however it will also depend on any rights preserved in the Letter of Request by the Requesting State.

⁹ Section 118(1) (b) of the *Evidence Act 1906* (WA).

¹⁰ Section 118(3) of the *Evidence Act 1906* (WA).

Part V – use of video-link under Chapter I – legal considerations

a) Does YOUR STATE consider that there are legal obstacles to using video-link to assist in the taking of evidence under Chapter I of the Convention?

The Special Commission has noted that the use of video-link and similar technologies is consistent with the current framework of the Convention. In addition, the following Australia States have responded to this question:

NSW	Yes - See answer to questions in Part II (a) and (b) above.
WA	No.
QLD	No - However, please refer to comments made above that the use of video-link to receive evidence is subject to the discretion of the Court.
TAS	No - Subject to relevant Supreme Court order - note <i>Supreme Court Rules 2000</i> Part 39 deals with procedure, examiner and manner of taking examination etc.
VIC	Yes – A Court Order would need to be obtained.

b) Under Chapter I of the Convention, does YOUR STATE allow for the direct taking of evidence by judicial personnel of the requesting state (ie the state in which the proceedings are pending)?

Australia has made a declaration that members of the judicial personnel of the requesting authority of another Contracting State may be present at the execution of a Letter of Request, subject to prior authorization by the judicial authority executing the Letter of Request. In addition, the following Australia States have responded to this question:

NSW	No - See answer to questions in Part II (a) and (b) above.
WA	Yes. Order 39, Rule 3 of the <i>Rules of the Supreme Court 1971</i> (WA) explicitly contemplates that, in making an order for evidence to be obtained in Western Australia under Section 117 of the Act, the Court may order “any fit and proper person nominated by the applicant, or any officer of the Court, or such other qualified person as the Court seems fit, to obtain the evidence”. Judicial personnel of the requesting State are capable of falling within this description.
QLD	No - The requirements under the <i>Evidence Act 1977</i> (Qld) allow only for lawyers of Queensland to obtain an order for evidence to be taken to give effect to a foreign request. The order requires the witness to attend a local court for the evidence to be taken by a lawyer before a local Magistrate.
VIC	No.

c) Under which provisions of Chapter I of the Convention is indirect taking of evidence by video-link possible in YOUR STATE?

Australia has not made any Declarations in relation to Article 9 of the Evidence Convention; however the following Australia States have responded to this question:

NSW	The taking of evidence by a foreign tribunal by video-link from a witness located in NSW is not possible under Article 9 of the Convention.
WA	Both Art 9(1) and (2). However, to the extent any special method or procedure referred to in Art 9(2) requires the Court to order that any particular steps be taken; those steps must be capable of being

	required for the purposes of proceedings in the Supreme Court: subsection 117(4) of the <i>Evidence Act 1906</i> (WA).
--	--

d) What are the legal safeguards in place for witnesses / experts in YOUR STATE when evidence is taken by video-link under Chapter I (e.g. protective measures for the witness / expert, provision of interpretation, right to legal counsel, etc.)?

This depends on each Australian State and Territory:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	<p>Under the <i>Witness Protection (Western Australia) Act 1996</i> (WA), the Commissioner of Police may decide to include a witness / expert in the State Witness Protection Program. If this occurs, the Commissioner must take such action as she or he considers necessary and reasonable to protect the witness's safety and welfare while also protecting the safety of police officers. Some examples of the actions this may include are listed in subsection 15(2) of the <i>Witness Protection (Western Australia) Act 1996</i> (WA).</p> <p>The Court may make an order anonymising the witness/expert so that any identifying information, such as addresses, names etc. are removed from the transcript/deposition/orders etc. The public interest in open and transparent court processes should be considered before any such order is made.</p> <p>If a witness is a child, she or he may have near to her or him a support person while giving evidence. The court may also appoint a person it considers suitable and competent to act as a communicator for the child. See sections 106E and 106F of the <i>Evidence Act 1906</i> (WA).</p> <p>If a witness is declared a "special witness" under section 106R of the <i>Evidence Act 1906</i> (WA), the Court may direct that arrangements be made for a support person and/or a communicator.</p> <p>A witness/expert may have legal counsel present when giving evidence, but it is incumbent on the witness/expert to organise any such legal representation.</p> <p>The presiding judicial officer is ultimately responsible for determining whether a witness/expert requires an interpreter. However, the Court considers that, as officers of the court, lawyers have a duty to determine whether their witnesses/experts require interpreters. If an interpreter is required, the party calling the witness is responsible for any costs incurred in this regard (see below).¹¹</p> <p>A witness/expert cannot be required to –</p> <ul style="list-style-type: none"> (a) state what documents relevant to the proceedings are or have been in the person's possession, custody or power; or (b) produce any documents other than particular documents specified in the order and appearing to the court making

¹¹ See Consolidated Practice Direction 9.13.

	the order to be, or likely to be, in the person's possession, custody or power. ¹²
QLD	There is a right to legal counsel and a right to an interpreter to facilitate the proceedings if the witness does not have a sufficient knowledge of the English language. An application for further protection measures can be made under the <i>Evidence Act 1977</i> (Qld) in certain circumstances, for example where the witness is a minor or would likely suffer severe emotional trauma or be intimidated and disadvantaged as a witness. See section 21A of the <i>Evidence Act 1977</i> (Qld).
VIC	Interpreters provided and entitlement to legal representation.

e) Are the rules for the presence of the parties and their representatives when physically in a single location the same for when evidence is taken via video-link?

Australia has not made any Declarations in relation to Article 7 of the Evidence Convention; however the following Australia States have responded to this question:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link.
WA	Yes. Subject to any ex-parte applications/hearings or any specific orders made by a presiding judicial officer, parties and their representatives will be allowed to actively participate.
QLD	Legal representatives are allowed to actively participate in legal proceedings in Queensland.
VIC	Yes. However, it would be subject to a Court order.

f) Under Chapter I of the Convention, does YOUR STATE allow for the cross-examination of a witness / expert by video-link by the representatives located in the requesting State (i.e., the State in which the proceedings are pending)?

Australia has not made any declarations in relation to this question; however the following Australia States have responded to this question:

NSW	A witness located in NSW cannot be compelled by any NSW court to give evidence directly to a foreign tribunal by video-link. See answer to question in Part II (a) above.
WA	Yes.
QLD	No - The legal practitioner in the requesting State would need to be admitted to practice as a legal practitioner in the State of Queensland in accordance with the requirements of the <i>Legal Profession Act 2007</i> (Qld) in order to cross examine a witness.
TAS	Yes.

g) Does YOUR STATE allow for the presence of the judicial personnel of the requesting State via video-link? See Article 8 of the Convention.

Australia has made a declaration that members of the judicial personnel of the requesting authority of another Contracting State may be present at the execution of a Letter of

¹² See subsection 117(6) of the *Evidence Act 1906* (WA).

Request, subject to prior authorization by the judicial authority executing the Letter of Request. In addition, the following Australian States have responded to this question:

NSW	See answer to question in Part II (a) above. If a local witness voluntarily agrees to give evidence by video-link in foreign proceedings, the law of NSW does not prohibit the giving of that evidence, and how the foreign proceedings are conducted.
WA	Yes and the judicial personnel of the requesting State would be allowed to actively participate in the video-link.
QLD	No.
SA	That would be a matter for the Court but 59F of the <i>Evidence Act 1929</i> (SA) when read in its entirety would appear to permit that happening.

Part VI – Use of video-link under Chapter II – legal considerations

- a) **Does YOUR STATE consider there to be any legal obstacles to the taking of evidence by video-link under Chapter II of the Convention?** *The Special Commission has noted that the use of video-link and similar technologies is consistent with the current framework of the Convention.*

There are practical obstacles and the Australian Department of Foreign Affairs and Trade has confirmed that Australian missions do not have the capacity to provide assistance with the taking of evidence via video-link (i.e. most missions do not have this technology). Further to this, the Central Authority rarely receives any requests relating to Chapter II of the Convention. On this basis, our responses are limited and would most likely be assessed on a case-by-case basis.

- b) **Under which provisions of Chapter II of the Convention is taking of evidence by video-link possible in YOUR STATE?**

Articles 15, 16 and 17.

- c) **Is prior permission from YOUR STATE required when taking evidence under Chapter II of the Convention on the territory of YOUR STATE?**

When taking evidence under Chapter II of the Convention, permission is required to be granted by the Secretary of the Attorney-General's Department. The request must include:

- subject matter of the dispute
- date of proceedings
- details of the parties involved in the dispute
- details of the person to be examined (including nationality), and
- nature of the evidence to be sought.

The request must be sent to the Central Authority.

- d) **Please indicate who administers the oath or affirmation and how perjury and contempt are dealt with when evidence is taken under Chapter II of the Convention on the territory of YOUR STATE.**

For taking evidence generally under Chapter II, Australia supports the approach under the Convention being that a Consul or Commissioner may administer an appropriate oath or affirmation in order to take evidence, provided that this is not incompatible with the law of the State of Execution or contrary to any permission granted. Consideration should also be given to any limitations or rules imposed by the State of Origin.

- e) **Diplomatic and consular agents are usually located in the State where the witness / expert resides. It may be, however, that a witness / expert is located in a neighbouring country or in a place distant from the Embassy or Consulate. In these circumstances, does YOUR STATE consider it possible to use video-link to obtain evidence under Chapter II of the Convention?**

- f) What are the legal safeguards in place for witnesses / experts in YOUR STATE when evidence is taken by video-link under Chapter II (e.g. protective measures for the witness / expert, provision of interpretation, right to legal counsel, etc.)?**
- g) Under the law of YOUR STATE, who may be present via video-link when evidence is taken by diplomatic and consular agents?**
- h) Under the law of YOUR STATE, who may be present via video-link when evidence is taken by commissioners?**
- i) The law of which State governs the administration of an oath or affirmation when evidence is taken by video-link under Chapter II?**
- j) The law of which State governs perjury and contempt when evidence is taken by video-link under Chapter II?**

Part VII Practical Considerations¹³

- a) What does YOUR STATE consider to be the minimum amount of time required between the request and the actual hearing in order to make the arrangements to take evidence by video-link?**

The minimum length of time for most Australian Courts would be three months if taking evidence via video-link is permitted in the relevant State/Territory. However this will depend on a case-by-case basis.

- b) Who is responsible, under Chapter I and Chapter II, for the use of interpretation services and who arranges these services in YOUR STATE when video-link is used?**

If video-link is permissible in the relevant State or Territory, it would be the Requested State responsible for arranging the interpretation services.

- c) Are professional accredited interpreters required in YOUR STATE, and where can relevant contact details be found?**

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	<p>Interpreters must comply with the competency requirements contained in 9.13(9) of the Consolidated Practice Directions. An interpreter will be prima facie competent if she or he holds a National Accreditation Authority for Translators and Interpreters Ltd credential as a Professional Interpreter, or holds a nationally accredited Advanced Diploma in Interpreting.</p> <p>If an interpreter does not have one of these qualifications, the presiding judicial officer needs to be satisfied the interpreter is competent and has read and understood the Court's Protocol for the Use of Interpreters at 9.13.1 of the Consolidated Practice Directions. If a party proposes to use an interpreter who does not hold one of these credentials, that party must cause the interpreter to make an affidavit in which the interpreter:</p> <ul style="list-style-type: none">(a) sets out their qualifications as an interpreter;(b) sets out their experience as an interpreter; and(c) deposes that they have read and understood the Court's Protocol for the Use of Interpreters and agree to abide by it. <p>The Supreme Court is able to arrange for an interpreter for a party to attend, to be paid for by the party, but pursuant to the Court's service provision contract: Consolidated Practice Direction 9.13.7.</p>
QLD	Yes.
SA	There are a range of accredited interpreters but note arrangements for interpreters are usually made by the parties, although the Court could assist in that process. If an interpreter is required, this would add to the lead in time but if 28 days' notice was given, that should suffice.
VIC	Yes - Interpreters provided and entitlement to legal representation.

¹³ These questions have only be answering in relation to Chapter I

d) Under the law of YOUR STATE, is interpretation to be *simultaneous* or *consecutive* when a witness/expert is examined via video-link?

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	Generally, if the witness is not hearing impaired, the consecutive interpreting method is used. However, for hearing impaired people, simultaneous AUSLAN interpretation is used. ¹⁴
QLD	Consecutive.
SA	This was taken to mean the situation of expert witnesses giving evidence together or consecutively. Usually, it is done consecutively here in SA but there are instances where experts will give evidence concurrently but this would involve ensuring the video link had multiple connections.
VIC	Consecutive.

e) Where may the interpreter be located when a witness/expert is examined via video-link?

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	9.1.13.1 of the Consolidated Practice Directions contemplates that the interpreter would be in the room with the witness/expert. However, the Court may make orders allowing for different arrangements to be made under section 117 of the <i>Evidence Act 1906 (WA)</i> .
QLD	In the courtroom in which the proceedings are being conducted.
VIC	In the room with those conducting the examination.

f) Is a written report of the video-link hearing or testimony prepared?

The process depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	There is capacity to prepare a written report of the hearing or testimony. An order may be made to this effect under section 117 of the <i>Evidence Act 1906 (WA)</i> and Order 39 rule 3 of the <i>Rules of the Supreme Court 1971</i> . If an order is made that there be a deposition of any person examined under Order 38 Rule 11, the following rules apply: <ul style="list-style-type: none"> a) the examiner must read and authenticate the deposition by her or his signature; and b) the examiner must indorse on the deposition a note signed by her or him of the time occupied in taking the examination and the fees received by her or him in respect thereof. The authenticated deposition must then be sent to the Principal Registrar of the Supreme Court, who, upon receiving the deposition,

¹⁴ See Consolidated Practice Direction 9.13.1(13).

	must give a certificate in Form No 31 sealed with the seal of the Court annexing thereto and identifying the request, the order for examination and the deposition. This must then be sent to the Attorney General of Western Australia for transmission direct to the requesting court, or any other person who sent the request to the Principal Registrar. See Order 39 rule 5 of the <i>Rules of the Supreme Court 1971</i> .
QLD	Yes - A transcript of the proceeding is obtained through Auscript.
TAS	Yes - <i>Supreme Court Rules 2000- s975</i> - examination to be forwarded to the Registrar.
SA	Yes.
VIC	Yes – Transcript Service providers arranged by the Requested State.

g) Are facilities and equipment made available in order to record the hearing or testimony?

This depends on each Australian State and Territory:

NSW	Yes, under internal law, but not for the purposes of Chapter 1 of the Convention.
WA	Yes, with audio and video.
QLD	Yes, only with audio. The Court has facilities which audio records the evidence. This recording is made only for the purpose of producing a written transcript of the proceedings. No person is permitted to record in the courtroom.
TAS	Yes – with audio and video.
SA	The standard practice is for a written transcript to be produced.
VIC	Yes, with audio and video – a transcript and record of the evidence is provided to the Court and the Requesting State.

h) What arrangements are to be made for showing or referring to documents or exhibits when taking evidence by video-link?

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	The Court may make orders in relation to the appropriate arrangement pursuant to section 117 of the <i>Evidence Act 1906 (WA)</i> and Order 39 rule 3 of the <i>Rules of the Supreme Court 1971</i> . The normal practice is for any documents or exhibits that are tendered to the Court during an examination is that they are identified by the Court and marked accordingly and are then annexed to the transcript of the examination. ¹⁵
QLD	Any documents or exhibits required to be shown during the evidence must be supplied with the Letter of Request.
VIC	The documents would need to be produced to the witness in advance of the hearing

¹⁵ See Consolidated Practice Direction 1.2.6

Practical Considerations under Chapter I

- i) Does YOUR STATE consider that there are practical obstacles to using video-link to assist in the taking of evidence under Chapter I of the Convention?**

There are a number of practical obstacles for Australian States and Territories taking evidence via video-link. The main difficulty is the time difference between the requesting State and Australia. This can be a number of hours depending on the foreign country and this can cause problems if the difference is outside courts normal hours of operation. There may also be difficulties with the technology, support resources and equipment capabilities.

- j) What is the procedure for verifying the identity of the parties, the witness / expert, and all relevant actors in YOUR STATE when video-link is used under Chapter I?**

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
QLD	Each party in the courtroom must announce their appearance at the start of the hearing. Each witness is then required to state their full name and occupation at the start of giving evidence.
VIC	Evidence is to be given on oath or affirmation.

- k) Do the authorities of YOUR STATE use a standardised request form under Chapter I that makes specific reference to the use of video-links?**

The standard Hague Model Form should be used when requesting evidence via video-link. Victoria, Tasmania and Western Australia have indicated that a further form is available for completion when video-link has been requested.

- l) Does YOUR STATE require the inclusion of any particular practical or technical information from the requesting State in the request in order to conduct / arrange a witness / expert examination by video-link under Chapter I? (e.g. contact details for IT support, technical specifications)**

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	The Supreme Court's Video Link Booking Request Form requires the following information when organising a video link: a) location of the other site; b) contact person at the other site; c) phone and fax number at the other site; d) email at the other site; e) other site IP (no cost); and f) other side ISDN.
QLD	Yes – Need to know what system the requesting state is using e.g. linking up to IP address. QLD does not currently use Skype.
TAS	Yes - Technical specifications, remote officer for facilitation and ensuring an appropriate environment of remote party.
VIC	Yes and this would need prior approval by the Court.

m) Are there any costs associated with the taking of evidence via video-link under Chapter I in YOUR STATE?

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	Yes, generally there are costs for a video link examination being AUD\$160.50 booking fee plus AUD\$84.50 per hour or part of an hour. A party must also pay to the Court the expense of the telecommunications charges incurred by the Court but as these would fall under Article 14, it could be the case that they are exempt from taxes and costs of any nature, except for the costs of experts and or interpreters unless this request for a video-link examination is considered to be a special procedure. <i>See Evidence (Video and Audio Links Fees and Expenses) Regulations 1999 (WA).</i>
QLD	Yes - There will be the costs of court room hire and also there may be staff wages dependent upon when service is required e.g. after hours.
TAS	Yes – this is subject to the external remote locations costs which vary.
SA	Yes – however it is difficult to estimate costs as it depends on what is required (video and audio transcript, interpreter etc).
VIC	Yes – see Supreme Court of Victoria Video-link Application Guide.

n) Who is responsible for bearing the costs occasioned by the use of video-link under Chapter I in YOUR STATE?

This will generally be the moving party (ie the person requesting the use of the video-link).¹⁶

o) How are these costs generally expected to be paid and/or reimbursed?

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	Costs can be paid by electronic fund transfer, International cheque/bank cheque, International money order all of which can be banked in Australia.
QLD	Payment by credit card and electronic/wire transfer (prefer EFT).
TAS	Electronic/wire transfer.
VIC	Payment by credit card or electronic/wire transfer.

p) Who pays for the interpretation services under Chapter I in YOUR STATE when video-link is used and how are these costs to be paid and/or reimbursed?

This depends on each Australian State and Territory:

NSW	Video-link is unable to be used for the purpose of a NSW Court giving effect to a request under Chapter 1. See answer to the questions in Part II (a) and (b) above.
WA	The moving party. If a party organises a private interpreter, it is incumbent on the party to organise payment. If the Court arranges an

¹⁶ For WA - Regulations 2, 3 and 4 of the Evidence (Video and Audio Links Fees and Expenses) Regulations 1999 (WA)

	<p>interpreter for the party, the party needs to pay a deposit of 75% of the estimated cost of the interpreter to the Court.¹⁷</p> <p>Payment may be made by electronic fund transfer, International cheque/bank cheque, International money orders all of which can be banked in Australia.</p>
QLD	The moving party (requesting the use of the video link).
TAS	Party to proceeding.
VIC	The Requested State pays for interpreter service, this is not reimbursed.

Practical Considerations under Chapter II

The Australian Department of Foreign Affairs and Trade has confirmed that Australian missions do not have the capacity to provide assistance with the taking of evidence via video-link (i.e. most missions do not have this technology). Therefore the practical considerations and how they would be addressed is unknown.

- q) **Does YOUR STATE consider that there are practical obstacles to using video-link to assist in the taking of evidence under Chapter II of the Convention?**
- r) **What is the procedure for verifying the identity of the parties, the witness / expert, and all relevant actors in YOUR STATE when video-link is used under Chapter II?**
- s) **Do the authorities of YOUR STATE use a standardised request form under Chapter II that makes specific reference to the use of video-links?**
- t) **Are the Embassies and Consulates of YOUR STATE (acting as the State of Execution) able to assist applicants in arranging a video-link?**
- u) **Is it possible to hold a video-link session requested under the Convention at the premises of the Embassies or Consulates of YOUR STATE abroad?**
- v) **Does YOUR STATE require the inclusion of any particular practical or technical information from the State of Origin in the request in order to conduct / arrange a witness or expert examination by video-link under Chapter II? (e.g. the use of interpreters, stenographers, or recording devices)**
- w) **Are there any costs associated with the taking of evidence via video-link under Chapter II in YOUR STATE?**
- x) **Who is responsible for bearing the costs occasioned by the use of video-link under Chapter II in YOUR STATE?**
- y) **How are these costs generally expected to be paid and/or reimbursed?**
- z) **Who pays for the interpretation services under Chapter II in YOUR STATE when video-link is used and how are these costs to be paid and/or reimbursed.**

¹⁷ See Consolidated Practice Direction 9.13(7)