

COURT REPORTING RULES 2022

EXPLANATORY MEMORANDUM

There are presently Rules of Court regarding the recording and transcribing of criminal proceedings, in Divisions 5.1 to 5.4 of the *Criminal Practice Rules* 1987. Those rules are outdated and need to be replaced by Rules that provide for electronic audio recording, storage and management of court proceedings.

There has been a Court Reporting Charter in existence since 2006, the purpose of which is to prescribe the powers, functions, duties and responsibilities of the Court Reporting Service and to regulate the preparation and availability of transcripts.

The most recent Charter was promulgated by the Chief Justice in 2019. It is replaced by the Charter that is set out in the Schedule in the 2022 Rules.

The 2022 Rules provide a convenient vehicle by which to:

- emphasise that transcript will only be prepared in accordance with the Charter (rule 2);
- confer a special status on certified transcript (rule 3);
- prescribe responsibility for ensuring, subject to the directions of the Chief Justice, that there is in place a system of electronic storage and management of the audio record and any transcripts that are prepared of court proceedings (rule 4).

JUSTICE CANNINGS
CHAIRMAN, RULES COMMITTEE

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I, Chief Sir Gibuma Gibbs Salika GCL KBE CSM OBE, Chief Justice of Papua New Guinea, certify that, pursuant to section 184 (*rules of court*) of the *Constitution*, section 41 (*rules of Court*) of the *Supreme Court Act* (Chapter No 37) and section 8 (*rules of Court of the National Court*) of the *National Court Act* (Chapter No 38) and all other powers enabling, the following Rules, described as “*Court Reporting Rules 2022*”, prescribing the practice and procedure of the superior courts of record of Papua New Guinea, regarding the operations of the Court Reporting Service of the National Judicial Staff Service and the recording of proceedings of the superior courts of record and the availability of those records and the preparation of transcripts of proceedings and related matters, so as to give effect to the principle of an open and transparent system of justice in which court proceedings are held in public in accordance with section 37(12) of the *Constitution*, have been made by the Judges and shall come into force on a date to be determined by the Chief Justice by notice published in the *National Gazette*.

Dated this 28th day of February 2022

**Chief Sir Gibuma Gibbs Salika GCL KBE CSM OBE,
Chief Justice of Papua New Guinea**

* Editorial note: The date on which the *Court Reporting Rules 2022* shall come into force is 1 May 2022 (as determined by the Chief Justice and published in *National Gazette* No G162 of 9 March 2022).

COURT REPORTING RULES 2022

Rules

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2. Provision of transcript
3. Certification of transcript
4. Responsibility for records
5. Practice directions
6. Repeal

Schedule

Charter of Court Reporting

COURT REPORTING RULES 2022

1. Definitions

In these Rules, unless the contrary intention appears:

“superior Court of record” means the Supreme Court of Justice and the National Court of Justice and such other superior courts of record that may be established from time to time in accordance with Division VI.5 (*the administration of justice*) of the *Constitution*;

“Charter” means the Court Reporting Charter set out in the Schedule;

“Court Reporting Manager” means the operational head of the Court Reporting Service;

"Judge" means a Judge or acting Judge of any superior Court of record;

"Registrar" means the Registrar of the relevant superior Court of record;

"Registry" means the Office of the Supreme Court or National Court or other superior Court of record.

2. Provision of transcript

A transcript of proceedings will only be prepared or provided in accordance with the terms of the Charter.

3. Certification of transcript

(1) A transcript prepared pursuant to the Charter shall be certified as correct by or on behalf of the Court Reporting Manager.

(2) If a transcript is prepared and certified pursuant to sub-rule (1), it shall be received as prima facie evidence of the proceedings or part of the proceedings transcribed.

4. Responsibility for records

The Court Reporting Manager is responsible for ensuring, subject to the directions of the Chief Justice, that there is in place a system of electronic storage and management of the audio record and any transcripts that are prepared of court proceedings, so as to enable quick and easy electronic access to such records during the course of proceedings and for a period of 20 years after the end of each proceeding.

5. Practice directions

The Registrar may, in consultation with the Chief Justice, issue a practice direction in relation to any matter concerning these Rules to clarify the procedure and application or to otherwise explain or regulate any matter concerning the Rules.

6. Repeal

On the coming in to force of these Rules, all other Rules of Court prescribing the practice and procedure of the superior courts of record of Papua New Guinea, regarding the operations of the Court Reporting Service of the National Judicial Service and the recording of proceedings of the superior courts of record and the availability of those

records and the preparation of transcripts of proceedings and related matters, and all other Charters or similar instruments pertaining to such matters, are repealed and replaced by these Rules including the Charter.

SCHEDULE

COURT REPORTING CHARTER

1. The Court Reporting Service in the National Judicial Service is responsible for the professional audio recording of all matters heard by all superior Courts of record sitting throughout Papua New Guinea in such a way as to facilitate, if necessary, the preparation of a true and accurate verbatim transcript as the official record of proceedings.
2. Subject to any direction of the Chief Justice, the Court Reporting Service is responsible for the preparation of official transcripts of proceedings in the following matters:
 - (a) all appeals or review applications to the Supreme Court from the National Court or single Judge Supreme Court matters (in either civil or criminal proceedings) in which:
 - (i) the appellant/applicant is represented by a lawyer (including the Solicitor-General, the Public Solicitor, the Public Prosecutor or other legal officer representing a government office-holder or governmental body) and the appellant/applicant pays for provision of the transcript; or
 - (ii) the appellant/applicant is self-represented and satisfies the Registrar that he or she does not have sufficient means to pay for the transcript and who undertakes in writing to the Registrar to arrange for payment for the transcript to be made if he or she subsequently obtains representation by a lawyer or legal officer;
 - (b) where a transcript request is made by a Judge, which specifies the special reasons for making the request, which is approved by:
 - (i) the Chief Justice; or
 - (ii) a Judge delegated the power by instrument in writing to exercise such powers and functions prescribed for the purpose of this Charter; or
 - (iii) the Court Reporting Manager (having regard to the capacity of the Court Reporting Service to provide the transcript).
3. Transcripts will only be prepared by the Court Reporting Service for matters referred to in paragraph 2(a):
 - (a) upon proof of lodgement of the appeal or review application at the Supreme Court Registry and provision of the Supreme Court appeal or review number; and
 - (b) where the person making the transcript request is a party or legal representative of a party in the proceedings for which the transcript is sought who, at the time of making the request, provides to the Court Reporting Service an e-copy of all written submissions made by all parties in the proceedings to be transcribed.
4. No transcripts shall be prepared for full bench Supreme Court matters, including slip rule applications, other than in the most exceptional circumstances and only then with the approval of the Chief Justice or a Judge delegated the power by instrument in writing to exercise such powers and functions prescribed for the purpose of this Charter.

5. The above procedures in respect of the preparation of transcripts apply equally to the proceedings of Leadership Tribunals and the Constitutional Office-Holders Rights Tribunal.
6. The preceding list of circumstances where the Court Reporting Service can provide transcripts is exhaustive and any other request for provision of a transcript must be approved by the Chief Justice or a Judge delegated the power by instrument in writing to exercise such powers and functions prescribed for the purpose of this Charter upon being satisfied that exceptional circumstances exist.
7. The Court Reporting Service will not be used to service Commissions of Inquiry, ad hoc Tribunals, Judicial Conferences, Judicial Conventions and other similar events.
8. All requests for transcripts must be submitted to the Court Reporting Service on the official transcript order form, prescribed by the Court Reporting Manager.
9. Until further notice, charges for transcripts, other than transcripts requested by the Chief Justice or a Judge, shall be at the rate of:
 - (a) K10.00 per page if only one party is ordering;
 - (b) K5.00 per page if two parties are ordering;
 - (c) K3.50 per page if three or more parties are ordering,and shall be payable by all Court users and for the avoidance of doubt this includes transcript requests made by or on behalf of the Solicitor-General, the Public Solicitor or the Public Prosecutor and all other governmental bodies and constitutional office-holders other than the Judges.
10. A person who is required by paragraph 9 to pay for a transcript is to pay by way of deposit 50% of the estimated transcript cost before a transcript will be prepared, with the balance of the notified transcript cost to be paid on or before collection of the transcript.
11. All payments for transcription fees and charges for other services provided by the Court Reporting Service shall be made in accordance with directives issued by the Department of Finance from time to time and payments shall be evidenced by production to the Court Reporting Service of original receipts or copies of receipts certified to be true copies by the applicant.
12. All requests for transcripts are assessed by the Court Reporting Service against the criteria set out in this Charter and only those requests meeting the criteria will be approved.
13. Transcripts will be produced by the Court Reporting Service in chronological order based on the date of receipt of the transcript order form.
14. The Court Reporting Manager or their nominee delegated in writing is responsible for the certification of each transcript as a true and correct record of the proceedings or that part of the proceedings which is the subject of the transcript.
15. Upon request in writing to the Court Reporting Manager, facilities shall be made available for parties and lawyers to obtain by appointment with the Court Reporting Service copies of audio recordings of National Court and Supreme Court proceedings, including matters where there is uncertainty about the terms of a Judge's orders or the endorsement of those terms on the court file, in mp3 format at the rate of K100.00 per day of hearing or any part thereof, subject to the Court Reporting Service verifying that devices produced for audio purposes are virus-free and suitable for copying purposes.

16. Upon request in writing to the Court Reporting Manager but subject to approval by the Chief Justice or a Judge delegated the power by instrument in writing to exercise such powers and functions prescribed for the purpose of this Charter, facilities for the audio recording (but not transcription) of arbitration proceedings are available at the conference room of the ADR Service at the Waigani Registry of the National Court or at such other local venue as may be approved by the Court Reporting Manager.

