

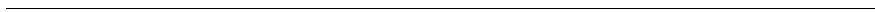
MONTSERAT

RECORDING OF COURT PROCEEDINGS ACT 2020

No. 9 of 2020

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I ASSENT

(Sgd.) Andrew Pearce
Governor

DATE: 16.11.2020

M O N T S E R R A T

No. 9 of 2020

AN ACT TO PROVIDE FOR THE RECORDING AND TRANSCRIBING OF
COURT PROCEEDINGS AND FOR RELATED MATTERS.

BE IT ENACTED by The Queen’s Most Excellent Majesty, by
and with the advice and consent of the Legislative Assembly of
Montserrat, and by the authority of the same as follows:—

1 Short title

This Act may be cited as the Recording of Court
Proceedings Act, 2020.

2 Interpretation

In this Act—

“**Chief Registrar**” means the Chief Registrar of the
Eastern Caribbean Supreme Court;

“**court**” includes the Eastern Caribbean Supreme Court,
High Court, Magistrate Court, and any other

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court established by law whether before or after the commencement of this Act;

“court proceedings” includes a matter transpiring in a court required by law or by the presiding judicial officer of the court to be recorded;

“interpreter” means a person appointed by the Public Service Commission or employed by the Court to interpret orally or otherwise from one language to another in court proceedings;

“law officer” means an attorney-at-law who holds an office in the public service and is appointed by the Governor acting after consultation with the Chief Justice and which office is declared by the Attorney-General to be a law office under the Legal Profession Act, Cap. 2:21;

“Registrar” means the Registrar of the High Court;

“transcript” means the record of court proceedings made under this Act and includes an audio, video or other digital recording of court proceedings, written or typed notes made by a presiding judicial officer or transcribed record of court proceedings;

“transcriptionist” means a person authorized by the Chief Registrar, Registrar, Chief Magistrate or a senior magistrate to transcribe records of court proceedings or any authorized person from the computer aided transcription unit of the public service.

3. Recording of court proceedings

- (1) The Chief Registrar, Registrar, Chief Magistrate or a senior magistrate as the case may be shall cause all court proceedings to be recorded.
- (2) A recording of a court proceedings may be made electronically by using an audio or video recorder or other means directed the Chief Registrar, Registrar, Chief Magistrate or a senior magistrate.
- (3) A recording of court proceedings made under this section may be reproduced for the use of the court or parties to the court proceedings.

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- (4) The Chief Registrar, Registrar, Chief Magistrate or a senior magistrate as the case may be, may, subject to subsection (5), cause court proceedings recorded under subsection (1), to be made the transcript, by the means and in the manner directed by the Chief Justice.
- (5) A person who is not a transcriptionist shall not transcribe a recording of court proceedings.

4. Words of interpreter

In transcribing the evidence of a witness in court proceedings, where the answers of the witness are not in the English Language, the transcriptionist shall only transcribe the answers in the English Language as spoken by the interpreter.

5. Certification of transcript

A person who prepares a transcript of court proceedings shall certify, in Form 1 as set out in the Schedule, that the transcript is an accurate transcript of the court proceedings.

6. Witness need not sign transcript

- (1) Subject to subsection (2), where evidence given by a witness in court proceedings is recorded electronically or a transcript is prepared the transcript may not be read or played back to the witness and the witness is not required to sign the transcript.
- (2) Evidence of a witness that is recorded electronically or a transcript that is prepared under section 5, must be certified in accordance with section 5.

7. Official transcript

A transcript made under this Act, once certified is an official transcript of the court proceedings and its validity must not be questioned on the ground of the qualification of the person preparing the transcript or making the recording.

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8. Transcript or record as proof of court proceedings

In the absence of evidence to the contrary, an official transcript or official record of court proceedings is proof of matters transpiring at that court proceeding.

9. Request for transcript

- (1) A party to court proceedings or another person may request a copy of an official transcript of court proceedings in Form 2 as set out in the Schedule.
- (2) Subject to subsection (1), the Chief Registrar, Registrar, Chief Magistrate or a senior magistrate shall, on request, without undue delay, furnish a copy of an official transcript to a party to court proceedings or another person.
- (3) The fees payable for an official transcript, where applicable are as specified in Rules made under section 84 of the Supreme Court Act, Cap. 2.01 and section 17 of the Supreme Court Order, Cap. 2.01.

10. Exemption from fees

- (1) Notwithstanding section 9, a judicial officer, the Attorney General, the Director of Public Prosecutions or other law officer may obtain a transcript of court proceedings for the performance of his or her duties as a law officer but shall not pay any fees for the preparation of an official transcript.
- (2) By order of the court, a party to criminal proceedings may, on the basis of impecuniosity, be permitted to pay a reduced fee as stipulated by the court or be exempt from the payment of fees for the preparation of an official transcript.

11. Rules

The Chief Justice and two other judges may make Rules for the purpose of giving effect to this Act.

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12. Practice directions

- (1) The Chief Justice may issue Practice Directions for the purpose of giving effect to this Act.
- (2) A Practice Direction must be —
 - (a) published in the Gazette; and
 - (b) displayed and made available at each court office.
- (3) A party must comply with a Practice Direction unless there is good reason for not doing so.

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SCHEDULE

FORM 1
(Section 5)

CERTIFICATION OF TRANSCRIPT OR RECORD

CERTIFICATE

I, _____, the person(s) who prepared a transcript or transcriptionist, at the [name of company], certify:

That on the ____ day of _____, 20__, the court proceedings dated the [insert date of hearing of court proceedings] was transcribed by me/us, to the best of my/our ability and the transcript consists of ____ pages.

That the transcript is a true and accurate transcript from the official electronic recording of the court proceedings in the matter of _____
_____.

IN WITNESS WHEREOF, the following signatures are affixed at Brades, Montserrat, on the ____ day of _____, 20__ .

(Signature of person who prepared a transcript /transcriptionist)

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FORM 2
(Section 9(1))
REQUEST FOR TRANSCRIPT

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE/COURT OF APPEAL

[Territory of Montserrat]
MNIHCR....

Between

A.B.
Claimant / appellant / applicant

and

C.D.
Defendant/respondent

Request for transcript

I _____ being the claimant/defendant /appellant in
this matter request a transcript of the court proceedings heard on [Insert date(s)
of hearing] by [Insert name(s) of presiding judicial officer(s)], such transcript
being requested in the form of [insert audio recording/ video recording /
transcribed record of proceedings]

Dated

Signed

(Sgd.) Teresina Bodkin
SPEAKER

Passed by the Legislative Assembly this 27th day of October, 2020.

(Sgd.) Judith Baker
CLERK OF THE LEGISLATIVE ASSEMBLY