

ANTIGUA AND BARBUDA



RECORDING OF COURT PROCEEDINGS BILL, 2020

No. of 2020

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ARRANGEMENT OF CLAUSES

CLAUSES

1. Short title.....	4
2. Interpretation.....	4
3. Recording of court proceedings	5
4. Words of interpreter	5
5. Certification of transcript	5
6. Witness need not sign transcript	5
7. Official transcript	6
8. Transcript or record as proof of court proceedings	6
9. Request for transcript	6
10. Exemption from fees	6
11. Rules	7
12. Practice directions	7

SCHEDULE

ANTIGUA AND BARBUDA
RECORDING OF COURT PROCEEDINGS ACT, 2020
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AN ACT to provide for the recording and transcribing of court proceedings and for related matters.

ENACTED by the Parliament of Antigua and Barbuda 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, District Court, and any other 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 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 who is appointed by the Judicial and Legal Services Commission;

“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 or the Chief 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 or the Chief 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 by the Chief Registrar, Registrar or Chief 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.

(4) The Chief Registrar, Registrar or the Chief Magistrate, as the case may be, may, subject to subsection (5), cause court proceedings recorded under subsection (1), to be transcribed 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 words of an 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 subsection (1), 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.

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 or the Chief 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 86 of the Eastern Caribbean Supreme Court Act, Cap. 143 and section 17 of the Supreme Court Order, Cap. 422A.

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) A party to criminal proceedings may, on the basis of impecuniosity, be permitted by an order of the court to pay a reduced fee or be exempt from the payment of fees for the preparation of an official transcript as stipulated by the order of the court.

11. Rules

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

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.

SCHEDULE

FORM 1

CERTIFICATION OF TRANSCRIPT OR RECORD

(Section 5)

CERTIFICATE

I/We, _____, 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 [insert number] 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 St. John’s, Antigua and Barbuda, on the ____ day of _____, 20__ .

(Signature of person who prepared a transcript /transcriptionist)

FORM 2
REQUEST FOR TRANSCRIPT

(Section 9(1))

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

[Antigua and Barbuda]

[Insert case number]

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

EXPLANATORY MEMORANDUM

1. The Bill for consideration is the Recording of Court Proceedings Bill ('the Bill').
2. The purpose of the Bill is to provide for the recording and transcribing of court proceedings and for related matters.
3. Clauses 1 and 2 of the Bill provide for the short title and interpretation of the Bill.
4. Clause 3 of the Bill provides for the recording of court proceedings. A recording of court proceedings may be made electronically by using an audio or video recorder or other means directed by the presiding judicial officer.
5. By clause 4 of the Bill, a transcriptionist, in the case of a witness giving answers in court that are not in the English language, must only transcribe the answers of the witness in the words of an interpreter.
6. Under clause 5 of the Bill, the accuracy of a transcript of the court proceedings must be certified by the person who prepares the transcript in Form 1 as provided in the Schedule to the Bill.
7. In the case of evidence given by a witness that is recorded electronically or in accordance with the Bill, it is not required that the transcript be read or played back to the witness and the witness is not required to sign the transcript under clause 6 of the Bill. Alternatively, the transcript is required to be certified in accordance with clause 6 of the Bill.
8. By clause 7 of the Bill, where a transcript is certified in accordance with the Bill, it is treated as an official transcript of that court proceedings.
9. By clause 8 of the Bill, where there is no evidence to the contrary, an official transcript or official record of court proceedings is proof of matters transpiring at that court proceedings.
10. Under clause 9 of the Bill, a party to court proceedings may make a request for a copy of a transcript of that court proceedings by using Form 2 as set out in the Schedule to the Bill. The fees payable for preparing an official transcript are as specified in the Rules made under section 86 of the Supreme Court Act, Cap. 143 and section 17 of the Supreme Court Order, Cap. 422A.

11. Under clause 10 of the Bill, a judicial officer, the Attorney General, Director of Public Prosecutions or other law officer are exempted from the payment of fees for a transcript required to perform his or her duties as a law officer.

12. The Chief Justice is given the power to make Rules and issue Practice Directions for the purpose of giving effect to the Bill under clauses 11 and 12 of the Bill.

13. The Schedule to the Bill provides the form for Certification of a transcript required under clause 5 of the Bill and for the Form to be used to request a transcript as required under clause 9 of the Bill.

Hon. Steadroy C. O. Benjamin
Attorney General, and
Minister with responsibility for Justice
and Legal Affairs