

DRAFT COURT REPORTING RULES 2022

EXPLANATORY MEMORANDUM

There are presently Rules of Court regarding the recording and transcribing of criminal proceedings, in Divisions 5.1, 5.2, 5.3 and 5.4 of the *Criminal Practice Rules* 1987. Those rules are very outdated and need to be replaced. There appears to be no good reason to have such rules for criminal proceedings, but none for civil proceedings. There should be one set of rules covering both criminal and civil proceedings in the National Court, and also in the Supreme Court.

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 would be replaced by the Charter that is set out in the Schedule in the proposed Rules. The Charter would then have a legal status, being part of the Rules of Court, that it does not presently have. It would be enforceable and be subject, if necessary, to judicial interpretation and application in the event, for example, of disputes over availability or contents of transcript.

The proposed Rules provide a convenient vehicle by which to:

- impose obligations on officers of the Court including counsel and associates designed to assist the Court Reporting Service in the efficient discharge of its functions (rule 2 dealing with provision of submissions and exhibit lists);
- ensure that court reporting officers swear an oath of office (rule 3, which has an equivalent in O 5, r 9 of the *Criminal Practice Rules* 1987);
- provide standard operating procedures for the Court Reporting Service (rule 4);
- emphasise that transcript will only be prepared in accordance with the Charter (rule 5);
- confer a special status on certified transcript (rule 6);
- prescribe responsibility for retention of records of court proceedings (rule 7).

JUSTICE CANNINGS
CHAIRMAN, RULES COMMITTEE
