

**NORTHERN TERRITORY OF AUSTRALIA**  
**SUPREME COURT AMENDMENT (INTERPRETERS) RULES 2025**

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**Subordinate Legislation No. 3 of 2025**

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# NORTHERN TERRITORY OF AUSTRALIA

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## Subordinate Legislation No. 3 of 2025\*

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### ***Supreme Court Amendment (Interpreters) Rules 2025***

We, the undersigned Judges of the Supreme Court of the Northern Territory of Australia, under section 86 of the *Supreme Court Act 1979*, make the following Rules of Court.

Dated 7 May 2025

M. GRANT CJ

S. R. SOUTHWOOD J

J. KELLY J

J. BLOKLAND J

S. BROWNHILL J

M. HUNTINGFORD J

Judges of the Supreme Court  
of the Northern Territory of Australia

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\* Notified in the *Northern Territory Government Gazette* on 30 May 2025.

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<b>1</b>	<b>Title</b>
	These Rules may be cited as the <i>Supreme Court Amendment (Interpreters) Rules 2025</i> .
<b>2</b>	<b>Commencement</b>
	These Rules commence on 2 June 2025.
<b>3</b>	<b>Rules amended</b>
	These Rules amend the <i>Supreme Court Rules 1987</i> .
<b>4</b>	<b>Chapter 11 replaced</b>
	Chapter 11 <i>repeal, insert</i>

## **Chapter 11 Interpreters**

### **96.01 Purposes**

The main purposes of this Chapter are:

- (a) to ensure the Court has control over the giving of evidence that is interpreted, translated or sight translated into English; and
- (b) to recognise the special status of an interpreter in the administration of justice by declaring the duties of an interpreter in relation to the Court and the parties to a proceeding; and
- (c) to implement, with appropriate modifications, the Recommended National Standards for Working with Interpreters in Courts and Tribunals issued by the Judicial Council on Diversity and Inclusion.

### **96.02 Definitions**

In this Chapter and in Schedule 3:

***accredited interpreter***, in relation to an other language, means an interpreter who is certified, registered or recognised as an interpreter for the language by a recognised agency.

***accurately*** means in accordance with the duty of accuracy set out in rule 96.07(2) and clause 4 of the code of conduct.

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**accused**, see rule 81A.01(1).

**code of conduct** means the Code of Conduct for Interpreters in Legal Proceedings set out in Schedule 3.

**interpret** means the process by which the meaning of spoken or signed language is conveyed from one language (the **source language**) to another (the **target language**) orally or by sign.

**other language** means a spoken or signed language other than English.

**party**, to a proceeding, includes an accused in a criminal proceeding.

**recognised agency** means the following:

- (a) the National Accreditation Authority for Translators and Interpreters (NAATI);
- (b) the Aboriginal Interpreter Service (AIS);
- (c) Interpreting and Translating Service Northern Territory (ITSNT);
- (d) any other organisation that is approved by the Chief Justice to be a recognised agency.

**sight translate** means the process by which an interpreter or translator presents a spoken interpretation of a written text in one language (the **source language**) into another language (the **target language**).

**translate** means the process by which written language is conveyed from one language (the **source language**) to another (the **target language**) in the written form.

### **96.03 Application**

This Chapter applies to all proceedings in the Court.

### **96.04 Proceedings to be conducted in English**

Subject to this Chapter, all proceedings in the Court are to be conducted in English.

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**96.05 When interpreters may be required**

- (1) If the Court is satisfied that a party to a proceeding or a witness cannot understand and speak the English language sufficiently to enable the party or witness to understand, and to make adequate reply to, questions that may be put to the party or witness, the party or witness may give:
  - (a) oral evidence in the other language that is interpreted into English by an interpreter in accordance with this Chapter; or
  - (b) evidence by an affidavit or statement in English that has been sight translated to the witness by an interpreter.
- (2) The party calling a witness who requires the services of an interpreter is responsible for engaging an interpreter who meets the standards and requirements imposed by this Chapter, as follows:
  - (a) in a criminal proceeding, it is the obligation of:
    - (i) the prosecution to engage an interpreter for witnesses called by the prosecution; and
    - (ii) the defence to engage an interpreter for witnesses called by the defence, including for the accused if the accused is to give evidence;
  - (b) in a civil proceeding, it is the obligation of the party calling the witness to engage an interpreter for that witness.
- (3) In a criminal proceeding, if the Court is satisfied that the accused cannot understand and speak the English language sufficiently to enable the accused to understand and participate in the proceeding:
  - (a) the Court must permit the defence to engage the services of an interpreter for the accused who meets the standards and requirements imposed by this Chapter; and
  - (b) it is the obligation of the defence to engage an interpreter for the accused.

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- (4) In a civil proceeding, if the Court is satisfied that a party cannot understand and speak the English language sufficiently to enable the party to understand and participate in the proceeding and an interpreter is to be engaged by that party for the purpose of communicating with the Court:
- (a) the Court must permit that party to engage the services of an interpreter who meets the standards and requirements imposed by this Chapter; and
  - (b) it is the obligation of that party to engage an interpreter.

*Note for subrule (4)*

*This provision is not intended to limit the engagement of an interpreter by a party to a civil proceeding for any other purpose. For example, to interpret legal advice given by a legal practitioner.*

#### **96.06 Who may act as an interpreter**

- (1) Subject to rule 96.05(4) and subrule (4), a person must not act as an interpreter unless the person:
  - (a) is currently certified, registered or recognised as an interpreter for the other language by a recognised agency or otherwise satisfy the Court that the person is qualified to act as an interpreter; and
  - (b) has read and agreed to comply with the code of conduct; and
  - (c) swears or affirms to interpret accurately to the best of the person's ability.
- (2) A person must not act as an interpreter if the person:
  - (a) is, or is likely to become, a party to, or a witness in, the proceeding or proposed proceeding; or
  - (b) has a close personal relationship with:
    - (i) a party or a member of the party's family; or
    - (ii) a witness or potential witness; or
  - (c) has or may have a financial or other interest of any kind in the outcome of the proceeding or proposed proceeding, other than an entitlement to a reasonable fee for the services provided as an interpreter in the course of the person's engagement or appointment; or

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- (d) is or may be unable to fulfil the person's duty of accuracy or impartiality under the code of conduct for any reason including, but not limited to, personal or religious beliefs or cultural or other circumstances.
- (3) A person acting as an interpreter must:
- (a) cease to do so if the person becomes aware of any of the disqualifying matters referred to in subrule (2) during a hearing; and
  - (b) immediately disclose the matter to the Court.
- (4) In exceptional circumstances or if all reasonable efforts have failed to identify a person who satisfies the requirements of subrules (1) and (2), the Court may grant permission for any person (whether or not related or known to a party or witness) to act as an interpreter under this Chapter even if the person does not satisfy one or more of the requirements of those subrules, if:
- (a) the Court is satisfied that the person is able to interpret and, if necessary, sight translate accurately to the level the Court considers satisfactory in all the circumstances because of the person's specialised knowledge, based on the person's training, study or experience; and
  - (b) the person swears or affirms to interpret accurately to the best of the person's ability; and
  - (c) the Court is satisfied that the person understands and accepts that in acting as an interpreter the person:
    - (i) owes a paramount duty to the Court to be impartial and accurate to the best of the person's ability; and
    - (ii) is not the agent, assistant or advocate of the party or the witness; and
  - (d) the Court directs that the evidence and interpretation be sound recorded for spoken languages and video recorded for sign languages; and
  - (e) the person is over the age of 18 years.

#### **96.07 Functions of interpreters**

- (1) An interpreter owes paramount duties of accuracy, impartiality and candour to the Court when acting as an interpreter, which override any other duty the person may have to any party to the proceeding, even if the interpreter is engaged directly by that party.



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- (2) To carry out the duty of accuracy, an interpreter must interpret in a manner that results in the optimal and complete transfer of the meaning of the other language into English and of English into the other language, preserving the content and intent of the other language or English (as the case may be) without omission or distortion and including matters which the interpreter may consider inappropriate or offensive.
  - (3) Unless the Court otherwise orders, an interpreter must:
    - (a) interpret questions and all other spoken or signed communications in the hearing of the proceeding for the party or witness from English into the other language and from the other language into English; and
    - (b) subject to subrule (4), before or during the course of a witness's evidence translate at sight written words shown to the witness.
  - (4) An interpreter may decline to sight translate if:
    - (a) the interpreter considers that the interpreter is not competent to do so; or
    - (b) the task is too onerous or difficult by reason of the length or complexity of the text.
  - (5) Unless the Court otherwise orders, an interpreter must not assist a party or that party's legal representatives in the conduct of a proceeding or proposed proceeding other than by interpreting questions and all other spoken or signed communications or sight translating documents in connection with the proceeding or proposed proceeding (including the hearing) for the party from English into the other language and from the other language into English.

#### **96.08 Code of conduct for interpreters**

- (1) Subject to rules 96.05(4) and 96.06(4), an interpreter must comply with the code of conduct.
- (2) Unless the Court otherwise orders, as soon as practicable after an interpreter is engaged in a proceeding or proposed proceeding the engaging party must provide the interpreter with a copy of the code of conduct.
- (3) Unless the Court otherwise orders and subject to rules 96.05(4) and 96.06(4), the evidence of a witness may not be received through an interpreter unless the Court is satisfied that the interpreter has read the code of conduct and agreed to be bound by it.

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**96.09 Evidence adduced through interpreters**

- (1) Unless the Court otherwise orders, a translated affidavit or statement of a witness who requires an interpreter cannot be relied on in a proceeding unless it includes a certification by the interpreter, or the interpreter separately verifies by affidavit, to the effect that:
  - (a) before sight translating the affidavit or statement to the witness, the interpreter:
    - (i) read the code of conduct and agreed to be bound by it; and
    - (ii) was given an adequate opportunity to prepare to sight translate the affidavit or statement; and
  - (b) the interpreter sight translated the entire affidavit or statement to the witness, who then:
    - (i) informed the person responsible for the preparation of the affidavit or statement through the interpreter that the person understood the interpreter and agreed with the entire contents of the affidavit or statement; and
    - (ii) subsequently swore or affirmed the affidavit, or signed the statement, in the presence of the interpreter.

*Note for subrule (1)*

*Different interpreters may be used at different stages of a proceeding.*

- (2) The Court may at any time, either of its own motion or on the application of a party, request the interpreter to correct, clarify, qualify or explain the interpreter's interpretation of the evidence or sight translation of a document.
- (3) Any clarification, qualification or explanation given by the interpreter in response to a request under subrule (2) is not evidence of the interpreter in the proceeding.

**96.10 Court may give directions concerning interpreters**

- (1) Without limiting any other power of the Court to control its own procedures, the Court may at any time give directions concerning any of the following matters, having regard to the nature of the proceeding (including the type of allegations made and the characteristics of the parties and witnesses):
  - (a) any particular attributes required or not required for an interpreter, including, but not limited to, gender identity, age or

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- ethnic, cultural or social background so as to accommodate any cultural and other reasonable concerns of a party or witness;
- (b) the number of interpreters required in any proceedings and whether relay interpreting should be used;
  - (c) establishment of the expertise of an interpreter;
  - (d) the steps to be taken to obtain an accredited interpreter or person who is otherwise qualified to act as an interpreter;
  - (e) the steps to be taken before the Court grants permission under rule 96.06(4);
  - (f) what information concerning the proceeding may be provided to a person in advance of any hearing to assist the person to prepare to act as an interpreter at the hearing, such as pleadings, affidavits, lists of witnesses and other documents;
  - (g) when, in what circumstances and under what (if any) conditions the information referred to in paragraph (f) may be provided;
  - (h) whether the interpreter is to interpret the witness's evidence consecutively, simultaneously or in some other way;
  - (i) other resources that the interpreter may be required to consult in the course of acting as an interpreter, such as dictionaries or other reference works;
  - (j) the length of time for which an interpreter should interpret during a hearing without a break;
  - (k) security for the interpreter including, if necessary, arrangements to preserve the anonymity of the interpreter;
  - (l) practical matters concerning the interpreter, such as seating for and the location of the interpreter;
  - (m) disqualification, removal or withdrawal of an interpreter, including on the application of the interpreter or any party to the proceeding or on the Court's own motion;
  - (n) payment of interpreters.
- (2) In making any order or direction in relation to interpreters the Court must have regard to any practice direction on interpreters made by the Chief Justice for use with this Chapter.

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## **96.11 Application of other laws**

This Chapter applies subject to the provisions of the *Evidence (National Uniform Legislation) Act 2011*, the *Evidence Act 1939* and any other evidentiary provisions or practices applicable to the Court.

## **5 Schedule 3 inserted**

After Schedule 2

*insert*

## **Schedule 3 Code of Conduct for Interpreters in Legal Proceedings**

### **1 Application of code**

This code of conduct applies to any person (the *interpreter*) who, whether or not for fee or any other reward, is engaged, appointed, volunteers or otherwise becomes involved in a proceeding or proposed proceeding to act as an interpreter by interpreting or sight translating from any spoken or signed language into English and from English into the other language for any person.

*Note for clause 1*

*The definitions in Chapter 11 apply to this Schedule. See rule 96.02.*

### **2 General duty to the Court**

- (1) An interpreter has an overriding duty to assist the Court impartially and with candour.
- (2) An interpreter's paramount duty is to the Court and not to any party to or witness in the proceeding, including the person retaining or paying the interpreter.
- (3) An interpreter is not an advocate, agent or assistant for a party or a witness.

### **3 Duty to comply with directions**

An interpreter must comply with any direction of the Court.

### **4 Duty of accuracy**

- (1) An interpreter must at all times use the interpreter's best judgment to be accurate in the interpreter's interpretation or sight translation.

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- (2) If an interpreter considers that the interpreter's interpretation or sight translation is or could be in any way inaccurate, incomplete or requires qualification or explanation (including, without limitation, where the other language is ambiguous or otherwise unclear for any reason), the interpreter must:
- (a) immediately inform the party who engaged the interpreter and provide the necessary correction, qualification or explanation to that party; and
  - (b) if the interpreter's evidence is being given or was given in Court – immediately inform the Court and provide the necessary correction, qualification or explanation to the Court.

*Note for clause 4*

*The duty of accuracy is further described in rule 96.07(2).*

## **5 Duty of impartiality**

- (1) An interpreter must at all times act impartially so as to be without bias in favour of or against any person including, but not limited to the following:
- (a) the person whose evidence the interpreter is interpreting;
  - (b) the party who has engaged or is remunerating the interpreter;
  - (c) any other party to, or person involved in, the proceeding or proposed proceeding.
- (2) Unless the Court otherwise orders, an interpreter must not accept an engagement or appointment to act as an interpreter in relation to a proceeding or proposed proceeding if the interpreter:
- (a) is or may become a party or a witness; or
  - (b) is related to, or has a close personal relationship with:
    - (i) a party or a member of the party's family; or
    - (ii) a witness or potential witness; or
  - (c) has or may have a financial or other interest of any other kind in the outcome of the proceeding or proposed proceeding (other than an entitlement to a reasonable fee for the services provided by the interpreter in the course of the interpreter's engagement or employment); or

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- (d) is or may be unable to fulfil the interpreter's duty of accuracy or impartiality for any reason including, but not limited to, personal or religious beliefs or cultural and other reasonable circumstances.
  - (3) Other than carrying out the interpreter's engagement or appointment as an interpreter, an interpreter must not provide any other assistance, service or advice (including by way of elaboration) to:
    - (a) the party, legal representative or other person who has engaged the interpreter; or
    - (b) any witness or potential witness, in relation to the proceeding or proposed proceeding.

## **6 Duty of competence**

- (1) An interpreter must only undertake work the interpreter is competent to perform in the languages for which the interpreter is qualified by reason of the interpreter's training, qualifications or experience.
- (2) If it becomes apparent in the course of a matter that expertise beyond the interpreter's competence is required, the interpreter must inform the Court immediately and work to resolve the situation, either by withdrawing from the matter or pursuing another course of action acceptable to the Court.

## **7 Confidentiality**

Subject to compulsion of law, an interpreter must keep confidential any information in any form that the interpreter acquires in the course of the interpreter's engagement or appointment as an interpreter (including any communication subject to client legal privilege), unless:

- (a) that information is, or comes into, the public domain other than by an act of the interpreter in breach of this duty of confidentiality; or
- (b) the beneficiary of the client legal privilege has waived that privilege.

## **6 Repeal of Rules**

These Rules are repealed on the day after they commence.