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THE CRIMINAL PROCEDURE ACT,
(CAP. 20)

RULES

(Made under section (7))

THE CRIMINAL PROCEDURE (AUDIO AND VIDEO RECORDING OF INTERVIEWS WITH
SUSPECTS) RULES, 2023

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THE CRIMINAL PROCEDURE ACT,
(CAP.20)

RULES

(Made under section 57 (7))

THE CRIMINAL PROCEDURE (AUDIO AND VIDEO RECORDING OF INTERVIEWS WITH
SUSPECTS) RULES, 2023

PART I
PRELIMINARY PROVISIONS

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| Citation | 1. These Rules may be cited as the Criminal Procedure (Audio and Video Recording of Interviews with Suspects) Rules, 2023. |
| Application | 2. These Rules shall apply to all audio and video recording of interviews with suspects by the police officers. |
| Interpretation | 3. In these Rules, unless the context otherwise requires- |
| Cap. 20 | “Act” means the Criminal Procedure Act;
“independent witness” means any person other than a police officer who is not directly involved with the matter under investigation;
“interview” means audio or video recorded interview;
“language of interview” has the meaning ascribed to it by section 10 (3A) of the Act;
“master medium” means either one of the recording media used in a twin or more recorders or the only medium used in a single recorder;
“police officer” has the meaning ascribed to it in the Act;
“recorder” means an electronic device used to record audio or video with sound; |

“significant statement” means admission of the commission of an offence and any other statement likely to be used in evidence against the suspect;

“recording media” means any removable, physical video or audio recording gadget including magnetic tape, optical disc or solid state memory which can be played and copied; and

“working copy” means the second or more recording media used in a twin or more recorders or a copy of the master medium made by a recorder.

PART II RECORDING AND SEALING OF MASTER MEDIUM

Mode of
recording

4.-(1) An interview of a suspect by the police officer may be recorded in form of video or audio.

(2) A video recording made under these Rules shall be with clear picture or image and sound and in the case of audio, the recording shall be with clear sound.

(3) The whole of each interview taken in pursuance to this rule shall be recorded.

Positioning of
camera

5.-(1) Where a suspect is being video- recorded, such police officer or any other designated person shall fix the camera in the interview room in such a manner that ensures wide coverage of the room during the interview and shall display a full image of the suspect.

(2) The person conducting the interview shall ensure that interviewing is carried out with such transparency as to instill confidence and integrity in the process.

Commencement
of interview

6.-(1) When a suspect is brought into the interview room, the interviewing police officer shall-

(a) explain to the suspect how the recorder and recording media operates;

(b) unwrap or otherwise unseal or open the empty recording medium; and

- (c) insert the empty recording medium into the recorder with a view to verifying to the suspect that the recording medium is indeed empty.

(2) Before an interview starts, the interviewing police officer shall inform the suspect that the interview shall be video - recorded with picture or image and sound or audio recorded and show him a sign or indication that the recording medium is activated and recording.

Suspect to be
informed of his
rights

7.-(1) After complying with rule 6 of these Rules, the interviewing police officer shall-

- (a) ask the suspect to identify himself;
- (b) caution and address the suspect of his rights as provided for under section 53 of the Act;
- (c) inform the suspect on the intention to use audio or video recording;
- (d) introduce the name and rank of any other police officer present or any other person present and the reason for his presence;
- (e) state the date, place and time for commencement of the interview;
- (f) inform the suspect that will be given a copy of the recorded interview; and
- (g) put to the suspect any significant statement made prior to the interview, and shall ask him whether he confirms or denies his earlier statement or whether he wishes to add anything.

(2) The information referred to under subrule (1) and rule 6(2) shall form part of the record of interview.

Entry during
interview

8.-(1) A person shall not be allowed to enter into the interview room after the commencement of the interview unless there is good reason for doing so in which case, the police conducting the interview shall require such person to identify himself and state the purpose for his entry.

(2) Matters arising from subrule (1) of this rule shall form part of the record of the interview.

Discontinuation
of interview

9. Where-

- (a) it is not reasonably practicable to continue with the interview due to failure or malfunction of the recording device, the interview room becomes unsuitable or for any other good cause;
- (b) the nature of the default cannot be rectified forthwith; and
- (c) the interviewing police officer considers, on reasonable grounds, that the interview cannot proceed owing to events specified in paragraph (a);

the interviewing police officer or any other office responsible in interviewing the suspect may postpone the interview and on resumption of the favorable conditions, the interview shall start de novo in such manner as may be specified in that behalf,

Provided that, where the nature of the default can be rectified quickly, the appropriate procedures set out in rules 11 or 12, shall be complied with.

Interpretation of
interview

10.-(1) Where the suspect is deaf or does not understand the language in which the interview is conducted, the police shall procure an interpreter on such date and time as may be specified and the interpretation shall be recorded simultaneously with the interview.

Changing
recording
medium

11.-(1) When the interview is in progress and-

- (a) the recorder indicates that the recording medium is about to run out of capacity, the interviewing police officer shall so inform the suspect, and round off that part of the interview; and
- (b) if there is no other set of recording medium, the interviewing police officer shall-
 - (i) procure another recording medium;

(ii) when so procured, remove the used recording medium from the recorder and insert a new recording media by following the procedure prescribed under rule 6(1); and

(iii) continue recording on the new recording medium.

(2) When more than one recording media have been used, each recording medium shall be marked with an identification number immediately after it is removed from the recording device.

Break during
interview

12.-(1) When a break is due to be taken in the course of an interview, the reasons for such break and duration for such break shall be indicated and shall form part of the record of the interview.

(2) When a break is taken and the suspect vacates the interview room, the recording medium shall be removed from the recorder and the master medium shall be sealed in accordance with rule 15 of these Rules.

(3) In the event of a brief break, the accused person and interviewing officer shall remain in the room and the recording device shall be brought to halt without retrieving the medium on which the interview is being recorded.

(4) When the interview recommences, the recording shall continue on the same recording medium and where the provisions of subrule (2) apply; the seal shall be broken in the presence of the suspect and his advocate, if any, and the interview shall continue on the same recording medium and in both cases, the time the interview resumes shall form part of the records of interview.

(5) After any break in an interview, the interviewing police officer shall, before resuming the interview, remind the suspect that he remains under caution and of his rights in accordance with rule 7 of these Rules.

Removing
recording
medium from
recorder

13. Where the recording medium is removed from the recorder in the course of an interview, it shall be retained and the procedures set out in rule 14 of these Rules shall apply.

Conclusion of
interview

14.-(1) At the conclusion of the interview-

- (a) the suspect shall be asked whether he wishes the record of the interview to be played to him and, if he so wishes, the record shall be played accordingly;
- (b) the suspect shall be accorded the opportunity to clarify anything he has said during the interview and to add anything he may wish to;
- (c) the suspect shall certify by his own words which shall be recorded as part of the interview that the statement is his and was free from inducement, threat, promise or torture at the time of taking the interview;
- (d) the time at which the interview is concluded shall be recorded and the recorder shall be switched off;
- (e) matters specified under this rule shall form part of the record of the interview; and
- (f) the certificate of completion of the interview, duly signed by the suspect, shall be filed in by the interviewing police officer in accordance with the provisions of section 57(3) of the Act.

(2) The master medium shall be sealed with a master medium label and treated as any other object which is subject to be used in court proceedings.

(3) The interviewing police officer, suspect and any independent witness if any, shall sign the label.

(4) Where the suspect or independent witness refuses to sign the label, an officer of at least the rank of inspector, or if he is not available, an officer of a commanding station not directly involved with the case, shall be called into the interview room and asked to sign the label.

(5) A copy of the interview shall be supplied to the

suspect or his legal representative immediately after the interview.

Sealing of
master medium

15. After completion of the interview under these Rules-

- (a) the master medium shall be sealed in the presence of the suspect; and
- (b) the interviewing police officer shall select an appropriate working copy.

Records of
interview

16. The interviewing police officer shall make a note in the investigation diary or note book of the fact that the interview has taken place and has been recorded on a recording medium, its time, duration and date and the identification number of the master medium.

PART III CUSTODY AND SECURITY OF THE MASTER MEDIUM

Custody of
master medium

17. The investigator of a case or any other authorized officer shall keep the master medium securely and its movements shall be accounted for in the same manner as any other object to be used as evidence in court proceedings.

Breaking seal of
master medium

18.-(1) A seal on a master medium for use in criminal proceedings shall not be broken unless it is necessary-

- (a) to establish whether the master medium has not been tampered with;
- (b) for proper and effective further investigation of the original offence, or an investigation of another offence;
- (c) to be used in a civil action on a matter arising out of allegation of crime having a bearing with the interview; or
- (d) to do so for any other good cause.

(2) Where it is necessary to break the seal of the master medium, an authorized police officer shall arrange for its seal to be broken in the presence of the suspect and

his advocate, if any after serving them with reasonable notice to that effect.

(3) Notwithstanding the provisions of subrule (2), where the suspect or his advocate refuses to attend or cannot be found after due diligence, the police officer shall break the seal and make a resealing in the presence of an independent witness who shall also sign the seal.

(4) After breaking the seal, the police officer shall reseal the master medium in the manner stated by these Rules.

(5) When a master medium seal is broken and resealed, a separate record shall be made on the procedure followed, including the date, time, place and persons present.

Dar es Salaam,
13th October, 2023

IBRAHIM HAMIS JUMA
Chief Justice