

ANTIGUA AND BARBUDA



**MAGISTRATE'S COURT (ELECTRONIC LITIGATION FILING AND
SERVICE PROCEDURE) RULES 2022**

STATUTORY INSTRUMENT

2022, No. 39

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AND SERVICE PROCEDURE) RULES 2022**

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In exercise of the powers conferred under section 250(3) of the Magistrate's Code of Procedure (Amendment) Act, 2022, No. 12 of 2022, the Chief Justice and two other Judges of the Eastern Caribbean Supreme Court makes the following Rules:

1. Citation

These Rules may be cited as the Magistrate's Court (Electronic Litigation Filing and Service Procedure) Rules, 2022.

2. Interpretation

In these Rules –

“Court” means the Magistrate's Court situated in the State of Antigua and Barbuda;

“Court's Registry” includes the registries at the Family Court Office and the St. John's Magistrate's Court situated in the State of Antigua and Barbuda;

“Court's website” means the website of the Eastern Caribbean Supreme Court;

“Electronic Litigation Portal” means the web-based application which has been developed and implemented to offer stakeholders in the judicial system of the Eastern Caribbean a single point of access for electronic litigation filing, management of documents and case files within the Court's Registry;

“electronic mail” means the transmission of messages via an electronic device or an internet communication network;

“electronic means” means a form of electronic communication of the contents of a document and includes the use of an online application, e-mail, online shared drives, CD ROMs, USB Drives, or Facsimile;

“family law enactment” means the –

- (a) Child Justice Act 2015;
- (b) Children (Care and Adoption) Act 2015;
- (c) Domestic Violence Act 2015;

- (a) Maintenance of and Access to Children Act; and
- (e) Status of Children Act.

“family matters” means a cause or matter or legal proceedings relating to maintenance of and access to children, care and protection of children, juveniles or children in conflict with the law, domestic violence and any other similar matter on which jurisdiction is conferred on the Magistracy to hear and determine;

“party” includes both the party to the matter and any legal practitioner on record for that party, unless any rule specifies or it is clear from the context that it relates to the client or to the legal practitioner only;

“payment facility” includes the means provided for the payment and acceptance of filing fees for documents filed on the Electronic Litigation Portal including cash through a cashier at the court office, an escrow account, credit card payment facility or other payment facility.

3. Application of Rules

- (1) These Rules apply to magisterial proceedings under any family law enactment.
- (2) These Rules apply to proceedings when made available in the Electronic Litigation Portal upon notice provided by the Chief Registrar as directed by the Chief Justice.
- (3) These Rules apply, without exception, to new proceedings filed on or after the date of the notice provided under sub-rule (2) and must be used to file a document to commence proceedings before the Court through the Electronic Litigation Portal.
- (4) In the case of existing cases, these Rules apply, without exception, if the case is made available in the Electronic Litigation Portal and electronic or other notification is given to the parties by the Court's Registry.

4. Operation of Electronic Litigation Portal

- (1) The Electronic Litigation Portal makes provision for the electronic litigation filing and service of court documents through the use of electronic means of communication.
- (2) A document must be submitted through the Electronic Litigation Portal to enable electronic litigation filing to the Court's Registry.
- (3) The Electronic Litigation Portal enables a party to file a document online to commence proceedings, or in ongoing proceedings, at any time during or outside normal Court office hours of business including weekends, and public holidays.
- (4) The Electronic Litigation Portal must contain a payment facility.

5. Registration

(1) A legal practitioner shall register on the Electronic Litigation Portal to have access to it.

(2) A valid electronic mail address must be provided to the Court's Registry at the time of registering under sub-rule (1).

(3) On approval of registration by the Court's Registry, a legal practitioner shall create an account comprising a username and password to be used when accessing the Electronic Litigation Portal.

(4) Subject to this rule, a legal practitioner shall comply with the procedure, the process for registration and instructions provided on the Court's website.

6. Payment of Electronic Litigation Filing Fees

The fees for the filing of any document in the Court may be paid by electronic means using the payment facility available on the Electronic Litigation Portal.

7. Electronic Submission of Document

For electronic litigation filing of a document using the Electronic Litigation Portal, a legal practitioner must –

- (a) access the Portal by –
 - (i) visiting the Court's website and clicking on the link to the Electronic Litigation Portal; and
 - (ii) logging into the account created under rule 5(3);
- (b) enter information for new proceedings or information on existing proceedings;
- (c) upload for electronic filing the document associated with the proceedings;
- (a) pay the fees using the payment facility available on the Electronic Litigation Portal under rule 4(4); and
- (e) submit the document.

8. Format of documents

(1) A document that is submitted for electronic litigation filing must be –

- (a) prepared electronically using a suitable text editor; and
- (b) converted into Portable Document Format (PDF) before uploading by –
 - (i) using an Adobe Acrobat software;
 - (ii) using other compatible PDF converter software; or
 - (iii) scanning hard copies of the document.

(2) Where a document is not a text document, it must be scanned and saved as a legible PDF document.

(3) A document submitted for electronic litigation filing must not –

- (a) exceed 100MB;
- (b) be encrypted; and
- (c) be password protected.

(4) There are no limits on the number of documents which can be submitted in the process of electronic litigation filing.

(5) Electronic images of exhibits must be uploaded and submitted as one file, together with an index of the exhibits where necessary and the corresponding principal document.

9. Electronic signature

(1) A document which is submitted for electronic litigation filing is not required to bear the electronic image of the handwritten or physical signature of the party that is filing.

(2) A party may insert a signature on a document for electronic litigation filing through the Electronic Litigation Portal.

(3) Where a party files a document using the Electronic Litigation Portal, scanned original documents that are signed with a handwritten or physical signature must be made available for inspection if required by another party to proceedings or by order of the Court.

10. Filing within and outside hours of business

(1) The hours of business for electronic litigation filing are 8:30 a.m. – 4:30 p.m. from Monday to Thursday and 8:30 a.m. to 3:00 p.m. on Friday, excluding weekends and public holidays.

(2) A document to which the Court's stamp and the date of filing information has been applied by the Electronic Litigation Portal is deemed to be filed on the filed date and time applied to the document by the Electronic Litigation Portal, except where a notice from the Court's Registry specifies otherwise.

(3) A document submitted through the Electronic Litigation Portal for filing outside the hours of business for electronic litigation filing or on a weekend or public holiday is deemed to have an effective filing date as being the date when the Court's Registry is next open.

(4) A period during which the service is not available through the facility hosting the Electronic Litigation Portal is excluded from the computation of time.

11. Fees

The fees payable in respect of a document for electronic litigation filing are –

- (a) the fees set out in Schedule 4 of the Family Proceedings Rules, Statutory Instrument No. 26 of 2022;
- (b) the fees are set out in the Second Schedule to the Magistrate's Code of Procedure Act; and
- (c) the fee specified in the Schedule to these Rules.

12. Processing by the Court's Registry

(1) The Court's Registry, through the Electronic Litigation Portal, shall accept a document submitted for electronic litigation filing.

(2) Where a document has been submitted using the Electronic Litigation Portal –

- (a) an automated notification is generated in the notifications section of the Electronic Litigation Portal and must be available to the party once the party is registered and has logged into the system; and
- (b) the notification under paragraph (a) must be sent by electronic mail to the electronic mail address of the party filing and other parties to the proceedings who are registered on the Electronic Litigation Portal.

(3) A filed document must be stamped and dated and by electronic means linked to the associated case by the Electronic Litigation Portal.

(4) The Court's stamp and date of filing information must be applied to an electronically filed document by the Electronic Litigation Portal, validating the authenticity of the document as being filed in the Court's Registry.

(5) On payment of the fees using the payment facility provided by the Electronic Litigation Portal, a stamp denoting payment must be applied to the document and the Electronic Litigation filing fees paid under rule 11 must be printed on the document.

13. Service of Document by Electronic Means

(1) For any document that is required to be served –

- (a) service may be effected personally; or
- (b) unless a statutory provision or rule of the Court provides otherwise, service may be effected by the Court Registry via the electronic mail address of the party to be served if such address is known by the filing party.

(2) At the same time, the authorization code generated by the Electronic Litigation Portal must be provided to the other parties in the manner to allow them to seek legal representation or to represent themselves in the matter.

(3) Where the authorization code generated by the Electronic Litigation Portal is not served on a party in accordance with sub-rule (2), service is deemed not to have been affected.

(4) Sub-rule (3) does not apply where the party is able to show proof of personal service of the document along with the authorization code.

(5) A party that receives a document served by electronic means and is unable to view or download the document shall immediately notify the serving party and the Court Registry shall take reasonable steps to ensure that the document can be viewed and downloaded.

(6) If the court office is notified in accordance with sub-rule (5) above, then the court office shall make a copy of the document available to the party.

14. Proof of Service by Electronic Means

(1) An electronic confirmation of delivery serves as proof of service of a document which has been served by electronic means, but if a dispute arises as to whether service occurred, it shall be served by a Magistrate.

(2) An electronic confirmation of delivery under sub-rule (1) includes –

- (a) electronic mail delivery or read receipt;
- (b) confirmation from an electronic internet service provider that the document was delivered to the recipient party's account by that service provider;
- (c) confirmation that the notification or an imbedded hyperlink in the notifications section of the Electronic Litigation Portal was delivered;
- (a) acknowledgment of receipt by the recipient party, counsel or paralegal; or
- (e) other means sufficient to satisfy the Court that the document came to the notice of the recipient party.

15. Service by electronic means by or on the Court

(1) The Court's Registry may, by electronic means, serve a notice, order, judgment or other document issued by the Court on a party to proceedings by delivering the document to the electronic mail address of that party.

(2) A party may serve a document by electronic means on the Court by filing the document through the Electronic Litigation Portal.

16. Use of Electronic Litigation Portal by Pro Se Litigant

(1) Pro se or self-represented litigants must use the "service bureau" arrangements at the Court's Registry to obtain assistance with filing their documents.

(2) All documents filed against a party or person who at the time of filing appears as self-represented within the Electronic Litigation Portal must be served manually by the filing party unless the self-represented party or person consents in writing to service on him or her by electronic means through the use of an electronic mail or other electronic address furnished for the purpose by that party or person.

(3) Any document required to be served by the court on a party or person who is self-represented must be served manually unless that party or person furnishes to the Court's Registry an electronic mail or other electronic address through which he or she may be served.

(4) A self-represented party or person may serve a document on the court electronically.

17. Practice Directions and Practice Guides

(1) The Chief Justice may issue Practice Directions and Practice Guides under these Rules to supplement the rules in relation to the practice and procedure to be followed.

(2) A Practice Direction and Practice Guide 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 and Practice Guide unless there is good reason for not doing so.

(4) If the provisions of a Practice Direction and Practice Guide conflict with these Rules, these Rules prevail.

APPENDIX

SCHEDULE

(Rule 11)

USER FEES FOR ELECTRONIC LITIGATION FILING

DESCRIPTION	FEE
Facilitation	\$2.00 per filing

Made this 20th day of October, 2022

Dame Janice M. Pereira, DBE,
Chief Justice

Mde. Justice Nicola Byer,
High Court Judge

Mde. Justice Marissa Robertson,
High Court Judge.