

# **EASTERN CARIBBEAN SUPREME COURT**

## **PRACTICE DIRECTION**

**No. 1 of 2020**

### **COVID-19 EMERGENCY MEASURES**

This practice direction is made pursuant to Rule 4.2(2) of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000,<sup>1</sup> and is applicable to all the Member States and Territories in the jurisdiction of the Eastern Caribbean Supreme Court.

#### **1. Introduction**

1.1 This practice direction supplements the Rules in that it regulates the practice and procedure of the Court which has been affected by the situation created with the impact of the COVID-19 (Coronavirus) on all of the Member States and Territories of the Court.

1.2 This Practice Direction –

(a) is intended to facilitate the continuation of court proceedings in Saint Lucia through the filing, service and disposition, of matters which are not presently available on the E-Litigation Portal of the Court; and

(b) applies to all Civil (including Commercial), Criminal<sup>2</sup>, and Family proceedings before the Supreme Court in the Member States and Territories.

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<sup>1</sup> In Saint Lucia this Practice Direction is also made pursuant to Rule 2.1 (2) of the Criminal Procedure Rules in Saint Lucia.

<sup>2</sup> This Practice Direction is applicable to Criminal proceedings in Saint Lucia. Criminal proceedings in all other Member States and Territories to which this Practice Direction applies will be guided by the emergency measures protocols put in place in each Member State and Territory for dealing with criminal matters during the emergency period.

- 1.3 This Practice Direction will remain in force until the Chief Justice so directs.
- 1.4 Insofar as the Civil Procedure Rules and any other Rules of Court are inconsistent with this Practice Direction, they are modified by it.

## **2. Context**

In this Practice Direction:

- i. ECSC means Eastern Caribbean Supreme Court.
- ii. ELP means the ECSC E-Litigation Portal
- iii. Member States mean Antigua and Barbuda, Dominica, Grenada, St. Kitts & Nevis, Saint Lucia and St Vincent & the Grenadines
- iv. Territories mean Anguilla, Montserrat and the Virgin Islands

## **3. Filing in all Matters not yet Available on the E-Litigation Portal**

- 3.1 Prescribed fees that are due on a document filed by e-mail shall be paid at the time and in the manner specified by this Practice Direction.
- 3.2 It is the responsibility of every Legal Practitioner (or their firm) to provide an undertaking, as set out in Form 1, to pay all filing fees which are due as a result of the documents which are filed in accordance with this Practice Direction as soon as practicable after the filing has been submitted.
- 3.3 Only filings in respect of which law firms have provided this undertaking under this Practice Direction shall be accepted for processing.
- 3.4 Every document which the Rules or the Commercial Court Practice Directions permit or require to be filed in the Registry of the High Court in the Territory of the Virgin Islands shall be filed only electronically:
- (a) by sending that document in PDF format to the appropriate e-mail address for the applicable Registry of the Supreme Court as listed in Schedule 1; and

- (b) by filing a completed E-Filing Application Header form.
  - (c) Prior to any hearing, draft orders required to accompany all applications shall be filed electronically in Word format for the use of the Court.
  
- 3.4 Where a document is filed by e-mail, the party who has filed the document must also subsequently deposit one (1) hard copy of the document at the High Court Registry in their respective Member State or Territory, by no later than the next business day when the Court Office is open for Business.
  
- 3.5 When a document is filed the subject line of the e-mail must contain the following information –
  - (a) the title of the case;
  - (b) the case number (if available) using a four-digit file number after the year *e.g. DOMHCV2017/0123*;
  - (c) the date and time of any hearing to which the e-mail relates; and
  - (d) the type of matter/application being filed.
  
- 3.6 The e-mail message must contain the sender's–
  - (a) identity;
  - (b) telephone number; and
  - (c) e-mail address,and should be in plain text or rich text format rather than HTML.
  
- 3.7 Correspondence and documents to be filed must not be sent as text in the body of the e-mail, but rather as attachments to the e-mail in the format stipulated by the Court.

3.8 No single document filed under this paragraph should exceed 5MB. Every such document should comply with the Rules and Practice Directions and must:

(a) contain a header with the title of the court:

**IN THE EASTERN CARIBBEAN SUPREME COURT**

**IN THE HIGH COURT OF JUSTICE**

**[Country]**

(b) contain the full title of the proceedings;

(c) contain a header with the title of the document;

(d) reflect the name, business address, e-mail address, reference (if any), telephone number and fax number (if any) of the filer;

(e) be dated;

(f) be signed by the person filing it (if not an affidavit) and should not be in the name of the firm;

(g) be signed by the person who deposes (if an affidavit);

(h) state the name of the party on whose behalf it is filed;

(i) state the full name of the signatory legibly below the signature;

(j) state the address of the court; and

(k) be properly indexed and paginated (if it is a record or bundle of documents being filed).

#### **4. Service of Documents**

4.1 Notwithstanding the provisions of CPR 3.11(1), every document which is required by CPR 5.6 to be served upon a Legal Practitioner may be served upon that Legal Practitioner by e-mail.

- 4.2 A party who serves a document by e-mail shall copy the court on the e-mail effecting service, using the appropriate e-mail address for the court office as specified in Schedule 1.
- 4.3 The E-mail address at which service may be effected under paragraph 4.1 is the e-mail address:
- (a) notified in writing by that Legal Practitioner for this purpose; or
  - (b) if an e-mail address has not been notified in writing by that Legal Practitioner, service may be validly effected upon that Legal Practitioner by sending that document to:
    - (i) the e-mail address used on the letterhead of that Legal Practitioner or previously used by that Legal Practitioner;
    - (ii) the e-mail address given on the website of that Legal Practitioner; or
    - (iii) the e-mail address of the general mailbox of the firm to which that Legal Practitioner belongs.
- 4.4 Notwithstanding the provisions of CPR 5.7 and CPR 6.2, a claim form or other document may be served on a limited company by sending it by e-mail to the registered office or Registered Agent of that limited company.
- 4.5 The e-mail address under paragraph 3.4 at which service may be effected is the e-mail address:
- (a) notified in writing by that limited company or its Registered Agent for the purposes of paragraph 3.4; or
  - (b) if an e-mail address has not been notified in writing by that limited company or its Registered Agent, service may be validly effected upon that limited company by sending the claim form or other document to:

- (i) the e-mail address used on the letterhead of that limited company or its Registered Agent or previously used by that limited company or its Registered Agent;
- (ii) the e-mail address given on the website of that limited company or its Registered Agent; or
- (iii) the e-mail address of the general mailbox of that limited company or its Registered Agent.

4.6 Proof of service of a filed document shall be by way of an affidavit of service, which shall exhibit the following:

- (a) copy of the e-mail under cover of which the document in question was served; and
- (b) a copy of any message tracking, relay or delivery confirmation, including the address to which the e-mail was sent, the date and time the e-mail was sent, and if applicable, a copy of any reply or bounce-back notice of non-delivery or delivery failure.

## **5. Hearing of Matters**

- 5.1 All hearings will be heard on the date and in the manner specified by the judge and will utilize video or teleconference where the judge deems it appropriate.
- 5.2 All in-person appearances are discouraged. , However, in determining whether a hearing should be conducted in person, the judge must have regard to the interest of public health and the ability to maintain appropriate social distancing attendance in courtrooms.
- 5.3 Where a judge deems it fit for a hearing to be conducted in person, attendance should be limited to attorneys, parties, and necessary witnesses only when deemed to be absolutely necessary.

- 5.4 Where a hearing proceeds by video conference:
- (a) subject to any technical constraints, Legal Practitioners may attend the hearing from different locations;
  - (b) it is the responsibility of a Legal Practitioner who is not physically present in the Member State or Territory at the time of the hearing to identify an appropriate video conferencing facility and to connect to the facility of the Court;
  - (c) at the commencement of that hearing, a Legal Practitioner representing each party shall identify every person present with him or her; and
  - (d) no party or his/ her Legal Practitioner is entitled to be physically present before the Court unless the Court gives permission.
- 5.5 The first hearing of a Fixed Date Claim Form shall not be treated as a hearing at which the evidence of any witness is to be given unless the Court has given a direction to that effect.

## **6. Bundles for Hearings**

- 6.1 The party responsible for preparing the bundles for any hearing under the Rules shall, within the periods prescribed:
- (a) deliver one (1) hard copy of the bundle to the Registrar of the High Court as soon as the Court Office is open to receive documents; and
  - (b) deliver a bookmarked electronic copy of that bundle by e-mail to every other party.
- 6.2 The Court reserves the right to request additional hard copies of any bundles from the party who has filed by e-mail.
- 6.3 The bundle should be clearly labelled as a hearing bundle and must bear the date of the hearing.

6.4 Bundles must not contain more than 200 pages per volume and must be properly paginated accompanied by an Index cover describing the documents contained in the bundle and referencing the page number within the bundle of the document.

**7. Applications for admission as a Legal Practitioner ( For Member States without the ELP)**

7.1 An application for admission as a Legal Practitioner in a matter shall be filed by e-mail in accordance with this Practice Direction.

7.2 The hearing of an application for the admission as a Legal Practitioner shall be by personal appearance using video conference facilities, except where the Court otherwise directs.

7.3 Where the Court is satisfied that it is appropriate to admit such a person as a Legal Practitioner:

(a) the Registrar shall enter the name of that person onto the Court Roll;

(b) the Court may accept such undertakings as appears to it appropriate:

(i) as to the production of the originals, or certified copies of the originals of the documents produced at that hearing;

(ii) as to the signing of the Roll (or a facsimile of it); and

(iii) as to the receipt of payments;

(c) payment of any fees prescribed shall be paid at the relevant High Court Registry, at least 2 clear days prior to the application for admission once the Court Office is open to receive such payments.



## **8. STATUS HEARING UPDATE FORMS**

- 8.1 All parties are to complete the status hearing update form (FORM 2 ) attached to this Practice Direction.
- 8.2 The status hearing update form must be returned to the Registrar via e-mail to the address specified in Schedule 1 no less than 7 days prior to the date of hearing.
- 8.3 Parties are asked to submit joint or agreed forms as much as possible.
- 8.4 Where there is no agreement, parties are asked to submit separate forms and state that there is no agreement.

## **9. COURT FEES**

- 9.1 The Eastern Caribbean Supreme Court (Court Proceedings Fees) Rules and the Commercial Claims Fees Order 2011 shall continue to apply.
- 9.2 An administrative fee may be applied for the following services in accordance with any such Notice published by the Registrar:
  - (a) e-filing
  - (b) printing and copies
  - (c) transcripts/audio file retrieval
  - (d) video-link
  - (e) teleconference
- 9.3 The administrative fee in paragraph 8.2 shall be due to be paid by the party filing or requesting as part of the undertaking provided in Section 3.2.

## **10. Recording of Court Proceedings**

- 10.1 At any hearing of the Court, the proceedings will be recorded by the court by such recording equipment as approved by the Chief Justice.

10.2 No party or member of the public may use unofficial recording equipment at any hearing or in any court or judge's chambers without the prior authorization of the presiding judge.

10.3 The court recording, whether in written, audio or other digital form, shall be the official transcript of the proceedings.

## **11. Preparation of Transcripts**

11.1 A party may request from the Registrar by using Form 3 provided in this Practice direction, a transcript or transcripts of the recording of any hearing in which they are involved.

11.2 Further to a party's request, a transcript will be provided upon payment of the charges authorized by any scheme in force in any Member State or Territory for the making of the recording or the transcript.

11.3 If a person who is not a party to the proceedings requires a transcript, or if the hearing or any part of it was held in private under CPR rule 2.7, a transcript may only be provided if the Court so orders.

## **12. Provision of Transcripts**

12.1 A party or a person approved under paragraph 11.3 may request a copy of the transcript of proceedings to be provided either by electronic means or hard copy.

12.2 The fee payable will be in accordance with the scheme in force as aforesaid for the making of transcripts and will be based on the type of transcript requested.

12.3 Where a transcript is requested in the form of an audio file where this is available, the fee payable shall be \$100.00 per day or part thereof of the recorded proceedings.

**13. Special Directions**

13.1 In the event that the court office in any particular Member State/Territory gives Notice of closure of the Court Office or where the Government of any particular State or Territory issues a Notice of Closure or lock down of all services within the State or Territory, time under the provisions of the Civil Procedure Rules 2000 and the Criminal Procedure Rules (where applicable) for the filing of any documents shall cease to run for the period stipulated in such Notice.

13.2 In addition, the Registrar may, on the direction of the Chief Justice, give special instructions by way of Notices, for the filing of documents by electronic means to meet the requirements of particular cases or by way of experiment.

**14. Effective Date**

This Practice Direction shall come into effect in the Member States and Territories on the 23<sup>rd</sup> day of March, 2020.

Dated the 22<sup>nd</sup> day of March, 2020.

**Dame Janice M. Pereira, DBE  
Chief Justice**

## **Schedule 1**

1. BVI High Court
2. Anguilla High Court
3. St. Kitts and Nevis High Court
4. Antigua and Barbuda High Court
5. Montserrat High Court
6. Commonwealth of Dominica High Court
7. Saint Lucia High Court
8. St. Vincent and the Grenadines High Court
9. Grenada High Court

Where a document is being filed for a matter before the Court of Appeal, the e-mail with the .pdf document should also be copied to the e-mail address:

[registry@eccourts.org](mailto:registry@eccourts.org)

**Form 1**

[On Letterhead of Law Firm or Chambers]

The Registrar

High Court of Justice

[Member State / Territory]

Dear

In order to facilitate the filing of documents as provided for in Practice Direction, PD ?? of 2020 - COVID-19 EMERGENCY MEASURES, I \_\_\_\_\_ representing the law firm of \_\_\_\_\_ in the Member State [or Territory] of \_\_\_\_\_ hereby undertake to pay to the Government of \_\_\_\_\_ any filing fees which are due to be paid by way of stamps due for the filings which are made while this Practice Direction remains in effect.

\_\_\_\_\_

[Print Name of Legal Practitioner]

\_\_\_\_\_

Signature of Legal Practitioner

\_\_\_\_\_

[Print Name of Witness]

\_\_\_\_\_

Signature of Witness

**FORM 2**

**IN THE EASTERN CARIBBEAN SUPREME COURT**

**IN THE HIGH COURT OF JUSTICE**

**CLAIM NO:**

**BETWEEN:**

[X]

and

[Y]

**STATUS UPDATE [ON BEHALF OF [PARTY]]**

1. Current listing date:
2. Nature of application (or listed as a trial):
3. Time estimate:
4. Any reasons why a video or telephone hearing would not be appropriate, and if not, what form of hearing is required:
5. Is it essential that this hearing date is maintained:
6. If not, what are the requested dates for an alternative listing?
7. Reasons for prioritising this hearing in a re-constituted Court list:
8. Which, if any, of the above responses are agreed between the parties:
9. Any other comments:

Dated

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[Name of Legal Practitioner]

[Name of Firm]

Legal Practitioners for the [Claimant/Defendant/ Applicant/Respondent]

Dated

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[Name of Legal Practitioner]

[Name of Firm]

Legal Practitioners for the [Claimant/Defendant/ Applicant/Respondent]

**FORM 3**



**REQUEST FOR TRANSCRIPT OF PROCEEDINGS**

Date:

\_\_\_\_\_

Name of Requesting Party:

Name of Transcriptionist:

Proceeding (trial, appeal etc.)

Names of Legal Practitioners

Case Name (in full):

Location where matter was heard  
(including court room):



Judge (s):

Appearances (if different to Legal Practitioners):

Date of Trial/Hearing:

Turnaround time for transcript:

Comments