

VIRGIN ISLANDS
MAGISTRATE’S CODE OF PROCEDURE (ELECTRONIC
LITIGATION FILING AND SERVICE PROCEDURE) RULES, 2022
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VIRGIN ISLANDS
STATUTORY INSTRUMENT 2022 NO. 94
MAGISTRATE’S CODE OF PROCEDURE ACT
(REVISED LAWS OF THE VIRGIN ISLANDS 2013)

**MAGISTRATE’S CODE OF PROCEDURE (ELECTRONIC
LITIGATION FILING AND SERVICE PROCEDURE) RULES, 2022**

[Gazetted 9th November, 2022]

The Cabinet, in exercise of the powers conferred under section 242 of the Magistrate’s Code of Procedure Act, Revised Laws of the Virgin Islands 2013, makes these Rules.

Citation

1. These Rules may be cited as the Magistrate’s Code of Procedure (Electronic Litigation Filing and Service Procedure) Rules, 2022.

Interpretation

2. In these Rules

“Court” means a Magistrate’s Court;

“Court’s Registry” means the registry of the Magistrate’s Court;

“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;

“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.

Application of Rules

3. (1) These Rules apply to
 - (a) Magisterial civil proceedings; and
 - (b) Magisterial criminal proceedings.

(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 shall 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.

Operation of Electronic Litigation Portal

4. (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 shall 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 shall contain a payment facility.

Registration

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

(2) A legal practitioner shall provide a valid electronic mail address at the time of registering pursuant to 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.

Payment of Electronic Litigation Filing Fees

6. 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.

Electronic Submission of Document

7. For electronic litigation filing of a document using the Electronic Litigation Portal, a legal practitioner shall

- (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;
- (d) pay the fees using the payment facility available on the Electronic Litigation Portal under rule 4(4); and
- (e) submit the document.

Format of documents

8. (1) A document that is submitted for electronic litigation filing shall 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 shall be scanned and saved as a legible PDF document.
- (3) A document submitted for electronic litigation filing shall 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 shall be uploaded and submitted as one file, together with an index of the exhibits where necessary and the corresponding principal document.

Electronic signature

9. (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 shall be made available for inspection if required by another party to the proceedings or by order of the Court.

Filing within and outside hours of business

10. (1) The hours of business for electronic litigation filing are from 9:00 a.m. – 4:30 p.m. between Monday and 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.

Fees

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

- (a) the fees set out in Schedule 2 of the Magistrate's Code of Procedure Act; and
- (b) the fee specified in the Schedule to these Rules.

Processing by the Court's Registry

12. (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 shall be available to the party once the party is registered and has logged into the system; and
- (b) the notification under paragraph (a) shall 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 shall 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 shall 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 shall be applied to the document and the Electronic Litigation filing fees paid under rule 11 shall be printed on the document.

Service of Document by Electronic Means

13. (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 shall be provided to the other parties in the matter 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 effected.

(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 (5) above, then the court office shall make a copy of the document available to the party.

Proof of Service by Electronic Means

14. (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 resolved 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;

- (d) acknowledgement 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.

Service by electronic means by or on the Court

15. (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.

Use of Electronic Litigation Portal by Pro Se Litigant

16. (1) Pro se or self-represented litigants shall 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 shall 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 shall be served manually unless a party 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.

Practice Directions and Practice Guides

17. (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 shall be

- (a) published in the *Gazette*; and
- (b) displayed and made available at each Court Office.

(3) A party shall 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.

SCHEDULE

[Rule 11]

USER FEES FOR ELECTRONIC LITIGATION FILING

DESCRIPTION	FEE
Facilitation	\$2.00 per filing

Made by the Cabinet this 9th day of November, 2022.

(Sgd.) Sandra Ward,
Cabinet Secretary.