ANTIGUA AND BARBUDA

THE MAINTENANCE OF AND ACCESS TO CHILDREN REGULATIONS, 2009

STATUTORY INSTRUMENT

2009, No. 22

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THE MAINTENANCE OF AND ACCESS TO CHILDREN REGULATIONS, 2009

ARRANGEMENT

Regulations

1. Short title.
2. Interpretation
3. Applications, notices, summonses and warrants in writing
4. Forms
5. Contravention of section 3(2)
6. Orders
7. Application forms
8. Statements
9. Notices
10. Agreements
11. Warrants
12. Summons
13. Instructions to proceed
14. Collections Officers
15. Maintenance Collection Account
16. Reports and Audits
17. Interest
18. Transition
19. Mediators

SCHEDULE

ANTIGUA AND BARBUDA

THE MAINTENANCE OF AND ACCESS TO CHILDREN REGULATIONS, 2009

2009 No. 22.

THE MAINTENANCE OF AND ACCESS TO CHILDREN REGULATIONS made in exercise of the powers contained in section 28 of the Maintenance of and Access to Children Act, 2008.

1. Short title

These Regulations may be cited as the Maintenance of and Access to Children Regulations, 2009 and come into operation on the date that the Minister may, by Notice published in the *Gazette*, appoint.

2. Interpretation

In these Regulations—

"Act" means the Maintenance of and Access to Children Act, 2008;

"court" means the Magistrate's Court;

"Schedule" means the Schedule to these Regulations; and

"Social Worker" means a person working with the Government Ministry responsible for the care, protection and welfare of children in Antigua and Barbuda and whose responsibilities include investigating reports of child neglect, abuse and exploitation.

3. Applications, notices, summonses and warrants in writing

Applications made to, Notices filed with, and summonses or warrants issued from, the court under the Act shall be made in writing in the respective form prescribed in the Schedule.

4. Forms

The forms in the Schedule, or forms necessary to give effect to the purposes of the Act, may be varied as the circumstances may require.

5. Contravention of section 3(2)

(1) If a person has reasonable cause to believe that subsection 3(2) of the Act has been contravened, that person shall cause a report to be made at the nearest police station and to the government department responsible for the care, protection and welfare of children.

(2) Where a report is made pursuant to regulation 5(1) and an investigation is carried out either by a Police Officer or a Social Worker and it is determined that a child is being neglected, abused or exploited, a Social Worker may, in the presence of a Police Officer, remove the child from the custody of a parent or a person responsible for the child and temporarily place that child in suitable and safe care that the Social Worker considers appropriate in the circumstances until—

(a) it is safe for the child to be returned—

(i) to his parent; or

(ii) the person responsible for him; or

(b) a safe and permanent place of abode can be established for the child.

(3) A Police Officer or Social Worker receiving a report pursuant to regulation 5(1) or who conducts an investigation pursuant to regulation 5(2) shall prepare a report based on the findings of their investigation and forward a copy of that report to the Director of Public Prosecutions.

(4) Custody of a child removed under regulation 5(2) shall not be restored to a person convicted under section 5 of the Juvenile Act, unless that person makes an application to the court for a determination as to whether or not that person is a fit and proper person to have custody of a child.

(5) Where a child is removed from the custody of a person, alternative custody arrangements shall be determined by a Social Worker who shall make an application to the court for the approval of the alternative custody arrangements.

(6) An application made under regulation 5(5) shall be accompanied by a report made by the Social Worker setting out the following particulars—

(a) the reasons why and the circumstances under which the child was removed from the custody of a person;

(b) if or how the child has been affected by the events which led up to the child's removal from the custody of the person; and

(c) what alternative arrangements have been made for the child removed from the custody of the person.

(7) Where the court hears an application pursuant to regulation 5(4) the court shall give due consideration to the report accompanying the application and to all the circumstances of the case before making an Order.

6. Orders

(1) The court shall not make an Order under subsection 10(2)*(e)* of the Act if at the time the Order is to be made the livelihood of the respondent is dependent upon the licence, permit or benefit which is the subject of the application.

(2) A copy of an Order made under subsection 10(2)*(e)* of the Act shall be served on the grantor of the license or permit or benefit.

7. Application forms

(1) An application to the court under sections 6 of the Act shall be made in the form numbered 1 in the Schedule.

(2) An application to the court under regulation 5(4) shall be made in the form numbered 2 in the Schedule.

(3) An application to the court under regulation 5(5) shall be made in the form numbered 3 in the Schedule.

(4) An application for committal under section 14(1) and 15(1) of the Act shall be made in the form numbered 4 in the Schedule.

(5) An application for an attachment Order under section 19 of the Act shall be made in the form numbered 5 in the Schedule.

(6) An application to the court under regulation 14(2) shall be made in the form numbered 6 in the Schedule.

8. Statements

A statement filed in support of an application shall be in the form numbered 7 in the Schedule.

9. Notices

A notice filed with the court under section 11(2) of the Act or given to the court under section 18(3) shall be made in the form numbered 8 and 9 respectively in the Schedule.

10. Agreements

An agreement made under section 11(3) which is required to be filed under section 11(4) of the Act shall be made in the form numbered 10 in the Schedule.

11. Warrants

A warrant issued under sections 14(2) or 22(3) of the Act shall be made in the form numbered 11 in the Schedule.

12. Summons

A summons issued by the court under sections 22(1) or 22(2) of the Act shall be made in the form numbered 12 in the Schedule.

13. Instructions to proceed

A request made under regulation 14(2) shall be made in the form numbered 13 in the Schedule.

14. Collections Officers

(1) The Minister shall appoint three Collections Officers for the purposes of this Act who shall—

(a) together with the Magistrates open the Maintenance Collection Account but shall be solely responsible for the administration of the Account;

(b) be joint signatories with the Magistrates to the Maintenance Collection Account;

(c) be responsible for the collection and payment of monies from the Maintenance Collection Account;

(d) provide statements of account relating to all activity with regard to the Maintenance Collection Account to the Minister, the Minister of Finance and the Auditor General every six months from the date on which the Maintenance Collection Account was opened;

(e) ensure that monthly accounts of the payments into and proceeds issued from the Maintenance Collection Account are maintained;

(f) have responsibility for receiving and making payments from the funds in the Maintenance Collection Account to or for the benefit of the beneficiaries of Maintenance Orders; and

(g) monitor the payment of maintenance funds and document any default in payments.

(2) Upon receiving instructions in writing in the prescribed form, from a person entitled to receive payment under a Maintenance Order, a Collections Officer may commence proceedings in his own name as a Collections Officer for the recovery of payment under a Maintenance Order, against a person in default of that Order.

(3) Where a Collections Officer commences proceedings under regulation 14(2) all costs properly incurred in the proceedings shall be paid by the person who instructed the Collections Officer unless the court orders otherwise.

(4) An application made under regulation 14(2) shall be made in the prescribed form and a copy of the instructions given to the Collections Officer shall be attached to the application.

15. Maintenance Collection Account

(1) The Minister shall publish a Notice stating the date on which the Maintenance Collection Account is to be opened.

(2) The Minister shall specify by Order—

(a) the names of the Collections Officers and Magistrates who shall be responsible for the opening of the Maintenance Collection Account;

(b) the purpose for which any interest earned on the Maintenance Collection Account is to be used and for what period it is to be so used; and

(c) the Magistrate who shall be responsible for making Reports under regulation 16.

(3) Each Magistrate and Collections Officer shall be joint signatories to the Maintenance Collection Account.

(4) Payments shall be made from the Maintenance Collection Account by any financial instrument recognised in Antigua and Barbuda as legal tender except cash but including cheques, money orders and bank drafts, which shall at all times be signed by

(a) two Magistrates and a Collections Officer; or

(b) a Magistrate and two Collections Officers.

16. Reports and Audits

(1) The Magistrate specified by the Minister under regulation 15(2)*(c)* shall cause a report to be prepared and submitted to the Minister and the Accountant General detailing all transactions related to the Maintenance Collection Account three months after the opening of the account.

(2) After the report under regulation 16(1) has been prepared and submitted to the Minister and the Accountant General, the Maintenance Collection Account shall be audited before June 30th and December, 31st of each year after the Account was opened.

(3) After the Magistrate has submitted the report under regulation 16(1), the preparation and submission of reports and statements shall be the responsibility of the Collections Officers.

(4) Pursuant to the audit of the Maintenance Collection Account a report shall be prepared from the findings of the audit and submitted to the Minister and the Accountant General by June 30th and December, 31st of each year after the Maintenance Collection Account was opened.

17. Interest

(1) Interest earned from monies in the Maintenance Collection Account may, upon the direction of the Minister in writing, be used—

(a) to assist with the expenses incurred with the operation of any children's home; or

(b) to assist any registered charity set up for the benefit of children.

(2) The Minister shall, within six months of his direction pursuant to regulation 17(1), publish a Notice, detailing how the interest earned by monies in the Maintenance Collection Account was utilised.

(3) If interest earned by monies in the Maintenance Collection Account are not utilised in accordance with regulation 17(1) by December 31st of any year, that interest earned shall be paid into the Consolidated Fund in the manner directed by the Auditor General and the Minister shall, within 14 days after the monies are paid into the Consolidated Fund, publish a Notice to this effect.

18. Transition

On a date to be specified by the Minister by Order—

(a) all maintenance funds held in the Consolidated Fund or the Magistrates Fund prior to the commencement of this Act shall be deposited into the Maintenance Collection Account; and

(b) all records or statements of account relating to maintenance funds received by the Magistrates Court prior to the commencement of this Act shall be transferred to the office of the Collections Officers.

19. Mediators

(1) The Minister shall appoint no less than five mediators by instrument in writing for the purposes of the Act.

(2) The Minister shall not appoint a person under regulation 19(1) who does not satisfy the requirements for appointment as a Mediator in the High Court.

SCHEDULE

FORM 1

[Section 6]

Application

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... *Applicant*

and

..... *Respondent*

The Applicant of.....[1] applies for an Order—

If the application is for maintenance, insert the following paragraph—

–that the Respondent pay the sum of .....[2] for the Maintenance of .....[3] who is .....[4] years old and who resides at .....[5] with the Applicant/or..... at.....[6]

---

[1] *Insert address of applicant*

[2] *Insert the amount being requested for maintenance*

[3] *Insert name of child who is the subject of the application*

[4] *Insert age of child*

[5] *Insert where child resides*

[6] *If child does not reside with the applicant, state the alternate address where the child resides*

If the application is for access, insert the following paragraph—

–that the Applicant be granted access to .....[7]

who is .....[8] years old and who resides at .....[9]

with.....[10] who is the .....[11] the child.

If the application is for the suspension, revival, variation or discharge of an order, insert the following paragraph—

–that the Order made on the ..... day of .....20 [12] that

.....

.....

[13]be .....[14]

The Applicant is the .....[15] of the abovementioned child and the Respondent is the .....[16] of the child.

The following documents are attached in support of this application[17]—

☐ Birth Certificate.

☐ Statement of expenses with supporting documents.

---

[7] *Insert the name of the child.*

[8] *Insert the age of the child.*

[9] *Insert the address where the child currently resides.*

[10] *Insert the name of the person with whom the child resides.*

[11] *Insert the nature of the relationship the child and the person with whom the child resides e.g. Mother, Aunt, Uncle etc.*

[12] *Insert date on which Order was made.*

[13] *Insert terms of Order.*

[14] *Insert whether the Order is to be suspended, revived, discharged or varied and state the reasons for the suspension, revival or discharge or the terms in which the Order is to be varied.*

[15] *State relationship with the child for example: mother, father, aunt, uncle etc.*

[16] *State relationship with the child for example: mother, father, aunt, uncle etc.*

[17] *Select box to indicate which documents applicable.*

☐ Statement of income and expenses with supporting documents.

☐ Marriage Certificate.

☐ Custody Order.

☐ Guardianship Agreement.

☐ .....[18]

.....

(Signature of Applicant)

.....

(Date)

---

[18] *Any other document not listed.*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

APPLICATION FOR MAINTENANCE

Filed the ..... day of 200

FORM 2

[Regulation 5(4)]

Application for Custody

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... Applicant

IN THE MATTER OF THE CUSTODY OF A CHILD

The Applicant of .....[1] applies for an Order that he is a fit and proper person to have custody of .....,[2] a child who currently resides at .....[3] in the custody of .....[4] who is the said child's .....[5] The Applicant, who is the .....[6] of the child proposes the following custody arrangements:

.....

.....[7]

.....

(Signature of Applicant)

.....

(Date)

---

[1] *Insert address of applicant .*

[2] *Insert name of child.*

[3] *Insert where child resides.*

[4] *Insert the person who is currently the custodian of the child.*

[5] *Insert the relationship of the child's custodian to the child.*

[6] *Insert the relationship of the applicant to the child.*

[7] *State the proposed custody arrangements.*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

APPLICATION FOR CUSTODY

Filed the ..... day of 200

FORM 3

[Regulation 5(5)]

Application for Approval of Custody Arrangements

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

.....

Applicant

IN THE MATTER OF THE CUSTODY OF A CHILD

The Applicant, a .....[1] of .....[2] applies for an Order that the following custody arrangements, for .....[3] a child who currently resides at .....,[4] are approved by the Court:

.....

.....

.....[5]

.....

(Signature of Applicant)

.....

(Date)

---

[1] *State occupation and place of work.*

[2] *Insert address of applicant.*

[3] *Insert name of child.*

[4] *Insert where child resides.*

[5] *Insert the proposed custody arrangements for the child.*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

APPLICATION FOR APPROVAL

OF CUSTODY ARRANGEMENTS

Filed the ..... day of 200

FORM 4

[Section 14(1)&15(1)]

Application for Committal

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... *Applicant*

and

..... *Respondent*

The Applicant of.....[1] applies for an Order that the Respondent be committed to her Majesty's Prison for contravening the Order of the Honourable Court dated .....[2] which stated:

.....

.....

.....[3]

The Respondent was[4] .....

and is aware of same. A copy of the Affidavit of Service/Order signed by the Respondent as having been received by him is arttached.[5]

The basis upon which this application is made is as follows:

---

[1] *Insert applicant's address*

[2] *Insert date*

[3] *Repeat terms of Court Order*

[4] *Indicate whether the Respondent was present when the Order was made or if he was served with a copy of the Order and the date on which he was served with same.*

[5] *Delete if not applicable in cases where the Respondent was present when the Order was made.*

.....

.....

.....

.....

.....[6]

.....

(Signature of Applicant)

.....

(Date)

[6] *State the basis upon which the application is made i.e. the Respondent has failed to satisfy the terms of the maintenance order and how, if payments were never made or if payments were made, state how many payments were made and what payments to date remain outstanding or if the access order was breached state the terms of the breach etc.*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

APPLICATION FOR COMMITTAL

Filed the ..... day of 200

FORM 5

[Section 14(1)&15(1)]

Application for Attachment Order

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... *Applicant*

and

..... *Respondent*

The Applicant of.....[1] applies for an Order the sum of.....[2] be deducted from the.....[3] of the Respondent and paid.....[4] by.....[5] who is the.....[6] of the Respondent.

The Respondent has failed to satisfy the Order of this Honourable Court dated .....[7] by vertue of which the Respondent was required to pay the Applicant the sum of.....[8] for the benefit of

The basis upon which this application is made is as follows:

---

[1] *Insert address of applicnt*

[2] *State sum to be deducted*

[3] *State where sums to be deducted from i.e. salary, pension etc.*

[4] *State where monies to be paid i.e. into a bank account or to the Applicant and by what means whether in cash, by cheque or by bankers draft etc.*

[5] *State who is to pay the sums owed by the Respondent*

[6] *State the nature of the relationship between the person being ordered to pay the sums owed and the Respondent i.e. the Respondent's employer etc.*

[7] *State date that the Order was made.*

[8] *State the sum ordered to be paid and the method of payment*

.....[9] who is the .....[10] of the Respondent.

.....

(Signature of Applicant)

.....

(Date)

[9] *State the name of the child who is the beneficiary of the court Order*

[10] *State the relationship of the child to the Respondent*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

APPLICATION FOR

ATTACHMENT ORDER

Filed the ..... day of 200

FORM 6

[Section 14(2]

Application against person in default of a Maintenance Order

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... *Applicant*

and

..... *Respondent*

The Applicant of.....[1] a Collections Officer, applies for an Order that—

.....

.....

.....

.....[2]

A copy of my instructions to commence these proceedings is attached.

.....

(Signature of Applicant)

.....

(Date)

---

[1] *Insert address*

[2] *State the particulars by which the sums due and payable are to be recovered from the Respondent, i.e. whether by payment forthwith, garnishee order etc.*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

APPLICATION AGAINST PERSON IN

DEFAULT OF A MAINTENANCE ORDER

Filed the ..... day of 200

FORM 7

[Section 19]

Statement

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... *Applicant*

and

..... *Respondent*

The Applicant/Respondent[1] of .....[2] pursuant to .....[3], to my best knowledge, information and belief, make the following statement—

My income from .....[4] where I am employed as a ..... is .....EC dollars. I am employed on a .....[5] basis. [6]This is my only source of income. My other sources of income are as follows—

I am also employed as a .....[7] at .....[8] and I earn .....[9] on a daily/weekly/monthly/yearly basis.[10]

---

[1] *Delete whichever not applicable*

[2] *Insert address*

[3] *State what the statement is being made in support of i.e. maintenance application or a variation of an order etc.*

[4] *Where the applicant/respondent is employed*

[5] *State whether employment is on a daily, weekly, monthly or yearly basis*

[6] *Indicate whether the applicant or respondent has only one source of income or whether the second sentence is applicable*

[7] *Insert occupation*

[8] *Insert place of occupation*

My expenses are listed as follows—

	Expenses	Amount due
1.		
2.		
3.		
4.		
5.		
6.		

[11]

.....

(Signature of Applicant/Respondent[12]t)

.....

(Date)

---

[9] *Insert amount earned*

[10] *If there are still further sources of income this sentence may be repeated as often as necessary*

[11] *As many rows as necessary may be inserted*

[12] *Delete whichever not applicable*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

STATEMENT

Filed the ..... day of 200

FORM 8

[Section 11(2)]

Notice

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... *Applicant*

and

..... *Respondent*

The Applicant of.....[1] and the Respondent of .....[2] give notice that they wish to have the matter before this Court referred to mediation and hereby jointly apply for an Order that the same be referred to mediation for resolution of the following issues—

.....

.....

.....[3]

.....

(Signature of Applicant)

.....

(Date)

---

[1] *Insert address*

[2] *Insert address*

[3] *Insert the issues to be determined e.g. maintenance, visitation etc.*

.....

(Signature of Respondent)

.....

(Date)

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

NOTICE

Filed the ..... day of 200

FORM 9

[Section 11(2)]

Notice

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... *Applicant*

and

..... *Respondent*

The Applicant of.....[1] hereby gives notice that—

.....

.....

.....[2]

.....

(Signature of Applicant)

.....

(Date)

.....

(Signature of Respondent)

.....

(Date)

---

[1] *Insert address*

[2] *State the change in circumstances*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

NOTICE

Filed the ..... day of 200

FORM 10

[Section 11(2)]

Agreement

ANTIGUA AND BARBUDA

In the Magistrate's Court, District.....

..... *Applicant*

and

..... *Respondent*

The Applicant of.....[1] and the Respondent of .....[2] hereby state that they have reached an agreement in the following terms—

.....

.....

.....[3]

and hereby jointly apply for an order in the abovementioned terms.

.....

(Signature of Applicant)

.....

(Date)

---

[1] *Insert address*

[2] *Insert address*

[3] *Insert the terms of the agreement*

.....

(Signature of Respondent)

.....

(Date)

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

AGREEMENT

Filed the ..... day of 200

FORM 11

[Section 14(2) and 22(3)]

Warrant

ANTIGUA AND BARBUDA

IN THE MAGISTRATE'S COURT

District.....

TO THE COMMISSIONER OF POLICE AND ALL POLICE OFFICERS OF THE ROYAL POLICE FORCE OF ANTIGUA AND BARBUDA

An application has been made by .....[1] of .....[2] that .....[3] of .....[4] be committed to Her Majesty's Prison for contravening the Order of this Court made on the ..... day of ..... 200 ,[5] that .....[6].

You are therefore commanded to bring the Respondent before this Court sitting at .....[7] forthwith when the application will be heard.

Given under my hand this ..... day of ..... 200 [8].

.....

Magistrate

---

[1] *Insert name of applicant*
[2] *Insert address of applicant*
[3] *Insert name of respondent*
[4] *Insert address of respondent*
[5] *Insert date when Order was made*
[6] *Insert terms of Order*
[7] *Insert where court sitting*
[8] *Insert date*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

WARRANT

Filed the ..... day of 200

FORM 12

[Section 22(1) and 22(2)]

Summons

ANTIGUA AND BARBUDA

IN THE MAGISTRATE'S COURT

District.....

To .....[1]

of .....[2] an application has been made that you—

.....

.....

.....[3]

You are hereby summoned to appear before this Court sitting at .....[4] on the ..... day of ..... 200 [5], at .....[6] o'clock morning/afternoon[7] when the application will be heard.

Dated this ..... day of ..... 200 .

.....

Magistrate

---

[1] *Insert name of person being summoned*

[2] *Insert address of person being summoned*

[3] *Insert grounds of application made by virtue of which the person is being summoned*

[4] *Insert where court sitting*

[5] *Insert date on which court sitting*

[6] *Insert time at which court will sit*

[7] *Delete whichever not applicable*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

and

.....

Respondent

SUMMONS

Filed the ..... day of 200

FORM 13

[Section 14(2)]

Instructions to proceed

ANTIGUA AND BARBUDA

IN THE MAGISTRATE'S COURT

District.....

To .....[1]

I .....[2] of .....[3] hereby instruct the abovementioned Collections Officer to commence proceedings for the recovery of sums due and payable to me for the benefit of .....[4] by virtue of and Order made on the ..... day of ....., 200 [5], against .....[6] who is in default of that Order.

.....

(Signature of Applicant)

.....

(Date)

---

[1] *Name of Collections Officer*

[2] *Name of Applicant*

[3] *Address of Applicant*

[4] *Insert the name of the child for whose benefit the Order was made*

[5] *Insert date on which Order was made*

[6] *Insert the name of the Respondent who was named in the Order*

ANTIGUA AND BARBUDA

District.....

IN THE MAGISTRATE'S COURT

.....

Applicant

INSTRUCTIONS TO PROCEED

Filed the ..... day of 200

Made the 31st day of March, 2009.

Justin L. Simon Q.C.,
Honourable Attorney General
and Minister with responsibility for the
administration of the Courts.