
CHAPTER 131

THE DEBTORS (COMMITTAL) RULES

Arrangement of Rules

Rule

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- SCHEDULE

L.I. Gazette 4.12.1890.

THE DEBTORS ACT

THE DEBTORS (COMMITTAL) RULES MADE NOVEMBER 24,
1890, UNDER SECTION 8 OF THE DEBTORS ACT.

1. SHORT TITLE. These Rules may be cited as the Debtors (Committal) Rules.

2. APPLICATION FOR COMMITTAL. All applications to commit to prison under section 4 of the Debtors Act shall in the first instance be made by summons before a Judge of the High Court which shall specify the date and other particulars of the judgment or order, for non-payment of which the application is made, together with the amount due, and be endorsed with the following particulars—

- (i) Where the summons is taken out by a solicitor, with the name, place of abode, or office of business of such solicitor, and
- (ii) Where no solicitor is employed to take out such summons then with a memorandum expressing that the same has been taken out by the plaintiff in person and setting forth the full name and address of such plaintiff.

3. SERVICE OF SUMMONS. The service of the summons wherever it may be practicable shall be personal, but if it appears to the Judge that reasonable efforts have been made to effect personal service, and either that the summons has come to the knowledge of the debtor, or that he wilfully evades service, an order may be made as if personal service had been effected, upon such terms as to the Judge may seem fit.

4. PROOF OF MEANS. Proof of means of the debtor shall, whenever practicable, be given by affidavit, but if it appears to the Judge, either before or at the hearing that a viva voce examination, either of the debtor or any other person, or the production of any document, is necessary or expedient, an order may be made commanding the attendance of any such person before the Judge at a time and place to be therein mentioned, for the purpose of being examined on oath touching the matter in question, (or, and) for the production of any such document, subject to such terms and conditions as to the Judge may seem fit. The disobedience to any such order shall be deemed a contempt of Court and punishable accordingly.

5. ORDER OF COMMITTAL. The Order of committal (which may be in the Form A in the Schedule or to the like effect) shall, before delivery to the Provost-Marshall be endorsed with the particulars required by rule 2. The Provost-Marshall shall be entitled to the same fees in respect thereof as are now payable to him under the Supreme Court (Fees in Civil Proceedings) Order for executing a writ of attachment.

6. CERTIFICATE TO BE GIVEN TO DEBTOR ON PAYMENT OF DEBT. Upon payment of the sum or sums mentioned in the order including the Provost-Marshall's fees as aforesaid, the debtor shall be entitled to a certificate in Form B in the Schedule or to the like effect signed by

the solicitor in the cause of the creditor, or signed by the creditor and attested by a solicitor on his behalf, or a Justice of the Peace.

7. PROCEDURE FOR OBTAINING ORDER OF ARREST. An order to arrest under section 6 of the Debtors Act (which shall be in the Form C in the Schedule with such variations as circumstances may require) shall be made upon affidavit and ex parte, but the defendant may at any time after arrest apply to the Court or a Judge to rescind or vary the order or to be discharged from custody, or for such other relief as may be just.

8. ENDORSEMENT OF PLAINTIFF'S ADDRESS FOR SERVICE ON ORDER. An order to arrest shall, before delivery to the Provost-Marshal, be indorsed with the plaintiff's address for service. The Provost-Marshal shall be entitled to the same fees as those mentioned in rule 5.

9. NATURE OF SECURITY TO BE GIVEN BY DEFENDANT. The security to be given by the defendant may be a deposit in Court of the amount mentioned in the order, or a bond to the plaintiff by the defendant and two sufficient sureties (or with the leave of the Court or a Judge either one surety or more than two) or with the plaintiff's consent, any other form of security. The plaintiff may, within four days after receiving particulars of the names and addresses of the proposed sureties, give notice that he objects thereto, stating in the notice the particulars of his objection. In such case the sufficiency of the security shall be determined by the Registrar who shall have power to award costs to either party. It shall be the duty of the plaintiff to obtain an appointment for that purpose, and unless he do so within four days after giving notice of objection, the security shall be deemed sufficient.

10. CONTROL OF SECURITY. The money deposited and the security, and all proceedings thereon, shall be subject to the order and control of the Court or a Judge.

11. COSTS. Unless otherwise ordered, the costs of and incidental to an order of arrest shall be costs in the cause.

12. PAYMENT INTO COURT. Upon payment into Court of the amount mentioned in the order, a receipt shall be given; and upon receiving the bond or other security, a certificate to that effect shall be given, signed or attested by the plaintiff's solicitor if he have one, or by the plaintiff if he sue in person. The delivery of such receipt or a certificate to the Provost-Marshal shall entitle the defendant to be discharged out of such custody.

13. ENDORSEMENT ON ORDER OF DATE OF ARREST. The Provost-Marshall or the officer executing an order to arrest shall, within two days after the arrest, indorse on the order the true date of such arrest.

14. ORDER OF COMMITTAL TO BE ADDRESSED TO PROVOST-MARSHAL OR HIS AGENT. An order of committal or an order of arrest may be addressed to the Provost-Marshall or to such other officer as agent for the Provost-Marshall as the Court or Judge may direct.

SCHEDULE
FORM A

r.5.

In the Eastern Caribbean Supreme Court
Antigua and Barbuda

Suit No. }
of 19 }
Between A.B. Plaintiff
and
C.D. Defendant

IN THE MATTER OF THE DEBTORS ACT

Upon hearing &c.
I do order that the said C.D. be for default in payment of the debt hereinafter mentioned committed to prison for the term of () weeks from the date of his arrest, including the day of such date, or until he shall pay \$ being the amount of (an instalment due to the said A.B. upon), (or a judgment of the Court of) (or an order made by) bearing date the day of together with \$ for costs of this order, and Provost-Marshall's fees, for the execution thereof. And I order that the Provost-Marshall of do take the said C.D. for the purpose aforesaid, wherever he may be found within Antigua and Barbuda.

Dated &c.

FORM B

r.6.

I certify that C.D. now in the prison at _____ upon an order of
the Honourable Mr. Justice _____ at the suit of A.B. for non-payment
of a debt of \$ _____ has satisfied the said debt, together with the costs
mentioned in the said order, and Provost-Marshall's fees.

Dated &c.

E.F. of &c.
Solicitor for the said A.B.
or A.B. of &c.

Witness to the signature of A.B.
G.H. of etc. his solicitor,
or J.K. Justice of the Peace for

FORM C

r.7.

In the Eastern Caribbean Supreme Court
Antigua and Barbuda

Suit No. }
of 19 }
Between A.B. Plaintiff
and
C.D. Defendant

IN THE MATTER OF THE DEBTORS ACT

Upon hearing _____ and upon reading the affidavit of
filed the _____ day of _____ 19 _____

It is ordered that the defendant be arrested and imprisoned for the term of
_____ from the date of his arrest, including the day of such date,
unless and until he shall sooner deposit in Court the sum of \$ _____,
or give to the plaintiff a bond executed by him and two sufficient sureties in the
penalty of \$ _____ or some other security satisfactory to the plaintiff
that _____

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And it is further ordered that the Provost-Marshall of do
take the defendant for the purpose aforesaid wherever he may be found within
Antigua and Barbuda.

Dated the day of 19 .
