ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

DEBTORS ACT
R.S.A. c. D5

Showing the Law as at 15 December 2000

Regulation	Citation	Page
DEBTORS COMMITTAL RULES	R.R.A. D5-1	3

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Revised Regulations of Anguilla: D5-1

DEBTORS ACT (R.S.A. c. D5)

DEBTORS COMMITTAL RULES

Note: These Regulations are enabled under section 7 of the Debtors Act, R.S.A. c. D5.

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Definition

1. In these Rules, "Act" means the Debtors Act.

Application for committal

2. An application to commit to prison under section 3 of the Act shall in the first instance be made by summons before a Judge of the High Court that specifies 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 is endorsed with the following particulars—

(a) where the summons is taken out by a solicitor, with the name, place of abode, or office of business of the solicitor; and

(b) where no solicitor is employed to take out the summons, then with a memorandum expressing that the summons has been taken out by the plaintiff in person and setting forth the full name and address of the plaintiff.

Service of summons

3. 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 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.

Proof of means

4. (1) Proof of means of the debtor shall, whenever practicable, be given by affidavit but, if it appears to the Judge, before or at the hearing that a *viva voce* examination 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 the debtor or other person before the Judge at a time and place mentioned in the order, for the purpose of being examined on oath touching the matter in question, or for the production of a document, or both, subject to such terms and conditions as to the Judge may seem fit.

(2) Disobedience to an order is a contempt of Court and punishable accordingly.

Order of committal

5. (1) The order of committal, which may be in Form 1 in the Schedule or to the like effect, shall, before delivery to the Bailiff, be endorsed with the particulars required by section 2.

(2) The Bailiff shall be entitled to the same fees in respect thereof as are payable to him in the High Court for executing a writ of attachment.

Certificate to be given to debtor on payment of debt

6. Upon payment of the sum or sums mentioned in the order including the Bailiff's fees, the debtor is entitled to a certificate in Form 2 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.

Procedure for obtaining order of arrest

7. An order to arrest under section 5 of the Act, which shall be in Form 3 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.

Endorsement of plaintiff's address for service on order

8. (1) An order to arrest shall, before delivery to the Bailiff, be endorsed with the plaintiff's address for service.

(2) The Bailiff shall be entitled to the same fees as those mentioned in section 5.

Nature of security to be given by defendant

9. (1) 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 2 sufficient sureties (or with the leave of the Court or a Judge either 1 surety or more than 2) or with the plaintiff's consent, any other form of security.

(2) The plaintiff may, within 4 days after receiving particulars of the names and addresses of the proposed sureties, give notice that he objects to them, stating in the notice the particulars of his objection, and the sufficiency of the security shall be determined by the Registrar who shall have power to award costs to either party. The plaintiff shall obtain an appointment for that purpose and, unless he does so within 4 days after giving notice of objection, the security shall be deemed to be sufficient.

Control of security

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

Costs

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

Payment into Court

12. (1) 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 has one, or by the plaintiff if he sues in person.

(2) The delivery of such receipt or a certificate to the Bailiff shall entitle the defendant to be discharged out of such custody.

Endorsement on order of date of arrest

13. The Bailiff or the officer executing an order to arrest shall, within 2 days after the arrest, endorse on the order the true date of such arrest.

Order of committal to be addressed to Bailiff or his agent

14. An order of committal or an order of arrest may be addressed to the Bailiff or to such other officer as agent for the Bailiff as the Court or Judge may direct.

Citation

15. These Regulations may be cited as the Debtors Committal Rules, Revised Regulations of Anguilla D5-1.

SCHEDULE

FORMS

FORM 1

(Section 5(1))

ORDER OF COMMITTAL

In the High Court

Anguilla

Between A.B. Plaintiff

and

C.D. Defendant

Suit No.
of ….....

IN THE MATTER OF THE DEBTORS ACT

Upon hearing etc.

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) (a judgment of the Court of .....….....) (an order made by ...…….....…..) bearing date the ..... day of ..... together with $..... for costs of this order, and Bailiff's fees, for the execution thereof. And I order that the Bailiff do take the said C.D. for the purpose aforesaid, wherever he may be found within Anguilla.

Dated the …….. of ……, 20…….. .

**Delete inapplicable phrase*

FORM 2

(Section 6)

CERTIFICATE

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 Bailiff's fees.

Dated the …….. of ……, 20…….. .

E.F. of etc.
Solicitor for the said A.B.
or A.B. of etc.

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

———————

FORM 3

(Section 7)

ORDER TO ARREST

In the High Court

Anguilla

Between A.B. Plaintiff

and

C.D. Defendant

Suit No.
of ….....

IN THE MATTER OF THE DEBTORS ACT

Upon hearing ..... and upon reading the affidavit of …….…….. filed the ..... day of ....., 20..…... .

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 …….. .

And it is further ordered that the Bailiff do take the defendant for the purpose aforesaid wherever he may be found within Anguilla.

Dated the …….. of ……, 20…….. .

———————