

LEGAL NOTICE No. 62

REPUBLIC OF TRINIDAD AND TOBAGO

THE MEDIATION ACT, 2004

REGULATIONS

MADE BY THE MINISTER UNDER SECTION 16 OF THE MEDIATION ACT

THE COMMUNITY MEDIATION REGULATIONS, 2007

PART I

PRELIMINARY

1. These Regulations may be cited as the Community Mediation Regulations, 2007.

2. In these Regulations—

“Act” means the Mediation Act, 2004;

“community mediation centres” include the main centre, district centre or sub-centre in which mediation proceedings are conducted;

“Community Mediation Services Division” means the division of the Ministry with responsibility for matters relating to Community Mediation;

“Executive Director” means the person appointed by the Minister under regulation 4;

“Investigator” means a person appointed by the Mediation Board to investigate any complaint made by a mediation party against the mediator conducting the mediation session;

“Manager” means the person appointed by the Minister under regulation 4 to be responsible for community mediation centres in a community;

“Minister” means the Minister to whom the responsibility for community mediation is assigned and Ministry has the corresponding meaning.

Interpretation

Act No. 8 of
2004

PART II

DELINEATION OF COMMUNITIES

3. The following are the communities in which community mediation centres are to be established:

(a) Arima;

(b) Cedros and Icacos;

Establishment
of community
mediation
centres

- (c) Chaguanas;
- (d) Cocorite;
- (e) Couva;
- (f) Cunupia;
- (g) Diego Martin;
- (h) La Horquetta;
- (i) Laventille;
- (j) Maloney;
- (k) Morvant;
- (l) Mayaro;
- (m) Penal and Debe;
- (n) Point Fortin;
- (o) Port-of-Spain;
- (p) San Fernando;
- (q) Sangre Grande;
- (r) San Juan;
- (s) Toco; and
- (t) Tunapuna.

PART III

PROCEDURE FOR COMMUNITY MEDIATION AS A RESULT OF SELF REFERRALS OR VOLUNTARY ACCESS

Appointment
of Manager
and Executive
Director

4. (1) The Minister may appoint—
- (a) a Manager of community mediation centres for each district;
and
 - (b) an Executive Director for the administration of mediation programmes.

(2) The terms and conditions of employment of the Manager and Executive Director appointed under subregulation (1) and such other staff as is required for the proper delivery of mediation services shall be negotiated with the Chief Personnel Officer and approved by the Minister.

Request for
mediation

5. (1) Parties to any dispute listed in regulation 22 may apply to a community mediation centre for mediation.

(2) A request under subregulation (1) shall be made on the Mediation Intake Form prescribed in the First Schedule. First Schedule

(3) When one party makes a request for mediation, the centre shall ensure that the other parties to the dispute are informed of the request for mediation.

6. When parties to any dispute or matter listed in regulation 22 agree to mediation, the parties shall complete and submit to the Manager the Agreement to Participate in Mediation Form prescribed in the Second Schedule and provide a brief statement of the matter which is in dispute. Agreement for mediation
Second Schedule

7. (1) The date of the commencement of mediation proceedings shall be the date on which the agreement to participate in mediation is received at the community mediation centre. Commencement of mediation proceedings

(2) Where a Manager of a community mediation centre receives a request for mediation, he shall within fourteen days after receiving the request—

(a) appoint a mediator to mediate the dispute between the parties; and

(b) give to the parties notice in writing of the name of the mediator appointed to the matter, and the date and time of the mediation sessions in the Notification of Appointment of Mediator Form prescribed in the Third Schedule. Third Schedule

8. A mediator assigned the task of mediating a dispute shall ensure that the matter is concluded within ninety days from the date of its commencement. Conclusion of mediation proceedings

9.(1) All parties to mediation or their duly appointed representatives who have the authority to settle the matter must attend all mediation sessions. Attendance of mediation sessions

(2) A person other than the parties to mediation may attend the mediation sessions where approval has been granted by the mediator.

10. The Manager of a community mediation centre shall ensure that all mediation matters are properly scheduled and shall— Manager to schedule mediation matters

(a) assist the mediator in obtaining the relevant advice or guidance;

(b) take the necessary action reasonably required to facilitate the mediation of disputes at all community mediation centres; and

(c) ensure that mediators and other members of staff at the community mediation centre maintain a high standard of work and are kept abreast on any matter which may impact upon their work.

- Conduct of mediation session
11. (1) Subject to subregulation (2), a mediator shall conduct mediation sessions in the manner agreed to by the parties to the mediation.
- (2) Where parties to mediation are unable to agree on the manner in which the mediation sessions are to be conducted, the mediator shall determine the manner in which the proceedings are to be conducted.
- (3) Each party to mediation shall, in good faith, co-operate with the mediator.
- Separate meetings and communication
12. A mediator, in the performance of his functions shall—
- (a) be free to meet and communicate separately with both parties to a mediation during the course of the mediation hearing; and
- (b) be neutral, impartial and independent in the conduct of mediation sessions.
- Agreement to be in writing
13. Where an agreement is reached by the parties to mediation, the agreement must be recorded in writing and signed by the parties.
- Conclusion and report of mediation
14. A mediator, on concluding a mediation session shall, within three days thereafter—
- (a) inform the community mediation centre of the conclusion of the mediation session; and
- (b) file with the community mediation centre, a mediator's report in the Mediator's Report Form prescribed in the Fourth Schedule.
- Fourth Schedule
- Prohibition of recording of meeting
15. No person shall in any form whatsoever, make any recording of any meeting of the parties with the mediator.
- Termination of mediation session
16. (1) A party to mediation may at any time, upon giving reasonable notice to the community mediation centre, the mediator and the other party, terminate the mediation.
- (2) Notwithstanding subregulation (1), a mediator may at any time terminate a mediation session where in his opinion further efforts at the mediation are unlikely to resolve the dispute.
- (3) Where a mediation session is terminated under subregulation (1) or (2), the mediator shall within three days thereafter send to the Manager of the community mediation centre a mediator's report in the Mediator's Report Form prescribed in the Fourth Schedule.
- Fourth Schedule
- (4) A mediation session may be terminated by either of the parties to the mediation, or when both parties complete and submit the Settlement Agreement Form prescribed in the Fifth Schedule.
- Fifth Schedule

17. Where a request is made by a person for mediation, that person shall not be required to pay any fee to the Ministry or any person acting on the Ministry's behalf.

No fees payable for mediation services

PART IV

USE OF CERTIFIED MEDIATORS

18. No person shall be employed as a mediator for the purpose of conducting community mediation unless that person is registered as a certified mediator under section 8 of the Act.

Restriction on the employment of mediators Act No. 8 of 2004

19. (1) The Ministry shall establish a register to be called the Register of Certified Mediators.

Register of Mediators

(2) The Register established under subregulation (1) shall contain all relevant information in respect of the status of a mediator's registration.

20. (1) A party to mediation or his attorney-at-law may at any time during a mediation session or up to thirty days after the last day of a scheduled mediation session, make a written complaint to the Manager of the community mediation centre in respect of the conduct of the mediator conducting the mediation session.

Complaints procedure

(2) Where a complaint is made against a mediator under subregulation (1), the Manager of the community mediation centre shall, in writing, inform the mediator and the Executive Director of the nature of the complaint within fourteen days from the date the complaint was made.

(3) A mediator who is informed of any complaint made against him under subregulation (1), shall within fourteen days from the date of being informed, submit a written response to the complaint to the Manager of the community mediation centre.

21. (1) Where the Executive Director receives a complaint under regulation 20(1) and determines that the complaint should be investigated, the Executive Director shall accordingly direct the Manager or any other suitable person to investigate the complaint.

Investigation and review of complaints

(2) The Manager or such other person as directed by the Executive Director to investigate a complaint may, in conducting the investigation, solicit information from the complainant, the mediator or any other person having relevant information about the complaint.

(3) At the conclusion of an investigation, the Manager or such other person directed by the Executive Director to investigate a complaint, shall submit a report with such recommendations as determined by him to the Executive Director.

(4) Where the Executive Director determines that further action is required in respect of a complaint made against a mediator, the Executive Director shall appoint a Complaints Panel comprising three persons to review the complaint.

(5) The Complaints Panel appointed by the Executive Director under subregulation (4), shall review the report of the Manager or such other person appointed by the Executive Director and thereafter shall give the complainant and the mediator against whom the complaint was made an opportunity to present additional information in respect of the complaint.

(6) Where the Complaints Panel is satisfied that the allegations of the complaint made against a mediator are true and constitute a violation of the Code of Ethics under the Act, it may recommend to the Executive Director, one or more of the following decisions:

- (a) counsel the Mediator;
- (b) reprimand the Mediator verbally or in writing; or
- (c) remove the Mediator from the Ministry's Register.

PART V

THE USE OF MEDIATION CENTRES

Matters for which mediation services are provided

22. A community mediation centre shall be used to facilitate the resolution of disputes including but not limited to the following type of matters:

- (a) Landlord and tenant disputes;
- (b) Merchant and consumer disputes;
- (c) Organizational disputes;
- (d) Small claims;
- (e) Threat and harassment problems;
- (f) Neighbourhood conflicts;
- (g) Family and relationship disputes;
- (h) Small contractor and home owners disputes;
- (i) Community disputes; and
- (j) Juvenile conflicts (truancy, delinquent children beyond control and gang related activities).

FIRST SCHEDULE

[Regulation 5(2)]

THE COMMUNITY MEDIATION REGULATIONS

MEDIATION INTAKE FORM

FILE No. INTAKE:/...../.....
dd. mm. yy.

CENTRE:

REFERRED BY:

INTAKE OFFICER:

FIRST PARTY

SECOND PARTY

NAME: NAME:

ADDRESS: ADDRESS:

.....

Phone: (Home) Phone: (Home)

(Work) (Work)

(Mobile) (Mobile)

Age: Age:

Sex: Male Female Sex: Male Female

Employed: Yes No Employed: Yes No

Marital Status: Single/Married/Divorced/
Separated/Widowed/
Common Law
Marital Status: Single/Married/Divorced/
Separated/Widowed/
Common Law

REPRESENTATIVE

REPRESENTATIVE

NAME:

NAME:

Phone: (Home)

Phone: (Home)

(Work)

(Work)

(Mobile)

(Mobile)

MATTER DISPUTED

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..... Intake Officer

Date/...../.....
 dd. mm. yy.

ACTION TAKEN (Post Pre-Mediation Conference)

Date Contacted

First Party	Second
...../...../...../...../.....
dd. mm. yy.	dd. mm. yy.

Mediator

Mediation Dates/...../..... and/...../.....
dd. mm. yy. dd. mm. yy.

Completion Date

REFERRED TO:

- | | |
|------------------------------------------------------------|-----------------------------------------------------------------------------|
| <input type="checkbox"/> Mediation | <input type="checkbox"/> Counselling |
| <input type="checkbox"/> Counselling followed by Mediation | <input type="checkbox"/> Police |
| <input type="checkbox"/> Other Social Service | <input type="checkbox"/> Unsuitable for Community
Mediation intervention |

Specify:

*Co-ordinating Assistant's Report must accompany this form to the Manager.

.....
Co-ordinating Assistant	Date

SECOND SCHEDULE

(Regulation 6)

THE COMMUNITY MEDIATION REGULATIONS

AGREEMENT TO PARTICIPATE IN MEDIATION FORM

This Agreement is made between the Community Mediation Services Division and

Participant 1.

Participant 2.

We agree to participate in the Mediation process and we have read or had read to us the following terms which we understand and acknowledge and to which we agree.

The Mediator

Mediators are neutrals, who have no interest in the affairs of the participants to the dispute. The role of mediators is to help the participants come to a voluntary resolution of the issues presented for mediation.

The Participants

The parties to the dispute must agree to participate voluntarily in the mediation process and agree to make a sincere effort to reach an agreement and conduct themselves showing mutual respect and consideration for the views, interests and values of each other.

Independent Legal Advice

- (a) The mediators are unable to and will not give the participants any legal advice.
- (b) The participants are encouraged to obtain their own independent legal advice if they so desire, prior to, during or after mediation.

Centre:

Date:/...../.....
dd. mm. yy.

Confidentiality

- (a) All communication and information, whether written or oral, arising from or during the mediation, shall be treated by the participants and by the mediator as confidential.
- (b) The participants agree that they will not require the mediator—
 - (i) to testify in court; or
 - (ii) to submit any report for use in legal proceedings or otherwise disclose any written or oral communication that took place during any mediation session.
- (c) The participants also agree that they will not sue any mediator involved in their mediation, the community mediation centre or the Ministry.

- (c) The participants also agree that they will not sue any mediator involved in their mediation, the community mediation centre or the Ministry.
- (d) The mediator shall disclose confidential information when required to do so by Court Order or other judicial authority as provided for in the Act or where the information reveals a potential threat to any person's health or safety.

Conclusion of Mediation

- (a) Each participant may withdraw from the mediation process at any time before the conclusion of the mediation.
- (b) The participants acknowledge that the mediator may end the mediation if the mediator believes that continuation of the mediation would result in harm or prejudice or would not be in the best interest of the participants.
- (c) After the mediation has ended, the participants are free to deal with the dispute in any other way, within the Laws of Trinidad and Tobago, provided that confidentiality as outlined above is maintained.

The participants have read and understood this Agreement or had this Agreement read to them and agree to proceed with the mediation under the terms of this Agreement.

Centre:

Date:/...../.....
dd. mm. yy.

Signatures:

1.

2.

THIRD SCHEDULE

[Regulation 7(2)]

THE COMMUNITY MEDIATION REGULATIONS

NOTIFICATION OF APPOINTMENT OF MEDIATOR FORM

Further to your request for mediation filed with the Community Mediation Services
Division of the Ministry of Social Development on/...../.....
dd. mm. yy.

you are requested to attend mediation on/...../.....
dd. mm. yy.

The mediation session is scheduled from to
at

The mediator(s) is (are): Mr./Ms.

Please be at the venue at least fifteen (15) minutes before the start of the mediation
session and bring this Notice with you.

Please call the Co-ordinating Assistant at Extension:

by 12.00 noon/...../..... if you have decided not to
dd. mm. yy.

attend mediation.

Centre:

FOURTH SCHEDULE

[Regulation 14(b), 16(3)]

THE COMMUNITY MEDIATION REGULATIONS

MEDIATOR'S REPORT FORM

PARTY No. 1

PARTY No. 2

File No.: Mediator (s):

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..... Mediator Date:/...../.....
dd. mm. yy.

FIFTH SCHEDULE

[Regulation 16(4)]

THE COMMUNITY MEDIATION REGULATION

SETTLEMENT AGREEMENT FORM

The PARTIES have agreed to the following terms:

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Centre:

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Party No. 1 Party No. 2

Date:/...../.....
dd. mm. yy.

Made this 14th day of December, 2007.

E. BROWN
Minister of Social Development