

*Legal Supplement Part A to the "Trinidad and Tobago Gazette", Vol. 39,
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**Fifth Session Fifth Parliament Republic of Trinidad
and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 45 of 2000

[L.S.]

AN ACT to amend the Community Mediation Act, 1998

[Assented to 23rd August, 2000]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the Short title
Community Mediation (Amendment) Act, 2000.

2. In this Act, “the Act” means the Interpretation
Community Mediation Act, 1998. Act No. 13 of
1998

Section 5
amended

3. Section 5 of the Act is amended by inserting after subsection (3), the following subsection:

“ (4) Where the Court adjourns the hearing of a complaint under subsection (1), the Court shall not treat the complaint as part-heard.”.

Section 12
amended

4. The Act is amended in section 12(3) by inserting after the words “determined by mediation,”, the words “the matter shall be deemed to be dismissed and”.

Part II
amended

5. The Act is amended by deleting Part II and substituting the following Part:

“PART II

MEDIATION IN CIVIL MATTERS

Eligibility
for mediation
in civil
matter
Schedule 1A

14. (1) At the commencement of the hearing of a matter of a type listed in Schedule 1A, the Court shall inform the parties of their eligibility to apply for mediation.

(2) Where a party informs the Court of his willingness to apply for mediation, the Court shall adjourn the matter to enable the parties to agree to a mediator and to make the application in accordance with this Part.

(3) Where an application is made under subsection (2), the Court shall on the adjourned date make an order—

- (a) appointing the mediator agreed to by both parties;
- (b) referring the matter to a mediator for mediation;
- (c) suspending its hearing of the matter.

(4) Where the Court adjourns the hearing in pursuance of subsection (2), the Court shall not treat the application as part-heard.

(5) The Court may proceed with the hearing of the matter where—

- (a) the person referred to in subsection (1), fails to apply for mediation before the date to which the hearing is adjourned under subsection (2); or
- (b) his application for mediation is refused.

15. (1) An application for mediation shall be made in duplicate in the manner set out in Form 3 of Schedule 2 and shall be accompanied by an affidavit.

Application
for mediation
Schedule 2

(2) Upon submission of an application, the Clerk of the Court shall, in the appropriate place on the application form, acknowledge receipt thereof and shall return the copy to the applicant and retain the original.

16. (1) The Court shall not approve an application for mediation unless—

Restrictions
on approval of
application

- (a) it is satisfied that the application is in respect of a matter listed in Schedule 1A;
- (b) the parties agree to the determination of the matter by mediation;
- (c) the parties agree on the person who is to be appointed as a mediator of the matter and that person also consents to being so appointed; and
- (d) the Court is satisfied that the parties are amenable to mediation.

(2) In determining whether a mediation order should be made, the Court may seek assistance of a Police Officer, Probation Officer or Social Welfare Officer of the district in which the parties reside.

Approval of
application

17. (1) Where the Court approves an application for mediation, the court shall make an order—

- (a) appointing the person referred to in section 16(1)(c) as mediator of the matter;
- (b) referring the matter to the mediator for mediation; and
- (c) subject to subsection (2), suspending its hearing of the matter.

(2) Before making a mediation order, the Court shall explain to the parties, clearly and precisely—

- (a) the purpose and effect of the order and in particular any requirements of the order;
- (b) the Court's power to resume the hearing of the matter where the mediation process fails.

Mediation
order when
completed

18. (1) Where the mediation recess is successful, the mediator shall report to the Court the agreement arrived at by the parties and the Court shall make an order in terms of the agreement and under the relevant legislation.

(2) The agreement referred to in subsection (1) shall be in a manner set out in Form 3 of Schedule 2.

(3) Where the mediation process is unsuccessful the Court shall set a date to resume the hearing of the application.”.

6. Part III of the Act is amended—Part III
amended

- (a) by re-numbering sections 16 and 17 as sections 19 and 20 respectively;
- (b) by inserting after the renumbered section 20 the following section:
 - “ 21. The Minister may, by Order, amend the Schedules.”.
- (c) by re-numbering sections 18, 19 and 20 as sections 22, 23 and 24.

7. The Act is amended in Schedule 1 by inserting Schedule 1
after paragraph 2 the following paragraph: amended

- “ 3. Petty trespass contrary to the provisions under the Trespass Act, Chap. 11:07.”.

8. The Act is amended by inserting immediately Schedule 1A
after Schedule 1 the following Schedule: inserted

“SCHEDULE 1A

(Section 16)

CIVIL MATTERS WHICH MAY BE REFERRED TO
MEDIATION

1. Matters falling for the determination of the court under section 8 of the Petty Civil Courts Act.
2. Applications for ancillary relief following the grant of a *decree nisi* of divorce or a decree of judicial separation.
3. Application falling for determination by a Court under the Matrimonial Proceedings and Property Act for the custody, education, supervision and maintenance of children.
4. Applications for the maintenance of and access to children and maintenance of a spouse or dependent under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act.”.

Schedule 2 amended

9. The Act is amended in Schedule 2 by inserting after Form 2 the following Forms:

“Form 3

(Section 15)

APPLICATION FOR MEDIATION (CIVIL PROCEEDINGS)

(In Duplicate)

REPUBLIC OF TRINIDAD AND TOBAGO

No:

BETWEEN

A.B.

Plaintiff

and

C.D.

Defendant

To: The Petty Civil Court Clerk

I/We A.B. and/or C.D. of (name) (address)

hereby apply for mediation in the following action:

.....

(a brief account of the nature of the action)

I send herewith the following papers:

(List and send statements of witnesses, letters and papers relating to the matter, and if court proceedings have begun, all court papers in the applicant’s possession).

I attach hereto an affidavit in support of my application.

..... (Applicant)

We the parties to this action hereby agree:

- (a) to the determination of this action by mediation; and (b) to waive our right to initiate any further legal action in respect of the matter complained of in this summons if the action is determined by mediation.

..... Plaintiff

..... Defendant

I acknowledge receipt of this application this day of 2000.

..... Clerk of the Court

FORM 4

(Section 18)

MEDIATION AGREEMENT
(CIVIL PROCEEDINGS)
(In Duplicate)

REPUBLIC OF TRINIDAD AND TOBAGO

No:

BETWEEN

A.B. *Applicant*

and

C.D. *Respondent*

To: The Petty Civil Court Clerk

Whereas the parties listed above have sought mediation in this matter and have agreed to the following terms:

.....
.....
.....

.....
Applicant

.....
Respondent.

Passed in the Senate this 18th day of July, 2000.

D. DOLLY
Acting Clerk of the Senate

Passed in the House of Representatives this 14th day
of August, 2000.

J. SAMPSON-JACENT
Clerk of the House

House of Representatives amendment agreed to by
the Senate this 15th day of August, 2000.

D. DOLLY
Acting Clerk of the Senate