

CHAPTER 375

THE REGISTRATION AND RECORDS ACT

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REGISTRATION AND RECORDS

(23rd November, 1881.)

5/1881.

911922.

911932.

911933.

1311941.

211943.

S.R.O. 2211956.

1511961.

1/1966.

15/1985.

1. This Act may be cited as the Registration and Records Act. **Short title.**

2. In this Act—

Interpretation.

"deed" includes every document in writing affecting or relating to lands, tenements, or hereditaments in Antigua and Barbuda;

"indices" includes all indices, abstract books, and catalogues in the Record Office in Antigua and Barbuda relating to public records, registered deeds and writings, or registers;

"public records" includes all documents of any kind of a public nature deposited in the Record Office in Antigua and Barbuda;

"registered deeds and writings" includes all instruments and writings whatever recorded in the Record

Office in Antigua and Barbuda before and after the commencement of this Act;

"registers" includes all records and enrolments of registered deeds and writings in the Record Office in Antigua and Barbuda;

"Registrar" means the Registrar of Deeds;

"will" includes every last will and testament, codicil, or exemplification thereof, and the proof or probate of the same required to be recorded.

PART I

RECORDING OF DEEDS

Unregistered deeds void as against subsequent purchasers.

3. Every deed shall be absolutely void as against any subsequent purchaser for valuable consideration, or mortgagee, unless such deed shall have been duly registered before the registration of the deed under which subsequent purchaser, or mortgagee, shall claim, and within the time limited for the registration of deeds after their execution.

Unregistered deeds not to be received in evidence.

4. No deed shall be received in evidence in any proceeding whatever, whether at law or equity, in Antigua and Barbuda unless such deed shall have been duly registered.

Wills of realty to be proved and registered.

5. No will, whereby any estate or interest in realty within Antigua and Barbuda is devised, shall be admitted in evidence in any proceeding whatever, either at law or at equity, within Antigua and Barbuda, until such will shall have been duly proved and registered.

Time after execution within which deeds are to be registered.

6. Every deed shall be lodged in the Record Office of Antigua and Barbuda, for registration, within the time hereinafter limited, that is to say—

If executed within Antigua and Barbuda, within three months after execution;

If executed anywhere out of Antigua and Barbuda, within twelve months after execution:

Provided that any Judge may, on cause shown, order any deed to be registered notwithstanding its not having been

presented for registration within the time hereinbefore limited; and, in such case, a copy of the order of the Court shall be attached to the deed and registered therewith. In the case of deeds executed before the coming into operation of this Act, the same shall be received for registration without the Judge's order required by this section.

7. Every deed shall be executed in the presence of at least one witness, who shall attest the same with his or her signature. Where the sole attesting witness to the execution of a deed is a person, before whom, but for this section, the deed might be acknowledged as hereinafter provided, such person shall be disqualified from taking the acknowledgement. **Every deed to be attested by a witness.**

8. All deeds executed in Antigua and Barbuda and intended for registration therein shall be proved by the oath or affirmation of one of the witnesses, or acknowledged by the grantor, before the Registrar, and such proof or acknowledgement shall be indorsed, on the deed, and attested by the Registrar. **Proof of deeds executed in Antigua and Barbuda and registrable therein.**

9. When under the provisions of this Act, any deed is or shall be proved by the oath or affirmation of one of the witnesses, such proof may be by affidavit or declaration affixed to the said deed and attested by the Registrar. **Proof of deeds may be affixed instead of indorsed.**

10. All deeds intended for registration in Antigua and Barbuda which shall be executed in Great Britain or Northern Ireland, shall be proved by the oath or affirmation of one of the witnesses, or shall be acknowledged by the grantor, before the Mayor, Deputy Mayor, or other Chief Magistrate of any city, borough, or town corporate in Great Britain or Northern Ireland, and certified under the common seal of such city, borough, or town corporate. **Proof of deeds executed in Great Britain or Northern Ireland.**

11. All deeds intended for registration in Antigua and Barbuda, which shall be executed in any of the dominions, territories, colonies, dependencies, or possessions of the Crown of Great Britain, Northern Ireland and of the British Dominions beyond the seas, except Antigua and Barbuda, shall be proved by the oath or affirmation of one of the witnesses, or shall be acknowledged by the grantor, before the Administrator, or person exercising the functions of **Proof of deeds executed in any Colony, etc.**

Administrator, or before the Commander-in-Chief, of any of the said dominions, territories, colonies, dependencies, or possessions, or before a Judge of any Court, or before the Mayor or Chief Magistrate of any city or town, or before any Notary Public, or any officer, civil or military, holding a commission under the Crown, either under the Imperial or Colonial Government, and certified under the hand and public or official seal of such Administrator or person exercising the functions of Administrator, Commander-in-Chief, Judge, Mayor, Notary Public, or officer, and, where a seal is not appropriated to his office, under the private seal of such functionary, the certificate, in such case, stating that no official seal exists.

Proof of deeds executed in any Foreign State.

12. All deeds intended for registration in Antigua and Barbuda which shall be executed in any Foreign State whatsoever, shall be proved by the oath or affirmation of one of the witnesses, or shall be acknowledged by the grantor, before Her Majesty's Ambassador, Envoy, Minister, *Chargé d'Affaires*, or Secretary of Embassy or Legation, exercising his functions in such foreign state, or before Her Majesty's Consul General, Consul, or any Vice Consul, or Acting Consul or Consular Agent of Her Majesty, exercising his functions in such foreign state, and certified under the hand and seal of such Ambassador or other officer, used in his said public capacity, or under the hand and private seal of such functionary if there be no public seal, the absence of which shall be certified.

Persons authorized to take acknowledgements of deeds, &c., executed out of Antigua and Barbuda, for any purpose connected with registration in Antigua and Barbuda.

13. (1) All acknowledgements of deeds, affidavits, declarations and affirmations to be used, under the authority of any law in force in Antigua and Barbuda, before any Registrar of Deeds, for any purpose connected with the registration of deeds or wills or other documents or things executed out of Antigua and Barbuda, may be sworn and taken in England, Scotland, or Northern Ireland, the Isle of Man, or the Channel Islands, or in any colony, island, plantation, or place under the dominion of Her Majesty in foreign parts, other than Antigua and Barbuda, before any Court, Judge, Notary Public, or other person lawfully authorized to administer oaths in such country, colony, island, plantation or place, respectively, or before any of Her Majesty's Consuls or Vice Consuls in any place out of Her Majesty's dominions; and every Registrar of Deeds shall take

judicial notice of the seal or signature, as the case may be, of any such Court, Judge, Notary Public, person, Consul, or Vice Consul, which shall be attached, appended, or subscribed to any such affidavit, declaration, or affirmation, or any other document.

(2) If any person shall forge the signature, or the official seal, of any such Court, Judge, Notary Public, person, Consul, or Vice Consul lawfully authorized to administer oaths under this Act as aforesaid; or shall tender in the Record Office of Antigua and Barbuda, for the purpose of the registration of any deed, or will, or other document or thing, any affidavit, declaration, or affirmation, or other judicial or official document, with a false or counterfeit signature or seal of any such Court, Judge, Notary Public, person, Consul or Vice Consul, authorized as aforesaid, attached or appended thereto, knowing the same signature or seal to be false or counterfeit; every such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding two years with or without hard labour.

(3) Any deed which shall be executed out of Antigua and Barbuda, and shall be intended for registration in Antigua and Barbuda, may be proved by the oath, declaration, or affirmation of a witness to the execution thereof, or may be acknowledged by the grantor, in the country, colony, island, plantation, or place wherein the **same shall** be executed, before any Court or person authorized by this Act to swear and take acknowledgements, affidavits, declarations and affirmations in such country, colony, island, plantation, or place, to be used for any purpose connected with the registration of deeds, wills, documents, or other things executed out of Antigua and Barbuda; and such proof or acknowledgement as aforesaid shall be as good and effectual for **all** purposes of registration as if the said deed had been proved or acknowledged in accordance with the provisions of sections 10, 11 and 12.

14. (1) No deed shall be admitted to registration, unless duly stamped with the amount required by any law in that behalf for the time being in force in Antigua and Barbuda; nor, if the deed was prepared within Antigua and

Deeds to be fully stamped and indorsed with name of draftsman.

Barbuda, and was not executed before the coming into operation of this Act, unless the name of the person, by whom it was prepared, is indorsed thereon.

(2) Whenever any deed offered for registration purports to have been prepared by any person, other than a barrister, solicitor or other person authorized to prepare legal documents, the Registrar before admitting such deed to registration, shall require an affidavit from that person proving that he did not draw or prepare the said deed either directly, or indirectly, for or in expectation of any fee, gain or reward, and a further affidavit from the party bearing the cost of the preparation or registration of the said deed, that no such fee, gain or reward was offered, paid, or was to be paid by him to the person for drawing or preparing the said deed.

Further, the Registrar, in his discretion, is hereby authorized to retain custody of such deed so offered for the purpose of being registered pending the production of the aforesaid affidavit.

Declaration in lieu of oath.

15. Where, by any statute or ordinance in force in any part of the United Kingdom of Great Britain and Northern Ireland, or its dependencies, a declaration is, or shall be, substituted for an oath or affirmation, it shall be sufficient for the subscribing witness to any such deed to prove the execution thereof by such declaration, in lieu of his oath or affirmation.

Acknowledgement of deeds by Registrar.

1 . Whenever it shall be necessary, under the provision of any Act for the Registrar as Provost-Marshal or in any other capacity, to acknowledge any deed, he may acknowledge such deed before a Judge, or before the First Clerk for the time being in the Registrar's office, or in the absence or incapacity of the First Clerk, such acknowledgement may be made before the Second Clerk.

Time of receipt to be deemed time of registration.

17. The time at which a deed or will is received in the Registrar's office for registration shall be deemed to be the time of registration of such deed.

PART II

MODE OF REGISTERING DEEDS

18. (1) Every person presenting any deed or writing of whatever kind (wills excepted) for registration, which may be legally registered, shall, at the time of presentation, supply the Registrar with a true and exact copy thereof, and the Registrar shall, instead of copying such deed or writing into a book as heretofore, after having examined the same and after having satisfied himself as to its correctness, deposit such copy in its proper order in a safe place to be kept for that purpose, and such copy shall, thereupon, be deemed to be the proper record of such deed or other writing.

Copies of deeds for registration to be supplied.

(2) Every such copy shall be written on paper of a size, quality and kind to be from time to time prescribed by the Chief Justice, and shall be duly bound in book-form in such manner, and at such times, as the said Chief Justice shall direct; and the Registrar shall not accept any copy which is not written on the prescribed paper, or which is, in his opinion, improperly or illegibly written, or which is written in any way which would be likely to impair its usefulness as a record.

PART III

RECORD OFFICERS

19. The Chief Justice for the time being shall be *ex officio* Keeper of public records, and of registered deeds and writings in Antigua and Barbuda.

Chief Justice to be Keeper of the records.

20. The Registrar of the High Court shall be the Registrar, and shall under the direction of the Chief Justice, act as Record Keeper.

Registrar of Deeds.

PART IV

DUTIES OF RECORD OFFICERS

21. On receiving any deed for registration, the Registrar shall give to the party depositing the same a certificate acknowledging the receipt thereof; and such certificate shall be received as evidence of the registration of the deed described therein.

Registrar to give receipt of deed.

Indorsement of time.

Registrar not to part with deed until recorded.

22. At the time of the presentation of any deed for registration, the Registrar shall indorse thereupon a memorandum of the hour, day, month, and year when such deed was presented for registration, and shall sign the same; and, after such indorsement, the Registrar shall not part with such deed until it shall have been duly recorded.

Entry in register books of time of registration.

23. The Registrar shall enter in the register books the hour, day, month, and year when each deed shall have been presented for registration, corresponding to that prescribed to be indorsed on the deed.

Chief Clerk to act in absence of Registrar.

24. In the absence from the office of the Registrar, the Chief Clerk in the Record Office shall execute all the duties pertaining to the office of Registrar.

Reports.

25. (1) The Registrar shall, whenever called upon to do so, furnish a report to the Chief Justice as to all proceedings under this Act, and such report shall be in such form, and contain such particulars, as shall be prescribed by rules.

(2) The Registrar shall, once in every year, report to the Governor-General upon all proceedings under this Act, and such report shall be published in the *Gazette* and laid before Parliament.

PART V

RECORD OFFICES

Record Office.

26. The Registrar's Office shall be the Record Office; and the Governor-General may, from time to time, cause suitable provisions to be made for the safe keeping of all the records, which, under the provisions of this Act, shall be in the legal custody of the Chief Justice, and for the convenient transaction of the business of the record office.

Branch offices.

27. Every office and place in which public records, which, by authority of law, are placed under the charge of the Chief Justice, are deposited, shall be deemed, so long as such records remain therein, to be a part of the Record Office.

28. The public records, the records of the Supreme Court, the Court of Vice Admiralty, the Incumbered Estates Court, the Court of Summary Jurisdiction, the Court of Escheat, and the Patent Office, all registered deeds and writings, and all registers which now are, or ought to be, deposited in the Record Office or which now are, or ought to be in the custody of the Officers of the Courts to which they belong, in whatsoever office or place they may be deposited at the time of the passing of this Act, shall be under the charge and superintendence of the Chief Justice in the name and on the behalf of Her Majesty. The persons now having the care of any such record shall continue to have the charge of them, subject to such orders as the Chief Justice is herein empowered to give concerning the same.

Public records, records of Superior Courts, &c., to be under charge of Chief Justice.

29. The Governor-General may, from time to time, order that public records deposited in any particular place or custody, other than hereinbefore mentioned, shall be thenceforth under the charge and superintendence of the Chief Justice, and, thereupon, the provisions of this Act shall apply in relation to such records, and their custody, in the same way as if they had been placed under the charge and superintendence of the Chief Justice by this Act.

Other records may be placed under charge of Chief Justice.

30. The Chief Justice, with the approval of the Governor-General, shall have full power to make such orders as he may think fit for cleaning, repairing, preserving and arranging all the public records under his charge and superintendence, and for making calendars, catalogues, and indices to the same, and, for such purposes, to cause any of the said records to be, from time to time, removed from their present place of custody and deposited in such safe place or places as he may order by warrant under his hand, directed to the person then having the same under his care; and every such warrant shall be kept among the public records in the custody of the Chief Justice, and shall be a sufficient warrant for the removal of such records as shall be specified therein, to the place named in the warrant, and such removal of any record by authority of the Chief Justice shall not in any manner affect the legal authority of such record, but the place where any such record shall be deposited and kept, from time to time, under the authority of the Chief Justice shall be taken to be, for the time, its legal place of deposit; and every such record shall, after removal under this Act, and

Removal of records.

in its new place of deposit, be of the same legal validity, and be received or rejected in evidence in all Courts and proceedings in the same manner as if such record had remained in the custody in which it is at the time of the passing of this Act.

Power to make rules as to disposal of valueless documents.

31. (1) The Chief Justice, with the approval of the Governor-General, and such further approval in the case of certain documents as is hereinafter mentioned, may, if he sees fit, from time to time make, and when made, revoke, add to, and vary rules respecting the disposal by destruction, or otherwise, of documents which are deposited in, or can be removed to, the Record Office, and which are not of sufficient public value to justify their preservation in the Record Office. Such rules shall, so far as they relate to documents of any Court or Office mentioned in section 28, be made with the further approval of the Judges, or the principal officers, of such Court or Office.

(2) Before the power of disposal given by this section shall be exercised, the Chief Justice shall cause a schedule to be prepared of the documents proposed to be disposed of, containing a list of the documents, and such particulars as to their character and contents as may be calculated to enable Parliament to judge of the expediency of disposing of such documents in the proposed manner; but where there shall be several documents of the same class or description, it shall be sufficient to classify them, as far as practicable, according to their nature and contents, instead of specifying each document separately; and the power of disposal given by this section shall not be exercised in respect of any documents, until the schedule relating to such documents, before required, has been submitted to Parliament for a whole session.

(3) No rule made in pursuance of this section shall provide for the disposal of any document of older date than the year 1750.

(4) Every rule made in pursuance of this section shall be laid before Parliament, and, when the same has lain not less than one session before Parliament it shall be lawful for

the Governor-General, by Order, to declare his approbation of any rule from which he has not been prayed by an address of Parliament to withhold his approbation.

(5) Every such rule, when approved by Order, shall be deemed to have been within the power of this Act, and duly made, and shall, while in force, have effect as if it were enacted by Parliament.

32. The Registrar shall, if required by any person authorized in that behalf, return any deed or writing received into the Record Office for registration, after the same has been registered, and shall obtain from such person a receipt for the same, which receipt shall be entered in a book to be kept for the purpose.

Return of original deeds and writings after registration.

33. Any person shall be at liberty, at such times and under such restrictions as shall be prescribed by rules, to search and examine the public records, and the registers and indices in the Office, and to take abstracts, or other short notes, of any matters in the same, and to inspect, in the presence of the Registrar or any of his clerks, any original registered deeds or writings to which reference is obtained in such search.

Searches.

34. (1) The Registrar may allow copies to be made of any public records in the custody of the Chief Justice, at the request and cost of any person desiring the same.

Copies of public records.

(2) Any copy so made shall be examined and certified as a true copy by the Registrar, and shall be sealed with the seal of the office.

35. Every copy of a record in the custody of the Chief Justice, certified by a Registrar to be a true copy, and purporting to be sealed with the seal of the Office, shall be received in evidence in all Courts of Justice within Antigua and Barbuda, without further or other proof thereof, in every case in which the original record would have been received as evidence.

Office copies to be evidence.

Records not to be removed from the Record Office.

36. No public record, and no original registered deed or writing, shall be taken out of the Record Office, unless under an order of a competent Court, except under the provisions of section 32.

PART VI

RULES OF RECORD OFFICES

Chief Justice may make rules.

37. The Chief Justice may, with the approval of the Governor-General, make rules in relation to the following matters—

- (a) The management of the Record Office;
- (b) The duties to be performed by the Registrar and Clerks;
- (c) The cleaning, arranging, repairing, and preserving the records under his charge;
- (d) The registration and enrolment of deeds and writings, and the making of entries;
- (e) The making and keeping of registers and indices;
- (f) The admission of the public to the use of the records, calendars, catalogues and indices in the Record Office; and
- (g) The conduct of searches, and the making and certifying of copies and extracts in the Record Office.

Publication of rules.

38. Copies of all rules made under the provisions of section 37 shall be kept in a conspicuous place in the Record Office, and shall be published in the Gazette, and shall be laid before Parliament at its first session after the making of such rules.

PART VII

LEGAL PROCEEDINGS

Action for negligence against Registrar.

39. If at any time damage shall occur to any person through any default or negligence of the Registrar in his office as such, such damage may be recovered by an action at law, and, in such action, the measure of damages shall be the

amount of actual loss by the plaintiff, together with all costs and expenses necessarily to be incurred in remedying the same.

PART VIII

FEES

40. The fees hereafter to be charged in the Record Office shall be in accordance with the docket in the Schedule. **Fees.**

 SCHEDULE

DOCKET OF FEES

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|--|---------|
| 1. For entering registering and recording any will, per page | \$1.00 |
| 2. For entering, registering and recording any deed or writing, of whatever kind (wills excepted), presented for registration under section 18, per page | \$1.00 |
| 3. For an office copy, or extract from, any registered deeds and writings, per page | \$2.00 |
| 4. For every certificate | \$5.00 |
| 5. For office seal on any document | \$5.00 |
| 6. For any search whatsoever | \$5.00 |
| 7. For acknowledgement of a signature to any document, or for signing a document, before a Registrar, if at his office | \$5.00 |
| 8. If out of his office (beside hire of conveyance) | \$10.00 |
| 9. For swearing an affidavit before a Judge | \$5.00 |
| 10. For a Judge's Order | \$5.00. |
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