



ST. CHRISTOPHER AND NEVIS

CHAPTER 23.25

REGISTRATION AND RECORDS ACT

Revised Edition

showing the law as at 31 December 2017

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REGISTRATION AND RECORDS ACT

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CHAPTER 23.25

REGISTRATION AND RECORDS ACT

AN ACT TO PROVIDE FOR THE REGISTRATION AND EXECUTION OF DEEDS, MORTGAGES AND WILLS; TO PROVIDE FOR THE KEEPING OF RECORDS PERTAINING TO DEEDS, MORTGAGES AND WILLS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I

PRELIMINARY

Short title.

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

Interpretation.

2. In this Act—

“deed” includes every document in writing affecting or relating to lands, tenements, or hereditaments in the State;

“indices” includes all indices, abstract books, and catalogues in any Record Office in the State relating to public records, registered deeds and writings, or registers;

“Land Registry” means the Land Registry established under section 6 of the Land Registry Act;

(Inserted by Act 12 of 2017)

“Minister” means the Minister with responsibility for Justice;

(Inserted by Act 12 of 2017)

“public records” includes all documents of any kind of a public nature deposited in any Record Office in the State;

“Record Office” means the Registry of the High Court;

(Inserted by Act 12 of 2017)

“registered deeds and writings” includes all instruments and writings whatever recorded in any Record Office in the state before and after the commencement of this Act;

“registers” includes all records and enrolments of registered deeds and writings in the State;

(Amended by Act 12 of 2017)

“Registrar” means the Registrar of Deeds of the Circuit;

“relate to land” includes a deed relating to a mortgage or a discharge thereof, a lease, an indenture of conveyance, a deed of re-conveyance or similar document but does not include a power of attorney, a bill of sale, a deed poll or similar document;

(Inserted by Act 12 of 2017)

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

Circuits.

3. For the purpose of this Act, the State shall be divided into the following Circuits, namely—

- (a) the Saint Christopher Circuit, which shall comprise the State, save and except the Island of Nevis;
- (b) the Nevis Circuit, which shall comprise the island of Nevis.

PART II

RECORDING OF DEEDS

Unregistered deeds void as against subsequent purchasers.

4. 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.

5. No deed shall be received in evidence in any proceeding, whether at law or equity, in the State, unless such deed shall have been duly registered.

Wills of realty to be proved and registered.

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

Time after execution within which deeds are to be registered.

7. (1) Every deed shall be lodged in the Record Office of the Circuit, in which the land thereby affected is situate, for registration, within the time hereinafter limited, that is to say—

- (a) if executed within the Circuit, within three months after execution;
- (b) if executed in any other Circuit in the State within six months after execution;
- (c) if executed anywhere out of the State, 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.

(2) 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.

Every deed to be attested by a witness.

8. (1) Every deed shall be executed in the presence of at least one witness, who shall attest the same with his or her signature.

(2) 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 acknowledgment.

Proof of deeds executed in the Circuit wherein registered.

9. All deeds intended for registration in the Circuit wherein they are executed 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 acknowledgment shall be endorsed, on the deed, and attested by the Registrar.

Proof of deeds executed in another Circuit.

10. All deeds intended for registration in a Circuit other than that in which they are executed, shall be proved by the oath or affirmation of one of the witnesses, or acknowledged by the grantor before the Registrar of the Circuit in which the deeds are executed, and such proof or acknowledgment shall be endorsed on the deed and attested by such Registrar.

Proof of deeds may be affixed instead of endorsed.

11. 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 executed in Great Britain or Northern Ireland.

12. All deeds intended for registration in the State, 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 a Saint Christopher and Nevis Consular Officer, or 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.

(Amended by Act 10 of 1984)

Proof of deeds executed in any other State.

13. All deeds intended for registration in the State, 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 the State, shall be proved by the oath or affirmation of one of the witnesses, or shall be acknowledged by the grantor, before a Saint Christopher and Nevis Consular Officer, or the Administrator, or person exercising the functions of 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 Consular Officer, 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 or her office, under the private seal of such functionary, the certificate, in such case, stating that no official seal exists.

(Amended by Act 10 of 1984)

Proof of deeds executed in any Foreign State.

14. All deeds intended for registration in the State, which shall be executed in any Foreign State, shall be proved by the oath or affirmation of one of the witnesses, or shall be acknowledged by the grantor, before a Saint Christopher and Nevis or Her Majesty's Ambassador, Envoy, Minister, Charged'Affaires, or Secretary of Embassy or Legation, exercising his or her functions in such foreign State, or before a Saint Christopher and Nevis or Her Majesty's Consul General, Consul, or any Vice Consul, or Acting Consul or Consular Agent of Her Majesty, exercising his or her functions in such foreign State, and certified under the hand and seal of such Ambassador or other officer, used in his or her 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.

(Amended by Act 10 of 1984)

Persons authorised to take acknowledgments of deeds, etc., executed out of the State, for any purpose connected with registration in the State.

15. (1) All acknowledgments of deeds, affidavits, declarations and affirmations to be used, under the authority of any law in force in the State, before any Registrar of Deeds, for any purpose connected with the registration of deeds or wills or other documents or things executed out of the State, may be sworn and taken in England, Scotland, or Northern Ireland, the Isle of Man, or the Channel Islands, or in any country in the Commonwealth, other than the State, before any Court, Judge, Notary Public, or other person lawfully authorised to administer oaths in such country, colony, island, plantation or place, respectively, or before any of Saint Christopher and Nevis or 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.

(Amended by Act 6 of 1976)

(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 authorised to administer oaths under this Act as aforesaid; or shall tender in any Record Office of the State, 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, authorised as aforesaid, attached or appended thereto, knowing the same signature or seal to be false or counterfeit; every such person commits a felony, and shall be liable to be imprisoned for any term not exceeding two years.

(3) Any deed which shall be executed out of the State, and shall be intended for registration in the State, 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 of the Commonwealth, or place wherein the same shall be executed, before any Court or person authorised by this Act to swear and take acknowledgments, affidavits, declarations and affirmations in such country in the Commonwealth, or place, to be used for any purpose connected with the registration of deeds, wills, documents, or other things executed out of the State, or it may be attested, without being proved, by one of the Official persons named in the Third Schedule to the Title by Registration Act, Cap. 10.19, subscribing as a witness to the signature; and such

proof or acknowledgment 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 12, 13 and 14.

(Amended by Act 8 of 1994)

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

16. (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 the State; nor, if the deed was prepared within the State, and was not executed before the coming into operation of this Act, unless the name of the person, by whom it was prepared, is endorsed thereon.

(2) Whenever any deed offered for registration purports to have been prepared by any person, other than a barrister, solicitor or other person authorised to prepare legal documents, the Registrar before admitting such deed to registration, shall require an affidavit from that person proving that he or she 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 or her to the person for drawing or preparing the said deed.

(3) Further, the Registrar, in his or her discretion, is hereby authorised 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.

17. Where, by any Statute in force in any part of the Commonwealth, 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 or her oath or affirmation.

(Amended by Act 6 of 1976)

Acknowledgment of deeds by Registrar.

18. Whenever it shall be necessary, under the provision of any enactment for the Registrar as Provost-Marshal or in any other capacity, to acknowledge any deed, he or she 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 acknowledgment may be made before the Second Clerk.

Time of receipt to be deemed time of registration.

19. 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 III

MODE OF REGISTERING DEEDS

Copies of deeds for registration to be supplied.

20. (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 or herself 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.

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

(Amended by Act 12 of 2017)

PART IV RECORD OFFICERS

Chief Justice to be Keeper of the records.

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

Registrar of Deeds.

22. The Registrar of the High Court shall be the Registrar of Deeds except in respect of any matter that relates to land, in which the case, the Registrar of Lands shall be the Registrar of Deeds.

(Substituted by Act 12 of 2017)

PART V DUTIES OF RECORD OFFICERS

Registrar to give certificate of receipt of deed.

23. 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.

Endorsement of time, Registrar not to part with deed until recorded.

24. At the time of the presentation of any deed for registration, the Registrar shall endorse 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 endorsement, the Registrar shall not part with such deed until it shall have been duly recorded.

Entry in register books of time of registration.

25. 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 endorsed on the deed.

Chief Clerk to act in absence of Registrar.

26. 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 but this section shall not apply in the case where the Registrar of Lands is the Registrar of Deeds.

(Substituted by Act 12 of 2017)

Reports.

27. (1) The Registrars 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 Registrars shall, once in every year, report to the Minister upon all proceedings under this Act, and such report shall be published in the *Gazette* and laid before the National Assembly.

(Amended by Act 6 of 1976)

PART VI

RECORD OFFICES

Registries.

28. (1) All records other than those that relate to land shall be kept in the Registry of the High Court and shall be in the legal custody of the Chief Justice.

(2) All records that relate to land shall be kept in the Land Registry and shall be in the legal custody of the Registrar of Lands.

(Substituted by Act 12 of 2017)

Branch offices.

29. 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 of the Circuit in which such office or place is situate.

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

30. (1) The public records, the records of the High Court, the Court of Vice Admiralty, the Incumbered Estates Court, 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 several Record Offices, 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.

(2) 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.

Other records may be placed under charge of Chief Justice.

31. The Cabinet 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.

(Amended by Act 6 of 1976)

Removal of records.

32. The Chief Justice, with the approval of the Cabinet, shall have full power to make such orders as he or she may think fit for cleaning, repairing, preserving and arranging all the public records under his or her 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 or she may order by warrant under his or her hand, directed to the person then having the same under his or her 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 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.

(Amended by Act 6 of 1976)

Power to make rules as to disposal of valueless documents.

33. (1) The Chief Justice, with the approval of the Cabinet, and such further approval in the case of certain documents as is hereinafter mentioned, may, if he or she 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, a Record Office, and which are not of sufficient public value to justify their preservation in a Record Office.

(2) Such rules shall, so far as they relate to documents of any Court or Office mentioned in section 30, be made with the further approval of the Judges, or the principal officers, of such Court or Office.

(Amended by Act 6 of 1976)

(3) 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 the National Assembly 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 the National Assembly for a whole session.

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

(5) Every rule made in pursuance of this section shall be laid before the National Assembly, and, when the same has lain not less than one session before the said Assembly it shall be lawful for the Cabinet, to declare its approbation of any rule from which it has not been prayed by an address of the National Assembly to withhold its approbation.

(6) Every such rule, when approved by the Cabinet, 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 the National Assembly.

Return of original deeds and writings after registration.

34. The Registrar shall, if required by any person authorised in that behalf, return any deed or writing received into the Registry of the High Court or the Land Registry, as the case may be, 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.

(Amended by Act 12 of 2017)

Searches.

35. 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 or her clerks, any original registered deeds or writings to which reference is obtained in such search.

Copies of public records.

36. (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.

(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.

Office copies to be evidence.

37. 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 the State, without further or other proof thereof, in every case in which the original record would have been received as evidence.

Records not to be removed from the Record Office.

38. 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 34.

PART VII

RULES OF RECORD OFFICES

Chief Justice may make rules.

39. The Chief Justice may make rules in relation to the following matters in respect of a Record Office—

- (a) the management of the Record Offices;
- (b) the duties to be performed by the Registrars and Clerks;
- (c) the cleaning, arranging, repairing, and preserving the records under his or her 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 Offices;
- (g) the conduct of searches, and the making and certifying of copies and extracts in the Record Offices;
- (h) the fees to be charged in any Record Office.

(Amended by Act 6 of 1976 and Act 12 of 2017)

Publication of rules.

40. Copies of all rules made under the provisions of section 39 shall be kept in a conspicuous place in every Record Office, and shall be published in the *Gazette*, and shall be laid before the National Assembly at its first session after the making of such rules.

Regulations.

41. The Minister may make regulations for the purpose of giving effect to those provisions of the Act that relate to land.

(Inserted by Act 12 of 2017)

PART VIII

LEGAL PROCEEDINGS

Action for negligence against Registrar.

42. If at any time damage shall occur to any person through any default or negligence of the Registrar in his or her 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 IX

FEES

Fees.

43. (1) The fees hereafter to be charged in any Record Office shall be in accordance with the docket in the Schedule.

(2) The Attorney-General may, by Order published in the *Gazette*, amend the Schedule to this Act.

(Inserted by Act 10 of 1984)

SCHEDULE*(Section 43)*

DOCKET OF FEES.

\$	c.	
1.	For entering, registering and recording any will, per folio of 90 words	.25
2.	For entering, registering and recording any deed or writing, of whatever kind (wills excepted), presented for registration under section 20, per folio of 90 words15
3.	For an office copy, or extract from, any registered deeds and writings, per folio25
4.	For every certificate25
5.	For office seal on any document25
6.	For any search whatsoever, for each year25
7.	For every general search under one name60
8.	For acknowledgement of a signature to any document, or for signing a document, before a Registrar, if at his or her office60
9.	If out of his or her office (beside hire of conveyance)	1.25
10.	For swearing an affidavit before a Judge60
11.	For a Judge's Order	1.25