

REGISTRATION AND RECORDS ACT

CHAPTER 19:04

Act

L.I. 5 of 1881

Amended by

L.I. 9 of 1922

L.I. 9 of 1932

L.I. 9 of 1933

19 of 1939

15 of 1941

1 of 1973

20 of 1978

13 of 1980*

27 of 1981

10 of 1982

12 of 1990

*See Note on page 2

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-18	1/1991

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Note
on
Act No. 13 of 1980

This Act is to be read as one with the Registration and Records (New Register) Act, (Chap. 19:05).

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CHAPTER 19:04

REGISTRATION AND RECORDS ACT

1961 Ed.
Cap. 220.
L.I. 5 of 1881.

AN ACT to provide for the registration of deeds, wills and documents of a public nature executed in Dominica or any other Commonwealth country or a foreign state.

Commencement.

[23rd November 1881]

Short title.

1. This Act may be cited as the –
REGISTRATION AND RECORDS ACT.

Interpretation.
[27 of 1981
10 of 1982].

2. In this Act –

Ch. 18:51.

“deed” includes every document in writing affecting or relating to lands, tenements, or hereditaments in the State, and any licence granted to an alien or alien company under the Aliens Land Holding Regulation Act;

“Dominica consular officer” means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions, or a consular officer of a state other than Dominica, acting as such on behalf of the Government of Dominica;

“Dominica diplomatic agent” means the head of a mission or a member of the diplomatic staff of a mission or a diplomatic agent of a state other than Dominica, acting as such on behalf of the Government of Dominica;

“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;

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

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

“registers” includes all records and enrollments of registered deeds and writings in the Record Office;

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

PART I

RECORDING OF DEEDS.

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

Unregistered deeds void as against subsequent purchasers.

4. No deed shall be received in evidence in any proceeding whatever, whether at law or equity in the State, unless the deed has been duly registered.

Unregistered deeds not to be received in evidence.

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

Wills of realty to be proved and registered.

6. Every deed shall be lodged in the Record Office for registration, within the time hereinafter limited, that is to say –

Time after execution within which deeds are to be registered.

(a) if executed within the State, within three months after execution;

(b) if executed anywhere out of the State, within twelve months after execution;

but 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 acknowledgment.

Every deed to be attested by a witness.

8. All deeds executed in the State 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 the proof or acknowledgment shall be endorsed on the deed and attested by the Registrar.

Proof of deeds executed in the State wherein registered.

Proof of deeds may be affixed instead of endorsed.

9. ~~When under this Act any deed is proved by the oath or affirmation of one of the witnesses, the proof may be by affidavit or declaration affixed to the deed and attested by the Registrar.~~

Proof of deeds executed in Great Britain or Northern Ireland.

10. All deeds intended for registration in the State which are 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 deed executed in Commonwealth territory. [12 of 1990].

11. (1) All deeds intended for registration in the State, which are executed in any Commonwealth territory except Dominica, shall be proved by the oath or affirmation of one of the witnesses, or shall be acknowledged by the grantor before an authorised officer and certified under the hand and public or official seal if any of such authorised officer or, where a seal is not appropriated to his office, under the private seal of such officer, the certificate in such case stating that no official seal exists.

(2) For the purposes of this section “authorised officer” means a judge of a superior court, a magistrate or other corresponding functionary authorised to preside over a court of inferior jurisdiction, a notary public, any functionary civil or military authorised by the law of that territory or of Dominica to administer oaths in that territory, and such other person as may be prescribed by Order of the President.

Proof of deeds executed in any foreign state. [27 of 1981].

12. All deeds intended for registration in Dominica which are executed in any foreign state shall be proved by the oath or affirmation of one of the witnesses, or shall be acknowledged or executed by the grantor or grantee or both before a Dominica diplomatic agent or ~~Dominica consular officer exercising his functions as such in the foreign~~ state and certified under the hand and seal of the diplomatic agent or consular officer or before a notary public in the foreign state and certified under the hand and official seal of the notary public; but if there is no public or official seal, the absence of same shall be certified by the ~~diplomatic agent, consular officer or notary public~~

13. (1) All acknowledgments of execution of deeds, affidavits, declarations and affirmations to be used under the authority of any law in force in Dominica before any registrar of deeds for any purpose connected with the registration of deeds or wills or other documents or things executed outside of Dominica may be sworn and taken in any foreign state before any court, judge, notary public or other person lawfully authorised to administer oaths in the foreign state, or before any Dominica diplomatic agent or Dominica consular officer in the foreign state exercising his function as such in the foreign state, 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, authorized person, Dominica diplomatic agent or Dominica consular officer which is attached, appended, or subscribed to any such affidavit, declaration or affirmation, or any other document.

Persons authorised to acknowledgment of deeds, etc. executed out of Dominica, for any purpose connected with registration in Dominica. [27 of 1981].

(2) Any person who forges the signature or the official seal of any court, judge, notary public, person, consul or vice-consul lawfully authorised to administer oaths under this Act, or tenders in the Record Office, 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 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, is liable to imprisonment for two years.

(3) Any deed which is executed outside of Dominica for the purpose of registration in Dominica may be proved by the oath, declaration or affirmation of a witness to the execution thereof, or may be acknowledged by the grantor or grantee in the country in which it was executed before any court or person authorised by this Act to swear and take acknowledgments, affidavits, declarations and affirmations in the country to be used for any purpose connected with registration of deeds, wills, documents or other things executed outside of Dominica, and the proof or acknowledgment shall be as good and effectual for all purposes of registration as if the deed had been proved or acknowledged in accordance with 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 the State; nor, if the deed was prepared within the State and was not registered before the coming into operation of this Act

Deeds to be fully stamped and endorsed with name of draftsman

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 the deed to registration shall require an affidavit from that person proving that he did not draw or prepare the 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 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 deed. Further, the Registrar, in his discretion, is hereby authorised to retain custody of the deed so offered for the purpose of being registered pending the production of the affidavit.

Declaration in lieu of oath.

15. Where, by any statute or Act in force in any part of the United Kingdom of Great Britain and Northern Ireland, or its dependencies, a statutory declaration is 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.

Acknowledgment of deeds by Registrar.

16. Whenever it is necessary under the provision of any Act for a Registrar as Provost Marshal or in any other capacity to acknowledge any deed, he may acknowledge the 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, the acknowledgment 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 the deed.

PART II

MODE OF REGISTERING DEEDS

Copies of deeds for registration to be supplied.

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 the deed or writing into a book as heretofore, after having examined the same and

after having satisfied himself as to its correctness, deposit the copy in its proper order in a safe place to be kept for that purpose, and the copy shall, thereupon, be deemed to be the proper record of the deed or other writing.

(2) Every 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.

Paper on which deed is to be written.

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 the State.

Chief Justice to be keeper of the records.

20. The Registrar of the High Court shall continue to be the registrar of deeds and shall, under the direction of the Chief Justice, act as record keeper.

Registrar of High Court to be registrar of deeds.

PART IV DUTIES OF RECORD KEEPER

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

Registrar to give certificate of receipt of deed.

22. 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 the deed was presented for registration, and shall ~~sign the deed, and, after the endorsement, the Registrar shall not part~~ with the deed until it has been duly recorded.

Endorsement of time.

Registrar not to part with deed until recorded.

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

Entry in register books of time of registration.

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 the 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 President upon all proceedings under this Act, and the report shall be published in the *Gazette* and laid before the House of Assembly.

PART V RECORD OFFICES

Record Offices.
Provision to be
made for safe
custody of
records, etc.

26. The Registrar's office shall be the Record Office; and the President may, from time to time, cause suitable provision to be made for the safe keeping of all the records, which, under 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 the records remain therein to be a part of the Record Office.

Public records,
records of superior
courts, etc., to be
under charge of
Chief Justice.

28. The public records, the records of the Supreme Court, 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 the State. 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.

29. The President may, from time to time, order that public records ~~deposited in any court or office or in any other place~~ mentioned, shall be thenceforth under the charge and superintendence of the Chief Justice, and, thereupon, 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

30. The Chief Justice, with the approval of the President, shall 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 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 the records as are specified therein to the place named in the warrant, and the removal of any record by authority of the Chief Justice shall not in any manner affect the legal authority of the record, but the place where any record is 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 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 the record had remained in the custody in which it is at the time of the passing of this Act.

Removal of records.

31. (1) The Chief Justice, with the approval of the President, and such further approval in the case of certain documents as is hereinafter mentioned, may, if he sees fit, from time to time make 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. The 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.

Power to make Rules as to disposal of valueless documents.

(2) Before the power of disposal given by this section is 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 required to enable the House of Assembly to judge of the expediency of disposing of the documents in the proposed manner; but where there are 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 the documents, before required, has been approved by the House of Assembly.

(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, when approved by the House of Assembly 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 House of Assembly.

Return of original deeds and writings after registration.

32. The Registrar shall, if required by any person authorised 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.

Searches.

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.

Copies of public records.

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.

(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.

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 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.

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 made under the provisions of section 39

PART VI

RULES OF RECORD OFFICES

37. The Chief Justice may from time to time, with the approval of the President, make Rules in relation to the following matters: Chief Justice may make Rules.

- (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 charge;
- (d) the registration and enrollment 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; and
- (g) the conduct of searches and the making and certifying of copies and extracts in the Record Offices.

38. Copies of all Rules made under section 37 shall be kept in a conspicuous place in every Record Office, and shall be published in the *Gazette*, and shall be laid before the House of Assembly at its first session after the making of the Rules. Publication of Rules.

PART VII

LEGAL PROCEEDINGS

39. If at any time damage occurs to any person through any default or negligence of the Registrar in his office as such, the damage may be recovered by an action at law, and, in the 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. Action for negligence against Registrar.

PART VIII

FEES

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

Section 40

SCHEDULE[1 of 1973;
20 of 1978].

DOCKET OF FEES

1. For entering, registering and recording any will, per folio of 90 words	\$3.00
2. For entering, registering and recording any deed or writing, of whatever kind (wills excepted, presented for registration under section 19, per folio of 90 words)	1.00
3. For an office copy, or extract from, any registered deeds and writings, per folio	2.00
4. For every certificate	3.00
5. For office seal on any document	2.00
6. For any search whatsoever, for each year	2.00
7. For every general search under one name	2.00
8. For acknowledgment of a signature to any document, or for signing a document, before a Registrar if at his office	1.00
9. If out of his office (beside fare of conveyanc)	2.00
10. For swearing an affidavit before the Judge	1.00
11. For a Judge's order	3.00

SUBSIDIARY LEGISLATION

RECORD OFFICE RULES

L.I. S.R.O.
14/1927.
[12 of 1990].

made under section 37

[1st June 1882]

Commencement.

1. These Rules may be cited as the –

Short title.

RECORD OFFICE RULES.

2. All fees payable under the Act shall be payable in advance and by means of stamps in the manner prescribed by the Courts of Justice Fees Act and the rules made in pursuance thereof.

Mode of
payment.
Ch. 4:31.

3. No Registrar or other officer shall commence or do any work or perform any of the duties imposed upon him by the Act or receive any deed or other document for registration or otherwise until the fees payable in that respect have been paid to him in the manner aforesaid.

Fees to be
prepaid.

4. In any case where a document is by the Act required to be sealed, the seal to be used for that purpose shall be the seal of the Supreme Court.

Seal.

5. There shall be kept in each registry in addition to other indices a general index in the form contained in the Schedule.

General index.
Schedule.

Rule 5.

SCHEDULE

GENERAL INDEX

From: day of 19 . <i>Liber</i> "volume" to day of 19 .					
Number of Deed.	Parties.			Nature of Deed.	Page or folio.
4999	Anderson, George and wife	A to	Bradlaugh, William	Conveyance in fee of land in Charlestown.	302
4999	Bradlaugh, William	B from	Anderson, George and wife	Conveyance in fee of land in Charlestown.	
5000	Christian, Robert	C to	Williamson, James	Conveyance by way of mortgage of freehold in Sandy Point.	
5000	Williamson , James	W from	Christian, Robert	Conveyance by way of mortgage of freehold in Sandy Point.	