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CHAPTER 79

DEEDS AND LAND REGISTRY ACT

An Act relating to deeds and land registry.

[Amended by Act No. 15 of 1963, SRO 2 of 1981, Act No. 39 of 1987, Act No. 22 of 1995, Act No. 21 of 2009.]

[31st December, 1904.]

1. Short title

This Act may be cited as the Deeds and Land Registry Act.

2. Interpretation

In this Act—

“Deputy Registrar” means the Deputy Registrar of the Deeds and Land Registry;

“instrument” means any writing, whether under seal or not;

“making an instrument” means duly signing it, and in the case of a deed, sealing and delivering it;

“Registrar” means the Registrar of the Deeds and Land Registry;

“Registry” means the “Deeds and Land Registry” as provided for in section 3.

3. The present registry office to continue

(1) The existing Deeds and Land Registry shall continue and be so known and called.

(1*b*) The Registrar shall be responsible for the administration of the Deeds and Land Registry and may be assisted by the Deputy Registrar and such other officers as are necessary for the purpose of carrying out the functions of the Registrar under this Act.

(1*c*) In the temporary and unavoidable absence of the Registrar and the Deputy Registrar, the Chief Clerk in the Registry may administer oaths and take declarations, affirmation and acknowledgements.

(1*d*) The Registrar and the Deputy Registrar shall have such rights and discharge such duties to the office of Notary Public as are necessary for the purpose of carrying out the function referred to under this Act.

4. *Repealed*

5. Instruments affecting land to be registered and have priority accordingly

Every instrument, affecting land in Grenada, duly registered in accordance with the provisions of this Act, shall be good and effectual in law and equity according to priority of registering:

Provided that the following documents need not be registered namely—

(*a*)

a lease or agreement for a lease for not more than one year, or an agreement for the use and occupation of land for not more than one year, such lease or agreement being accompanied by actual possession; or

(*b*)

a lease or agreement for a lease for a period not exceeding five years, whereby not more than fifty dollars is reserved by way of rent.

6. Instruments (except wills, etc.) made in Grenada and affecting land, to be registered forthwith

Every instrument made in Grenada, whereby any land in Grenada is in any way affected (other than a will or such a lease or agreement as is referred to in section 5 hereof), shall be forthwith registered in the Registry in the manner herein required; and every such instrument as aforesaid shall be judged fraudulent and void as against any subsequent purchaser or mortgagee for valuable consideration, and against any person who may have subsequently obtained a judgement operating as a charge on the land affected, unless such instrument be

registered before the registering of the instrument under which such purchaser or mortgagee shall claim, or before the obtaining of such subsequent judgement.

7. Instruments (except will, etc.) made outside Grenada and affecting land, to be registered within certain specified times

(1) Every instrument made outside Grenada, whereby any land in Grenada shall be affected (other than a will or such a lease or agreement as is referred to in section 5 hereof), shall be registered in the Registry in the manner herein required; and every such instrument shall be judged fraudulent and void as against any subsequent purchaser or mortgagee for valuable consideration, and against any person who may have subsequently obtained a judgement operating as a charge on the land, unless such instrument be registered within the respective times hereinafter allowed, that is to say—

(a)

for such an instrument as aforesaid made in any of the West Indian Islands (except Jamaica) or in Guyana, within six weeks after it is made;

(b)

for such an instrument as aforesaid made in any place in the United Kingdom, or in Jamaica, or in the continent of America (other than in Guyana), within three months after it is made; and

(c)

for such an instrument as aforesaid made in any other part of the world, within six months after it is made.

(2) Where such an instrument is registered within the time hereinbefore allowed, it shall be deemed for the purpose of priority to have been registered on the date of execution.

8. Times allowed for registering wills affecting land of testator dying here; of testator dying outside Grenada

(1) Every will affecting land in Grenada shall be registered in the Registry within a period of three months after the death of the testator dying within Grenada, or within a period of one year after the death of the testator dying in any place outside Grenada; otherwise it shall be adjudged fraudulent and void as against subsequent purchasers or mortgagees for valuable consideration deriving their title through a party who may have claimed, or have been declared the owner of the land, as heir-at-law to the testator or otherwise under the testator:

Provided that where any person claiming an interest in any lands in Grenada under any will is desirous of registering the same, but is unable to do so within the said period of three months after the death of the testator dying in Grenada, such person may, within the said period of

three months, and on payment of a fee of one dollar and twenty-five cents, register a notice of such will. Every such notice shall be under the hand and seal of the person by whom it is given, and shall be attested by one witness at least, and shall contain—

(a)

the date of the will;

(b)

the date of the death of the testator;

(c)

the name and description of the residence and occupation of the testator so far as set out in the will;

(d)

the name and description of the residence and occupation of the person by whom such notice is given;

(e)

a description of all the lands affected by the will within Grenada,

and where any such notice has been duly registered within the said period of three months, then if within one year after the death of the testator the will, which is the subject of such notice, is duly registered under this Act, such will shall have priority as though it had been registered upon the date on which such notice was registered, and such last-mentioned date shall be deemed to be the date of registration of the said will for all purposes, and shall be substituted in all certificates and other instruments for the date on which such will was actually registered.

(2) For the purposes of this Act, a will which has been registered within the period hereinbefore allowed, if proved in the manner hereinafter described and provided, shall be deemed for the purpose of priority to have been registered on the day on which the testator died.

PART III

Proof of Instrument

9. No instrument to be registered unless proved

An instrument shall not be registered unless it is proved in the manner hereinafter described and provided; except that an instrument under the hand and seal, or under the hand, of a public officer acting on behalf of the Government, or a certificate of purchase under the hand of a Judge and seal of the Supreme Court, may be admitted by the Registrar to registration without proof.

10. Proof of instruments (except wills) made in Grenada

An instrument made in Grenada (other than a will) shall be proved either, by the acknowledgment of the party who made it, who shall appear personally before the Registrar or a magistrate and acknowledge it to be his or her free and voluntary act and deed, or by the affidavit of a subscribing witness to it, sworn before the Registrar or a magistrate, that the party who made it, made it as his or her free and voluntary act or deed in the presence of such witness:

Provided that no proof shall be taken by the Registrar or by a magistrate under this section unless the instrument sought to be proved bears the signature of some barrister or solicitor of the Supreme Court as having settled or prepared such instrument.

11. Proof of execution of deed

Notwithstanding the provisions of section 10, 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 such acknowledgment.

12. Proof of instruments (except wills) made outside Grenada but within the United Kingdom or a British territory

An instrument (other than a will) made outside Grenada but within the United Kingdom or a British territory shall be proved either by the party who made it, who shall appear personally before any one of the authorities hereinafter mentioned and acknowledge such instrument to have been made as his or her act and deed, or by the affidavit of a subscribing witness sworn before any of the said authorities which affidavit shall state that the party who made such instrument did so as his or her act and deed in the presence of such witness; that is to say, such an acknowledgment or affidavit as aforesaid which is made or sworn before the mayor or other chief officer of any city or town corporate in Great Britain or Northern Ireland and attested under his or her hand and the public seal of the city or town, or made or sworn before the Governor or Lieutenant Governor of any British territory, and attested under his or her hand and the seal of the territory or made or sworn before a Judge of any Court of Record of any such territory and attested under his or her hand and the seal of the Court, or made or sworn before a notary public resident at or near the place where the instrument is made, and attested under his or her hand and seal of office; or, if the party or witness aforesaid resides in a place where there may be no such official as above indicated within a radius of twenty miles of such place of residence, then the acknowledgment or affidavit may be made or sworn before any justice of the peace or other person who by the law of such place is authorised to administer an oath.

13. Proof of instruments (except wills) made outside the United Kingdom or a British territory

An instrument (other than a will) made in any place other than the United Kingdom or a British territory shall be proved either by the party who made it who shall appear personally before one of the authorities hereinafter mentioned and acknowledge such instrument to have been made as his or her act and deed, or by the affidavit of a subscribing witness sworn before any of the said authorities which affidavit shall state that the party who made such instrument did so as his or her act and deed in the presence of such witness; that is to say, such an acknowledgment or affidavit as aforesaid which is made or sworn before a British Consul or a notary public resident at or near the place where the instrument is made and attested under the hand and seal of office of such Consul or notary public; or if the party or witness aforesaid resides in a place where there may be no such official as above indicated within a radius of twenty miles of such place of residence, then the acknowledgment or affidavit may be made or sworn before any local magistrate or other person who by the law of such place is authorised to administer an oath.

13A. Diplomatic or Consular officer may take oath

For the avoidance of doubt, it is hereby declared that any oath, declaration or affidavit for the purpose of the registration of any instrument in Grenada may be taken or made in any place out of Grenada before a diplomatic or consular representative for Grenada.

14. Provision in cases of the death, etc., of the parties or witnesses to instruments (except wills)

Where upon the application for the registration of an instrument (other than a will) it appears that the proof of such instrument in manner aforesaid cannot be obtained, either on account of the death of the party or any of the parties thereto or of his or her or their residence outside Grenada and of there being no attesting witness, or on account of the death or residence outside Grenada of such party or parties, and of the attesting witness or witnesses, a Judge may, upon proof of the handwriting of such party or parties or upon such other evidence as he or she thinks sufficient, order the instrument to be admitted to registration; and it may then be registered accordingly without further proof.

15. Registration of will from probate granted in Grenada

(1) A will shall, for the purpose of registration under this Act and subject as hereinafter mentioned, be recorded by the Registrar from the probate of the will or from letters of administration with a copy of the will annexed granted by the Court of Probate in Grenada.

(2) A Judge may, on production of a grant of probate or of letters of administration granted by any Court of Probate outside Grenada in relation to a will affecting in Grenada realty only, admit such grant or letters to registration upon being satisfied that such will had been duly executed in accordance with the written law.

(3) Where a will relates solely to real estate and no probate has been taken out, such will shall be received for record by the Registrar if its due execution has been proved by the affidavit of not less than two of the subscribing witnesses thereto; such affidavit in the case of a will the witnesses to which are resident within Grenada, to be sworn before the Registrar or a magistrate, but in the case of a will which is made outside Grenada and the attesting witnesses to which are resident outside Grenada such affidavit may be sworn before any one of the persons authorised to take affidavits by section 12 or 13.

(4) If it is proved to the satisfaction of a Judge that such affidavits by two of the subscribing witnesses cannot be obtained, on account of the death or residence outside Grenada of any attesting witness or witnesses, the Judge may direct the Registrar to admit the will to registration, whether the same had been executed within or outside Grenada, upon proof being given, by one such witness and by any other person present at the execution, of the will having been duly executed.

(5) If it is made to appear to the satisfaction of a Judge that proof in manner above mentioned of the due execution of a will cannot be obtained on account of the death or residence outside Grenada of all or any of the subscribing witnesses and of the other persons, if any, present at such execution, the Judge may order the will to be recorded on proof that the several signatures to the will are in the handwriting of the testator and of the subscribing witnesses, or on proof of other circumstances whence a due execution may be presumed.

(6) If it appears that the will was not personally signed by the testator himself or herself, or that he or she was unable to read, then proof shall be given in the affidavit that the will was read over to the testator immediately before execution and that he or she was capable of understanding it, or that he or she had said he or she knew its contents.

(7) Every will proved for the purpose of record in the manner aforesaid shall be filed in the Registry and the Registrar shall keep an index to all wills so filed.

16. Proof to be attached to instruments

Every affidavit and certificate hereinbefore required as proof shall be attached to the instrument; and the person before whom an instrument is acknowledged shall indorse on it a memorandum of the acknowledgment.

17. Proof of instruments (except wills) made outside Grenada by illiterate persons

(1) Notwithstanding anything in sections 12 and 13 every instrument (other than a will) made outside Grenada by an illiterate person shall be proved by acknowledgment made before any one of the authorities mentioned in those sections respectively or, in the case of a British territory, any stipendiary magistrate or justice of the peace and not by affidavit.

(2) The authority shall, before taking such acknowledgment, satisfy himself or herself that the illiterate person fully understands the nature and effect of the instrument and, if not so satisfied, shall not take such acknowledgment.

(3) The form of acknowledgment shall contain a statement to the effect that before taking the acknowledgment the authority had satisfied himself or herself that the illiterate person fully understood the nature and effect of the instrument.

18. Date of admission to registration to be indorsed on instrument

(1) Every person presenting an instrument, except a will, for registration (being an instrument that may be legally registered) shall, at the time of its presentation, furnish the Registrar with a true and exact copy thereof and the Registrar, instead of copying the instrument into a book, after having satisfied himself or herself as to its correctness shall deposit the copy in its proper order in a safe place to be kept there, and such copy shall thereupon be deemed to be the proper record of the original.

(2) Every copy such as mentioned in subsection (1) shall be written on paper of a size, quality and kind to be prescribed from time to time by the Chief Justice and shall be bound in book form in such manner and at such times as the Chief Justice shall direct. The Registrar shall not accept for registration any copy that is not written on the prescribed size, quality or kind of paper, or a copy that in his or her opinion is not legibly or properly written or that is written in any way which would be likely to impair its usefulness as a record.

19. Certificate of registration

On receiving an instrument for registration the Registrar shall give to the person presenting it a certificate acknowledging receipt thereof, and the certificate shall be received as, and shall constitute, evidence of the registration of the instrument described therein.

20. Delivery back of the instrument

(1) At the time of the presentation of an instrument for registration the Registrar shall—

(a)

endorse thereon a memorandum of the hour, the day, the month and the year when the instrument was presented and shall add his or her signature to the endorsement; and

(b)

enter in a register book a record of the hour, the day, the month and the year corresponding with the memorandum endorsed thereon.

(2) After the endorsement of an instrument as provided in subsection (1)(a), the Registrar shall not part with the instrument until he or she shall have completed the entry required of him or her by subsection (1)(b).

(3) Nothing in subsection (2) shall be construed so as to entitle any person to demand from the Registrar the delivery of any will, or of any document such as is mentioned in section 22.

21. Deed executed by proxy not to be recorded unless the power of attorney is also recorded

When a deed is executed under a power of attorney, it shall be incumbent on the person who shall produce such deed for registration also to produce the power of attorney by authority of which such deed purports to have been executed, and the Registrar shall not record such deed without recording the power of attorney, unless such power is already recorded at the time; and the execution of the power of attorney shall be proved in like manner as any other deed.

22. Presumption in favour of documents thirty years old

Any document purporting or proved to be thirty years old produced to the Registrar shall, for the purposes of record, be presumed to have been duly executed and attested by the persons by whom it purports to have been executed and attested, and may be recorded accordingly:

Provided that such document shall be filed in the Registry.

PART V

Miscellaneous

23. Rectification of errors, etc.

The High Court may, on the application by summons of any person claiming any interest in any land in Grenada, order that any entry in the registry books be cancelled, or that any omission or mistake therein be rectified, or that any certificate indorsed or given under this Act be amended or cancelled, or that any instrument not registered be proved and registered, or that any person appear before the Court or before the Registrar and produce or prove any instrument and answer any question with reference to the registration or intended registration of any instrument.

24. Admissibility of registry books or certified copy

A copy of any instrument (other than a will) which has been registered in the Registry, the copy being either contained in the registry books or certified by the Registrar as a true copy, shall be admissible in all courts as *prima facie* evidence of the contents of the instrument, and that it was made by the party by whom it purports to have been made.

25. Will affecting land not admissible as evidence until registered

No will whereby any land in Grenada is in any way affected shall be admitted in any court as evidence of that land unless it has been registered in the Registry.

26. Rules

The Chief Justice may, with the approval of the Minister responsible for legal affairs, make, add to, alter and rescind rules (comprising also forms) for better carrying out the purposes of this Act.

27. Fees

(1) The fees to be taken by the Registrar under this Act shall be those set out in the Schedule, or such other fees instead thereof or in addition thereto as the Minister responsible for legal affairs may, from time to time, fix.

(2) The fees shall be paid in stamps which the Registrar shall cancel by writing across them in ink his or her name or initials and the date of cancellation.

(3) The Registrar shall not do any act for which a fee is payable until it has been paid.

(4) No fee shall be taken by the Registrar which would be payable by the Government or by a public officer in the discharge of his or her duty as such.

Schedule

DEEDS AND LAND REGISTRY ACT

Fees

[Section 27.]

	<i>Fee</i> \$ c	<i>Where the stamp is to be placed</i>
For the registration of every instrument in English	5.00	On the instrument
For the registration of every instrument in a foreign language	10.00	On the instrument
For the registration of every diagram or plan whether accompanying or part of an instrument or not, or for copying a diagram or plan from the Registry	2.50	On the instrument
Where the diagram or plan occupies not more than	5.00	On the

one page of the Registry Book		instrument
Where the diagram or plan occupies more than one page of the Registry Book	20.00	On the instrument
For taking the acknowledgment of a party to an instrument	1.00	On the instrument
For certifying a copy of an instrument as a true copy	1.00	On the copy
For making and certifying a copy of, or extract from, any registered instrument	5.00	On the copy
For permitting a search in the records	0.50	In the search book
For making a search in the Records and certifying the result, when made by the Registrar, for each hour or part thereof	5.00	In the search book
For producing any of the Records as evidence of any civil cause or proceeding in any court when summoned, or otherwise required by the court, to do so	2.00	In the search book
Where an instrument executed in Grenada is not registered within six months after the date of such instrument, there shall be charged for its registration	10.00	On the instrument
Where an instrument executed outside Grenada is not registered within six months after the period within which it should have been registered, pursuant to the provisions of section 7 or 8, there shall be charged for its registration	10.00	On the instrument
For the registration of every instrument in the Hurry Book	10.00	On the instrument