
CHAPTER 224**REGISTRATION**

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REGISTRATION

*Ordinances Nos. 11 of 1879, 17 of 1954, 28 of 1959,
37 of 1966, 53 of 1968, Act No. 24 of 1976.*

AN ACT TO PROVIDE FOR THE REGISTRATION OF DEEDS AND
OTHER DOCUMENTS

[20th February, 1879.]

PART I—WHAT DEEDS MAY BE REGISTERED AND HOW

Short title

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

Registration of deeds. Definition

2. All deeds made within Fiji, whether deeds *inter partes* or deed poll may be registered in the office of the Registrar of Titles who, for the purposes of this Act, shall be Registrar of Deeds. In sections following the term "Registrar" used without qualification means the Registrar of Deeds.

(Amended by 53 of 1968 s. 2.)

Object of registration

3. Deeds may be registered for publication, for preservation and for execution, or for one or more or all of these objects combined.

Deeds registered under the Land Transfer Act

4. All deeds forming titles to land which are provided for by the Land Transfer Act are registered under the provisions of that Act for preservation and publication, and no deed or title so registered requires to be again registered under the provisions of this Act.

(Cap. 131.)

Deeds executed subsequently to Act, how registered

5. Every deed presented for registration which shall be executed subsequently to the commencement of this Act shall be in duplicate and shall be entered in a

presentation book after the manner provided in section 20 of the Land Transfer Act and the Registrar shall file one original in his office in such manner as to form yearly volumes of the records and shall deliver the other to the person entitled thereto. (Cap. 131.)

Registration of deeds executed prior to Act

6. Deeds executed prior to the commencement of this Act shall, if presented for registration, be accompanied by an attested copy thereof upon paper of the size and description required by the Registrar and the Registrar shall file such copy in the same manner as a duplicate deed in section 6.

Index of registered deeds

7. A proper index shall be kept of each yearly volume of registered deeds. A nominal index shall also be compiled by the Registrar from all the different registers in his keeping setting forth under the name of a person on one side of the page all the deeds under which he is the proprietor of lands or the creditor in the case of mortgages, encumbrances or other obligations or the beneficiary in testamentary bequests and on the opposite page the deeds under which he is the debtor under any description of deed, mortgage, bill of sale or otherwise. A search of such nominal index shall be made only with respect to the individual name given in to the Registrar and the prescribed fee shall be charged for such search or inspection for each name, and the search shall in all cases be done under the eye and direction of the Registrar. (Amended by 37 of 1966, s. 18.)

Registration of receipts, letters, etc.

8. Any receipt, letter, memorandum, sale-note, agreement, plan, account or document of any similar description may be registered for preservation upon the parties desiring registration presenting an attested copy thereof upon paper of the size and description required by the Registrar. The attested copies shall be filed in such manner as to constitute separate yearly volumes of the records apart from the register of deeds and the original document itself shall be filed as relative to the registration of the attested copy. A proper index shall be kept of the attested copies containing a reference to the documents filed.

Date of presentation for registration to be date of registration

9. When a deed or document is presented for registration the Registrar shall note thereupon the date and hour and minute of the day of presentation as marked in the presentation book and shall sign such note and stamp the deed or document with the seal of his office and such date so marked shall be the date of registration. He shall also note in the same manner the deeds or duplicates to be returned to the persons presenting the same for registration after verification thereof in manner provided for by section 14.

PART II—EFFECT OF REGISTRATION

Registration of deed to be equivalent to sealing on delivery

10. Registration shall be equivalent to sealing for all deeds heretofore known to the law as deeds under seal and shall also be equivalent to delivery for all deeds and no other form of sealing or of delivery either by fact or words shall be necessary for registered deeds either at the time of subscribing or afterwards or at the time of

registration. All deeds executed subsequent to the commencement of this Act shall take priority according to date of registration.

Registration of deeds for execution

11. When the parties to a deed desire that it may be registered for execution as well as preservation they shall insert immediately before the attestation or "in witness" clause a clause in the prescribed form, and the insertion of such words shall be held to be a consent by all the parties to the deed that if they or any of them fail in the fulfilment of any of the obligations contained in the deed the party or parties who would have had the right to sue because of such non-fulfilment shall have the right to demand from the Registrar an extract from the register of the deed with a warrant for execution appended and that the party or parties who would have been liable to be sued because of such non-fulfilment shall be proceeded against by way of execution for such non-fulfilment as if a judgment had already been obtained against them in the competent court for the sum or obligation in default. *(Amended by 37 of 1966, s. 18.)*

Sheriff to give notice before enforcing execution

12. The sheriff shall, in lieu of the fourteen days which would in the ordinary case elapse between judgment and execution, give notice or charge or warning to the party or parties in default that the extract is in his hands for the purposes of execution and that execution will be enforced without further notice if the obligation be not fulfilled or the payment made within fourteen days.

Form of extract, warrant and notice

13. The demand for extract for execution, the extract containing the warrant and the notice of charge shall each be in the prescribed form.

(Substituted by 37 of 1966, s. 18.)

Duplicates and copies of registered deed endorsed by Registrar to be evidence

14. No duplicate or copies of a registered deed shall be deemed to be authentic or shall be received in evidence unless they contain an endorsement or marking by the Registrar that they have been examined with the registered deed and found to be correct but, when so endorsed or marked, they shall be received as evidence of the contents of the said deed in all courts of law within Fiji. The fees chargeable for copies or authentication of duplicates or copies shall be as prescribed. *(Amended by 37 of 1966, s. 18.)*

PART III—REGISTRATION AND DEPOSIT OF WILLS

Registration of wills to be made after probate

15. After a will is proved and probate has been granted by the Supreme Court in its probate jurisdiction the will shall be forthwith transmitted to the Registrar by the Chief Registrar of the Supreme Court and shall be registered in a register of wills:

Provided that where, in the exercise of its powers, the Supreme Court has ordered that matter be expunged from a will, the original will shall be retained by the Chief Registrar and a certified copy of the will after such matter has been expunged shall be transmitted to the Registrar.

(Proviso inserted by 24 of 1976, s. 10.)

Fee for search in register of wills

16. Searches may be made in the register of wills and copies of wills granted upon payment of the prescribed fees. (*Amended by 37 of 1966, s. 18.*)

Certified copy of registered will to be evidence

17. After a will has been registered it shall not be necessary to produce the will itself to establish a devise of real property or for any purpose connected with the administration of the estate but a copy thereof certified by the Registrar to be a true copy shall be sufficient:

Provided that the Supreme Court may at any time order production of the will itself or of the volume of the register containing it should such production be necessary for the ends of justice.

Deposit of wills, etc.

18. A will or revocation of a will or codicil thereto may be deposited for preservation with the Registrar to be given up by him upon the death of the testator for purposes of probate. The will may be either in a sealed envelope endorsed by the testator as containing his will or may be handed to the Registrar for deposit without being so sealed. There shall be paid at the time of deposit of a will the prescribed fee. (*Amended by 37 of 1966, s. 18.*)

Wills deposited to be in sole custody of Registrar. On death of testator will to be delivered

19. All wills so deposited shall be kept in a fire-proof safe or safes which shall be opened or searched only by the Registrar or by some officer of the department specially authorised by the Registrar for the purpose. Upon the decease of the testator the Registrar shall search for the will and if in a sealed envelope shall open the same and deliver it to the executor first named therein or other person lawfully entitled thereto or in case of doubt to such person or persons as the Chief Justice shall upon summary application order and direct.

Penalty for opening sealed envelope containing will, etc., or divulging same

20. If the Registrar or any officer of his department or any person obtaining access to a will properly or improperly opens such sealed envelope or reveals the contents of a will or codicil before the death of the testator, he shall be guilty of an offence punishable at the discretion of the court with a fine not exceeding six hundred dollars or to a term of imprisonment not exceeding twelve months or to both such fine and imprisonment.

PART IV—REGISTRATION OF BILLS OF SALE

Registration of bills of sale

21. All bills of sale of personal chattels shall be filed and registered by the Registrar under this Act.

Index to register

22. The Registrar shall continue the present register book and shall make and thereafter keep an index thereto which shall contain a reference to each bill of sale as filed.

Bills of sale how registered

23. The Registrar in registering bills of sale shall do so in conformity with the provisions of the Bills of Sale Act. (Cap. 225.)

PART V—REGISTRATION OF GUARANTEES FOR BANKERS' CASH CREDITS*Registration of guarantees to bank*

24. Where any person or persons have along with another or other persons as principals given by deed their guarantee to a bank that upon the bank giving credit to the principals up to a definite amount specified in the deed they the guarantors shall be liable along with the principals jointly and severally for any balance which may be due and owing on the account current between the bank and the said principals at any time when the bank may close the account (provided always that the amount advanced by the bank be not greater than the limit specified in the deed of guarantee), the deed may be registered either at the time of the making thereof or at the time when the bank closes the account, and the amount certified by the bank to be due under the said credit in the demand for warrant of execution shall be held to be the amount for which the guarantors became guarantee and to be the amount due by the principals in the obligation to the bank under the provisions of the deed and due by all the parties, principals and guarantors, jointly and severally, to the bank under the provisions and operation of the said deed of credit.

Deed of guarantee registered for execution

25. Where the deed has been registered and contains a consent to registration for execution in the manner set forth in section 11 the bank through its proper officer or officers authorised to sue or be sued may demand from the Registrar a warrant of execution against the principal obligant or the guarantors or one or more or all of them for the amount which the said officer or officers certifies in such demand to be the sum due upon the said credit at the time of closing the account (provided that the same be either the sum or within the sum specified as a limit by the deed of guarantee), and the Registrar shall thereupon grant such warrant of execution against one or more or all of the parties to the deed as may be demanded and they shall each be liable to pay the sum so certified to be due as if a judgement of the Supreme Court had been obtained decreeing that such sum was due jointly and severally by each and all of the principals and guarantors set forth in the deed.

Sheriff to give notice before enforcing execution

26. Upon the said warrant of execution being left with the sheriff for execution he shall give fourteen days' notice, charge or warning that the same is in his hands for execution and, if the same be not paid within the said period, all manner of execution competent upon a judgement by the Supreme Court for a like sum shall thereafter be competent to the said bank. The forms of the demand for warrant of execution, for the extract containing warrant of execution and for notice or charge by the sheriff shall be as are prescribed or as near thereto as circumstances will permit.

PART VI—MISCELLANEOUS

Consular registers

27. The registers of Her Majesty's consuls in Fiji up to the date of the cession of these islands shall be preserved by the Registrar and the public shall at all convenient times during office hours have access thereto for the purpose of search upon payment of such fees for search and copies therefrom as are herein provided for searches and copies from the register for deeds or documents of a similar kind.

Public Register of Acts

28. In addition to the copy of each Act which is now preserved in the registry of the Supreme Court an additional copy of each Act under the seal of Fiji and the hand of the Governor-General shall be deposited for preservation in the National Archives of Fiji and bound up with a proper index in yearly volumes and these volumes shall be designated "The Public Register of Acts".

(Amended by 28 of 1959, s. 2.)

Saving of right of Supreme Court

29. Nothing herein contained shall be construed to affect the right of the Supreme Court to grant injunction or otherwise to stay the proceedings upon any warrant, notice or charge given under any of the sections of this Act upon sufficient cause shown.

Regulations

30. The Minister may make regulations prescribing the forms to be used and the fees to be charged in connexion with the provisions of this Act.

(Inserted by 37 of 1966, s. 18.)

Fees to be paid to Consolidated Fund

31. All fees receivable by the Registrar under this or any other Act shall be paid into the Consolidated Fund

Controlled by Ministry of the Attorney-General

CHAPTER 224

REGISTRATION

SECTION 30—REGISTRATION (FEES AND FORMS) REGULATIONS

*Regulations 17th Aug., 1966 [in force 23rd Sept., 1966]
25th Nov., 1974.*

Made by the Governor in Council

Short title

1. These Regulations may be cited as the Registration (Fees and Forms) Regulations.

Fees

2. The fees set out in the First Schedule shall be charged by the Registrar in respect of the several matters specified in such Schedule.

Forms

3. The forms set out in the Second Schedule shall be the forms to be used for the purposes of the Act.

FIRST SCHEDULE

(Sections 7, 14, 16, 18 and 22)

(Amended by Registrations 25th November, 1974.)

1. For registration of deed under section 2	\$ c.
2. For every duplicate	2-00
3. For receiving any receipt, letter, memorandum, agreement, plan, account or document of any description for registration under section 8	50
4. For filing demand for extract (and warrant of execution) of any deed	50
5. For every warrant of execution	50
6. For search of register for any specified will or deed or document ...	50
7. For every general search of register	30
8. For receiving and noting every will deposited for safe custody	1-50
9. For registering bill of sale	2-00
10. For filing affidavit of renewal :	2-00
11. For entering satisfaction	1-00
12. For every bill of sale or affidavit or renewal inspected	1-00
13. For filing demand for extract and warrant of execution (as above) ..	20
14. For any office copy of any will, deed or of any extract therefrom per folio of seventy-two words	1-00
15. For certificate and seal of Registrar to any office copy	20
16. Search of nominal index of all the records, for each name	1-00
	2-00

SECOND SCHEDULE

(Section 11)

FORM 1

FORM OF CLAUSE CONTAINING CONSENT TO REGISTRATION FOR
EXECUTION TO BE INSERTED IMMEDIATELY BEFORE THE "IN
WITNESS" CLAUSE OF DEED

And the said A.B. and C.D. do hereby consent that this Indenture (or, as the case may be) be registered under the provisions of the Registration Act for preservation and execution.

FORM 2

(Sections 13 and 27)

DEMAND FOR WARRANT OF EXECUTION

Issue on behalf of A.B. [*insert additions*] Extract of Deed (or Protest) [*here describe deed or protest*] dated the _____ day of _____ and registered the _____ day of _____ with warrant of execution annexed thereto in conformity with the provisions of the Registration Act.

(Signed)
A.B. (or G.H. Barrister
and Solicitor)

FORM 3

(Sections 13 and 27)

EXTRACT OF DEED CONTAINING WARRANT OF EXECUTION

At Suva the _____ day of _____ one thousand nine hundred and _____ between the hours of _____ and _____ there was registered in the Registry of Deeds a Deed containing a clause of consent for registration for execution of which the tenor follows [*here insert full copy of the deed*] and a demand for warrant of execution having been made by A.B. [*insert additions*] it is hereby granted in conformity with the provisions of the Registration Act.

Elizabeth II, by the Grace of God, etc.,
To the Sheriff of Fiji, Greeting.

We command you to charge the party or parties whose names are above written and who are held bound by the Deed above written to pay, fulfil or otherwise implement the whole sums, covenants or obligations or any of them specified in the said Deed all in terms and to the effect therein contained and that to the party or parties to whom the said sums, covenants or obligations are by the terms of the said Deed due, payable or undertaken within fourteen days next after he, she, or they are respectively charged to that effect, and if the said party or parties bound as aforesaid, fail to obey the said charge then to proceed against them according to the mode in which by law a judgment of our Supreme Court of Fiji may be enforced and in conformity with the rules and forms of procedure competent thereupon, this Warrant of Execution being your warrant therefor.

And, in what manner you shall have executed this our writ make appear to the said Supreme Court immediately after execution thereof.

Extracted on this and the preceding pages by me, Registrar of Deeds of Fiji.
(Signature of Registrar)

[Seal of Office.]

FORM 4

(Sections 13 and 27)

FORM OF NOTICE OR CHARGE BY THE SHERIFF

Appended to a copy of the above Extract the Sheriff shall add:

You are charged by A.B. [*insert additions*] to pay to him under the covenants of the above Deed (or, as the case may be) the sum of \$ to which is to be added the sum of \$ for costs of the above extract and the Sheriff's fees of service; and these are to charge you to pay the said sums to the said A.B. within fourteen days of the date hereof; failing which all manner of execution by seizure and sale of your goods and chattels, attachment and sale of your real and personal property and, if necessary, imprisonment shall be competent as if a judgment of the Supreme Court of Fiji had been obtained against you and execution taken out thereupon by virtue of the Registration Act.

(Signature)
Sheriff of Fiji

Controlled by Ministry of the Attorney-General