

CHAPTER 247

PROBATES AND LETTERS OF ADMINISTRATION (RESEALING) 1980-56

This Act came into operation on 1st August, 1982 by Proclamation (S.I. 1982 No. 125).

Amended by:

1981-41

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 247

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**BARBADOS****PROBATES AND LETTERS OF ADMINISTRATION (RESEALING)
1980-56**

An Act to make new provisions for the resealing in Barbados of probates and letters of administration and instruments having similar effect granted outside Barbados and for related matters.

[Commencement: 1st August, 1982]

CITATION**Short title**

1. This Act may be cited as the *Probates and Letters of Administration (Resealing) Act*.

Definitions and application

2.(1) For the purposes of this Act

“court” includes any competent authority by whatever name it is designated, having jurisdiction to make a grant of administration;

“grant of administration” means a probate or letters of administration or any instrument having, within the jurisdiction where it was made, the effect of appointing or authorising a person, “the grantee”, to collect and administer

any part of the estate of a deceased person and otherwise having in that jurisdiction an effect equivalent to that given, under the law of Barbados, to a probate or letters of administration;

“personal representative” means the executor, original or by representation, or the administrator for the time being, of a deceased person, and includes any public official or any corporation named in the probate or letters of administration as executor or administrator, as the case may be;

“Registrar” means the Registrar of the Supreme Court;

“reseal” means reseal with the seal of the Supreme Court.

(2) Any references in this Act to the making of a grant of administration includes any process of issuing by or filing with a court by which an instrument is given an effect equivalent to that of a grant of probate or of letters of administration.

(3) This Act applies in relation to grants of administration granted before or after the passing of this Act.

PROCEDURE FOR RESEALING

Application for resealing

3.(1) Where a grant of administration of the estate of any deceased person has been made by a court in any part of the Commonwealth or in any other country, an application may be made under this section for the resealing of the grant of administration.

(2) An application under this section must be made to the Registrar, and may be made by

- (a) a personal representative or the grantee, as the case may be; or
- (b) a person authorised by power of attorney given by any such personal representative or grantee; or

- (c) an attorney-at-law registered in Barbados acting on behalf of any such personal representative or grantee or of a person referred to in paragraph (b).
- (3) Not less than 21 days before making an application under subsection (1), the applicant shall cause to be published in 2 issues of a daily or bi-weekly newspaper circulating in Barbados an advertisement approved for the purpose of this section by the Registrar that
 - (a) gives notice that the person named in the advertisement intends to make such an application;
 - (b) states the name and the last address of the deceased person;
 - (c) requires any person wishing to oppose the resealing of the grant of letters of administration to lodge a caveat with the Registrar by a date specified in the advertisement that shall be a date not less than 21 days after the date of the publication of the advertisement.
- (4) An applicant shall produce to the Registrar
 - (a) the grant of administration or an exemplification or a duplicate thereof sealed with the seal of the court by which the grant was made or a copy of any of the foregoing certified as a correct copy by or under the authority of that court;
 - (b) where the document produced under paragraph (a) does not include a copy of the will, a copy of the will, verified by or under the authority of that court;
 - (c) an affidavit stating that an advertisement has been duly published pursuant to subsection (3);
 - (d) where the applicant is a person referred to in subsection (2) (b), the power of attorney authorising him to make the application and an affidavit stating that the power has not been revoked;

- (e) such evidence, if any, as the Registrar thinks fit as to domicile of the deceased person,
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and shall deposit with the Registrar a copy of the grant of administration.

Caveats

4.(1) Any person who wishes to oppose the resealing of a grant of administration shall, by the date specified in the advertisement published pursuant to section 3(3), lodge a caveat against the resealing.

(2) A caveat under subsection (1) has the same effect and shall be dealt with in the same manner as if it were a caveat against the making of a grant of probate or letters of administration by the High Court.

(3) The Registrar shall not, without an order of the High Court, proceed with an application under section 3 if a caveat has been lodged under this section.

Resealing of grants of administration

5.(1) Subject to this section, where an application has been made under section 3 and the date specified in the advertisement published pursuant to section 3(3) has passed and no caveat has been lodged under section 4 or any caveat so lodged has not been sustained, the Registrar may, if he is satisfied that

- (a) such estate duties, if any, have been paid as would have been payable if the grant of administration had been made by the High Court;
- (b) security has been given in a sum sufficient in amount to cover the property in Barbados to which the grant of administration relates and in relation to which the deceased died intestate,

cause the grant of administration to be resealed.

(2) It is not necessary for security to be given under subsection (1)(b) in the case of a grant of administration that was made to any public official outside Barbados.

(3) Where it appears that a deceased person was not, at the time of his death, domiciled within the jurisdiction of the court by which the grant of administration was made, that grant may not be resealed unless the grant is such as the High Court would have had jurisdiction to make.

(4) The Registrar may, if he thinks fit, on the application of any creditor require, before resealing, that adequate security be given for the payment of debts or claims due from the estate to creditors residing in Barbados.

(5) The Registrar

(a) may, if he thinks fit, at any time before resealing refer an application under section 3 to the High Court; and

(b) shall make such a reference if so requested in writing by the applicant at any time before resealing or within 21 days after he has refused to reseat,

and where an application is so referred the grant of administration may not be resealed except in accordance with an order of the High Court.

Effects of resealing

6.(1) A grant of administration resealed under section 5(1) has like force and effect and the same operation in Barbados, and such part of the estate as is in Barbados is subject to the same liabilities and obligations, as if the probate or letters of administration had been granted by the High Court.

(2) Without prejudice to subsection (1), where an application for resealing a grant of administration is made by

(a) the personal representative or grantee;

(b) a person authorised under section 3(2)(b); or

(c) an attorney-at-law under section 3(2)(c),

the personal representative or grantee or the person referred to in paragraph (b) is, after the resealing, deemed to be for all purposes the personal representative

of the deceased person in respect of such of his estate as is in Barbados, and subject to section 7 shall perform the same duties and be subject to the same liabilities as if he was personal representative under a grant of administration made by the High Court.

Duties of person authorised by personal representative, etc.

7.(1) A person duly authorised under section 3(2)(b) who is deemed to be a personal representative by virtue of section 6(2) shall, after satisfying or providing for the debts or claims due from the estate of all persons residing in Barbados or of whose debts or claims he has had notice, pay over or transfer the balance of the estate in Barbados to the personal representative named in the grant or the grantee, as the case may be, or as such personal representative or grantee may, by power of attorney, direct.

(2) Any such person referred to in subsection (1) shall duly account to the personal representative or grantee, as the case may be, for his administration of the estate in Barbados.

Rules of court

8. The Judicial Advisory Council may make rules regulating the practice and procedure, including fees and costs, on or incidental to an application under this Act for resealing a grant of administration.