

PROBATES (RE-SEALING) ACT, 2022

(Act 15 of 2022)

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PROBATES (RE-SEALING) ACT, 2022

(Act 15 of 2022)



I assent

A handwritten signature in black ink, appearing to read 'Wavel'.

Wavel Ramkalawan
President

2nd August, 2022

AN ACT TO PROVIDE FOR THE RESEALING OF PROBATES AND LETTERS OF ADMINISTRATION GRANTED BY A COURT OF PROBATE IN A RECOGNISED JURISDICTION IN RESPECT OF THE ESTATE OF A DECEASED PERSON AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Probates (Re-sealing) Act, 2022.

Interpretation

2. In this Act, unless the context otherwise requires —

“court of probate” means any court or authority, by whatever name designated, that has jurisdiction in matters of probate in a recognized jurisdiction;

“Curator” means the Curator appointed under the Curatelle Act, 2021;

“Minister” means the Minister responsible for legal affairs;

“Mortgage and Registration Office” the Mortgage and Registration Office established under the Mortgage and Registration Act, Cap. 134

“probate or letters of administration” include confirmation in Scotland and any instrument of probate or letters of administration in a recognized jurisdiction;

“recognized jurisdiction” means any of the jurisdictions specified in Schedule 1.

Resealing of probate or letters of administration

3.(1) Where a court of probate in a recognized jurisdiction has, either before or after the coming into force of this Act, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy in accordance with section 5 thereof deposited with, the Curator, be sealed with the seal of the Curator.

(2) Where a grant of probate or letters of administration are sealed with the seal of the Curator pursuant to subsection (1), the probate or letters of administration so sealed shall have the like force, and have the same effect and operation in Seychelles, as if it or they were an order of confirmation of a testamentary appointment of an executor by the Curator and no further appointment of executor shall be required if the estate of the deceased person comprises immovable property in Seychelles.

(3) The provisions of the Curatelle Act, 2021 and the Civil Code of

Seychelles Act, 2020 in relation to executors shall *mutatis mutandis* apply to an executor or administrator of an estate whose appointment is confirmed under this Act.

(4) An application under subsection (1) may be made by the executor or any interested person.

(5) A person who seeks to reseal the grant of probate or letters of administration under subsection (1) shall submit to the Curator a petition supported by an affidavit accompanied by —

- (a) a copy of the grant of probate or letters of administration in accordance with section 5 that the petitioner seeks to reseal;
- (b) the death certificate of the deceased;
- (c) proof of the identity of the applicant;
- (d) affidavits, or a declaration in the affidavit in support, of alias where necessary in order to explain or reconcile any differences or discrepancies in names which appear in the supporting documents.

Conditions to be fulfilled before sealing

4.(1) The Curator shall, before sealing a grant of probate or letters of administration under this Act, be satisfied that probate duty or succession duty has been paid in respect of so much, if any, of the estate as is liable to probate duty or succession duty in Seychelles.

(2) For the purposes of subsection (1), the Curator may require such evidence, if any, as the Curator thinks fit as to the domicile of the deceased person.

Effect of duplicate of probate or letters of administration

5.(1) For the purposes of this Act, a duplicate of any grant of probate or letters of administration sealed with the seal of the court of probate in a recognized jurisdiction, or a copy thereof certified as correct by or under the authority of the court of probate in a recognized jurisdiction, shall have the same effect as the original.

(2) The Curator shall as soon as possible after sealing the grant of probate or letter of administration —

- (a) cause an extract of the order to be registered at the Mortgage and Registration Office; and
- (b) cause the publication in the *Gazette*, of a notice of confirmation under this Act read together with section 23 (8) of the Curatelle Act in the form prescribed in Schedule 2.

Rules

6. The Minister, in consultation with the Curator, may make rules for regulating the procedure and practice, including fees and costs, on and incidental to an application for sealing a grant of probate or letters of administration under this Act.

Amendment of Schedule

7. The Minister, in consultation with the Curator, may by regulations amend any Schedule.

Repeal

8. The Probates (Re-sealing) Act, Cap. 183, is repealed.

SCHEDULE 1

(Section 2)

LIST OF RECOGNIZED JURISDICTIONS

1. Anguilla
2. Antigua and Barbuda
3. Australia
4. Bahamas
5. Barbados
6. Belize
7. Bermuda
8. Botswana
9. British Antarctic Territory
10. British Columbia

11. British Sovereign Base Areas in Cyprus
12. British Virgin Islands
13. Brunei
14. Canada (including each of the Provinces thereof, except Quebec)
15. Cayman Islands
16. Christmas Islands (Australia)
17. Cocos (Keeling) Islands
18. Commonwealth of Dominica
19. England and Wales
20. Falkland Islands Dependencies
21. Fiji
22. Gambia
23. Ghana
24. Gibraltar
25. Grenada
26. Guernsey
27. Guyana
28. Hong Kong (including the Hong Kong Special Administrative Region of the People's Republic of China)
29. Isle of Man
30. India
31. Jamaica
32. Jersey
33. Kenya
34. Kiribati
35. Lesotho
36. Malawi
37. Malaysia
38. Montserrat
39. New Guinea Territory
40. New Zealand
41. Nigeria
42. Norfolk Island
43. Northern Ireland
44. Papua New Guinea
45. St. Helena
46. Republic of Cyprus
47. St. Kitts and Nevis
48. Saint Lucia
49. St. Vincent
50. Scotland

- 51. Sierra Leone
- 52. Singapore
- 53. Solomon Islands
- 54. South Africa
- 55. Sri Lanka
- 56. Swaziland
- 57. Tanzania
- 58. Trinidad and Tobago
- 59. Turks and Caicos Islands
- 60. Tuvalu
- 61. Uganda
- 62. United States of America
- 63. Zambia
- 64. Zimbabwe

SCHEDULE 2

[Section 5(2)(b)]

FORM 1

Notice of Appointment of Executor

Notice is hereby given that on the [insert date], the Curator confirmed the grant of probate/letters of administration [insert details of the grant of probate/letters of administration] whereby [insert name] of [insert address] [insert identity number] was appointed/confirmed as executor or administrator of the estate of [insert name of the deceased and any alias] under section [insert section of ___ of the Probates (Re-sealing) Act, 2022, read with section 23(8) of the Curatelle Act]

Dated this day of, 20.....

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Curator

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 12th July, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly