

RODRIGUES (ADMINISTRATIVE AND JUDICIAL PROVISIONS) ACT

Act 21 of 1974 – 11 July 1974

ARRANGEMENT OF SECTIONS

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SCHEDULE

RODRIGUES (ADMINISTRATIVE AND JUDICIAL PROVISIONS) ACT

EDITORIAL NOTE: This Act first came into force on 11 July 1974. It was reproduced in the fifth volume of the 1981 Edition of the Revised Laws which came into force on 1 October 1982. It has, in accordance with the Revision of Laws Act, been rewritten to include those provisions of the Rodrigues Island Secretary's Powers Act (RL 5/149) that are still in force and not spent. The Rodrigues (Administrative Provisions) Acts 1982, 1988 and 1990 (Acts 31 of 1982, 3 of 1988 and 12 of 1990) are spent, and the Rodrigues Vaccination Act (RL 5/153) is obsolete. Those enactments are not reproduced. The words "Island Secretary" have been deleted and replaced by the words "Island Chief Executive" wherever they appear, by section 66 (4) of Act 39 of 2001 w.e.f. 28 January 2002.

1. Short title

This Act may be cited as the Rodrigues (Administrative and Judicial Provisions) Act.

2. Interpretation

In this Act—

"Minister" means the Minister to whom responsibility for Rodrigues is assigned.

3. Absence of Magistrate

Notwithstanding any other enactment, where the Magistrate for Rodrigues is absent or is for any other cause unable to perform his duties, the Island Chief Executive may exercise the duties of the Magistrate specified in the Schedule.

[S. 3 amended by s. 66 (4) of Act 39 of 2001 w.e.f. 28 January 2002.]

4. Marriage contracts and wills

(1) Where a will or contract of marriage bears the certificate of the Island Chief Executive that the signatures attached to the will or contract are genuine and that the contents of the document express the true intention and consent of the parties whose signatures are attached, the will or contract shall have the same legal force and effect as if it were a notarial deed drawn up and passed in Mauritius in the legal form.

(2) (a) Any party in Rodrigues may submit, for authentication, to the Island Chief Executive any document written in any language which he orally states to be his last will.

(b) On receipt of a document under paragraph (a), the Island Chief Executive shall—

- (i) ascertain the identity of the party;
- (ii) either by himself, or where necessary by the written translation made and signed by a competent person and marked for identification by the Island Chief Executive, ascertain that the contents of the document are in accordance with the real intention of the party;
- (iii) write on the document so that it may be identified—
 - (A) the names of the party;
 - (B) the fact that the party declared the document to be his will;
 - (C) that any written translation has been made and is annexed;
 - (D) the name of the translator;
 - (E) the date on which the document was presented to him;
 - (F) his signature and official capacity; and
- (iv) return the document and any written translation to the party.

(3) Where the testator is unable to sign through ignorance or some other cause, he shall record a declaration to that effect to the Island Chief Executive who shall record the same on the original document and require the testator to forthwith affix his mark to that document.

(4) The Island Chief Executive shall enter, or cause to be entered, in a register to be kept at the Court of Rodrigues a note of all wills and marriage contracts on which he has written any certificate by virtue of this Act.

(5) The note under subsection (1) shall consist of the names of the parties to the wills and contracts and of the dates of the certificates, and shall be signed or initialled by the Island Chief Executive.

[S. 4 amended by s. 66 (4) of Act 39 of 2001 w.e.f. 28 January 2002.]

5. Certification of marks

(1) Subject to subsections (2) and (3), where a party to a document under private signatures, *sous seing privé*, is unable from ignorance or physical

incapacity, to sign his name, he may appear before the Island Chief Executive and affix his cross or mark, in the presence of 2 witnesses, to the document after it has been read over to him by the Island Chief Executive and the cross or mark attested by the Island Chief Executive and the witnesses shall be held to be equivalent to, and have the same legal effect as, the signature of the party.

(2) A document under subsection (1) shall be held to be a document under private signatures, "*sous seing privé*", and shall be subject to all the other formalities required by law for its validity.

(3) Where the document is written in a language which the Island Chief Executive does not understand, he may have the document interpreted to the party.

[S. 5 amended by s. 66 (4) of Act 39 of 2001 w.e.f. 28 January 2002.]

6. Surveys

(1) Any person may apply in writing to the Island Chief Executive for the survey of any portion of land in Rodrigues of which he claims to be the owner, otherwise than by prescription, or of which he is the prospective purchaser.

(2) The Island Chief Executive shall cause the survey applied for under this section to be carried out by a Government Surveyor on prepayment of a fee of 10 rupees by the applicant.

(3) On completion of the survey and after the boundary stones have been placed, the applicant shall further pay a fee of 2 rupees in respect of every arpent or fraction of an arpent surveyed.

(4) The Island Chief Executive may, where he is satisfied that any applicant is, by reason of his financial circumstances, unable to pay the fees prescribed, remit such fees in whole or in part.

[S. 6 amended by s. 66 (4) of Act 39 of 2001 w.e.f. 28 January 2002.]

7. Protection of Island Chief Executive

The Island Chief Executive shall not incur any liability in respect of an act done by him in the exercise of the powers conferred upon him by this Act.

[S. 7 amended by s. 66 (4) of Act 39 of 2001 w.e.f. 28 January 2002.]

8. Regulations

The Minister may—

- (a) make such regulations as he thinks fit for the purposes of this Act; and
 - (b) by regulations, amend the Schedule.
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SCHEDULE

[Section 3]

1. Issuing orders for affixing or removing seals, or for a provisional attachment
 2. Issuing warrants for provisional seizures, warrants of arrest, warrants of commitment, search warrants, warrants of entry and warrants to reinstate minors
 3. Fixing the amount of security and taking recognisance
 4. Remanding persons in custody or to gaol
 5. Issuing summonses to parties charged
 6. Issuing orders for the stay of execution of judgment in civil matters when an application for a new trial is made
 7. Giving consent to the marriage of a minor whose parents are dead, absent, or incapable of manifesting their will
 8. Issuing orders for the dispensation of one publication of marriage
 9. Authorising issue of occasional liquor licences and restaurant extension licences
 10. Taking and receiving dying declarations
 11. Ordering post-mortem examinations, and, for that purpose, ordering the exhumation of a body
 12. Receiving affidavits and solemn declarations, informations or other declarations on oath or affirmation
 13. Issuing orders for interim detention
 14. Issuing orders and making requests under the Child Protection Act
[Sch. amended by GN 124 of 2000.]
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