

CHAPTER 67

EXECUTION OF DOCUMENTS (HANDICAPPED PERSONS)

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SCHEDULE — The Execution of Documents (Handicapped Persons) Act.

CHAPTER 67

EXECUTION OF DOCUMENTS (HANDICAPPED PERSONS).

An Act to require the official attestation of the execution by handicapped persons of certain documents and to repeal the Illiterates Protection Act. *25 of 1970*
5 of 1987

[Assent 2nd December, 1970]
[Commencement 17th December, 1970]

1. This Act may be cited as the Execution of Documents (Handicapped Persons) Act. Short title.

2. In this Act, unless the context otherwise requires — Interpretation.
“document” means —

- (a) any instrument whereby any person purchases, or agrees to purchase, any real or personal property or, by way of sale, mortgage or gift (but not including gift by will), disposes, or agrees to dispose, of such property; or
- (b) any lease of land or any agreement in writing for such a lease or any tenancy agreement in writing, being a lease, agreement for a lease or tenancy agreement for a term of one year or more; or
- (c) any promise in writing to answer for the debt, default or miscarriage of another; or
- (d) any promissory note,
being an instrument, lease, agreement, promise or note executed on or after the commencement of this Act;

“land” includes any interest in land;

“official attester” means an official attester under section 4 of this Act;

“signature” includes a mark placed upon a document by a person as his mark, and “sign” shall be construed accordingly.

Application of Act.

3. This Act applies to any person who is blind or does not know how to write his name.

Official attestors.

4. The following persons shall be official attestors for the purposes of this Act —

(a) in respect of any document executed in The Bahamas, the Registrar General, the Deputy Registrar General, or any magistrate, justice of the peace, or notary public;

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(b) in respect of any document executed in any other country, any diplomatic agent of The Bahamas or consular officer of The Bahamas, justice of the peace, notary public or commissioner for oaths, or any person holding a like office (by whatever name known) duly appointed under the laws of that country;

(c) in respect of any document executed whether within or without The Bahamas, any such fit and proper person, or class of fit and proper persons, as the Governor-General may from time to time by notice in the *Gazette* appoint.

Validity of documents.

5. (1) No document executed by a person who at the time when he signs it is a person to whom this Act applies, shall be of any force or validity whatsoever as against that person unless he shall have signed the document in the presence of an official attestor and the official attestor shall have attested his signature in accordance with the provisions of this section.

(2) Before attesting a signature on a document under this section the official attestor shall read over and explain the contents of the document to the person whose signature is to be attested and shall not attest the signature of that person unless he is satisfied that that person understands the nature and contents of the document.

Schedule.

(3) An attestation of a signature under this section shall be in the form set out in the Schedule.

(4) An official attestor may charge, in respect of each signature attested by him for the purposes of this Act, such fee as the Governor-General may by regulations made under this subsection prescribe, so, however, that, until any fee is so prescribed, such fee shall be, where the

attestation is done within The Bahamas, any amount not exceeding twelve cents and, in any other case, such amount as the official attestor considers will cover his expenses in connection with the attestation.

6. The attestation of an official attestor shall be conclusive evidence that the person whose signature was thereby attested understood and approved the contents of the document before signing it: Evidence.

Provided that nothing in this section shall afford a defence to any person (including the official attestor) in —

- (a) any criminal proceedings; or
- (b) any civil proceedings for damages founded on any negligence, misrepresentation or fraud,

that are taken against him in relation to that document or the attestation thereof.

7. (1) The Illiterates Protection Act is hereby repealed: Repeal and saving.

Provided that any document to which this proviso applies which under the provisions of the said Illiterates Protection Act was invalid as against any person at the time of its execution unless attested under the said provisions shall not be rendered valid as against such person by such repeal but shall, to be valid as against such person, continue to require to be so attested, notwithstanding such repeal. *4 of 1919 (see 1965 Ed.)*

(2) The proviso to subsection (1) of this section shall apply to any document (as defined in section 2 of the said Illiterates Protection Act) executed before the commencement of this Act, being a document to which the said Illiterates Protection Act applied pursuant to the provisions of section 6 thereof.

SCHEDULE (Section 5(3))

THE EXECUTION OF DOCUMENTS (HANDICAPPED PERSONS) ACT

FORM OF ATTESTATION

I (*here print name of official attestor*) [*being (here state office mentioned or referred to in section 4(a) or (b) of the above Act)*]¹ [*or, where section 4(c) of the said Act applies, state*] having been appointed an official attestor under paragraph (c) of section 4 of the above Act]² hereby certify that on the day of, 19 (*here print name and address of handicapped person and nature of handicap within section 3 of the above Act*) came before me and signed the attached document dated the day of, 19, being (*here summarise very briefly the nature and contents of the document*), such document having first been read over and the contents thereof explained to (him) (her) by me and I having been satisfied that (he) (she) understood the nature and contents of the said document.

.....
Signature of official attestor

.....
Date

(Seal of office, if any)

¹ Delete whichever is not applicable.

² Delete whichever is not applicable.