

THE OFFICIAL GAZETTE 30TH NOVEMBER, 1998
LEGAL SUPPLEMENT – C

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

30th November, 1998

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly.



GUYANA

BILL NO. 26 OF 1998

DEEDS REGISTRY AUTHORITY BILL 1998

ARRANGEMENT OF SECTIONS

SECTION

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A BILL

Intituled .

AN ACT to establish the Deeds Registry as a body corporate to promote the efficient and orderly operation of the Registry, to establish the conditions governing the employment of officers and employees of the Registry, to provide for funding of the operations of the Registry, and for matters connected therewith or incidental thereto.

A.D. 1998

Enacted by the Parliament of Guyana —

Short title
and com-
mencement

1. (1) This Act may be cited as the Deeds Registry Authority Act 1998.
- (2) This Act shall come into force on such day as the Minister may, by order, appoint.

Interpreta-
tion

2. In this Act —

- (a) “appointed day” means the day on which this Act comes into force in accordance with section 1 (2);
- (b) “Deeds Registry Act” means the Deeds Registry Act;
- (c) “Deputy Registrar” means the Deputy Registrar of Deeds;
- (d) “Minister” means the Minister of Legal Affairs;
- (e) “Registrar” means the Registrar of Deeds;
- (f) “Registry” means the Deeds Registry as existing immediately before the appointed day and, after the appointed day, the Deeds Registry as established by section 3 of this Act.

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| <p>3. The Registry is hereby established as a body corporate from the appointed day.</p> | <p>Establishment of Deeds Registry as body corporate</p> |
| <p>4. The functions of the Registry shall be —</p> | <p>Functions of Registry</p> |
| <p>(a) the functions assigned to the Registrar and to the Registry under—</p> | |
| <p>(i) the Deeds Registry Act;</p> | <p>Cap. 5:01</p> |
| <p>(ii) the Companies Act 1991;</p> | <p>No. 29 of 1991</p> |
| <p>(iii) the Business Names (Registration Act);</p> | <p>Cap. 90:05</p> |
| <p>(iv) the Powers of Attorney Act;</p> | <p>Cap. 5:08</p> |
| <p>(v) the Bills of Sale Act;</p> | <p>Cap. 90:12</p> |
| <p>(vi) the Trade Marks Act;</p> | <p>Cap. 90:01</p> |
| <p>(vii) the Patents and Designs Act;</p> | <p>Cap. 90:03</p> |
| <p>(viii) the Civil Law of Guyana Act;</p> | <p>Cap. 6:01</p> |
| <p>(ix) the Land Registry Act; and</p> | <p>Cap. 5:02</p> |
| <p>(x) any other written law or other legal document;</p> | |
| <p>(b) to do anything and enter into any transaction which are necessary to ensure the proper performance of its functions, and without prejudice to the generality of the foregoing —</p> | |
| <p>(i) develop and maintain systems, whether by computer or other means, for the collection, storage and retrieval of information relevant to the functions of the Registry; and</p> | |
| <p>(ii) design and conduct training programmes for Registry officers and employees so as to upgrade their knowledge, skills and job performance; and</p> | |
| <p>(c) to regulate its own procedure in accordance with this Act and the laws mentioned in paragraph (a).</p> | |

Constitution of Registry

5. (1) The Registry shall consist of the following designated members —
- (a) the Registrar;
 - (b) the Deputy Registrar; and
 - (c) such senior officers of the Registry, not exceeding three, as may be designated by the Registrar, with the approval of the Minister.
- (2) The Registrar and the Deputy Registrar shall be appointed by the Minister on such terms and conditions, including emoluments, as specified in the instruments of appointment.
- (3) The senior officers of the Registry designated as members thereof shall hold office for such period as may be specified by the Registrar, with the approval of the Minister, and may be re-appointed on the expiration of their term of office.
- (4) Notwithstanding anything in subsections (2) and (3), the Minister may terminate the appointment of any designated member of the Registry for failure or inability to discharge the functions of his office or for misconduct or in the public interest.
- (5) The Registrar shall be the chief executive of the Registry and, subject to the general supervision control of the Minister, shall be responsible—
- (a) for carrying out the functions assigned to him under the laws mentioned in section 4 (a);
 - (b) for the day-to-day operations of the Registry;
 - (c) for the management of funds, property and affairs of the Registry; and
 - (d) for the administration, organisation and control of the staff of the Registry.
- (6) The Registrar, with the approval of the Minister shall appoint such notaries public, sworn clerks,

assistant sworn clerks, clerks and other officers and employees as may be necessary to carry out the efficient performance of the functions of the Registry.

- (7) The seal of the Registry shall be such device as may be determined by the Registrar and shall be kept by the Registrar

6. In addition to the functions mentioned in section 4, the functions of the Registry shall include the functions that were discharged by the Public Service Management within the Office of the President on the date immediately preceding the appointed day and are as follows —

Functions
of the Reg-
istry as to
employ-
ment, etc.

- (a) to create or abolish any position of employment;
- (b) to determine job descriptions and specifications;
- (c) subject to section 5 (3) and (4), to hire, discipline and dismiss officers and employees of the Registry;
- (d) to determine the conditions of service, including remuneration;
- (e) to maintain a staff list;
- (f) to provide for a wages and salaries regime and to provide for grading of officers and employees and for leave, overtime, training, allowances; and hours of work;
- (g) to make provision for the payment for pension, gratuity or other allowance in respect of the service of the officers and employees of the Registry upon their retirement therefrom;
- (h) to establish and implement a written code of conduct for all officers and employees of the Registry;
- (i) with the approval of the Minister, to retain the services of professional persons and experts and pay such remuneration in respect thereof as the Registrar, with the approval of the Minister, may determine; and
- (j) to provide for the implementation of any operational procedure regarding the functions specified in paragraphs (a) to (i), inclusive.

Officers
and em-
ployees of
the Reg-
istry

7. (1) Before the appointed day, the Government and the Registry shall, with the approval of the Public Service Commission, notify the officers and employees of the Registry that the Registry wishes to retain them as officers and employees after the appointed day, and such officers and employees shall be engaged on terms and conditions as may be agreed upon between the Registry and each person so employed and, which taken as a whole, are no less favourable than those applicable to him immediately before the date, and the Registry shall, in respect of the persons so employed, be the successor of the Government with regard to such officers' and employees' leave and superannuation rights and benefits, whether accrued, inchoate or contingent.
- (2) For the purposes of every law, determination or agreement relating to the employment of each of the officers and employees of the Registry retained under subsection (1), including the determination of and right to receive superannuation benefits, such employment shall be deemed to be uninterrupted and the period of service of each such officer or employee with the Registry, and every other period of service of that officer or employee that is recognised as continuous employment with the Government, shall be deemed to have been a period of service with the Registry.
- (3) No officer or employee retained under subsection (1) shall be entitled to receive any payment or other benefit by reason of this Act.

Transfer
of assets
and liabil-
ities

8. (1) On the appointed day there shall be transferred to, and vest in, or subsist against, the Registry by virtue of this Act and without further assurance—
 - (a) the affairs of the Registry, the Registrar and other officers and employees of the Registry subsisting immediately preceding the appointed day; and
 - (b) all assets, property, rights, liabilities and obligations (other than an agreement for personal services) which, immediately before the appointed day, were the property, rights, liabilities and obligations of the Registry and the Registrar.
- (2) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests

in, or subsists against, the Registry or the Registrar by virtue of this Act, the Registry and all other persons, affected thereby shall, as from the appointed day, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Registry.

- (3) All legal proceedings and claims which before the appointed day are pending in the name of the Registry or the Registrar shall be continued or enforced by or against the Registry in the same manner as they would have been continued or enforced if this Act had not been enacted.
- (4) After the appointed day, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred, suffered by, or subsisted against either the Registry or the Registrar may be instituted by or against the Registry.
- (5) Nothing effected or authorised by this Act—
 - (a) shall be regarded as placing the Registry or any other person in breach of contract, confidence or duty or otherwise making any of the guilty of a civil wrong, or
 - (b) shall be regarded as giving rise to a right for any person to terminate or cancel any contract, arrangement or instrument, or to accelerate the performance of any obligation; or
 - (c) shall be regarded as placing the Registry or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of property or the disclosure of any information; or
 - (d) shall invalidate or discharge any function or other act performed by the Registry or the Registrar or any other officer of the Registry prior to the

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appointed day pursuant to the Deeds Registry Act or any other applicable written law.

Establishment and constitution of Advisory Board

9. There is hereby established the Advisory Board of the Registry, which shall consist of the following members—

- (a) the Honourable Chief Justice, who shall be the Chairman;
- (b) the Solicitor-General, who shall be the Vice-Chairman;
- (c) the Chief Parliamentary Counsel;
- (d) the State Solicitor, Official Receiver and Public Trustee; and
- (e) the President and Secretary of the Guyana Bar Association, or their nominees who shall each serve for the year but may be renominated on the expiry thereof.

Functions of Advisory Board

10. The Advisory Board shall be responsible for —

- (a) advising the Minister and the Registry on the performance by the Registry of its functions for the purpose of furthering the efficient and orderly operation of the Registry, and
- (b) considering and communicating to the Minister and the Registry the advice or opinion of the Advisory Board on any matter referred to it by the Minister or the Registry.

Appointment and termination of certain Advisory Board members

11. The members of the Advisory Board mentioned in section 9 (e) shall be appointed by the Minister, and the appointment of any such member may be terminated by the Minister if, in the opinion of the Minister, such member has ceased to represent the interests of, or provide the requisite expertise on behalf of, the Guyana Bar Association.

12. Where the Chairman of the Advisory Board is, for any reason, unable to carry out his functions under this Act or if the office is vacant, the Vice-Chairman of the Advisory Board shall have and discharge the functions of the Chairman for the period of the inability of the Chairman to carry out his functions. Inability of Chairman to carry out functions
13. (1) The Advisory Board shall meet whenever necessary to ensure the proper discharge of its functions under this Act or whenever requested by the Minister or the Registry and, subject to the approval of the Minister, the Advisory Board may regulate its own procedure. Meetings and advice of the Advisory Board
- (2) The Advisory Board shall, after receipt of any matter referred to it by the Minister or the Registry, consider the matter expeditiously and communicate to the Minister or the Registry, as the case may be, in writing the advice or opinion of the Advisory Board thereon.
14. No action, suit, prosecution or other proceedings shall be brought or instituted personally against the Registrar, the Deputy Registrar or any other officer or employee of the Registry or a member of the Advisory Board in respect of any act done bona fide by him in the execution or intended execution of his lawful duties: Protection of members, officers and employees of the Registry
- Provided that where any such person is exempt from such liability by reason only of the provisions of this section, the Registry shall be liable to the extent that it would be if the officer, employee or member were an agent of the Registry.
15. (1) The Registry shall determine its own annual budget for submission to the Minister for approval and thereafter for submission to the Minister of Finance for inclusion in the annual budget presented to the National Assembly. Budget and other financial matters
- (2) The Registry is hereby authorised, under the general supervision and control of the Minister, to retain such fees and costs collected by it in the discharge of its functions as are necessary to find the budget for the Registry, and the remainder such fees and costs collected shall be paid into the Consolidated Fund.

- (3) The Registry shall have the authority to disburse its funds.
- (4) The financial year of the Registry shall be the period of twelve months ending on 31st December in each year.
- (5) The Registry shall cause to be kept proper books of accounts and other records relating to the affairs of the Registry and shall prepare annually a statement of accounts in a form satisfactory to the Minister and to the Minister of Finance, being a form which shall conform with established accounting principles.
- (6) The accounts of the Registry shall be audited annually by the Auditor General.
- (7) As soon as practicable, but not later than six months after the expiry of the financial year, the Registry shall submit to the Minister a report concerning its financial affairs, operations and performance during that financial year, and there shall be appended to the report—
 - (a) an audited balance sheet;
 - (b) an audited statement of income and expenditures; and
 - (c) such other information as the Minister may require.
- (8) The Minister shall cause a copy of the report together with the annual statement of account and the Auditor General's report; thereon or on the accounts to be laid before the National Assembly.

Resources
of the Reg-
istry

16. (1) The funds and resources of the Registry shall consist of —
 - (a) sum retained by the Registry in accordance with section 15 (2);
 - (b) sums provided to the Registry by or under any appropriation law;

- (c) any property or investment acquired by, or vested in the Registry, and any moneys earned or arising from any property or investment acquired by, or vested in the Registry;
 - (d) sums allocated from time to time to the Registry from loan funds or grants
 - (e) sums borrowed by the Registry for the purpose of meeting any of its obligations or the performance of any of its functions; and
 - (f) all other sums or property which may in any manner become payable to or vested in the Registry in respect of its functions or by reason of any matter incidental thereto.
- (2) The charges of any amount which may be allocated to the Registry for any loan funds shall be met by the Registry, except that all or any part of such charges may be met out of moneys provided by or under any appropriations law.
- (3) For the purposes of this section, the expression "loan funds" means such sums as may be made available from time to time to the Registry or to the Government by way of loan.
17. (1) The Registry, its assets, property, income and its operations and transactions authorised by this Act shall be exempt from all taxation including customs duties, consumption tax, capital gains tax, corporation tax, income tax, property tax and purchase tax and the Registry shall be exempt from payment of any tax or duty whatsoever. Exemption from taxation
- (2) No taxation of any kind shall be levied on any obligation or security issued by the Registry.
18. (1) Without prejudice to the powers of any other Minister under the laws mentioned in section 4 (a), the Minister may make such regulations as are necessary for carrying out the purpose of this Act and otherwise for the good and efficient order and management of the Registry and for the preservation of the records therein. Regulations
- (2) The Minister, with the advice of the Advisory Board, shall make the rules and regulations re-

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quired to be made by the Chancellor under Section 9 of the Deeds Registry Act.

EXPLANATORY MEMORANDUM

The principal purpose of the Bill is to set the stage for the institutional strengthening and modernization of the Deeds Registry by removing the officers and employees of the Deeds Registry from the Public Service. Among other benefits to the functioning and organisation of the Deeds Registry, removal of the officers and employees from the Public Service will permit the Deeds Registry to retain efficient motivated employees, to pay employees whose performance merits it more than would have been permitted under the Public Service Management and, thus encourage them to remain with the Deeds Registry, and to organise the Registry's job positions and its staff in a manner most likely to improve its functioning and organisation.

The Bill establishes the Deeds Registry as a corporate body which appoints and controls its own officers and employees. The Bill defines the functions and constitution and transfers the assets and liabilities of the current Registry to the Registry incorporated.

In line with goals from strengthening the financial resources of the Registry, clause 15 of the Bill permits the Registry to formulate its own budget for submission to the Minister of Finance and approval by the National Assembly. The Bill also permits the Registry to retain the portion of the funds collected by it as are necessary for funding of the budget approved by the National Assembly, with the excess funds to be paid over to the Consolidated Fund. The Bill requires the Registry to keep proper books and accounts and to report annually to the subject Minister on its disposition of the moneys it is permitted to retain and any other funds which it receives (Clauses 15(2)—(8) and 16 of the Bill)

The Bill establishes an Advisory Board constituted of the Honourable Chief Justice, the Solicitor-General, the Chief Parliamentary Counsel, the State Solicitor, Official Receiver and Public Trustee, and the President and Secretary of the Guyana Bar Association, or their nominees. The appointment of the latter two members of the Advisory Board must be approved by the Minister, and either of those members' appointments may be terminated by the Minister if, in the Minister's opinion, that member has ceased to represent the interest of, or provide the requisite expertise on behalf of, the Guyana Bar Association. The Advisory Board's functions are to advise the Minister and the Registry (i) on any matter referred to the Board by the Minister or the Registry and (ii) for the purpose of furthering the efficient and orderly operation of the Registry, on the Registry's performance of its function. (Clauses 9—11 of the Bill).

The Bill transfers from the Public Service Management to the Registry authority over the employment of the Registry's officers and employees (clauses

6 and 7). The Public Service Commission's approval of the transfer of officers and employees to the Registry established as a body corporate is necessary. The Bill also envisions that all officers and employees will be transferred.

C. Ramson,
Attorney General and Minister of
Legal Affairs.