

**BILL No. 22 of 2012**

*Friday 7<sup>th</sup> September, 2012*

PARLIAMENT OFFICE  
Public Buildings,  
Georgetown,  
Guyana.

7<sup>th</sup> September, 2012.

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

*SE. Isaacs,*  
Clerk of the National Assembly.



**GUYANA**

**BILL No. 22 of 2012**

**DEEDS REGISTRY AUTHORITY BILL 2012**

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**A BILL**

**Intituled**

**AN ACT** to establish the Deeds Registry. Authority as a corporate body 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 connected matters.

A.D.2012

Enacted by the Parliament of Guyana:-

**PART I**

**PRELIMINARY**

Short title and commencement.

1. This Act may be cited as the Deeds Registry Authority Act 2012 and shall come into force on a date as the Minister may, by order, appoint.

interpretation.

2. In this Act-

- (a) "appointed day" means the date on which this Act comes into force in accordanc. with section I;
- (b) "Authority" means the Deeds Registry Authority established under section 3;
- (c) "Deputy Registrar" means the Deputy Registrar of Deeds;
- (d) "Governing Board" means the Governing Board of the

Authority established under section 9;

- (e) "Minister"; means the Minister of Legal Affairs;
- (f) "Registra" means the Registrar of Deeds;
- (g) "Registry" means the Deeds Registry as existing immediately before the appointed day and, after the appointed day the Deeds Registry Authority as established under section 3.

**PART II**

**DEEDS REGISTRY AUTHORITY**

Establishment of the Deeds Registry Authority as a corporate body.

3. The Deeds Registry Authority is established as a corporate, body with a Governing Board established under section 9.

Functions of Authority.

4.(1) The functions of the Authority shall be the functions assigned to the Registrar and to the Registry under-

Cap. 5:01  
Cap. 5:08  
Cap. 6:01

- (a) the Deeds Registry Act;
- (b) the Powers of Attorney Act;
- (c) the Civil Law of Guyana Act; and
- (d) any other written law or legal document.

(2) The Authority shall have power -

- (a) to do anything and enter into any transaction which is necessary to ensure the proper performance of its functions,

and without prejudice to the generality of the foregoing-

- (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
  - (ii) design and conduct training programmes for officers and employees of the Registry so as to upgrade their knowledge, skills and job performance; and
- (b) to regulate its own procedure in accordance with this Act and the laws mentioned in subsection (I).

Appointment of  
Registrar of Deeds,  
Deputy Registrar  
and Assistant  
Registrars.  
Cap. 1:01

5.(1) The Registrar and the Deputy Registrar shall be appointed by the Judicial Service Commission as provided for in article 199 of the Constitution.

(2) The Minister may appoint two Assistant Registrars who shall have the power to perform the duties of the Registrar. .

(3) The Governing Board may appoint notaries public, sworn clerks, assistant sworn clerks and other officers and employees for the staff of the Registry as may be necessary to carry out the efficient performance of the functions of the Registry.

Cap. 501                      (4) No person shall be appointed as notary public unless he holds a certification of competency issued under section 3 of the Deeds Registry Act.

(5) The Registrar and the Deputy Registrar shall be deemed to be *ex officio* notaries public.

Duties of Registrar.

6 The Registrar shall be the chief executive of the Authority and shall be responsible for the-

- (a) administration of this Act and the Acts referred to in section 4(1);
- (b) day-to-day operations of the Registry
- (c) custody and preservation of all records of the Registry;
- (d) management of funds, property and affairs of the Registry under the supervision of the Governing Board; and
- (e) administration, organization and control of the staff of the Registry under the supervision of the Governing Board.

Duties of officers and staff generally.

7.(1) Except where otherwise specially provided, the Deputy Registrar, each Assistant Registrar, each notary public and each sworn clerk may lawfully do and perform, subject to the directions and instructions of the Registrar, all or any of the duties and services which the Registrar is authorised to do and perform under this Act or under

any other Act, and may lawfully demand and receive on behalf of the Registry the fees in respect of those duties and services.

(2) Except where specially provided, each sworn clerk may lawfully do and perform, subject to the directions and instructions of the Registrar, all and any of the duties and services authorised under this Act, in the same manner to all intents and purposes as if he were a notary public, and may lawfully demand and receive on behalf of the Registry the fees in respect of those duties and services.

(3) Each and every member of the staff shall likewise perform all duties, other than as sworn clerk, from time to time assigned to him by the Registrar.

Duties performed  
in absence of  
Registrar.

8.(1) During the temporary absence of the Registrar from the Registry for any cause the Deputy Registrar may do any act or thing which may lawfully be done by the Registrar and in the absence of both the Registrar and the Deputy Registrar, an Assistant Registrar may do the act or thing unless the Registrar otherwise directs.

(2) In the absence of the officers referred to in subsection (1) a notary public or sworn clerk may do any act or thing which may lawfully be done by the Registrar except those acts and things



prohibited by the Registrar.

## PART III

### THE GOVERNING BOARD

Establishment and  
constitution of  
Governing Board.

9.(1) There is established the Governing Board of the Authority which shall have the function of ensuring the proper and efficient performance of the functions of the Authority.

- (2) The Governing Board shall consist of the following members-
- (a) a Chairman appointed by the Minister;
  - (b) the Registrar;
  - (c) the Registrar of Lands;
  - (d) a nominee of the Ministry of Finance;
  - (e) two other persons with knowledge of and experience in commerce, law, administration and the public service appointed by the Minister.

Tenure of office.

10.(1) A member, other than an *ex officio* member, shall hold office for one year from the date of appointment and may be re-appointed for such further period as may be determined by the Minister.

- (2) A member, other than an *ex officio* member, may resign on

giving one month's notice in writing to the Minister.

- (3) The office of a member shall become vacant--
- (a) upon his death;
  - (b) if he is absent without reasonable excuse from three consecutive meetings of the Governing Board of which he has had notice; or
  - (c) if he is an undischarged bankrupt.

Functions of  
Governing Board.

11. The functions of the Governing Board shall include the functions that were discharged by the Ministry responsible for the Public Service on the date immediately preceding the appointed day and are as follows -

- (a) to determine job descriptions and specifications;
- (b) to hire, discipline and dismiss officers below the rank of Assistant Registrars and other employees of the Registry;
- (c) to determine the conditions of service, including remuneration;
- (d) to maintain a staff list;
- (e) 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;
- (f) to make provision for the payment for pension, gratuity or

allowances in respect of the service of the officers and employees of the Registry upon their retirement from the Registry;

(g) to establish and implement a written code of conduct for all officers and employees of the Registry;

(h) 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

(i) to provide for the implementation of any operational procedure regarding the functions specified in paragraphs

(a) to (h), inclusive.

Seal of Authority.

12. The Authority shall have an official seal which shall be a device as may be determined by the Governing Board and shall be kept by the Registrar.

Remuneration or allowances.

13. A member of the Governing Board shall be paid such remuneration or allowances, if any, as the Minister may determine.

Proceedings of Governing Board.

14.(1) Subject to the other provisions of this Act, the Governing Board may regulate its own procedure.

(2) The Governing Board shall meet for the transaction of business at least once every month at such places and at such times as the Chairman may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Governing Board may be called by the Chairman and shall be called if not less than three members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) Three members shall form a quorum at any meeting of the Governing Board.

(5) The Chairman shall preside at every meeting of the Governing Board and in his absence the members present may elect a member from among themselves to preside at that meeting.

(6) A decision of the Governing Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Governing Board may invite any person whose presence is in its opinion desirable to attend and to participate in the deliberations of a meeting of the Governing Board but such person shall have no right to vote.

(8) The validity of any proceedings, act or decision of the Governing Board shall not be affected by any vacancy in the members of the Governing Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

(9) The Governing Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee established by the Board.

Committees of  
Governing Board.

15.(1) The Governing Board may for the purpose of performing its functions establish committees of members and of officers of the Registry and delegate to any such committee such of its functions as it sees fit.

(2) Subject to any direction of the Governing Board, a committee may regulate its own procedure.

## PARTIV

## FINANCE

Revenue to be paid  
into the  
Consolidated  
Fund.

16. All revenues collected by, or due and payable to, the Registry under this Act shall be paid into the Consolidated Fund.

Funds and  
resources of  
Registry.

17. (1) The funds and resources of the Registry shall consist of -
- (a) moneys provided to the Registry by or under any appropriation law;
  - (b) any property or investment acquired by, or vested in the Registry;
  - (c) moneys allocated to the Registry from loan funds or grants or donations; and
  - (d) all other moneys 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 connected matter.

(2) There shall be paid from the funds of the Registry -

- (a) the salaries and allowances of the staff of the

Registry;

- (b) any other expenses incurred by the Registry in the performance of its functions.

Financial year.           18. The financial year of the Registry shall be the period of twelve months ending on 31<sup>st</sup> December in each year.

Accounts.                19.(1) The Registrar 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.

(2) The accounts of the Registry shall be audited annually by the Auditor General.

Annual report.           20.(1) As soon as practicable, but not later than six months after the expiry of the financial year, the Registrar shall submit to the Minister a report concerning its activities during that financial year which shall include information on the 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) any other information as the Minister may require.

(2) The Minister shall cause a copy of the report together with the annual statement of account and the Auditor General's report on the annual statement or on the accounts to be laid before the National Assembly.

Annual estimates.

21. The Registrar shall before the date specified by the Minister in any year submit to the Minister for his approval estimates of revenue and expenditure of the Registry for the ensuing financial year.

Exemption from taxation.

22. 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.

## PARTY

### TRANSITIONAL PROVISIONS

Officers and  
employees of  
Registry.

23.(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 Authority 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 Authority and each person so employed and, which taken as a whole, are no less favourable than those applicable to the person immediately before the appointed date, and the Authority 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, earned, 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 have been 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 recognized as

continuous employment with the Government, shall be deemed to have been a period of service with the Authority.

(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 liabilities.

24. On the appointed day there shall be transferred to, and vested in, or subsisted against, the Authority 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.

Legal proceedings.

25.(1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in, or subsists against, the Authority or the Registrar by virtue of this Act, the Authority and all other persons affected shall, as from the appointed day, have the same rights, powers and remedies (and in particular the same rights as to the

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(2) 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 Authority in the same manner as they would have been continued or enforced if this Act had not been enacted.

(3) 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 Authority.

(4) Nothing effected or authorised by this Act -

- (a) shall be regarded as placing the Authority or any other person in breach of contract, confidence or duty or otherwise making any of them guilty of a civil wrong;
- (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;

- (c) shall be regarded as placing the Authority 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 appointed day pursuant to the Deeds Registry Act or any other applicable written law.

## PART VI

### MISCELLANEOUS

Protection of members, officers and employees of Registry.

26. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Governing Board, the Registrar, the Deputy Registrar or any other officer or employee of the Authority in respect of any act done *bonafide* by him in the execution or intended execution of his lawful duties:

Provided that where any such person is exempt from such liability by reason only of the provisions of this section, the Authority shall be liable to the extent that it would be if the officer, employee or member were an agent to the Authority.

Regulations.

27.(1) Without prejudice to the powers of any other minister under the laws mentioned in section 4(1), 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 in the Registry.

Cap. 5:01

(2) The Minister shall make rules and regulations required to be made by the Chancellor under section 9 of the Deeds Registry Act.

## **Explanatory Memorandum**

The aim of the Bill is to provide for the institutional strengthening and modernization of the Deeds Registry. The officers and employees of the Deeds Registry will be transferred from the Public Service to the Deeds Registry Authority, a corporate body established by the Act to carry out the functions assigned to the Registrar and Registry under the Deeds Registry Act, the Powers of Attorney Act and the Civil Law of Guyana Act.

The Bill provides for the appointment of the Registrar, the Deputy Registrar, Assistant Registrars, notaries public, sworn clerks and other employees of the Registry. It sets out the duties of the Registrar and the other officers and employees of the Registry.

Under **PART II** the Registrar shall be the Chief Executive of the Authority and shall be responsible for the day-to-day operation of the Registry and the administration and control of the staff of the Registry under the supervision of the Governing Board. The Deputy Registrar, each Assistant Registrar, each notary public and sworn clerk may, subject to the direction of the Registrar, perform the duties which the Registrar is authorised to perform.

Under **PART III** the Governing Board of the Authority is established to ensure the proper and efficient performance of the functions of the Authority.

The functions of the Governing Board includes the functions to hire and dismiss officers below the rank of Assistant Registrar and other employees, to provide for a wage and salary regime and to make provision for the payment of pension and gratuity.

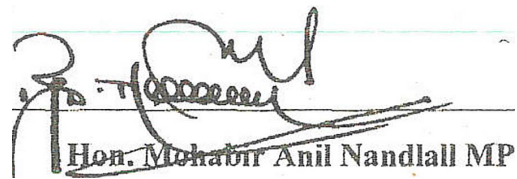
**PART IV** provides for the budget and other financial matters of the Registry. The Registry shall determine its own annual budget for submission to the Minister for approval and submission to the Minister of Finance for inclusion in the annual budget. Revenues collected by the Registry shall be paid into the consolidated fund and the Registry shall have authority to disburse its funds. The funds and resources of the Registry shall include sums provided under an appropriation law and property or investment acquired by the Registry.

The Registry, its assets, property, income and its operations and transactions shall be exempt from all taxation.

**PART V** provides for transitional matters. Before the appointed day the Government and the Authority, with the approval of the Public Service Commission, shall notify the officers and employees of the Registry that the Authority wishes to retain them. The officers and employees retained shall be engaged on terms no less favourable than those applicable to them immediately before the appointed day.

On the appointed day there shall be transferred to, and-vested in, or subsisted against the Authority the affairs of the Registry subsisting immediately before the appointed day and assets, property, rights, liabilities and obligations which, immediately before the appointed day, were the assets, property, rights, liabilities and obligations of the Registry.

**PART VI** provides for the protection of members, officers and employees and for the making of regulations and rules.



Hon. Mohan Anil Nandlall MP

Attorney General and Minister of Legal Affairs