



GUYANA

ACT No. 4 of 2013

DEEDS AND COMMERCIAL REGISTRIES AUTHORITY ACT 2013

I assent
D. Ramotar
Donald Ramotar,
President.
May 31st, 2013

ARRANGEMENT OF SECTIONS

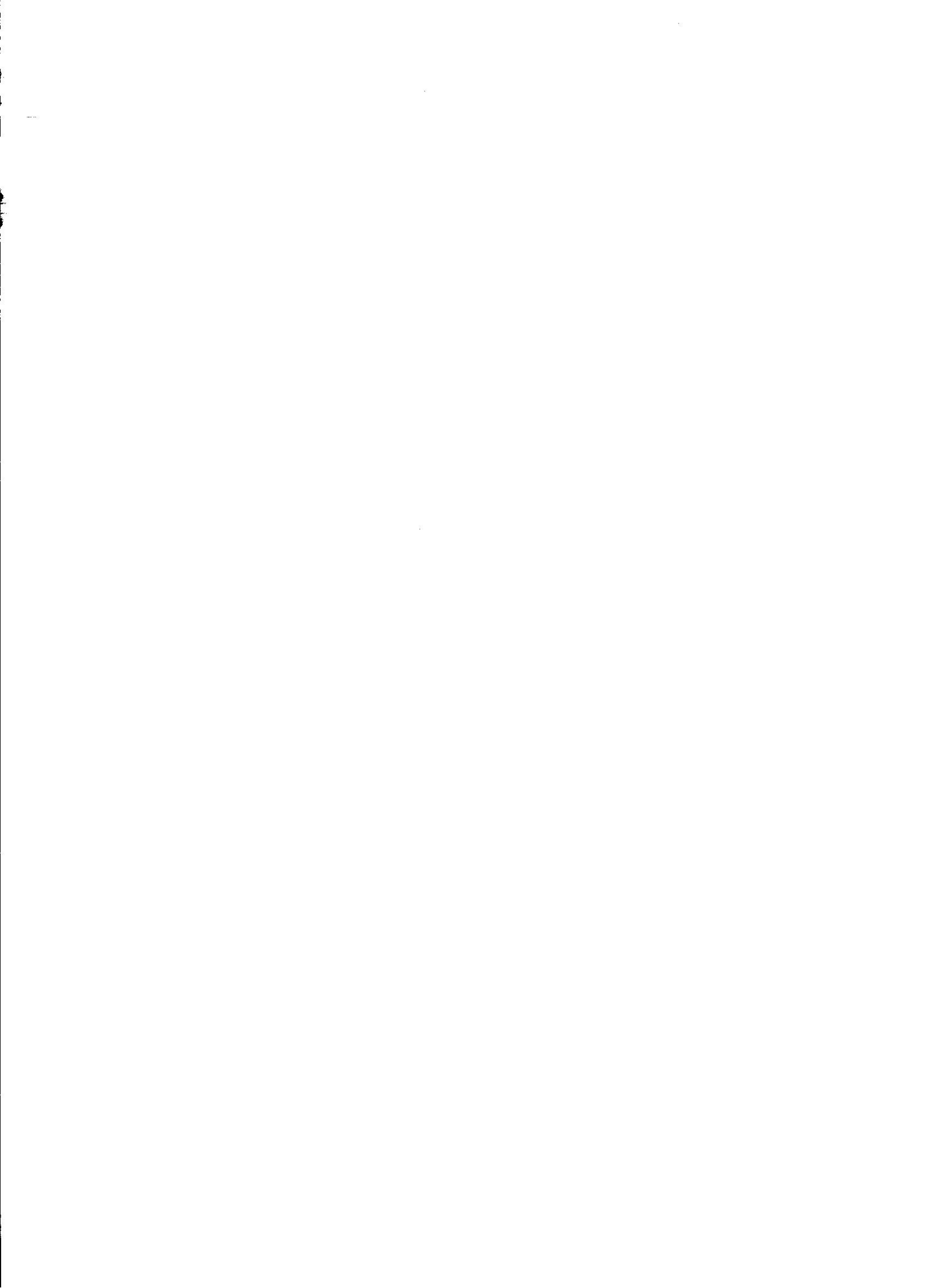
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AN ACT to establish the Deeds and Commercial Registries Authority as a corporate body, to establish and promote the efficient and orderly operation of the Deeds Registry and the Commercial Registry, to establish the conditions governing the employment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

A.D. 2013

Enacted by the Parliament of Guyana:-

PART I**PRELIMINARY**

Short title and commencement.

1. This Act may be cited as the Deeds and Commercial Registries Authority Act 2013 and shall come into force on a date as the Minister may, by order, appoint.

Interpretation.

2. In this Act-

“appointed day” means the date on which this Act comes into force in accordance with section 1;

“Authority” means the Deeds and Commercial Registries Authority established under section 3;

“Governing Board” means the Governing Board of the Authority

established under section 5(1);

“Minister” means the Minister of Legal Affairs;

“Commercial Registry” means the Commercial Registry referred to in section 12(a);

“Deeds Registry” means the Deeds Registry as existing immediately before the appointed day and, after the appointed day the Deeds Registry referred to in section 12(b).

PART II

DEEDS AND COMMERCIAL REGISTRIES AUTHORITY

Establishment of Deeds and Commercial Registries Authority as corporate body.

3. The Deeds and Commercial Registries Authority is established as a corporate body with a Governing Board established under section 5(1).

Functions of Authority.

4. (1) The functions of the Authority shall be the functions assigned to –

(a) the Registrar of Deeds and the Deeds Registry under –

- (i) the Deeds Registry Act;
- (ii) the Powers of Attorney Act;
- (iii) the Civil Law of Guyana Act;
- (iv) any other Law;

Cap. 5:01

Cap. 5:08

Cap. 6:01

(b) the Registrar of the Commercial Registry and the

Commercial Registry under –

- | | |
|------------|---|
| Cap. 89:01 | (i) the Companies Act; |
| Cap. 9:05 | (ii) the Business Names (Registration) Act; |
| Cap.90:03 | (iii) the Patent and Designs Act; |
| Cap. 90:12 | (iv) the Bills of Sale Act; |
| Cap.90:01 | (v) the Trade Marks Act; |
| Cap.98:03 | (vi) the Trade Unions Act; |
| | (vii) any other law. |

(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
- (b) to regulate its own procedure in accordance with this Act and the laws mentioned in subsection (1).

PART III**THE GOVERNING BOARD**

Establishment and
constitution of
Governing Board.

5. (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 of Deeds;
 - (c) the Registrar of the Commercial Registry;
 - (d) a nominee of the Ministry of Finance;
 - (e) a nominee of the Ministry of Housing and Water;
 - (f) a nominee of the Guyana Bar Association;
 - (g) a nominee of the Guyana Association of Legal Professionals;
- and
- (h) a nominee of the Private Sector.

Tenure of office.

6. (1) A member, other than an *ex officio* member, shall hold office for two years from the date of appointment and may be re-appointed for a 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 un-discharged bankrupt.

(4) A member of the Governing Board mentioned in section 5 (2), (f), (g) or (h) shall be appointed by the Minister and the appointment of that member may be terminated by the entity which he represents.

Functions of
Governing
Board.

7. (1) The functions of the Governing Board in addition to the functions under the laws referred to in section 4 (1) are the functions relating to the Deeds Registry that were discharged by the Ministry responsible for the Public Service and the Public Service Commission on the date immediately preceding the appointed day and may include the following -

- (a) to determine job descriptions and specifications for officers and employees of the Authority;
- (b) to hire, discipline and dismiss officers and employees of the Authority;
- (c) with the approval of the Minister and within the framework of the budget approved for the Authority, to determine the conditions of service, including remuneration;
- (d) to maintain a staff list;
- (e) with the approval of the Minister and within the framework of the budget approved for the Authority, to make provision for the payment for pension, gratuity or allowances in respect of the service of the officers and employees of the Authority upon their retirement from the Authority.

- (f) to establish and implement a written code of conduct for all officers and employees of the Authority;
- (g) with the approval of the Minister and within the framework of the budget approved for the Authority, to retain the services of professional persons and experts and pay such remuneration in respect thereof as the Board, with the approval of the Minister, may determine; and
- (h) to provide for the implementation of any operational procedure regarding the functions specified in paragraphs (a) to (g), inclusive.

(2) The Governing Board may establish sub-registries in other parts of Guyana of –

- (a) the Deeds Registry which shall carry out the functions assigned by the Registrar of Deeds;
- (b) the Commercial Registry which shall carry out the functions assigned by the Registrar of the Commercial Registry.

(3) The Minister may give the Board general policy directives with respect to the discharge of its functions under this Act as he considers necessary and the Board shall give effect to the directives.

Seal of Authority.

8. The Authority shall have an official seal which shall be a device as may be determined by the Governing Board.

Remuneration or allowances.

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

Proceedings of Governing Board.

10. (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 the place and at the time 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 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 one of their number 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 membership 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 proceeding of every meeting of the Board and of every meeting of any committee established by the Board.
- (10) There shall be a Secretary to the Authority who shall be appointed by the Governing Board.

Committees of
Governing Board.

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

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

PART IV

THE DEEDS REGISTRY AND THE COMMERCIAL REGISTRY

Division of
Deeds Registry.

12. The Deeds Registry is divided into two registries –
- (a) the Deeds Registry responsible for the laws mentioned in section 4(1)(a);
 - (b) the Commercial Registry responsible for the laws mentioned in section 4(1)(b).

DEEDS REGISTRY

Appointment of
Registrar, Deputy
Registrar and
Assistant Registrars
of Deeds.

Cap. 1:01

13. (1) The Registrar of Deeds and the Deputy Registrar of Deeds are appointed by the Judicial Service Commission as provided for in article 199 of the Constitution.

(2) The Minister after consultation with the Governing Board shall appoint Assistant Registrars of Deeds who shall, subject to the instructions of the Registrar of Deeds, have the power to perform the duties of the Registrar of Deeds.

(3) The Governing Board may employ other officers and employees of the Deeds Registry as may be necessary to carry out the efficient performance of the functions of the Deeds Registry.

Duties of Registrar
of Deeds.

14. The Registrar of Deeds shall, subject to the general supervision of the Governing Board, be responsible for the –

- (a) discharge of the functions assigned to the Registrar of Deeds under the laws mentioned in section 4(1)(a);
- (b) day-to-day operations of the Deeds Registry;
- (c) custody and preservation of all records of the Deeds Registry;
- (d) administration, organization and control of the staff of the Deeds Registry.

COMMERCIAL REGISTRY

Functions of
Registrar of
Commercial
Registry.

15. (1) The Registrar of the Commercial Registry shall, subject to the general instructions of the Governing Board, be responsible for the -

- (a) discharge of the functions that were assigned to the Registrar of Deeds under the laws mentioned in section 4(1)(b);
- (b) day-to-day operations of the Commercial Registry;
- (c) custody and preservation of all records of the Commercial Registry;
- (d) administration, organization and control of the staff of the Commercial Registry.

(2) The functions of the Registrar of the Commercial Registry shall be as follows -

- (a) the functions of the Registrar of Companies and the Companies Registry under the Companies Act;
Cap. 89:01
- (b) the functions of the Registrar of joint-stock companies or the officer performing the duties of that office under the Business Names (Registration) Act;
Cap. 90:05
- (c) the functions of the Registrar of Patents, Designs and Trade Marks (the Registrar of Deeds) and the Deeds

- Cap. 90:03 Registry under the Patents and Designs Act and the
 Cap. 90:01 Trade Marks Act;
- (d) the functions of the Registrar of Deeds under the Bills
 Cap. 90:12 of Sale Act;
- (e) the functions of the Registrar of Trade Unions under
 Cap. 98:03 the Trade Unions Act;
- (f) the functions under any other law.

Appointment of
 Registrar, Deputy
 Registrar, Assistant
 Registrars of
 Commercial
 Registry.

16. (1) The Minister after consultation with the Governing Board shall appoint the Registrar, Deputy Registrar and two Assistant Registrars of the Commercial Registry who shall be *ex officio* notaries public.

(2) The Deputy Registrar and the Assistant Registrars shall subject to the instructions of the Registrar of the Commercial Registry, have the power to perform the duties of the Registrar of the Commercial Registry.

Appointment of
 other staff of
 Commercial
 Registry.

17. The Governing Board may appoint notaries public, clerks, assistant clerks and other officers or employees as may be necessary to carry out the efficient performance of the functions of the Commercial Registry:

Provided that no person shall be appointed a notary public or to act as a notary public unless he holds a certificate of competency issued under

Cap. 5:01 section 3 of the Deeds Registry Act.

PART V

FINANCE

Revenue of
Authority.

18. All revenues collected by, or due and payable to, the Deeds Registry and the Commercial Registry and all sums payable by a way of fees, charges, duties, taxes or fines or otherwise for any application, proceeding or default under the Acts mentioned in section 4 shall be paid to the Authority.

Budget of
Authority.

19. (1) The Authority shall prepare and submit for approval its annual budget in accordance with section 79 of the Fiscal Management and Accountability Act and in accordance with the timetable established under section 12 of that Act.

(2) The Authority is authorised under the general supervision and control of the Minister and the Minister responsible for finance, to retain the fees, charges, duties, taxes or fines collected by it in the discharge of its functions as are necessary to fund the budget for the Authority and the remainder of the fees, charges, duties, taxes or fines collected shall be paid into the Consolidated Fund.

Funds and
resources of
Authority.

20. (1) The funds and resources of the Authority shall consist of –
(a) sums retained by the Authority under section 19(2).

- (b) sums provided to the Authority by or under any appropriation law;
- (c) any property or investment acquired by, or vested in the Authority;
- (d) sums allocated to the Authority from loan funds or grants or donations; and
- (e) all other moneys or property which may in any manner become payable to or vested in the Authority in respect of its functions or by reason of any connected matter.

(2) There shall be paid from the funds of the Authority –

- (a) the salaries and allowances of the staff of the Authority;
- (b) any other expenses incurred by the Authority in the performance of its functions.

Financial year.

21. The financial year of the Authority shall be the period of twelve months ending on 31st December in each year.

Accounts.

22. (1) The Authority shall cause to be kept proper books of accounts and other records relating to the affairs of the Authority 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 Authority shall be audited annually by the Auditor General.

Annual Report.

23. The Authority shall submit to the Minister an annual report concerning its activities during the financial year which shall include information on the financial affairs, operations and performance during that financial year, and the Minister shall cause a copy of the report to be presented to the National Assembly, in accordance with section 80 of the Fiscal Management and Accountability Act.

Budget agency.

Cap. 73:02

24. Pursuant to section 82 of the Fiscal Management and Accountability Act, the Minister responsible for finance may by order designate the Authority a budget agency, in which case the relevant provisions of that Act shall apply to the Authority.

Exemption from taxation.

25. The Authority, 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 Authority shall be exempt from payment of any tax or duty whatsoever.

PART IV
TRANSITIONAL PROVISIONS

Officers and
employees of Deeds
Registry.

26. (1) Before the appointed day, the Government and the Deeds Registry shall, with the approval of the Public Service Commission, notify such of the officers and employees of the Deeds Registry that the Authority wishes to retain 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, subject to the approval of the Minister, 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 Deeds 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 Deeds 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) Every officer and employee not retained under this section shall be referred to the Public Service Commission for appropriate action by that Commission.

(4) 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.

27. 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 Deeds Registry, the Registrar of Deeds and other officers and employees of the Deeds 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 Deeds Registry and the Registrar of Deeds.

Legal proceedings.

28. (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 of Deeds or the Registrar of Companies 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 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 Authority.

(2) All legal proceedings and claims which before the appointed day are pending in the name of the Deeds Registry or the Registrar of Deeds 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 Deeds Registry or the Registrar of Deeds 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 Deeds Registry or the Registrar of Deeds or any other officer of the Deeds Registry prior to the appointed day pursuant to the laws referred to in section 4 (1) or any other applicable written law.

PART VII

MISCELLANEOUS

Protection
of members
of Governing Board,
officers and
employees of
the Authority.

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

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

Regulations.

30. (1) Without prejudice to the powers of any other Minister under the laws mentioned in section 4(1), the Minister may make regulations necessary for carrying out the purpose of this Act and otherwise for the good and efficient order and management of the Authority and for the preservation of the records of the Authority.

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

Repeal.

Cap. 5:11

31. The Deeds Registry Authority Act is repealed.

Passed by the National Assembly on 3rd January, 2013.

S.E. Isaacs,
Clerk of the National Assembly.

(BILL No. 28/2012)