

CHAPTER 56:05
REGISTRAR OF GOVERNMENT SECURITIES
ARRANGEMENT OF SECTIONS

SECTION

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Act 8, 1972,
S.I. 36, 1975.

An Act to provide for the appointment of a Registrar of Government Securities: the powers and duties of such Registrar: and for matters incidental thereto.

[Date of Commencement: 21st April, 1972]

1. Short title

This Act may be cited as the Registrar of Government Securities Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"company" includes-

- (a) any association incorporated or registered under any law in force in Botswana;
- (b) any association which is incorporated or registered outside Botswana but carries on business or has an office or place of business in Botswana;
- (c) any body corporate established and incorporated by any law in force in Botswana or by any law in force in any country outside Botswana;
- (d) any international organization of which Botswana is a member;

"financial year" means any period of 12 months ending on the 31st day of March;

"Registrar" means the Registrar of Government Securities appointed under section 4;

"securities" includes shares, stock debentures, debenture stock, loan stock, notes, bonds and mortgages in or of any company or issued by or on behalf of any government or state, and any moneys payable to Government by any statutory corporation by reason of any agreement with or obligation imposed by any written law upon such corporation.

3. Office of Registrar of Government Securities

(1) Upon the coming into force of this Act there shall be established the office of the Registrar of Government Securities.

(2) The Registrar shall be a corporation under that name, with perpetual existence and an official seal, and may sue and be sued under that name.

4. Appointments

(1) The President shall appoint a fit and proper person to the office of Registrar.

(2) The President may appoint such number of persons as he may deem necessary to be Assistant Registrars of Government Securities.

(3) The Registrar may delegate in writing to an Assistant Registrar of Government Securities either generally or for a particular occasion such of his powers and functions as he

considers necessary.

(4) The exercise of any powers or functions by an Assistant Registrar of Government Securities under this section shall be deemed to be an exercise of such powers and functions by the Registrar.

5. Powers of Registrar

The Registrar may-

- (a) acquire, hold, manage and dispose of real and personal property including securities and exercise all rights conferred by and consequent upon the holding of such property;
- (b) execute instruments and deeds under his official seal;
- (c) enter into agreements binding upon himself and his successors;
- (d) do all other acts and things necessary or expedient to be done in the execution of the duties of his office; and
- (e) do any act or thing which is required to be or may be done by the Registrar under this or any other written law.

6. Evidence of seal and acts

The official seal of the Registrar shall be judicially noticed and every document purporting to be a deed or instrument made or issued by the Registrar and sealed with his official seal authenticated by the signature of the Registrar shall be received in evidence and be deemed to be so made or issued without further proof unless the contrary is shown.

7. Devolution of property

(1) Where any securities or other property or any interest therein are vested in the Registrar the same shall, unless otherwise disposed of, pass and devolve to and vest in his successors in office from time to time.

(2) Where there is a vacancy in the office of Registrar at any time when, if there had been no vacancy, any interest or charge on securities or other property would have been acquired by the corporation hereby established, such interest or charge shall, notwithstanding such vacancy, vest in the successor to such office on his appointment, but without prejudice to the right of such successor to disclaim that interest or charge.

(3) Any contract or other transaction expressed or purported to be made with the Registrar at a time when there is a vacancy in the office of Registrar shall, on the vacancy being filled, take effect and be deemed to have taken effect as if the vacancy had been filled before the contract or transaction was expressed to be made or was capable of taking effect, and, on appointment of a successor, shall be capable of being enforced, accepted, disclaimed or renounced by him.

8. Evidence as to the identity of the Registrar

If any question arises as to who is or was at any time the Registrar for the time being, a certificate under the hand of the President shall be conclusive evidence for all purposes whatsoever as to the person who is or was the Registrar.

9. Corporation to hold property on trust

(1) All securities and other property vested in the Registrar shall be held in trust for the purposes of the State:

Provided that nothing in this subsection or in any law relating to trusts or trustees shall be construed as requiring the Registrar to realize any property held in trust for the State and to invest the proceeds thereof in trust securities, or as rendering the Registrar liable for retaining any such property or for not investing the proceeds of sale of any such property or any moneys held upon such trust in investments from time to time authorized for trustees unless directed by the Minister to do so.

(2) The Minister may from time to time give to the Registrar directions-

- (a) as to the disposal of securities or other property held by him and of the interest or proceeds thereof;
- (b) as to the exercise of any powers exercisable by reason of securities vested in him,

and the Registrar shall give effect to such directions.

10. Accounts

(1) Within a period of eight months after the close of each financial year, the Registrar shall cause to be prepared, signed and transmitted to the Auditor-General a statement of account in respect of that financial year relating to the securities vested in the Registrar in such form as the Minister may direct.

(2) Within-

- (a) 12 months after the end of the financial year to which the accounts relate; or
- (b) four months after his receipt of the accounts and statements under subsection (1), whichever expires the later, the Auditor-General shall send to the Minister the accounts and statements with his certificate of audit and report upon his audit of the accounts specified in section 124(2) of the Constitution.

(3) The Minister shall, not later than 30 days after he has received the accounts and the statements together with the certificate and report of the Auditor-General, lay the same before the National Assembly without alteration thereto.

(4) If the Minister does not lay any report, accounts, statements or certificate mentioned in this section before the National Assembly, the Auditor-General shall send the same to the Speaker and the Speaker shall present them to the National Assembly.

11. Transfer of securities

(1) Upon the coming into operation of this Act the Minister may-

- (a) direct any person who, or any authority which, holds securities on behalf of the State, to transfer the same to the Registrar;
- (b) give directions for the transfer into the name of the Registrar of all securities registered in the name of the State or in the name of a public officer named by office;
- (c) give directions as to the persons who are to execute any such transfer.

(2) Where the Minister gives any directions under subsection (1)(c) to a person to execute a transfer of securities then, if those securities are registered in the books of any company in the official name or title (whether or not in current use) of any officer of the Government, the company shall, notwithstanding that the person executing the transfer is not the person in whose official name or title the securities are registered, give effect to the transfer as if it were executed by the person in whose name such securities are registered.