



## ANALYSIS

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2009, No. 2

An Act to provide for the registration of persons appearing in the Land Division of the High Court as agents or advocates

(11 February 2009)

**BE IT ENACTED** by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement – (1) This Act may be cited as the Land Agents Registration Act 2009.

(2) This Act other than section 8 shall come into force on the date that it is assented to by the Queen's Representative.

(3) Section 8 shall come into force on the 1<sup>st</sup> April 2009.

2. Interpretation - In this Act unless the context otherwise requires -  
“Agent” and “Land Agent” mean a person who is registered under this Act as a Land Agent;  
“Board” means the Land Agents Registration Board established by section 3;  
“Minister” means the Minister of Justice;  
“Public notice” means notice in a newspaper that is circulated daily in Rarotonga or by such other means (whether generally or in a specific case) as the Board deems appropriate in order to give the public or the relevant sector of the public, notice of an application;  
“Secretary” means the Secretary of the Board.

**PART 1**

**LAND AGENTS REGISTRATION BOARD**

3. Land Agents Registration Board established (1) There is hereby established a Board, to be known as the Land Agents Registration Board.

(2) The Board shall consist of –

- (a) the Solicitor-General *ex officio*, who shall be Chairperson; and
- (b) one person appointed by the Minister acting in his discretion; and
- (c) one person appointed by the Minister from among nominees submitted by the Chamber of Commerce.

(3) The powers of the Board shall not be affected by any vacancy in its membership.

(4) Every appointed member of the Board shall be appointed for a term of 3 years but may from time to time be reappointed, and may at any time be removed from office by the Minister for disability, neglect of duty, or misconduct. An appointed member may at any time resign from office by notice in writing addressed to the Minister.

(5) If any appointed member of the Board dies, is removed from office, or resigns, the vacancy so created shall within one month after the occurrence thereof be filled in the manner in which the appointment of the vacant office was originally made. Every person so appointed shall be appointed for the balance of the term of the member who the appointee is replacing but may from time to time be reappointed.

(6) The Board shall have a common seal in a form approved by the Board.

4. Meetings of the Board - (1) Meetings of the Board shall be held at such times and places as the Chairman from time to time determines, but the other 2 members of the Board may at any time request the Chairman to call a meeting of the Board, and in that event the Chairman shall call a meeting to be held not later than 14 days after receipt of the request.

(2) At every meeting of the Board, 2 members shall form a quorum.

(3) Every question before the Board shall be determined by a majority of the votes of the members present at a meeting of the Board.

(4) In the absence from any meeting of the Chairperson the Chairperson may authorise the Deputy Solicitor-General or any Crown Counsel employed by the Crown Law Office to attend the meeting in his or her stead. While any person is attending any meeting of the Board pursuant to this subsection that person shall be deemed for all purposes to be a member of the Board and shall act as Chairperson at that meeting.

(5) The Board may with the approval of the Chairperson meet by way of conference telephone call, provided that every member of the Board is able throughout the conference to hear every other member and a written minute is made of the meeting and circulated among board members as soon as practicable following the meeting.

(6) Notwithstanding any other provision of this section, a minute in writing, signed by all the members for the time being of the Board members shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such minute may consist of several counterpart documents in like form. Any single counterpart or a set of counterparts signed in either case by all the Board members shall constitute a full and original Minute for all purposes. A facsimile copy of a signed counterpart shall be deemed to be equivalent to a signed original.

5. Procedure and proceedings of Board - (1) Except as expressly provided in this Act or in regulations made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

(2) The provisions of the First Schedule to this Act shall have effect in relation to the Board and its proceedings.

6. Fees and Allowances of members - The Chairman and members of the Board shall be paid such remuneration by way of fees and allowances as shall be prescribed by Order in Executive Council.

7. Secretary of the Board - There shall be appointed by the Board acting in consultation with the Secretary of Justice, from among the officers of the Ministry of Justice, a Secretary of the Board to assist the Board in the efficient carrying out of its functions under this Act and to keep and maintain minutes of Board meetings and decisions. The office of Secretary may be held in conjunction with any other office in the Public Service.

## **PART 2**

### **REGISTRATION OF LAND AGENTS**

8. Requirement to be registered - (1) Except as provided in subsection (2), no person shall appear in the Land Division of the High Court as an advocate for or representative of any other person, unless the person appearing as advocate or representative is registered as a Land Agent under this Act and is the holder of a current Annual Practising Certificate issued under this Act.

(2) Notwithstanding subsection (1), a person may appear in the Land Division of the High Court as an advocate or representative for another person without having to be registered under this Act if the person so appearing is -

- (a) recorded as a landowner on the title page for the land that is the subject-matter of the application or matter before the Land Division; or
- (b) appearing in support of an application to succeed to a deceased parent's interest on his or her own behalf or on behalf of his or her siblings; or
- (c) a barrister or solicitor admitted under the Law Practitioners' Act 1994 and is the holder of a current practising certificate issued under that Act.

9. Register - (1) The Secretary shall keep and maintain a Register of Agents which shall contain the name and address of every person who is approved by the Board as a Land Agent under this Act and of every condition imposed by the Board in respect of that person's registration. The Register may include such other particulars as may be prescribed or required by the Board either generally or in respect of a particular Agent.

(2) The Register shall be open to inspection by the public during ordinary office hours at the Ministry of Justice, free of charge.

10. Qualifications for registration - (1) No person shall be registered under this Act as a Land Agent unless the Board is satisfied, acting in its discretion that the person –

- (a) has attained the age of 21 years; and
- (b) is of good character and reputation; and
- (c) has an appropriate (as determined by the Board) standard of professional competence; and
- (d) holds a recognised qualification (as defined in subsection (2) of this section); or
- (e) has passed an examination or examinations approved by the Board; or
- (f) has demonstrated to the satisfaction of the Board a sound knowledge of Cook Islands land law including an appreciation of the relevance of custom to the application of those laws; and
- (g) has demonstrated to the Board adequate knowledge of the operation of a trust account for the safe keeping of client funds.

(2) For the purposes of this section the term a “recognised qualification” means a degree, diploma, or licence granted by a university, college, board, or other authority (whether in the Cook Islands or elsewhere) that is recognised by the Board as furnishing sufficient evidence of the possession by its holder of the requisite knowledge and skill for the practice of being a Registered Agent and may include subjects passed or credited towards such a qualification.

11. Application for registration - Every application for registration under this Act shall be made in writing addressed to the Secretary and must be accompanied by the prescribed fee.

12. Applications to be considered by Board - (1) As soon as practicable after the receipt of an application for registration, the Secretary shall –

- (a) give public notice of the application on not less than two occasions within 10 days of having receiving the application; and
- (b) circulate copies to every member of the Board which must consider the application within 14 days of having received the copies of the same.

(2) Notwithstanding subsection (1), the Board may dispense with or abridge any requirement as to time prescribed by that subsection, if it is satisfied that the public interest is not adversely affected by the dispensation or abridgment.

(3) The Board may, if it thinks fit, examine on oath or otherwise the applicant, or any person objecting to the application, or any other person, with respect to the application; and for the purposes of this subsection the Secretary of the Board may administer an oath to or require an affirmation from any person.

(4) The Board may also, if it thinks fit, require any person to verify on oath or by statutory declaration any statement made by that person with respect to any application, or with respect to any objection to an application.

13. Consideration of application - (1) If the Board, after considering an application is of the opinion that the applicant is entitled to be registered under this Act, it shall direct the Secretary to enter the name and address of the applicant, together with such conditions and particulars as the Board may require, in the register of Land Agents kept pursuant to section 9 and to notify the applicant in writing accordingly.

(2) If the Board, after considering any application is of opinion that the applicant is not entitled to be registered under this Act it shall direct the Secretary to in writing notify the applicant accordingly and to give the applicant the reasons for the Board's decision.

(3) No entry in the register of the name of any person shall be made without the direction of the Board.

(4) The Board may adjourn any application where it requires further information from or in respect of an applicant.

14. Certificate of registration - The Secretary shall upon the registration of any applicant as a Land Agent issue to that agent, signed by the Chairperson and the Secretary under the seal of the Board, a certificate of registration in such form as may be approved by the Board.

15. Offence to wrongfully procure registration - Every person who –

- (a) wilfully makes or causes to be made any false entry in or falsification of the register; or
- (b) procures or attempts to procure him or herself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration,

commits an offence.

16. Name to be removed from register if agent cannot be found - (1) The Secretary shall if the Board so directs, sent to any registered agent, an inquiry as to whether or not he or she desires to have his or her name retained on the register.

(2) If no reply is received to that letter within 2 months from the posting thereof, or if the letter is not delivered and is returned to the Secretary, the Secretary shall inform the Board and shall if the Board so directs, remove from the register the name of the Registered Agent to whom the letter was sent.

(3) Any person whose name has been removed from the register under this section may within 3 years of removal under this section, apply to the Secretary to have his or her name restored to the register, and on payment of the prescribed fee that person's name shall, if the Board so directs, be restored to the register.

17. Correction of register - If in the opinion of the Board any person has been registered under this Act by reason of any false or fraudulent representation or declaration, made either verbally or in writing, or if any person not entitled to be registered under this Act has been so registered, the Board shall cause the name of that person to be removed from the register.

### **PART 3**

#### **TRUST ACCOUNTS**

18. Trust accounts to be kept by agents - (1) Subject to subsection (4), every person who is registered as a Land Agent under this Act must open and maintain a client trust account with a licensed domestic bank at Rarotonga, into which all monies received by that person from a client whether for or on account of fees and disbursements or otherwise, must be paid.

(2) An agent shall not pay monies received from a client into his or her personal account until the services to be rendered by the agent for the client have been completed and invoiced, or partly completed and invoiced for an amount not exceeding the value of the work done to the date of the invoice.

(3) The Board may from time to time prescribe rules for the keeping and audit of accounts required to be kept pursuant to subsection (1).

(4) Except as may be provided to the contrary in rules prescribed pursuant to subsection (3), Part IV of the Law Practitioners Act 1994 shall, with the necessary modifications, apply to a trust account opened pursuant to subsection (1) and to the agent operating that account as if that person was a law practitioner.

(5) This section does not apply to a Land Agent who is employed by and is acting in the particular case or matter as an employee of a law practitioner or firm of law practitioners the principal or principals of which hold a current practicing certificate or certificates under the provisions of the Law Practitioners Act 1994.

(6) Every person who by act or omission breaches any provision of this section or of any rule prescribed under this section commits an offence and shall on conviction be liable to a fine not exceeding \$2,000.

### **PART 4**

#### **DISCIPLINARY POWERS OF THE BOARD**

19. Removal of name from register in cases of offence or misconduct - (1) The Board may cause the name of any Land Agent to be removed from the register if it is satisfied after inquiry as hereinafter provided, that the registered agent –

- (a) has been guilty of such misconduct as in the opinion of the Board renders the agent unfit to be registered under this Act; or
- (b) has been convicted (either before or after his or her registration) of an offence punishable by imprisonment for a term of 1 year or more; or

- (c) has been guilty of such unethical, or incompetent conduct in the performance of his or her duties as an agent as in the opinion of the Board renders the agent unfit to be registered under this Act.
- (2) Unethical conduct for the purposes of paragraph (1)(d) includes conduct in breach of any code of ethics prescribed by the Board.
- (3) The name of a Land Agent shall not be removed from the register under paragraph (a) or paragraph (b) of subsection (1) by reason of having been convicted of any offence committed before the date of his or her registration, if at that date the Board was aware of the conviction in respect of that offence.

20. Inquiry by Board into allegations of misconduct - (1) Every complaint (which must be made to the Secretary in writing signed by the person making the allegation) that any Land Agent has been guilty of any act or default specified in section 19 shall be referred to the Board and the Board shall as soon as practicable investigate or cause to be investigated the complaint (and have all powers reasonably necessary for it to do so) and shall record its findings in writing.

(2) The Board may appoint a person (whether or not a member of the Board) to investigate and report in writing to it on a complaint that a Land Agent has been guilty of an act or default specified in subsection (1) of section 19, and if it does so, that person shall have the same powers as the Board to investigate the complaint and shall report thereon to the Board.

(3) The Board shall, unless it is satisfied that there is no reasonable ground for the complaint, or that the complaint is frivolous or vexatious, hold an inquiry into the matter, and shall give to the Land Agent concerned not less than 14 days notice in writing of its intention to hold the inquiry, and of the time and place of hearing, and of the nature of the complaint to be inquired to. The notice may be served personally or by registered letter addressed to the Land Agent concerned at his or her last known place of business or abode.

(4) At the inquiry the Land Agent concerned shall be entitled to be present and to be heard, and may be represented by counsel.

(5) The person appointed under the proviso to subsection (1) of this section to investigate the complaint, shall not, if a member of the Board, be competent to act as a member of the Board for the purposes of the inquiry.

(6) Every complaint shall be prosecuted at the inquiry by such person as the Board shall appoint. The person so appointed may be heard and may be represented by counsel or otherwise at any inquiry held under this section.

21. Further disciplinary powers of Board - (1) After any inquiry made pursuant to section 20 the Board may either dismiss the complaint or, if satisfied that the complaint is justified -

- (a) reprimand the Land Agent; or
- (b) impose on the Land Agent a monetary penalty not exceeding \$2,000.00; or



- (c) both reprimand the Agent and impose a monetary penalty;  
and may in addition to or in lieu of a reprimand or imposition of a monetary penalty –
- (d) suspend the Land Agent's registration for a period not exceeding 3 months, or
- (e) revoke the Land Agent's registration.

(2) While any order of suspension under this section remains in force the Agent shall be deemed not to be a Land Agent, but on the expiry of the order that person's rights and privileges as a Land Agent shall be revived as from the date of the expiry of the order.

(3) An order of suspension made pursuant to subsection (1)(d) shall not take effect on the date of the Board's decision or on such later date (being a date not later than 21 days after the making of the Board's decision).

(4) The powers conferred on the Board by this section are in addition to the powers under sections 19 and 20 of this Act.

(5) The Board may from time to time publish particulars of specific complaints, the decision and the orders made, where in the opinion of the Board such publication is in the public interest: Provided that the Board shall unless it is satisfied that the public interest requires otherwise in the particular case or matter, suppress the name and details of the complainant and the complaint to such extent as the Board thinks desirable in the interests of the complainant's privacy.

22. Costs and expenses In any case to which section 20 or section 21(1) applies, the Board may order the Land Agent concerned to pay such sum as the Board thinks fit in respect of either or both of the following -

- (a) the costs and expenses of and incidental to the inquiry by the Board;
- (b) the costs and expenses of and incidental to the investigation conducted under section 20(2) of this Act in relation to the complaint to which the inquiry relates.

23. Enforcement of fines and order to pay costs - Every monetary penalty imposed by the Board under this Act, and any sum ordered to be paid under section 22 of this Act, shall be recoverable as a debt to the Board by proceedings taken by the Secretary on behalf of the Board.

**PART 5**  
**APPEALS**

24. Appeals from decisions of Board - (1) Every person who is dissatisfied with any decision of the Board relating to an application by that person for registration, or to the removal of his or her name from the register, or to the suspension of that person's registration, or to the imposition on that person of any penalty, or to the payment by that person of any sum under section 22 of this Act, may within 21 days after the decision, give notice of appeal to the Secretary.

(2) Upon receipt of the notice of appeal the Secretary shall notify the Registrar of the High Court, who shall set the matter down for hearing before a Judge of the High Court as soon as practicable.

(3) The filing of a notice of appeal shall not act as a stay of the Board's decision unless a Judge orders otherwise.

(4) The High Court shall as soon as practicable hear the appeal, and may confirm the decision of the Board, or may order the registration of the appellant, or the restoration of the appellant's name to the register or the determination of the order of suspension, or the remission of the whole or any part of any monetary penalty (including costs) imposed on the appellant, or may make such other order as the case may require.

(5) On any appeal under this section the decision of the Court shall be final and conclusive except on a question of law.

(6) On any appeal under this section the Court may make an order in favour of any party for the payment of the costs incurred by the other party in respect of the appeal and in any such case the costs so awarded may be recovered in the Court as a debt due by the party against whom the costs have been awarded to the party in whose favour they have been awarded.

**PART 6**  
**ANNUAL PRACTISING CERTIFICATES AND FEES**

25. Land Agents to have annual practising certificates - (1) In this section a year means a year ending on the 31<sup>st</sup> day of December.

(2) Notwithstanding anything to the contrary this Act, no Land Agent shall after the commencement of this Act be entitled to act as a Land Agent unless he or she is the holder of an annual practising certificate issued in accordance with this section.

(3) Every person who acts as a Land Agent in breach of subsection (1) commits an offence.

(4) Every person, whether registered under this Act as a Land Agent or not, commits an offence against this Act, who, not being the holder of an annual practising certificate issued under this section, uses or causes to be used in connection with his business, trade, calling, or profession, any written words, titles, initials, or abbreviation of words, titles, or initials, which are intended to cause or may reasonably cause any other person to believe that he is a Land Agent.

(5) Subject to the payment of the prescribed annual practising fee, the Secretary, on application in that behalf by any Land Agent, shall issue to that Agent an annual practising certificate and any such certificate shall be in force during the year in respect of which it is issued:

Provided that if at any time during the currency of any such certificate the holder thereof ceases to be registered as a Land Agent the certificate shall be deemed to be cancelled.

(6) Every person entitled to receive an annual practising certificate under this section shall be deemed to have obtained that certificate when he has duly applied to the Secretary for it and has paid the prescribed fee.

26. Annual list of holder of practising certificates - (1) The Board shall keep and maintain at the Avarua offices of the Ministry of Justice a list of registered Land Agents who, for the time being are holders of annual practising certificates issued under this Act. A copy of every such list shall be available to the public free of charge.

(2) The register shall, unless the contrary is proved (whether by a certificate under the hand of the Secretary or otherwise), be sufficient evidence in all judicial proceedings that every person whose name appears therein as the holder of an annual practising certificate issued under this Act was duly registered under this Act and was the holder of an annual practising certificate.

## PART 7 MISCELLANEOUS

27. Certificate by Secretary to be evidence of registration, etc - A certificate under the hand of the Secretary to which the seal of the Board is affixed, to the effect that any person was or was not registered as a Land Agent under this Act at any time or during any period specified in the certificate, or as to any entry in the Register of Land Agents or as to any act or proceedings of the Board, shall, until the contrary is proven, be sufficient evidence of the matters therein specified.

28. Improper use of words, initials, etc, implying registration - Every person commits an offence against this Act, who, not being registered as a Land Agent under this Act, uses or causes or permits to be used any written words titles, or initials, or any abbreviation of any words, titles, or initials which are intended to cause or may reasonably cause any person to believe that he or she is registered as a Land Agent under this Act.

29. Taxation of charges - (1) The Board may revise and adjust a Land Agent's bill of costs, whether it has been paid or not, either -

- (a) on the Board's own motion; or
- (b) on the reference in writing of the party chargeable; or
- (c) by order of the Court, which may be made with such directions and subject to such conditions as the Court thinks fit.

(2) Unless the Land Agent and the person chargeable otherwise agree in writing, every reference under paragraph (b) of subsection (1) shall be made within 12 months after the date of delivery of the bill.

(3) The Board may upon revising a bill of costs make such orders as may be deemed necessary to facilitate and give effect to the revision and any decision thereon, including as to costs.

30. Offences - Every person who commits an offence against this Act shall, where no other penalty for that offence is provided elsewhere in this Act, be liable on conviction to a fine not exceeding \$2,000.00 and, where the offence is a continuing one, to a further fine not exceeding \$50.00 for every day during which the offence continues.

31. Regulations - (1) The Queen's Representative may from time to time, by Order in Executive Council, make all such regulations as may be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes -

- (a) prescribing the forms of applications, certificates, and other documents required under this Act;
- (c) prescribing the fees payable in respect of examinations and of registration under this Act and in respect of the restoration of names after their removal from the register and in respect of any other alteration of or addition to the register; and also prescribing fees for the issue of certificates of registration;
- (d) prescribing the fees for the issue of annual practising certificates under section 25 of this Act;
- (e) prescribing the subject-matter of examinations to be conducted by or on behalf of the Board, and the standards required to be attained by successful candidates;
- (f) regulating the procedure of the Board;
- (g) prescribing rules for the keeping, administration and audit of trust accounts for client funds;
- (h) prescribing maximum fees that may be charged by Land Agents either per hour or in respect of particular types of services or matters;
- (i) prescribing a Code of Ethics by which Land Agents shall be bound;
- (j) prescribing fines, not exceeding \$2,000.00 for the breach of any regulation and any Code of Ethics made under this section;
- (k) providing such other matters as may be necessary for the efficient discharge by the Board of its duties and functions under this Act.

32. Consequential amendments – The Law Practitioners Act 1994 (as amended by the Law Practitioners Amendment Act 2008) is amended by deleting from section 61, subsections (2A) to (2E).

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This Act is administered by the Ministry of Justice

**SCHEDULE****PROVISIONS RELATING TO THE BOARD (Section 5(2))**

1. Remuneration, allowances, and expenses of members of Board – (1) Any Order made pursuant to section 6 of this Act shall take effect on such date (whether the date thereof or any earlier or later date) as may be specified therein.

2. Employees of Board– (1) Subject to the provisions of this clause, the Board may from time to time appoint such temporary or casual employees, as the Board thinks necessary for the efficient carrying out of its functions, powers, and duties under this Act or any other enactment.

(2) Subject to the person's contractual terms and conditions of employment, the Board may, at any time terminate or suspend the employment of any temporary or casual employee.

(3) Temporary or casual employees appointed under subclause (1) shall be employed on such terms and conditions on employment and shall be paid such salaries and allowances as the Board determines.

3. Committees and consultants – (1) To assist the Board in the exercise of its functions, the Board may from time to time -

- (a) establish committees and appoint members thereof; and
- (b) engage such consultants as the Board thinks fit.

(2) The Board shall pay persons appointed or engaged under subclause (1) of this clause, for services rendered by them, fees and commissions or either at such rates as the Board thinks fit, and may separately reimburse them for expenses actually and reasonably incurred in rendering services for the Board.

4. Money to be appropriated by Parliament for purposes of this Act – All fees, salaries, allowances, and other expenditure payable or incurred under or in the administration of this Act shall be payable out of money to be appropriated by Parliament for the purpose.

5. Funds of the Board – The funds of the Board shall consist of -

- (a) Any money appropriated by Parliament for the purposes of the Board;
- (b) All other money lawfully received by the Board for the purposes of the Board;
- (c) All accumulations of income derived from any such money.

6. The Board's account - (1) Notwithstanding section 43 of the Ministry of Finance and Economic Act 1995-96, the Board may with the approval of the Minister of Finance and of the Financial Secretary keep such bank account or accounts at a bank in Rarotonga as may from time to time be approved by the Board.

(2) No money shall be withdrawn from any bank account except by cheque or other instrument signed by such person or persons in such manner as the Board may from time to time determine.

7. Financial reporting and fiscal updates - The Board shall deliver to the Ministry of Finance and Economic Management, financial reports and fiscal updates in accordance with Parts II and V of the Ministry of Finance and Economic Management Act 1995-96, as if the Board was a government department as defined in that Act.

8. Annual report - (1) Within 3 months after the end of every financial year the Board shall deliver to the Minister a report of the operations of the Board during that financial year.

(2) The annual report made under subsection (1) shall state the information necessary to enable an informed assessment of the financial status of the Board.

(3) The Minister shall, as soon as an annual report is received, table a copy in Parliament if Parliament is then in Session and if Parliament is not then in Session, shall table the report at the commencement of the next ensuing Session.

9. Application of Ministry of Finance and Economic Management Act - The Ministry of Finance and Economic Management Act 1995-96 shall apply to the Board except to the extent that those provisions are inconsistent with this Act.

10. Office of the Public Expenditure Review Committee and Audit to be auditor - (1) The Office of the Public Expenditure Review Committee shall be the auditor of the Board, and will have and may exercise the functions, duties and powers that it has under the Public Expenditure Review Committee and Audit Act 1995-96.

(2) Without limiting subsection (1), the Board may with the agreement of the Office of Public Expenditure Review Committee and Audit, appoint a person or a firm to conduct audits of the Board.

11. Exemption from income tax - The income of the Board shall be exempt from income tax.

12. Proceedings privileged – (1) No proceedings, civil or criminal, shall lie against the Board for anything it may do or fail to do in the course of the exercise or intended exercise of its functions, unless it is shown that it acted in bad faith.

(2) No proceedings, civil or criminal, shall lie against any member of the Board for anything he or she may do or fail to do or say in the course of the operation of the Board, unless it is shown that the member acted in bad faith.

(3) No member of the Board, or person appointed or engaged under clauses 2 or 3 of this Schedule, shall be required to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to the knowledge of the member, or person in the course of the operations of the Board.

(4) Anything said or any information supplied or any document produced by any person in the course of any proceedings before the Board shall be privileged in the same manner as if the proceedings were proceedings in a Court.

(5) For the purposes of clause 3 of Part II of the First Schedule to the Defamation Act 1993, any report made by the Board in the course of the exercise or intended exercise of its functions shall be deemed to be an official report made by a person holding an inquiry under the authority of Parliament.

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