

DEALINGS BY COMPANIES

A Corporation or a Company is a legal entity created by statute and is included in the definition of persons under the Interpretation Act. The corporation or company is different from its shareholders or members. Most companies or corporations are created under the Companies Act of Jamaica but some will have their own Acts of Parliament e.g. Building Societies Act, Co-Operative Societies Act, Friendly Societies Act etc.

Before any instrument presented for registration is completed the Registrar of Titles must be satisfied that the company or corporation does exist. This is usually verified by the name of the company accompanied by a statement as to the act of incorporation. If the company is the transferor of property, a certificate or letter, issued by the relevant authority responsible for incorporation of businesses stating that the company is still on the register would be required.

Deregistered Companies

Where a company has been dissolved or struck off the Register and there remains in the assets of the company, estate and interest in lands that have not been dealt with by the company, the lands become vested in the Crown.

The Crown through the Commissioner of Lands holds the property on trust for the benefit of the members of that company: -

- For a period of two (2) years – Where the company has been dissolved. The Court may at any time within two (2) years of the date of dissolution declare the dissolution to be void and the company is treated as if it has not been dissolved. [Section 336 and 338 of the Companies Act of Jamaica].

- For a period of twenty (20) years - Where the company has been dissolved or struck off the register interested parties may make an application to the Registrar of Companies before the expiration of twenty (20) years from the publication in the Gazette of the notice of dissolution. [Section 337 and 338 of the Companies Act of Jamaica].

Where the company has been restored in accordance with the abovementioned sections the trust is extinguished and the lands estate and/or interest reverts to the company.

After the expiration of the relevant period the property is deemed *bona vacantia* and becomes the property of the Crown. The Crown should then make an application to have the estate or interest vested in the Commissioner of Lands.

The Crown is entitled by notice of disclaimer signed by the Administrator General to disclaim title to property which has been vested in accordance with Section 338 of the Companies Act.

Companies in Liquidation

The Liquidator of a company has the power to sell or transfer the assets of a company in liquidation. On appointment the liquidator steps into the shoes of the Directors of the Company.

A dealing or document by a liquidator must be drawn in the name of the company and the name must be followed by the words "In liquidation". Evidence of the appointment will be required.

The dealing or document may be executed under the company seal attested by the liquidator. The nature of the authority to sign must be stated, e.g. "liquidator for ..." and the signature properly attested.

Companies under Receivership

A receiver has the power to call in the property of the company and to pay its debts and also to transfer or otherwise deal with any estate or interest as set out in the Order of the Court, statute or instrument of appointment. A receiver is usually appointed:

- by an Order of the Court;
- pursuant to the statutory power conferred on a mortgagee by the *Registration of Titles Act*; or
- pursuant to an express power to appoint a receiver contained in a mortgage or debenture under the Companies Act.

Any dealing or document by a receiver must be drawn in the name of the company and the name must be followed by the words "In receivership". Evidence of the appointment will be required.

The dealing or document should be executed under the company seal attested by the receiver. The nature of the authority to sign must be stated, e.g. "receiver for ..." and properly attested.