

LAND SURVEYORS ACT

Act 11 of 1976 – 29 September 1979

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LAND SURVEYORS ACT

1. Short title

This Act may be cited as the Land Surveyors Act.

2. Interpretation

In this Act—

“Chief Surveyor” means the Chief Surveyor of the Ministry;

“Government surveyor” means a land surveyor who is a public officer of the Ministry;

“land surveyor” includes a Government surveyor;

“Minister” means the Minister to whom responsibility for the subject of lands is assigned;

“Permanent Secretary” means the Permanent Secretary of the Ministry.

3. Survey to be made by land surveyors

(1) No survey, plan or memorandum of survey of land shall be valid unless it has been made by a land surveyor.

(2) No person, other than a land surveyor, shall, for remuneration, make a survey of any land for any purpose.

4. Appointment of land surveyors

(1) Every land surveyor shall be appointed by a commission issued by the President.

(2) No person shall apply for a commission unless the Attorney-General has certified that the applicant is a fit and proper person to be issued with a commission.

(3) The number of land surveyors shall not be limited.

[S. 4 amended by Act 48 of 1991.]

5. Qualifications of land surveyors

(1) No person shall be granted a commission under section 4 unless—

- (a) he is a citizen of Mauritius and of age;
- (b) he holds—
 - (i) the Diploma in Land Surveying of the University of Mauritius; or
 - (ii) such other qualifications as may be prescribed;
- (c)
 - (i) in the case of the holder of a Diploma in Land Surveying of the University of Mauritius who has throughout his period of study been employed by and worked under the direct supervision of a land surveyor, he has worked full-time under the direct supervision of a land surveyor for a further period of one year after obtaining his Diploma;
 - (ii) in any other case, he has worked full-time under the direct supervision of a land surveyor for a period of not less than 2 years after he has obtained the qualifications specified in paragraph (b) (ii); and
- (d)
 - (i) he provides the Minister with evidence of his knowledge of practical survey work of the kind specified in Part I of the Schedule;
 - (ii) in the case of a person who qualifies under paragraph (b) (ii), he provides the Attorney-General with evidence of his knowledge of the enactments specified in Part II of the Schedule.

(2) (a) Subject to paragraph (b), no person who has been granted a commission under section 4 shall practise as a land surveyor unless—

- (i) he has furnished security in accordance with subsection (3); and
- (ii) he holds the prescribed licence.

(b) Paragraph (a) shall not apply to a Government surveyor or a land surveyor employed by a statutory corporation or a local authority.

(3) Security under subsection (2)—

- (a) shall be—
 - (i) of the value of 20,000 rupees or such other amount as may be prescribed; and

- (ii) subject to the approval of the Attorney-General;
- (b) may be furnished—
 - (i) by cash deposited with the Accountant-General;
 - (ii) by means of a policy of insurance issued by a company registered under the Insurance Act; or
 - (iii) by means of a mortgage on immovable property; and
- (c) may be applied, where necessary, for the satisfaction of—
 - (i) a judgment debt against the land surveyor arising out of a matter connected with the exercise by the land surveyor of the functions of his office; or
 - (ii) any penalty incurred by the land surveyor under this Act.

(4) Where a land surveyor has furnished security, otherwise than in cash, he shall cause to be produced to the Accountant-General—

- (a) a certificate from the Conservator of Mortgages that a mortgage under subsection 3 (b) (iii) has been inscribed; or
- (b) a policy of insurance issued under subsection (3) (b) (ii) and every receipt witnessing the payment of any premium payable under the policy.

(5) Subject to subsection (6), where security—

- (a) has been furnished in accordance with subsection (3) (b) (ii); and
- (b) is applied for any purpose specified in subsection (3) (c),

no claim shall be receivable in respect of any sum paid by the Accountant-General to any person.

(6) Subsection (5) shall not prejudice any right of the land surveyor to recover from any person any sum paid out by the Accountant-General under subsection (3).

(7) Where the Accountant-General has made any payment under subsection (3) out of the amount deposited by a land surveyor, he shall—

- (a) give written notice to the land surveyor; and
- (b) require the land surveyor to deposit a further amount as security being an amount equal to the payment made.

(8) A licence prescribed for the purposes of subsection (2) (b) (ii) shall not be issued or renewed unless the land surveyor has complied with subsection (4).

6. Official surveyors not to practise privately

(1) Subject to subsection (2), no Government surveyor or land surveyor employed by a statutory corporation or local authority shall undertake a survey for private parties.

(2) Subsection (1) shall not apply to Rodrigues.

7. Survey of State land

(1) (a) No land surveyor, other than a Government surveyor, shall undertake the survey of any State land, unless he has been authorised in writing by the Chief Surveyor.

(b) Where a land surveyor carries out a survey with the authorisation of the Chief Surveyor, the surveyor shall record the fact in his memorandum and the authorisation shall be attached to the original of the memorandum which is to be deposited with the Permanent Secretary under section 15.

(2) Every land surveyor who contravenes subsection (1) shall commit an offence and the memorandum of survey made by him shall be null and void.

[S. 7 amended by Act 48 of 1991.]

8. Surveyors leaving Mauritius

Any land surveyor who intends to leave Mauritius shall, 10 days before his departure, notify his intention to the Permanent Secretary and furnish the Permanent Secretary with proof that he has complied with section 15.

9. Owners of adjoining lands at surveys

(1) (a) Subject to section 12, no land surveyor shall survey a plot of land which adjoins the property of another person for any purpose, unless the owner of the adjoining property is present at the survey or has consented in writing to the survey being made in his absence, or upon proof that the owner has been summoned to attend the survey.

(b) A summons under paragraph (a) shall be served personally by an usher upon the owner of the adjoining property not less than 14 days before the survey.

(c) Where the adjoining property is State land—

(i) the summons shall be served upon the Chief Surveyor not less than 21 days before the survey;

(ii) the survey shall, except with the agreement of the Chief Surveyor, be held during office hours.

(2) Where—

(a) the owner or the address of the owner of the adjoining property is not known; or

(b) the survey is required to be made by a Government surveyor, the land surveyor may, in lieu of the summons specified in subsection (1), give notice of the survey in accordance with subsection (3).

(3) A notice of a survey under subsection (2) shall—

(a) mention the date and time of the survey; and

(b) call upon the owner of the adjoining property to be present and to produce his title deed, at the survey;

(c) not less than 14 days before the survey—

(i) be posted in a conspicuous position on the property to be surveyed;

- (ii) be published in the *Gazette* and in 2 daily newspapers approved by the Permanent Secretary.

[S. 9 amended by Act 48 of 1991.]

10. Owners to produce title deeds

(1) Every land surveyor shall, before making a survey under section 9, call upon every owner of an adjoining property who is present to produce his title deed.

(2) Where the owner of an adjoining property who is present at a survey refuses or is unable to produce his title deed, the land surveyor shall record his refusal or inability, as the case may be, in the memorandum of survey.

11. Contents of memorandum of survey

(1) Every memorandum of survey shall—

- (a) be drawn up—
 - (i) in 2 originals;
 - (ii) so as to constitute a single document;
- (b) contain no abbreviation, blank, gap or interval;
- (c) be legibly written or typewritten; and
- (d) record in words any linear dimension.

(2) (a) No word in a memorandum of survey shall be written over another word and no interline or other addition shall be made in the body of the memorandum.

(b) Where a word in a memorandum of survey has to be deleted, it shall be deleted in such a manner as to remain legible and allow the number of words deleted to be recorded.

(c) No addition to a memorandum of survey shall be recorded otherwise than at the foot of the memorandum.

(3) (a) Subject to paragraph (b) and subsections (4) and (5), every memorandum of survey shall be read over by the land surveyor to the parties who are present at the survey and shall be signed by them.

(b) Where—

- (i) a party does not understand the language in which the memorandum of survey has been drawn up, the land surveyor shall explain or cause to be explained to him the contents of the memorandum of survey in the language with which he is best acquainted;
- (ii) a party is unable to sign in Roman characters, he shall affix his thumbprint to the memorandum.

(4) Where a survey is made in the presence of the owner of an adjoining property, the land surveyor shall record in the memorandum of survey—

- (a) such objections or observations relative to the survey as may have been made by the owner; or

- (b) where the owner refuses or is unable to sign, his refusal or inability, as the case may be.

(5) Where a survey is made in the absence of the owner of an adjoining property, the land surveyor shall record such absence in the memorandum of survey and attach to the memorandum—

- (a) the written consent of the owner to the survey being made in his absence; or
- (b)
 - (i) the original of the summons served upon the owner; or
 - (ii) a copy of the notice published under section 9 (3).

(6) Where a land surveyor has contravened section 9 or 10 or this section, the memorandum of survey shall be null and void.

12. Survey to determine extent of property

(1) Subject to subsection (2), sections 9 and 10 shall not apply to a survey of a property made at the request of its owner for the purpose of determining its approximate extent.

(2) No memorandum of survey shall be drawn up in connection with a survey made under subsection (1).

(3) A report of the determination of the extent of a property under subsection (1) shall—

- (a) be drawn up in 2 originals and shall be signed by the land surveyor who shall affix his seal or stamp to the report;
- (b) subject to section 14, be supported by a plan; and
- (c) not be binding on the owners of the adjoining lands.

13. Survey to have plan annexed

(1) Subject to section 14, every memorandum or report of a survey shall be—

- (a) supported by a plan; and
- (b) signed by the land surveyor who shall also affix his seal or stamp.

(2) Every memorandum or report of a survey which is to be deposited in the Permanent Secretary's office under section 15 shall be so drawn up as to leave a margin one inch wide on the left-hand side of the recto of every page and on the right-hand side of the verso of every page.

14. Plans

(1) Every plan made in support of a memorandum or report of a survey shall specify—

- (a) the length, in metres, of every boundary line or operation line, as measured with a steel band tape;
- (b) the angles, either observed or calculated;

- (c) the extent of the property surveyed;
- (d) the location of every boundary stone—
 - (i) existing at the time of the survey; or
 - (ii) placed by the land surveyor; and
- (e) the precise location of the property.

(2) Where the plan in support of a memorandum or report of a survey which is to be deposited in the Permanent Secretary's office under section 15 is larger in size than a page of the paper on which the memorandum is drawn up, the plan shall be mounted on unbleached canvas and shall be left unfolded.

15. Registration of memorandum or report of survey

(1) The 2 originals of every memorandum or report of the survey shall be registered by the land surveyor within 14 days of the completion of the survey.

(2) No registration dues shall be payable on the registration of one of the originals.

(3) Where—

- (a) a memorandum of survey does not comply with section 13; or
- (b) a thumb print affixed to a memorandum of survey under section 11 (3) (b) (ii) is not, in the opinion of the Registrar-General, clear enough to allow the identification of the party who affixed the thumb print,

the Registrar-General may refuse to register the memorandum of survey.

(4) After registration of a memorandum or report under subsection (1), the Registrar-General shall—

- (a) return to the land surveyor one of the originals which shall remain in the possession and custody of the land surveyor; and
- (b) forward the other original, which shall be the one registered free under subsection (2), to the Permanent Secretary for deposit in the Permanent Secretary's office.

(5) The Permanent Secretary shall endorse every memorandum or report of survey received by him, with the date on which it is received.

16. Duties of Permanent Secretary

(1) The Permanent Secretary shall—

- (a) have the care, control and custody of, and ensure the physical protection of all, memoranda of survey deposited in his office; and
- (b) make available to the public for research purposes any memorandum deposited in his office.

(2) The Permanent Secretary may, on payment of the prescribed fee, issue certified copies of a memorandum of survey deposited in his office.

(3) Every memorandum of survey deposited in the Permanent Secretary's office, and every certified copy of a memorandum of survey issued by the Permanent Secretary shall be evidence of the survey and of the truth of the matters specified in the memorandum.

17. Fees

(1) Subject to subsection (2), the fees payable to a land surveyor may be fixed by agreement between the land surveyor and his client.

(2) The fees payable to a land surveyor shall—

- (a) in every case where the land surveyor is appointed by a Court; or
- (b) in the absence of agreement or in case of dispute,

be taxed by the Master and Registrar.

(3) For the purpose of subsection (2), fees payable to a land surveyor shall be taxed in accordance with such scale and in such manner as may be prescribed.

18. Interference with property rights of owners

(1) Where, in the course of a survey, a land surveyor is unable to carry out an operation without cutting down standing crop or trees growing on any land and he is unable to obtain the consent of the owner of the land, he may apply to the Magistrate of the district in which the land is situated for leave to cut the crop or trees.

(2) On an application under subsection (1) the Magistrate may, after hearing the owner of the land—

- (a) authorise the land surveyor to cut down the standing crop, trees or brushwood; and
- (b) fix the amount of compensation payable to the owner of the land.

19. Offences

(1) Any person who—

- (a) acts as a land surveyor without having—
 - (i) received a commission; or
 - (ii) complied with section 5;
- (b) not being a land surveyor, in consideration of any remuneration, makes a survey of any property for any purpose;
- (c) without lawful authority, removes, defaces, destroys or tampers with a notice posted under section 9 (3) (c); or
- (d) removes or displaces any boundary stone or landmark, without the knowledge and consent of the interested parties, or without legal authority,

shall commit an offence.

(2) Any land surveyor who—

- (a) signs a plan or a memorandum of survey without having been on the property during the measurement of the boundary lines included in the plan or memorandum of survey;
- (b) contravenes section 5, 6, 7 or 8; or
- (c) contravenes any regulation made under this Act,

shall commit an offence.

(3) Any person who commits an offence under this Act shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding one year.

[S. 19 amended by Act 32 of 1983.]

20. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) The Minister may, by regulations, amend the Schedule.

(3) Regulations made under subsection (1) may provide for the levying of fees and charges.

SCHEDULE

[Section 5 (1)]

PART I

Preparation of a plan, supported by the field book notes, of the survey of a portion of land of not less than 800 metres square to be indicated by the Chief Surveyor, showing the triangulation of the ground contour lines and the general features, including roads and watercourses.

PART II

Constitution, sections 8, 9 and 10

Building Act

Central Water Authority Act

Code Civil Mauricien, Livre Premier, articles 112 to 145, 215 to 226, Titres VII to XI, Livre Deuxième, Livre Troisième, Titres I to X, XIII to XV, XVII to XX

Deposits (Supreme Court) Act

Forests and Reserves Act

Ground Water Act

Irrigation Authority Act

Land Acquisition Act

SCHEDULE II—*continued*

Land Surveyors Act
Landlord and Tenant Act
Legal Metrology Act
Local Government Act, Part VIII and sections 74 to 83
Minerals Act
National Heritage Fund Act
Non-Citizens (Property Restriction) Act
Pas Géométriques Act
Petroleum Act
Registration Duty Act
Removal of Sand Act
Rivers and Canals Act
Roads Act, Part III
Sale of Immovable Property Act, Part II
Shooting and Fishing Leases Act
State Lands Act
Succession and Wills Act
Town and Country Planning Act
Transcription and Mortgage Act
Waqf Act

[Sch. amended by Act 48 of 1991.]
