

CHAPTER 239

THE LAND SURVEYORS ACT

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LAND SURVEYORS

(30th December, 1975.)

15/1975.

PART I

PRELIMINARY

1. This Act may be cited as the Land Surveyors Act. **Short title.**

2. In this Act, unless the context otherwise requires — **Interpretation.**

“assistant” means a person not being a surveyor who is engaged on survey work directly under the control of a surveyor;

“Board” means the Land Surveyors Board established pursuant to the provisions of section 4;

“Chief Surveyor” means the Chief Surveyor appointed under section 3;

“land registry” means the registry established by the Registered Land Act; **Cap. 374.**

“licensed surveyor” means a surveyor licensed under this Act;

“Old Law” means the Land Surveyors Act, Cap. 280 of the Revised Edition, 1962;

“owner” in relation to any land, means any person receiving or entitled to receive rents or profits from any tenant or occupier thereof whether on his own account or as an agent or trustee for any other person or who would receive the same if the land were let;

“plan” includes a map, plot, diagram, aerial photograph or a mosaic compiled from aerial photographs approved by the Chief Surveyor as suitable for survey purposes;

"public survey" means any survey made for the purpose of defining the boundaries of any land which is owned by the Government or any public authority, or in which the Government or any public authority possesses or disposes of any interest or any survey which forms part of a survey of Antigua and Barbuda or any part thereof;

"Registered owner" means any person having a legal interest in registered land;

"Registrar" means the Registrar of Lands as defined in the Registered Land Act;

"regulations" means regulations made under section 28;

"survey" means a survey defining the boundaries of any land in Antigua and Barbuda and includes a survey for the purposes of the Registered Land Act;

"Survey Department" means the department of Government exercising functions relating to surveys; and

"surveyor" means a licensed surveyor or an officer of the Survey Department authorised by the Chief Surveyor to carry out surveys.

Duties of Chief Surveyor.

3. (1) There shall be a Chief Surveyor appointed by the Public Service Commission who shall, subject to the provisions of this Act—

(a) direct and control all public surveys;

(b) examine all general and particular plans of surveys before any registration of land is effected in accordance with the Registered Land Act, and approve such plans if satisfied that such surveys have been carried out and the plans prepared in accordance with the regulations;

(c) take charge of and preserve all survey records;

(d) cancel or amend in accordance with the provisions of any law, any survey plan or diagram found to be incorrect, outdated or inadequate; and

(e) prepare, certify and issue at the request of any person upon payment of the prescribed fees, copies of diagrams and documents filed within his department which are available to the public.

(2) The Chief Surveyor shall be the authority for the preparation and publication of the official maps of Antigua and Barbuda, and no other person shall, without the written permission of the Chief Surveyor, make use of any material which has been prepared or published in the said official maps in the preparation or publication of any other map.

PART II

THE LAND SURVEYORS BOARD

4. (1) There shall be established a Board, to be known as the Land Surveyors Board, consisting of the Chief Surveyor, who shall be the Chairman of the Board, and two other persons appointed by the Minister and who shall be surveyors licensed to practise in Antigua and Barbuda. The Chairman of the Board may from time to time as he sees fit, and subject to the approval of the Attorney-General, call for the services of a legally qualified person employed in the Attorney-General's Chambers to assist the Board in its deliberations. Land Surveyors Board.

(2) A member of the Board appointed by the Minister shall hold office for two years, but may at any time resign his appointment by notice in writing given to the Minister.

(3) The Minister may at his discretion at any time cancel any appointment to the Board made by him.

(4) The Board may appoint a Secretary who shall hold office during the pleasure of the Board.

(5) When there is a complaint of professional or other misconduct against a member of the Board such member shall be excluded from meetings of the Board until the findings of the Board are made known, provided that an enquiry into such complaint shall be proceeded with within one

month. In the meantime the Minister may appoint another person to act as a member of the Board.

(6) Notice of the appointment of members of the Board shall be published in the *Gazette*.

Duties of the Board.

5. It shall be the duty of the Board—

(a) to grant to persons duly qualified in accordance with the provisions of this Act licences to practise land surveying in Antigua and Barbuda;

(b) to provide for examinations to be taken by applicants for such licences;

(c) to keep a register of all licensed surveyors in accordance with section 8;

(d) to take disciplinary proceedings against licensed surveyors in accordance with the provisions of this Act; and

(e) to perform such other functions as are prescribed by this Act or any regulations made thereunder.

Conditions for grant of surveyors licence.

6. The Board shall not grant a licence to practise land surveying to any person unless such person—

(a) has passed such examination as the Board may from time to time prescribe or shall hold such other qualification as the Board shall consider to be of equivalent standard, and

(b) shall have been engaged as an assistant in land surveying in Antigua and Barbuda under the supervision of the Chief Surveyor or any surveyor for a period of 6 months or such other period as the Board shall in any particular case, having regard to all the circumstances, determine.

Grant of licence to be Gazetted. First Schedule.

7. (1) A licence issued under this Part shall be in the form prescribed in the First Schedule and notice thereof shall be published in the *Gazette*.

(2) There shall be payable into the Consolidated Fund in respect of a licence issued under this Act to a surveyor such fee as may be prescribed.

8. The Board shall cause a register to be kept which shall contain the names, addresses and qualifications of all persons to whom licences have been granted, the date upon which each licence was granted and any other particulars which may be prescribed.

Register of
surveyors.

9. (1) Where it appears to the Board that a surveyor may have been guilty of professional misconduct or of conduct of such a nature as to bring his profession into disrepute, the Board shall hold an enquiry.

Disciplinary
Proceedings.

(2) Where the Board intends to hold an enquiry as aforesaid, it shall give at least fourteen days notice of its intention to the surveyor, setting out therein the misconduct alleged, and shall afford the surveyor the opportunity of being heard in person or being represented by a solicitor or counsel.

(3) At any enquiry held by the Board, the Board may administer oaths and affirmations and may, subject to the provisions of any regulations made under this Act, enforce the attendance of persons as witnesses and the production of books and documents.

(4) Where, after due enquiry by the Board, a surveyor has been found to have been guilty of professional misconduct, or conduct of such a nature as to bring his profession into disrepute and is considered by the Board to be unfit to practise, the Board may—

- (a) revoke the licence granted to such surveyor;
- (b) suspend the licence for a period not exceeding three years;
- (c) impose a fine not exceeding seven hundred and fifty dollars on such surveyor; or
- (d) reprimand such surveyor.

(5) The name of a licensed surveyor whose licence has been revoked or suspended shall be removed from the register.

Second Schedule. (6) Any person who, having been summoned by the Board in the form prescribed in the Second Schedule to attend before it fails so to attend or fails to produce any books or documents specified in such summons and which he is required to produce, shall be guilty of an offence against this Act.

Appeals to the High Court.

10. Any person aggrieved by a decision of the Board under section 9, or under subsection (4) of section 24, may within one month after the date of the decision, appeal to the High Court against such decision and, on any such appeal, the High Court may give such directions in the matter as it thinks proper, including directions as to the costs of the appeal.

Grant of new licence and termination of suspension.

11. Where a licence has been suspended the Board shall, when the period of suspension has run, cause the name of the surveyor to be restored to the register and where a licence has been revoked the Board may on the application of the surveyor concerned made not less than six months after the date of revocation issue a new licence.

Notice of grant, cancellation, etc. of licence to be published in the Gazette.

12. Notice of the grant, revocation or suspension of any licence, or of the termination of the suspension thereof, under this Part shall be published in the *Gazette*.

PART III

THE CONDUCT OF SURVEYS

Duties of licensed surveyors and exclusion of Government liability.

13. (1) Every surveyor shall carry out every survey undertaken by him in such manner as will ensure that the survey accords in all respects with the provisions of this Act and any regulations made hereunder; and shall be responsible for the correctness and completeness of every survey carried out by him or under his supervision:

Provided that the Chief Surveyor may, in his discretion in the case of a particular survey, by notice in writing to the surveyor, permit that the standards of accuracy prescribed by such regulations be relaxed in such manner, to such extent and subject to such conditions as he may specify in the notice.

(2) Neither the Government nor any public officer shall be liable for any negligence or defect in any survey, or in any work appertaining thereto, performed by a surveyor notwithstanding that any plan relating to such survey has been authenticated in accordance with the requirements and provisions of this Act or accepted for registration under the Registered Land Act.

14. Any survey of land for the purpose of the Registered Land Act shall be carried out under and in accordance with the provisions of this Act.

Survey of land for the purposes of the Registered Land Act

15. No person, other than a surveyor, shall—

Restriction on Surveying.

(a) survey any holding or land for the purpose of preparing any plan which is attached to or is referred to in any document or instrument purporting to confer, declare, transfer, limit, extinguish or otherwise deal with or affect any right, title or interest, whether vested or contingent to or over any holding or land, being a document or instrument which is required to be registered, or is ineffectual until registered, under any law for the time being in force relating to the registration of a transaction in, or of title to, land; or

(b) perform any survey which affects or may affect the definition of the boundaries, or the location of survey marks, of any holding or land registered or to be registered under any law for the time being in force relating to the registration of land or of title to land.

16. (1) For the purposes of any public survey the Chief Surveyor or any surveyor authorised by him may enter upon any land with such assistants as may reasonably be required, and may affix or set up or place thereon or therein trigonometrical stations, survey beacons, marks or poles, and do all things necessary for such survey.

Powers in relation to public surveys.

(2) The surveyor shall give not less than two days written notice to the owner or occupier of the land of his intention to enter thereon. Where the owner or occupier cannot be found such notice may be placed in a conspicuous place on the land.

Compensation.

17. Compensation shall be payable out of the public revenues to the owner of any crops or trees cut or damaged in the exercise of any of the powers conferred by section 16, and if any question shall arise as to the amount of compensation to be paid or the right of a claimant to recover compensation such question shall, in default of agreement between the Chief Surveyor and all persons concerned, be finally determined by a Magistrate on application made by the Chief Surveyor or any person authorised by him in that behalf or any person claiming to be entitled to compensation under the provisions of this section:

Provided that save at the discretion of the Chief Surveyor no such application shall be granted if it is by a person claiming to be entitled to compensation and is made more than six months after the date on which the crop or trees in respect of which claim is brought were cut or damaged.

Power of surveyors to enter land.

18. (1) After giving notice as required by section 16(2) a surveyor may, with assistants, for the purpose of surveying any land which he is employed to survey, enter on and pass over and set up such instruments and make such measurements as are necessary on any land, whether private or public, causing as little inconvenience to the owner or occupier of such land as is consistent with his duties.

(2) Compensation shall be payable for any damage done to any land by reason of the exercise of the powers contained in subsection (1).

(3) Where a surveyor is a Government employee compensation shall be assessed in accordance with the procedure set out in section 17.

(4) Where the surveyor is not a Government employee any compensation payable shall be subject to agreement between the surveyor and the aggrieved party or parties:

Provided that where such agreement is not possible the Chief Surveyor shall act as arbitrator and in default of agreement between the Chief Surveyor and all persons concerned compensation shall be determined by a Magistrate as set out in section 17. No compensation shall be payable out of public revenue for damage to land by reason of the exercise by a

surveyor who is not a Government employee of powers contained in subsection (1) of this section.

PART IV

THE PRESERVATION OF SURVEY MARKS

19. Any unauthorised person who wilfully obliterates, removes or damages any trigonometrical station, survey beacon, mark or pole or any boundary mark affixed, set up or placed for the purpose of conducting any public or other survey under this Act shall be guilty of an offence and in addition to any other punishment imposed on summary conviction may be ordered to pay the cost of repairing or replacing the thing obliterated, removed or damaged and of making any survey rendered necessary by the act to which the conviction relates.

Penalty for removing survey boundary marks.

20. Any person who wilfully obstructs, hinders, molests or threatens any surveyor in the execution of his duty in or about the conduct of any public survey or other survey under this Act, or any workman or other person acting in aid of any such surveyor, shall be guilty of an offence.

Penalty for obstructing etc. surveyors.

21. Any sum due under the provisions of this Act may be sued for and recovered by the Chief Surveyor or any person authorised by him by action in any court of competent jurisdiction.

Recovery of money due.

22. (1) The Chief Surveyor may by notice published in the *Gazette* delegate any of his functions under this Act to any officer of the Survey Department by name or office.

Delegation of functions.

(2) Any such delegation shall be revoked at will and no delegation shall prevent the exercise by the Chief Surveyor of any function.

PART V

GENERAL

Plans and records to be deposited with the Chief Surveyor and to become Government property.

23. (1) Every surveyor who executes any survey in accordance with the provisions of this Act and any regulations made thereunder shall—

(a) send to the Chief Surveyor the plans thereof, together with such copies as the Chief Surveyor may require, relating thereto; and

(b) if so requested by the Chief Surveyor, send to the Chief Surveyor all field notes and computations relating thereto.

(2) One copy of each plan sent to the Chief Surveyor shall be deposited in the Survey Department and shall become the property of the Government.

(3) The Chief Surveyor may make such copies as he considers necessary of the field notes or computations sent to him and such copies may be deposited by him in the Survey Department:

Provided that such copies shall be made at the expense of the Chief Surveyor and that the original field notes and computations shall be returned to the surveyor without undue delay.

(4) No plan deposited in the Survey Department in accordance with subsection (1) of this section shall be altered or amended in any way without the permission of the Chief Surveyor.

Correction or errors in surveys.

24. (1) The Chief Surveyor may at any time undertake such field and office checks on the survey work of a licensed surveyor as he thinks fit.

(2) The Chief Surveyor may, under section 25, by notice in writing, instruct any surveyor to correct at his own expense within the time specified in such notice which time shall be not less than fourteen days, any error made by him in the survey represented by the plan submitted for authentication.

(3) In the event of such Surveyor refusing or neglecting within the time specified to correct such error, it shall be lawful for the Chief Surveyor to undertake such correction and to recover the whole cost of such correction from the surveyor concerned.

(4) If such surveyor refuses or neglects to pay the cost of the correction referred to in subsection (3) within fourteen days of the same having been demanded in writing of him, the Chief Surveyor may report the facts to the Board for disciplinary action, and after due inquiry the Board may if it thinks fit order such surveyor to pay the cost of correction to the Chief Surveyor; and if such surveyor refuses or neglects to comply with the order within one month after the date of the order, the Board may, notwithstanding the provisions of section 21 suspend the licence of the surveyor until the cost of the correction has been paid, or for a period not exceeding three years, whichever it thinks fit.

25. (1) No land shall be deemed to have been surveyed or resurveyed until the plan thereof has been authenticated by the signature of the Chief Surveyor.

Authentication of plans.

(2) Every plan authenticated by the Chief Surveyor under subsection (1) shall in any court of law or in any proceeding of a legal or quasi-legal nature be conclusive evidence of the survey information contained therein unless and until such plan is cancelled by the Chief Surveyor by virtue of section 26 or unless or until the contrary is proved.

(3) Every plan purporting to bear the signature of the Chief Surveyor for the purpose of subsection (1) shall be deemed to be properly authenticated unless and until the contrary is proved.

26. (1) Where in the case of a document or instrument to which an authenticated plan is attached, or in which reference to such a plan is made—

Chief Surveyor may cancel authentication of plans.

(a) the plan is found to be inaccurate by reason of any error or omission in the survey; or

(b) the plan does not conform with the terms and conditions subject to which permission to sub-divide the land to which the plan relates has been given

the Chief Surveyor may cancel the authentication of such plan and may recall any copies which may have been issued, and in every case the provisions of section 24 shall apply.

(2) The Chief Surveyor shall forthwith upon the cancellation of the authentication of any plan notify in writing—

- (a) the owner of the land to which such plan relates;
- (b) the surveyor by whom the survey was executed; and
- (c) the Registrar.

Aerial surveys.

27. (1) Any person who intends to carry out any aerial photography of Antigua and Barbuda for use in mapping or similar purposes shall before carrying out the same give to the Chief Surveyor in writing not less than one month's notice of his intention so to do.

(2) Any person who has carried out any such aerial photography shall, if the Chief Surveyor so requires in writing—

- (a) produce to the Chief Surveyor for his inspection all of the photographs therein produced or such of them as the Chief Surveyor may specify; and
- (b) supply to the Chief Surveyor, at the Chief Surveyor's cost, such copies and diagrams as the Chief Surveyor may require of such photographs:

Provided that the supply of photographs to the Chief Surveyor under this section shall not in any way affect the copyright therein of the person supplying them or other owner of such copyright.

Regulations.

28. The Minister acting in accordance with the advice of the Board may make regulations—

- (a) prescribing the manner in which surveys are to be made, the records to be kept by licensed surveyors and the manner of keeping the same;
- (b) prescribing the manner in which survey marks shall be constructed;

(c) with regard to plans of survey and their preparation and the matters to be shown thereon;

(d) with regard to the publication, issue, service and form of the notices to be published, issued or served in terms of this Act or regulations made thereunder;

(e) prescribing the returns to be made by surveyors to the Chief Surveyor;

(f) requiring surveyors to report to the Chief Surveyor matters connected with surveys on which they are engaged or with previous surveys, ascertained by them during the course of their work;

(g) for securing the maintenance of survey marks in their correct position and the preservation of the same;

(h) providing for the checking of surveys alleged to be erroneous and for the payment of the expenses of such checking;

(i) providing for the checking of tapes and instruments used by the surveyors;

(j) providing for and regulating the inspection and the taking of copies of plans of surveys in any office of the Survey Department;

(k) prescribing all Government fees and surveyors costs which may be charged under this Act;

(l) prescribing the syllabi of examinations for the purposes of section 6;

(m) prescribing any other matters which this Act requires or authorises to be prescribed; and

(n) generally for giving effect to the purpose of this Act.

29. Any person who is guilty of an offence against the provisions of this Act or any Regulations made thereunder for which no penalty has been provided shall on summary conviction be liable to a fine of fifteen hundred dollars and to imprisonment for six months. **Penalties.**

Relationship of master and servant.

30. Where there exists a relationship of master and servant, principal and agent or corporation and officer of that corporation, every such person concerned in that behalf shall be jointly and severally responsible for compliance with the provisions of this Act.

Repeal with Savings Cap. 280.

31. Without prejudice to any rights and liabilities existing or capable or arising thereunder, the Old Law is hereby repealed.

Future savings Cap. 280

32. (1) Every Surveyor of Land who at the commencement of this Act was commissioned under section 2 of the Old Law shall be deemed to have been licensed under section 7 of this Act.

(2) Every Survey plan certified by a surveyor commissioned under section 2 of the old law shall be deemed to be an authenticated plan under section 25 of this Act.

FIRST SCHEDULE

Section 7 (1)

THE LAND SURVEYORS ACT

LICENCE TO LAND SURVEYOR

The Land Surveyors Board hereby certify that..... of..... having passed the Licensed Surveyors' examination and having served the qualifying period prescribed by the above Act is duly qualified to practise as a Licensed Surveyor in Antigua and Barbuda.

Dated this.....day of.....19....

..... Chairman, Land Surveyors Board.



SECOND SCHEDULE

Section 9 (4)

THE LAND SURVEYORS ACT

SUMMONS TO WITNESS

In the Matter of A.B. a surveyor

In the Matter of the Land Surveyors Act

To C.D.(1)

You are hereby summoned to attend before the Land Surveyors Board at

(2).....o n the.....d a y of

.....,19....at the hour of

.....and so from

day to day until the above matter is heard to give evidence respecting such matter

and also to bring with you and produce at the time and place aforesaid:

(3)

Given under my hand this.....day of.....19....

.....
Chairman, Land Surveyors Board.

- (1) Name and address of person summoned.
- (2) Place.
- (3) Here specify the documents required.