

SURVEYS ACT, 1990

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Surveys Act, 1990.



THE GAMBIA

No. 4 of 1991.

Assented to by The President,

this Twenty-third day of April, 1991.



D. K. JAWARA,
President.

AN ACT to make provisions for improvements in surveying operations in The Gambia; for licensing of land surveyors and for other matters connected therewith.

[10th May, 1991.]

ENACTED by the Parliament of The Gambia.

PART I—PRELIMINARY

1. THIS ACT may be cited as the Survey Act, 1990.

Survey Act, 1990.

Interpre-
tation

2. In this Act, unless the context otherwise requires:

"Board" means the Land Surveyors Board established under section 3 of this Act;

"Director" means the Director of the Department of Lands and Surveys;

"Government Surveyor" means any person employed in the Department of Lands and Surveys to carry out survey operations;

"Grant" has the same meaning as is assigned to it under the State Lands Act;

"Licensed Surveyor" means a person duly licensed as a surveyor under this Act;

Survey Act, 1990.

"Minister" means the Minister responsible for the administration of this Act;

"Plan" includes a map, diagram, aerial photograph or a mosaic compiled from aerial photographs approved by the Director as suitable for survey purposes;

"Registered Land" means land registered in the Land Registry;

"Regulations" means any regulations made under the provisions of this Act;

"Registrar" means the Officer responsible for registering land records and documents in the Land Registry;

"Survey" or surveying includes the identification and definition of boundaries, and the measurement and assessment of landed property whether on the surface or below the ground as well as works executed thereon, or in connection therewith;

"survey mark" means any trigonometrical station, fundamental bench mark, boundary beacon, peg, picket, mark or pole whether above or below the ground, which is fixed, placed or set up by, or under the direction of, a surveyor for the purpose of any survey carried out under this Act;

Survey Act, 1990.

"Surveyor" means a licensed surveyor
or a government surveyor.

PART 11

ESTABLISHMENT OF LAND SURVEYORS BOARD

Establishment of the Land Surveyors Board.

3. For the purposes of carrying out the provisions relating to the licensing of surveyors and related matters, there shall be established a Land Surveyors Board which shall be constituted by such persons as the Minister may, by order published in the gazette, appoint.

Committees of the Board.

4.(1) The Board may set up Committees for any purpose related to its functions, as it may consider necessary.

(2) Committees set up by the Board under this Section, may include such members of the Board and such other persons as the Board may think fit.

(3) All decisions of the Committees shall be submitted to the Board for its approval.

Functions of the Board.

5.(1) The Board shall :

- a) scrutinise applications for licences from persons which have to practice surveying or survey firms intending to operate in The Gambia and if found necessary, conduct tests on the applicants to ascertain their suitability for the grant of such licences to them;

Survey Act, 1990.

- b) grant licences in accordance with the provisions of this act
 - c) issue temporary clearance for international survey firms to undertake specific surveying work under specified conditions.
 - d) take disciplinary action, in accordance with the provisions under this Act against any licensed surveyor for any offence of or professional misconduct committed by him;
 - e) hear and determine disputes between a licensed surveyor and his client or any objection submitted by any person aggrieved by any act done by a surveyor in the conduct of his survey.
- (2) The Board may advise the Director or the Minister on any matter referred to it in connection with cadastral or other survey under the provisions of this Act

Proceed-
ings of
the Board

6. The Minister, may, by regulations prescribe the procedure to be adopted by the Board in the exercise of its functions and, subject to such Regulations, the Board may adopt its own procedure.

survey act, 1530

part 111

LICENSING OF SURVEYORS

persons eligible
to be licensed

7. Any person who is qualified in accordance with section 8 of this Act shall be entitled on payment of the prescribed fee, to be granted a license to practise as a licensed surveyor

Conditions
to obtain
a license

8 . (1) A person shall qualify for the grant of a license by the Board to practice if:

a) He is of a good character, and

b) he is the holder of the qualification of Fellow or Professional Associate of the Royal Institute of Chartered Surveyors in Subdivision V9 Land surveying); or

c) he has graduated from any institution recognised by the Board and has taken a degree or equivalent diploma in land surveying

or

d) he satisfies the Board that he has pursued a relevant technician's course or study in land surveying and has a minimum of five years practical experience in land surveying; or

e) he has practised land surveying continuously for a minimum period of ten years and produces evidence to that effect to the satisfaction of the Board.

Survey Act, 1990.

(2) A person qualified under paragraphs (d) and (e) of sub-section (1) of this section shall be required to undergo such tests as may be prescribed by the Board.

(3) The Board may exempt any person qualified under paragraph (d) of sub-section (1) of this section from undergoing any tests, if the Board is satisfied that such person has, in addition, to his qualifications -

- a) the required field experience in land surveying; and
- b) he is capable of conducting land surveys in accordance with the provisions under this Act and any regulations made thereunder.

(4) Any person who is required by the Board to undergo any tests shall apply to the Board in the prescribed form and pay the prescribed fees for the tests.

Register of Licensed Surveyors. ✓

9. The Board shall keep a register which shall contain the names, addresses and qualifications of all persons to whom licenses have been granted, the date upon which such licenses were granted under this Act and any other particulars which may be prescribed by Regulations.

Survey Act, 1990.

Disciplinary
powers of the
Board

13. (1) Where, after due inquiry by the Board a licensed surveyor has been found to be guilty of professional misconduct or has been convicted of a criminal offence involving dishonesty or is found by the Board to be unfit to practice, the Board may :

- a) cancel the licence granted to such licensed surveyor; or
- b) suspend the operation of the licence for a period not exceeding three years; or
- c) impose such fine as shall be prescribed by Regulations made under this Act.

(2) The person whose conduct is being inquired into by the Board under sub-section (1) of this section, shall be afforded an opportunity of being heard, either in person or by a legal practitioner representing him.

(3) For the purpose of the proceedings at any inquiry 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 documentary evidence.

Survey Act, 1990.

(A) Any person who, having been summoned by the Board to attend before it, fails so to attend or fails to produce any documentary evidence which it is required to produce, commits an offence and is liable, on conviction, to a fine not exceeding D1,000-00 or to a term of imprisonment not exceeding 6 months.

Appeal
to the
Supreme
Court.

11. (1) Any person aggrieved by a decision of the Board under section 10 of this Act may, within one month after the date of decision of the Board, appeal to the Supreme Court against such decision.

(2) The decision of the Supreme Court on an appeal under this section shall be final.

Grant
of new
licence
and ter-
mina-
tion
of sus-
pension.

12. Where an order has been made for the revocation of a licence granted to any person or for suspending such a licence, the Board may, either on its own action or on application from the person concerned and in either case after holding such inquiry as the Board thinks fit, grant a new licence and cause the name of that person to be restored to the register, or as the case may be, terminate the suspension of the existing licence and registration, either without fee or on payment of such fee as the Board may determine.

Survey Act, 1990.

Notice of Grant of Licence etc. to be gazetted.

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

PART IV

THE CONDUCT OF SURVEYS

Standards of Licensed Surveyor's Works and non-liability of Government.

14. (1) Every surveyor shall carry out every survey undertaken by him in accordance with the provisions of this Act and any regulations made thereunder and shall be responsible for the correctness and completeness of every survey carried out by him or under his supervision;

Provided that the Director may, in his discretion in the case of any particular survey, by notice in writing to the surveyor, direct that the standards of accuracy prescribed by Regulations shall be relaxed in such manner, to such extent and subject to such conditions as he shall specify in the notice.

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

**Powers
of
Director
and Sur-
veyors
to enter
upon
land.**

15 (1) The Director or any surveyor or other person authorised in writing by the Director may enter upon any land with such assistance as may be necessary, for the purpose of :

- a) making or supervising any survey or resurvey;
- b) examining or inspecting the conduct of any survey;
- c) affixing or setting up thereon or therein any survey mark;
- d) siting, repairing, moving removing any survey mark;
- e) inspecting any survey mark;
or
- f) doing anything necessary for carrying out any of the afore-
said purposes.

(2) Before so entering upon any land, the Director or any surveyor or other person duly authorised by the Director shall give reasonable notice to the owner or occupier of his intention to enter upon such land and shall, on so entering, produce written evidence of his authority to any person reasonably requiring the same.

(3) Compensation shall be paid to the owner of any land surveyed under this Act for any trees or crops cut or damaged in the exercise of any of the powers conferred by this section and such compensation shall be calculated and paid as may be prescribed by Regulations made under this Act.

PART V

THE PRESERVATION OF SURVEY
MARKS

Boundary
Marks to
be shown
on Plans.

16. Boundary beacons erected by any surveyor shall be plotted on plan and sufficiently described either by way of rectangular co-ordinates or dimensions from at least two known points.

Sites for
Trigono-
metrical
Stations
and Funda-
mental
Bench
Marks.

17. Every trigonometrical station or fundamental bench mark shall be deemed, for the purposes of this Act and of any Regulations made thereunder, to comprise the land around the centre of the pillar or of such fundamental bench mark, as the case may be, together with a right of way to and from the same and the extent of such land shall be determined by the Director.

Survey Act, 1990.

Grantees to ascertain and inform Director on Survey Marks.

18. (1) It shall be the duty of every grantee to ascertain within one month after he has received his grant that the survey marks shown on any plan attached to his grant or referred to therein are in place as shown in the plan.

(2) If a grantee notifies the Director in writing within the period specified in sub-section (1) of this section that he is unable to find the survey marks shown on the plan attached thereto and referred to therein, the Director after due inquiry, shall restore such survey marks.

(3) If a grantee fails to notify the Director within the period specified in sub-section (1) of this section, of any missing survey marks, he shall subject to section 23 of this Act be liable to pay the costs of restoring those survey marks.

Responsibility for protection of Survey Marks.

19. (1) Every owner or occupier of land take all reasonable measures to protect every survey mark erected or placed on the land owned or occupied by him.

(2) The owner or occupier of land shall pay to the Director the cost of restoring any survey mark erected or placed on the land owned or occupied by him, including the cost of any survey made for that purpose which has been removed, destroyed, displaced, defaced, mutilated, obliterated or broken; or the position of which has been altered,

unless any other person has been convicted of an offence under section 20 of this Act in respect of that survey mark; and such cost shall be regarded as a civil debt recoverable summarily.

(3) Where a survey mark is common to the land of two or more owners or occupiers, the cost of restoring any such survey mark as provided by sub-section (2) of this section, shall be divided equally between them.

Penalty
for
tampering
with sur-
vey
marks.

20. Any person, not being duly authorized to do so, who takes away, is found in possession of, removes, destroys or displaces or alters the position of any survey mark or wilfully defaces, mutilates, obliterates or breaks any survey mark commits an offence and on conviction, is liable to a fine not exceeding 05,000-00 or to a term of imprisonment not exceeding two years or both.

PART VI

SURVEY PLANS AND RECORDS

All Sur-
vey plans
for Govern-
ment to
be depos-
ited
with
Direc-
tor.

21. Any surveyor who executes any survey for or on behalf of the Government and in accordance with the provisions of this Act and of any Regulations made thereunder shall send to the Director all plans, field notes and computations relating thereto and all such plans, field notes and computations shall be deposited in the office of the Director and shall become the property of the Government.

Correction
of Errors

22. (1) The Director, or a Government Surveyor authorised in writing by the Director in that behalf, may at any time undertake such field and office checks on the survey work of a licensed surveyor as he thinks fit.

(2) The Director or a Government Surveyor duly authorised to authenticate a plan under the provisions of this Act, may, by notice in writing, instruct any licensed surveyor to correct at his expense within a time specified in such notice any error made by him in the survey represented by the plan submitted for authentication:

Provided such notice shall not be sent more than three months after the date on which the plan was sent to the Director under section 21 of this Act.

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

(4) If such licensed surveyor refuses or neglects to pay the cost of the correction referred to in sub-section (3) of this section within one month of the same having been demanded of him, the Director may report the facts to the Board for disciplinary action and after the inquiry the Board may order such licensed surveyor to pay the cost of correction to the Director; and if such licensed surveyor refuses or neglects to comply with such order within one month after the date of the order, the Board may, subject to the provisions of sections 10 and 11 of this Act, suspend the license of the licensed surveyor until the cost of correction has been paid or for a period not exceeding three years, whichever it thinks fit.

Authentication
of survey plans

23. No land shall be deemed to have been surveyed or resurveyed until the plan thereof has been authenticated by the signature of the Director or of a Government surveyor authorized in writing by the Director in that behalf and by affixing the seal of the office of the Director thereof

Survey Act, 1990.

Director may
cancel authentication of
plan

24. Where, before a document or instrument to which an authenticated plan is attached, or in which reference to such a plan is made, is registered:

(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 Director may cancel the authentication of such plan and may recall any such copies which may have been issued and in every case the provisions of section 22 of this Act shall apply.

(2) The Director shall forthwith upon the cancellation of the authentication of any plan notify in writing.

(a) the registered owner or occupant of the land to which such plan relates;

(b) the licensed surveyor by whom the survey was executed; and

(c) the Registrar of Deeds.

PART VII

OFFENCES AND PENALTIES

Unlicensed
persons for-
bidden to
survey

25 (1) No person, other than a surveyor defined under this Act shall:

(a) survey any 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, in or over any land, being a document or instrument which is required to be registered or is ineffectual until registered, under the Lands (Registration of Deeds) Act; or

(b) perform any survey which affects or may affect the delimitation of the boundaries or the location of survey marks of any land registered or to be registered under the Lands (Registration and deeds) Act.

(2) Any person who contravenes any of the provisions of sub-section (1) of this section commits an offence and is liable, on conviction, to a fine not exceeding 05000.00 or to a term of imprisonment not exceeding two years or both.

Penalty for
fraudulently
procuring
licenses

26. Any person who:
(a) fraudulently procures or attempts
to procure himself or any other person to be
granted a license by the Board under this
Act; or

(b) not being a licensed surveyor,
falsely pretends to be such or falsely takes
or uses any title or description implying,
whether in itself or in the circumstances
in which it is taken or used, that such
person is a licensed surveyor or is quali-
fied to practice as such; or

(c) being a licensed surveyor,
allows an unlicensed person to practice as
a surveyor on, or from an office in, the
premises used by such licensed surveyor in
the performance of his professional duties;

commits an offence and is liable, on con-
viction, to a fine not exceeding D5000.00
or imprisonment for a term not exceeding
two years or both.

PART VIII

MISCELLANEOUS PROVISIONS

Members of
Board not
personally
liable for
any action

28. Members of the Board shall not be
personally liable to any action or other
proceeding for or in respect of any act or
matter done or omitted without negligence
and in good faith in the exercise or perfor-
mance of any powers, duties or functions
conferred on them by this Act or by any re-
gulations made thereunder.

Survey Act, 1990.

Regulations

29. The Minister may make regulations for the better carrying out of the provisions of this Act.

Commencement

30. The Minister shall, by order published in the gazette, appoint a date on which this Act shall come into force.

Passed in the House of Representatives this twenty- seven day Of December,
in the year of our Lord One Thousand nine hundred and Ninety.

R.W.H. Sows,

Clerk of the House of Representatives

This printed impression has been carefully compared by me with the Bill
which has passed the House of Rappresentatives, and found by me
a true and correct copy of the said bill.

R.W.H. Sows,

Clerk of the House of Representatives