



BELIZE

ASCERTAINMENT OF BOUNDARIES ACT CHAPTER 180

REVISED EDITION 2000 SHOWING THE LAW AS AT 31ST DECEMBER, 2000

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Laws of Belize, Revised Edition 1980 - 1990.

This edition contains a consolidation of the following laws-

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ARRANGEMENT OF SECTIONS

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ASCERTAINMENT OF BOUNDARIES ACT

4

Amendments in force as at 31st December, 2000.



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CHAPTER 180

ASCERTAINMENT OF BOUNDARIES

ARRANGEMENT OF SECTIONS

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CHAPTER 180**ASCERTAINMENT OF BOUNDARIES**

Ch. 112
R.L., 1958.
CAP. 145,
R.E. 1980-1990.
40 of 1963.
Short title.

[3rd February, 1915]

1. This Act may be cited as the Ascertainment of Boundaries Act.

Interpretation.

2. In this Act, unless the context otherwise requires, “the court” means the Supreme Court of Judicature or any judge thereof.

Court to
ascertain
boundaries, etc.,
and give award.

3.-(1) Whenever any doubt exists as to the extent, identity, or boundaries of the land held under any title or of any national land, the court shall, in such proceedings as are hereinafter mentioned, ascertain and give an award as to such extent, identity, or boundaries.

(2) Where, by reason of the description of the land held under any title being indefinite or inapplicable to the actual condition of the property or conflicting with the description of the land held under any other title or for any other reason, it is impossible to ascertain the extent, identity, or boundaries of the land held under any title or of any national land, the court shall give such award as to the extent, identity, or boundaries of the land as seems to the court to be just.

(3) Where the award will affect land held under different titles or land held under any title and national land, the court may, if it thinks fit, in the same proceedings and notwithstanding that the only award asked for in the writ of summons was in respect of land held under one title or in respect of national land, give a separate award in respect of the land held under each title and in respect of the national land.

(4) In proceedings for an award, the court may, if it thinks fit, direct one or more boundary marks to be erected on the ground and give its award either

wholly or partially by reference thereto.

(5) The court may refuse to give an award where, in the opinion of the court, all the available evidence has not been brought before it, or where, by reason of the absence of a proper survey or for any other reason, such an award would, in the opinion of the court, lead to difficulty in the future or not be of practical use.

4.-(1) Where any party to the proceedings claims to be interested in any land which will be affected by the award under a title acquired under any law relating to the limitation of actions, whether against the Crown or any other person, in this Act called “a possessory title”, the court shall adjudicate on the claim and give its award accordingly: Possessory titles.

Provided that where, in the opinion of the court, the expense of investigating the claim will be out of proportion to the convenience resulting from the settlement thereof, the court may, if it thinks fit, instead of adjudicating on the claim, declare the award to be without prejudice to the claim.

(2) An award shall not prejudice a possessory title, whether accrued or accruing, where no person interested under that title is a party to the proceedings.

(3) Subject to the foregoing provisions of this section, an award shall operate to extinguish all possessory titles, whether accrued or accruing, which are inconsistent with the award.

5. Subject to the provisions of this Act as to possessory titles, every award of the court under this Act shall be final and binding on all persons, whether parties to the proceedings or not, and notwithstanding that any person affected by the award is absent, under disability, unborn, or unascertained. Award to be final.

Power of court to order boundary to be located and marked.

6.-(1) Where it is shown to the court that, for the purpose of avoiding or preventing a trespass or of ascertaining whether a trespass has been committed or the extent of any trespass or for any other reason, it is necessary or expedient that the actual position on the ground of any boundary or of the point of commencement of any boundary or of any point in any boundary should be located and marked, the court may, if it thinks fit, in such proceedings as are hereinafter mentioned, order the position thereof on the ground to be located and marked by such persons and in such manner as the court thinks proper.

(2) The position on the ground of any boundary or point as located and marked in pursuance of an order made under this section shall, for all purposes, and in all courts and as between all persons, whether parties to the proceedings or not, be deemed to be the correct position of that boundary or point.

(3) An order under this section may be made in the same proceedings as an award notwithstanding that the order was not asked for in the writ of summons, and either at the same time as the award or subsequently, whether liberty to apply for such an order was or was not reserved by the award.

(4) Where an order under this section is asked for with respect to a boundary as to which no award has been given and the court considers that doubt exists as to the principle on which the boundary should be ascertained, the court may, if it thinks fit, give an award as to the boundary before making the order, notwithstanding that an award was not asked for in the writ of summons.

Who may commence or defend proceedings.
CAP. 167.

7.-(1) Proceedings under this Act may be commenced or defended by any person interested in any land which is or may be affected by the proceedings or, where national land is or may be so affected, whether directly or indirectly, proceedings may be taken by or against the crown in accordance with the Crown Proceedings Act:

Provided that such proceedings shall not, without the leave of the court, be commenced by any of the following persons, that is to say-

- (a) a person who is only interested as an encumbrancer, trustee, or tenant;
- (b) where the land is settled land within the meaning of the Settled Land Act, 1925, by any person other than the tenant for life or the person having the powers of a tenant for life for the purposes of that Act. 1925, c. 18.

(2) Leave to commence proceedings under this Act may be obtained on summons in Chambers.

8.-(1) Proceedings under this Act shall be commenced by writ of summons, and it shall be sufficient to join as defendants all persons interested in any land which is or may be affected by the proceedings by that designation, without their names, whether any person is also joined as a defendant by name or not. Commence-
ment of
proceedings.

(2) A person joined as a defendant by name shall be served with the writ, and may enter an appearance thereto in accordance with the practice for the time being of the Supreme Court, but shall, if duly served, be deemed to be a party to the proceedings whether he enters an appearance or not.

(3) The Registrar shall cause notice of the writ to be published in at least four consecutive ordinary issues of the *Gazette* and to be posted for at least one month at the district court of the district in which any land affected is situated and also at the Court House in Belize City, and the certificates of the Registrar and magistrate that this has been done shall be sufficient evidence of the fact.

(4) It shall not be necessary to serve the writ on any person not joined as a defendant by name, but any person entitled to defend the proceedings who is not so joined may, within three months from the first publication of notice of the writ in the *Gazette*, or, subject to the provisions of the Rules of the Supreme Court, at any time before the proceedings are concluded, enter an appearance to the writ, and thereupon shall be deemed to be a party to the proceedings, but shall not be deemed to be a party to the proceedings unless he enters an

appearance to the writ.

(5) After the expiration of such three months as aforesaid, the plaintiff shall, before taking any fresh step in the proceedings, take out a summons in chambers for directions as to the future conduct of the proceedings.

Conduct of proceedings.

9. Subject to the provisions of this Act, proceedings under this Act shall be conducted in such manner as the court shall, either with reference to any particular case, or generally, direct, and in particular the court may, if it thinks fit-

- (a) prescribe forms to be used in the proceedings;
- (b) direct or permit any evidence to be given by affidavit;
- (c) dispense with proof of any document or plan, or any statement appearing to be the statement of a deceased person where such document, plan, or statement would, if proved, be admissible in evidence;
- (d) regulate the means by which particular facts may be proved and the mode in which evidence thereof may be given, and, for the purpose of avoiding delay or expense, dispense with the technical rules of evidence;
- (e) order the discovery and production of any document relating to land which is or may be affected by the proceedings notwithstanding that the document evidences or relates exclusively to the title or case of the person against whom the order is made and contains nothing tending to impeach his own title or case or support the title or case of any other party to the proceedings, and may make such an order notwithstanding that the person having the custody of the document is not a party to the proceedings;

- (f) adjourn the proceedings from time to time in order to permit surveys to be made, lines to be cut, boundaries to be marked, or for any other reason.

10. The costs of all proceedings under this Act, including the costs of making surveys and plans and marking boundaries for the purpose of such proceedings or in the execution of any order made in such proceedings, shall be borne and paid by such persons and in such proportions as the court thinks just.

Costs in discretion of court.

11. The court may, if it thinks fit, declare any costs, charges, or expenses properly incurred and paid by any party to the proceedings to be a charge on any land which is affected by the proceedings and in which such party is interested, and thereupon that party shall be entitled to the like charge, rights and remedies as if such costs, charges, and expenses had been raised by means of a mortgage by way of legal charge bearing interest at the rate of five *per centum* per annum.

Power of court to charge costs on the land.

12. Every award given by the court under this Act and every order with respect to the locating of boundaries shall be recorded by the Registrar in a book which shall be open to public inspection at such times and on such conditions as to payment of fees and otherwise as the Minister shall from time to time direct.

Awards and orders to be recorded.

13.-(1) Where an award affects land the title to which has been registered under the General Registry Act, or an award is given in favour of a possessory title to land adjoining land the title to which is registered as aforesaid and the court is satisfied that the land held under both titles belongs to the same person the court shall, at its discretion, either direct the description of the land in the register to be altered in such manner as the court may think proper so as to give effect to the award or direct a reference to the award to be entered in the register, and such alteration or reference shall be entered by the Registrar General without fee.

Provisions as to registered land. CAP. 327.

(2) When an order is made with respect to the locating of any boundary of land the title to which has been registered as aforesaid, a reference to the order shall be entered by the Registrar General on the register without fee.
