

LAND SURVEY ORDINANCE

- CHAPTER 473

Long title

An Ordinance to provide for the registration and discipline of land surveyors engaged in land boundary surveys, for the control of the standards of land boundary surveys, for the establishment of land boundary records and for related matters. (Enacted 1995)

[The Ordinance, other than sections 6 to 9, 13 to 18, 19 to 27, 30 and 40 }
18 August 1995 L.N. 400 of 1995 Sections 6 to 9 and 13 to 18}
18 November 1995 L.N. 528 of 1995 Sections 30 and 40}
15 January 1996 L.N. 528 of 1995 Part V}
6 June 1997 L.N. 301 of 1997]

(Originally 28 of 1995)

Sect. 1 - Short title

PART I

PRELIMINARY

(1) This Ordinance may be cited as the Land Survey Ordinance.

(2) (Omitted as spent) (Enacted 1995)

Sect. 2 - Interpretation

(Past version on 12/02/2005).

(Past version on 01/07/2002).

(Past version on 01/01/2000).

(Past version on 01/07/1997).

(Past version on 30/06/1997).

In this Ordinance, unless the context otherwise requires-

"Authority" (監督) means the Land Survey Authority;

"authorized land surveyor" (認可土地測量師) means a person whose name is currently entered in the register and whose registration is in force;

"code of practice" (實務守則) includes-

- (a) a standard;
- (b) a specification; and
- (c) any other practical instructions or guidance in writing;

"Committee" (委員會) means the Land Surveyors Registration Committee appointed under section 6;

"Disciplinary Board" (紀律審裁委員會) means a board appointed under section 22;

"disciplinary offence" (違紀行為) means an act or omission set out in section 20 ;

"field note" (外業紀錄) means the original record of field observations and measurements recorded in the field in the course of a land boundary survey, including a print-out from an electronic data recorder;

"function" (職權) includes a power and a duty and "performance of function" (行使職權) includes the exercise of a power and the performance of a duty;

"Institute" (學會) means The Hong Kong Institute of Surveyors incorporated by The Hong Kong Institute of Surveyors Ordinance (Cap 1148);

"land" (土地) includes-

- (a) land covered by water; and
- (b) a building or other thing attached to land or a thing permanently fastened to a building or other thing attached to land, but does not include-
 - (i) any right, interest or easement in or over land; or
 - (ii) the whole or part of an undivided share in land or a building;

"land boundary" (土地界限) means a line defining the territorial limits of a parcel of land;

"land boundary plan" (土地界線圖) means a plan showing and delineating the land boundary of a parcel of land;

"land boundary record" (土地界線紀錄), in relation to a parcel of land, means the record, kept by the Authority, of all measurements, computations and survey data used in connection with defining the land boundary of the parcel of land and includes the survey record plan, the land boundary plan and other documents used in connection with defining such land boundary;

"land boundary survey" (土地界線測量) means any survey which is required in connection with defining land boundaries and includes the preparation of field notes, survey record plans and land boundary plans;

"Land Registry" (土地註冊處) means the Land Registry established under

the Land Registration Ordinance (Cap 128); (Amended 20 of 2002 s. 5)

"Panel" (委員團) means the Disciplinary Board Panel appointed under section 19 ;

"register" (名冊) means the register of authorized land surveyors established under section 8;

"Registrar" (註冊主任) means the Registrar of Authorized Land Surveyors appointed under section 10;

"registration" (註冊) means registration as an authorized land surveyor in accordance with this Ordinance;

"Secretary" (局長) means the Secretary for Development; (Amended L.N. 330 of 1999; 62 of 2000 s. 3; L.N. 106 of 2002; L.N. 130 of 2007)

"specified form" (指明格式) means a form specified by the Authority under section 36;

"survey mark" (測量標誌) means a mark defining a surveyed position;

"survey record plan" (測量記錄圖) means a plan recording survey data (including land boundaries, survey evidence, survey marks, traverses, alignments and significant ties to occupation and related features) used in a land boundary survey. (Enacted 1995)

Sect. 3 - Land Survey Authority

PART II

LAND SURVEY AUTHORITY

The Director of Lands shall be the Land Survey Authority. (Enacted 1995)

Sect. 4 - Functions of the Authority

The functions of the Authority are-

- (a) to maintain land boundary records;
- (b) to advise the Secretary regarding alleged commission of disciplinary offences by authorized land surveyors; and
- (c) such other functions as are imposed or conferred on him by or under this Ordinance or any other enactment. (Enacted 1995)

Sect. 5 - Delegation by the Authority

The Authority may delegate all or any of his functions under this Ordinance to such public officers or class of public officers specified by him for the

purpose of this section by notice in the Gazette and different functions may be so delegated to different public officers or classes of public officers.
(Enacted 1995)

Sect. 6 - Appointment of Land Surveyors Registration Committee

PART III

LAND SURVEYORS REGISTRATION COMMITTEE

(1) The Secretary shall appoint a committee to be known as the Land Surveyors Registration Committee consisting of-

- (a) the Authority as the chairman;
- (b) 2 public officers from the Lands Department who-
 - (i) have at least 5 years land boundary survey experience in Hong Kong; and
 - (ii) are nominated by the Authority;
- (c) subject to subsection (2), 3 persons, not being public officers, who-
 - (i) have at least 5 years land boundary survey experience in Hong Kong; and
 - (ii) are nominated by the Institute.

(2) The persons to be appointed under subsection (1)(c), other than the persons to be appointed to form the first Committee, shall, in addition to fulfilling the requirements set out in that subsection, be authorized land surveyors.

(3) The Registrar shall, as soon as it is practicable after the first Committee is appointed under subsection (1), enter in the register the names of the members of the first Committee who were appointed under subsection (1)(c).

(4) For the avoidance of doubt, it is declared that upon the entry in the register of the names of the members of the first Committee who were appointed under subsection (1)(c), such members become authorized land surveyors and shall pay to the Registrar the prescribed fee for registration. (Enacted 1995)

Sect. 7 - Tenure of office

(1) A member (other than the chairman) of the Committee-

- (a) shall be appointed for such period not exceeding 2 years as may be specified in the terms of his appointment;
- (b) (other than a public officer) may resign by giving notice in writing to the Secretary; and
- (c) may be reappointed.

(2) If a member of the Committee-

- (a) has become bankrupt or has entered into a composition or scheme of arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap 6);
- (b) has become so incapacitated by physical or mental illness as to be unable to perform his function as such member;
- (c) has been sentenced to imprisonment, whether suspended or not, by any court or magistrate in Hong Kong or elsewhere;
- (d) has been absent from the meetings of the Committee for a continuous period of 6 months; or
- (e) has committed a disciplinary offence, the Secretary may by notice in writing remove him from his office.

(3) If any vacancy occurs by reason of the death, resignation or removal of a member of the Committee or otherwise, the Secretary shall, as soon as it is practicable, appoint a person who is of the same category under section 6(1) as that member to fill the vacancy and every person so appointed shall hold office for the residue of the term for which his predecessor was appointed.

(4) Where any member of the Committee is precluded from performing his function as a member for any period by reason of temporary absence from Hong Kong or temporary incapacity, the Secretary may appoint another person who is of the same category under section 6(1) as that member to hold office in place of that member for the period of the absence.

(5) The functions of the Committee are not affected by any vacancy in its membership. (Enacted 1995)

Sect. 8 - Functions of the Committee

The functions of the Committee are-

- (a) to establish and maintain a register of authorized land surveyors;
- (b) to receive, examine, consider, accept or reject applications for registration, renewal of registration and reinstatement of names in the register;
- (c) to examine and verify the qualifications of persons who apply for registration, renewal of registration and such reinstatement; and
- (d) such other functions as are imposed or conferred on the Committee by or under this Ordinance. (Enacted 1995)

Sect. 9 - Proceedings of the Committee

(1) Subject to this Ordinance, the Committee may regulate its own procedure.

(2) The quorum at a meeting of the Committee is the chairman and 3 other

members.

(3) Questions shall be decided by a majority of votes of the chairman of the Committee and the members of the Committee present and, in case of an equality of votes, the chairman has a casting vote. (Enacted 1995)

Sect. 10 - The Registrar

PART IV

REGISTER AND REGISTRATION

(1) The Authority shall appoint a public officer to be the Registrar of Authorized Land Surveyors.

(2) The Registrar shall-

- (a) be responsible for the custody of the register;
- (b) serve as the secretary to the Committee; and
- (c) do such other things as directed by the committee or ordered by a Disciplinary Board. (Enacted 1995)

Sect. 11 - Form of register

(1) The Registrar shall, in accordance with the directions of the Committee, keep the register in which he shall enter in respect of each authorized land surveyor-

- (a) the name and address of the authorized land surveyor;
- (b) the qualification and experience on which his registration is based; and
- (c) any other details that the Committee may direct.

(2) The register shall be available to any person for inspection free of charge at the office of the Lands Department at such reasonable times as the Committee may direct.

(3) An authorized land surveyor shall within 28 days notify the Registrar of any change in his particulars prescribed in subsection (1).

(4) The Committee shall not charge a fee to amend the register.

(5) The Authority shall publish in the Gazette-

- (a) annually the names of the persons included in the register; and
- (b) from time to time the additions and removals of the names of persons to and from the register. (Enacted 1995)

Sect. 12 - Qualifications for registration

The Committee shall not register a person as an authorized land surveyor unless it is satisfied that-

- (a) he-
 - (i) is, under the constitution of the Institute, a corporate member of the Institute (under the Land Surveying Division); or
 - (ii) is a member of a land surveying institute, association or organization the membership of which is recognized by the Committee as being of a standard not lower than that of the corporate membership of the Institute (under the Land Surveying Division) and he has satisfied the Committee as to his competency by passing a professional examination recognized by the Committee;
- (b) he has, after he has obtained the membership described in paragraph (a)(i) or (ii) and before the date of his application for registration, had 1 year land boundary survey experience in Hong Kong acceptable to the Committee;
- (c) there is no order of a Disciplinary Board made under section 25 (1)(a) or (b) against him which is still in force; and
- (d) he is otherwise a fit and proper person to be registered. (Enacted 1995)

Sect. 13 - Application for registration

- (1) A person who wishes to be registered shall apply to the Registrar in the specified form.
- (2) The application referred to in subsection (1) shall be accompanied by-
 - (a) such documents that prove the applicant's professional qualification prescribed in section 12(a);
 - (b) evidence that such qualification is still valid; and
 - (c) evidence that the applicant has had 1 year of land boundary survey experience in Hong Kong.
- (3) An applicant shall pay to the Registrar the prescribed fee for registration at the time of lodging his application.
- (4) The Committee may make further inquiries and may require further information from the applicant. (Enacted 1995)

Sect. 14 - Expiry of registration and renewal

- (1) The registration of a person-
 - (a) is in force beginning on the date of entry of his name in the register and ending on 31 December next following the date of entry;

- (b) may be renewed annually by application of the person so registered subject to the payment of the prescribed fee for renewal of registration.
- (2) An authorized land surveyor shall apply to the Registrar for renewal of registration in the specified form not earlier than 3 months before the expiry of his current registration.
- (3) An authorized land surveyor shall pay to the Registrar the prescribed fee for renewal of registration at the time of applying for renewal of registration.
- (4) The registration of an authorized land surveyor renewed under this section in relation to a particular year is in force beginning on 1 January of that year and ending on 31 December of that year.
- (5) Where an authorized land surveyor does not apply for renewal of registration before the expiry of his current registration, the Registrar shall, on the expiry of the registration, note in the register that the registration is not in force on the ground that it has not been renewed.
- (6) The Committee may reject an application for renewal of registration if it is satisfied that the applicant does not continue to have the qualification for registration set out in section 12(a). (Enacted 1995)

Sect. 15 - Removal of name from the register

(Past version on 30/06/1997).

- (1) The Registrar shall remove the name of an authorized land surveyor from the register if the authorized land surveyor has-
 - (a) died;
 - (b) applied to discontinue his registration;
 - (c) had his application for renewal of registration rejected by the Committee; or
 - (d) had his name ordered to be removed from the register by the Court of Final Appeal, the Court of Appeal or a Disciplinary Board whether permanently or for any period. (Amended 10 of 2005 s. 105)
- (2) The Registrar may remove the name of an authorized land surveyor from the register if the authorized land surveyor has-
 - (a) failed to apply for renewal of his registration within 3 months from the expiry of his registration; or
 - (b) ceased to hold a qualification by virtue of which he was registered.
- (3) If the name of an authorized land surveyor is removed from the register, his registration is cancelled with effect from the date of such removal except that-

(a) where his name is removed under subsection (2)(a), his registration shall be deemed to have been cancelled after the date of expiry of his last registration; or

(b) where his name is removed under subsection (1)(d), his registration shall be deemed to have been cancelled from the date of the order.

(4) Neither the Committee nor the Registrar is liable to refund to a person any fee, or any part of any fee, on the removal of his name from the register.

(5) The Registrar may correct any error apparent on the face of the register.
(Enacted 1995)

Sect. 16 - Reinstatement of name after removal

(Past version on 30/06/1997).

(1) Subject to subsection (5), where the name of a person was removed from the register under section 15(2)(a), the Committee may reinstate the name of that person in the register upon his application to the Registrar in the specified form and upon the payment to the Registrar of the prescribed fee for renewal of registration payable for that year.

(2) Where the name of a person is reinstated under subsection (1), his registration is renewed and is in force beginning on the date of reinstatement and ending on 31 December next following the date of reinstatement.

(3) Where the name of a person was removed from the register pursuant to an order of a Disciplinary Board to remove his name, the Committee shall reinstate his name upon the reversal of that order by the Court of Final Appeal or the Court of Appeal subject to the payment by him of the prescribed fee for renewal of registration payable for that year

(if any), and upon such reinstatement his registration is renewed and is in force beginning on the date of reinstatement and ending on 31 December next following the date of reinstatement. (Amended 10 of 2005 s. 106)

(4) Where the name of a person was removed from the register pursuant to an order of a Disciplinary Board to remove his name from the register for a period of time, the Committee shall reinstate his name after the expiry of that period subject to payment by him of the prescribed fee for renewal of registration payable for that year (if any), and upon such reinstatement his registration is renewed and is in force beginning on the date of reinstatement and ending on 31 December next following the date of reinstatement.

(5) Where the name of a person was removed from the register under section 15(2)(a), the Committee may refuse his application for reinstatement of his name in the register and require him to reapply for registration.
(Enacted 1995)

Sect. 17 - Acceptance or refusal of registration, renewal and reinstatement

(1) The Committee may accept or reject an application for registration, renewal of registration or reinstatement of name in the register and shall inform the applicant of its decision within 30 days of making the decision.

(2) Where the Committee rejects an application for registration, renewal of registration or reinstatement of name in the register, it shall give reasons for the rejection.

(3) Where the Committee accepts an application for registration, it shall direct the Registrar to enter the name of the applicant in the register.
(Enacted 1995)

Sect. 18 - Appeal from decisions of the Committee

(Past version on 01/07/1997).

(Past version on 30/06/1997).

(1) Where the Committee has decided to refuse-

(a) an application for registration;

(b) an application for renewal of registration; or

(c) an application for reinstatement of name in the register, the relevant applicant who is dissatisfied with the decision may appeal to the Court of Appeal against the decision and Order 59 of the Rules of the High Court (Cap 4 sub. leg. A) applies to the appeal. (Amended 25 of 1998 s. 2; 10 of 2005 s. 103)

(2) The Court of Appeal may affirm, reverse or vary the decision of the Committee appealed against.

(3) In an appeal under this section, the Committee is the respondent.

(4) The hearing of an appeal under this section shall be in open court unless, and to the extent to which, the Court of Appeal otherwise directs.

Sect. 19 - Disciplinary Board Panel

(Past version on 30/06/1997).

Adaptation amendments retroactively made - see 62 of 2000 s. 3 PART V

DISCIPLINARY BOARD AND DISCIPLINARY PROCEEDINGS

(1) For the purposes of conducting inquiries under this Part, there shall be appointed a panel of persons to be known as the Disciplinary Board Panel.

(2) The Panel shall consist of the following persons appointed by the Chief Executive- (Amended 62 of 2000 s. 3)

(a) 3 authorized land surveyors, not being public officers, who-

(i) have at least 5 years land boundary survey experience in Hong Kong; and

(ii) are nominated by the Institute;

(b) 3 persons who-

- (i) are, under the constitution of the Institute, corporate members of the Institute under any division other than the Land Surveying Division;
- (ii) have been in practice in the surveying profession in Hong Kong for at least 5 years; and
- (iii) are nominated by the Institute;

(c) 3 persons, not being public officers, each of whom is qualified for appointment as a District Judge under section 5 of the District Court Ordinance (Cap 336).

(3) Subject to subsection (6), a person appointed under this section shall be appointed for such period not exceeding 2 years as may be specified in the terms of his appointment but may be reappointed.

(4) An appointment under this section shall be notified in the Gazette by the Secretary.

(5) Any person, other than a public officer, appointed under this section may resign by notice in writing to the Secretary.

(6) Any person appointed under this section may be removed from the Panel by the Chief Executive if the person- (Amended 62 of 2000 s. 3)

- (a) has been found guilty of misconduct by the professional organization to which he belongs;
- (b) has been convicted of a criminal offence by any court or magistrate in Hong Kong or elsewhere; or
- (c) ceases to hold the membership or qualification which qualified him for appointment under this section.

(7) The Secretary shall, by notice in writing, inform the person of his removal under subsection (6). (Enacted 1995)

Sect. 20 - Disciplinary offences

An authorized land surveyor commits a disciplinary offence if he-

- (a) is convicted in Hong Kong or elsewhere of any offence involving fraud, dishonesty or moral turpitude;
- (b) obtains his registration or renewal of registration by fraud or misrepresentation;
- (c) is convicted in Hong Kong or elsewhere of any offence punishable by imprisonment for a term of 2 years or longer and sentenced to imprisonment, whether suspended or not;
- (d) is negligent or misconducts himself in any professional respect as an

authorized land surveyor;

- (e) certifies that any land boundary survey or any part of such survey was carried out by him personally or under his personal supervision or direction without having personally carried out or supervised or directed the survey or that part of the survey;
- (f) certifies that any land boundary plan correctly represents the results of a land boundary survey knowing that it does not correctly represent such results;
- (g) certifies that any survey record plan correctly records the survey data in a land boundary survey knowing that it does not correctly record such data;
- (h) certifies that any field note correctly records the field observations or measurements in a land boundary survey knowing that such note does not correctly record such observations and measurements;
- (i) certifies the compliance of any land boundary survey or of any land boundary plan or survey record plan or field note produced from a land boundary survey with any code of practice approved under this Ordinance knowing that it does not so comply;
- (j) supplies to the Authority any erroneous information in relation to any land boundary survey, knowing that the information supplied is erroneous;
- (k) fails without reasonable excuse to perform any duty imposed on authorized land surveyors by or under this Ordinance; or
- (l) fails without reasonable excuse to comply with a requirement of the Authority under section 30(6) or (8). (Enacted 1995)

Sect. 21 - Reference to the Secretary of disciplinary offences

- (1) A complaint concerning a disciplinary offence alleged to have been committed by an authorized land surveyor may be made to the Authority.
- (2) The Authority shall refer any complaint concerning a disciplinary offence by an authorized land surveyor to the Secretary as soon as it is practicable after the receipt of the complaint.
- (3) Notwithstanding that no complaint has been made to him, where the Authority is of the opinion or suspects that an authorized land surveyor has committed a disciplinary offence, he may make a complaint to the Secretary. (Enacted 1995)

Sect. 22 - Disciplinary Board

- (1) Where the Secretary, upon a referral or a complaint made under section 21, is of the opinion that there should be an inquiry into the conduct of the authorized land surveyor concerned, the Secretary shall appoint a board to be called a Disciplinary Board to conduct such an inquiry.

(2) A Disciplinary Board appointed under subsection (1) shall comprise-

- (a) a chairman who shall be a person appointed to the Panel under section 19(2)(c); and
- (b) 2 persons, one appointed to the Panel under section 19(2)(a) and another appointed under section 19(2)(b).

(3) The chairman and a member of the Disciplinary Board, other than a public officer, shall be remunerated at such rate as the Secretary may determine from time to time or in any particular case.

(4) The Secretary shall also appoint a public officer to act as the secretary to a Disciplinary Board. (Enacted 1995)

Sect. 23 - Inquiry by Disciplinary Board

(1) In relation to an inquiry, every question before a Disciplinary Board shall be determined by the opinion of the majority of the members of the Board except that a question of law shall be decided by the chairman.

(2) The inquiry shall be held in public unless the Disciplinary Board decides that the inquiry, or any part of the inquiry, shall be held in private upon the application of the authorized land surveyor who is the subject of the inquiry.

(3) Where the inquiry is held in private, the Disciplinary Board may exclude from the inquiry any person who is not a party to the inquiry or who is not a witness, counsel or solicitor of such a party.

(4) Where an authorized land surveyor is alleged to have committed a disciplinary offence under section 20(a) or (c), a Disciplinary Board-

- (a) shall not be required to inquire whether the authorized land surveyor was properly convicted of the alleged offence; and
- (b) may consider any record of the case in which the conviction was recorded and any other evidence which is relevant as showing the nature and gravity of the offence.

(5) The Disciplinary Board may, in deciding whether a person has committed a disciplinary offence, have regard to any code of professional conduct or practice currently in use by the Institute. (Enacted 1995)

Sect. 24 - Powers of a Disciplinary Board

(Past version on 30/06/1997).

Amendments retroactively made - see 25 of 1998 s. 2

(1) For the purposes of conducting an inquiry, a Disciplinary Board may-

- (a) receive such evidence as it considers relevant, whether it would be admissible in a court or not;

- (b) require evidence to be given on oath and orally or in writing;
 - (c) require the authorized land surveyor who is the subject of the inquiry to produce such record or other document or thing in his custody or under his control relating to the subject-matter of the inquiry as it may specify;
 - (d) by notice in writing signed by the chairman of the Disciplinary Board and served on the person to whom it is addressed, require that person to attend and give evidence before it at the hearing of the inquiry, and to produce such record or other document or thing in that person's custody or under his control relating to the subject-matter of the inquiry as may be specified in the notice;
 - (e) award any person attending as a witness such sum as in the opinion of the Disciplinary Board has been reasonably expended by him in connection with his attendance;
 - (f) inspect and survey any land, whether by itself or by such persons authorized by it; and
 - (g) for the purposes of such inspection or survey, enter upon any land at any reasonable time subject to the giving of reasonable advance notice to the occupants of the land.
- (2) The chairman of a Disciplinary Board may administer an oath or affirmation to any person for the purpose of an inquiry.
- (3) For the purpose of an inquiry under this Part, the authorized land surveyor who is the subject of the inquiry is entitled to be heard either in person or through counsel or solicitor.
- (4) A Disciplinary Board and its members, witnesses, counsel and solicitors, and any other person who is a party to or who otherwise has an interest in the inquiry have the same liabilities, privileges and immunities in the course of an inquiry under this Part as they would have in proceedings before the Court of First Instance. (Amended 25 of 1998 s. 2)
- (5) A Disciplinary Board conducting an inquiry may recover from the authorized land surveyor who is the subject of the inquiry the cost of any field inspections incurred for the verification of any survey and any other incidental or related costs incurred and such costs shall be recoverable from the authorized land surveyor as a civil debt.
- (6) No person shall be required to answer any question or produce any document or other thing which may tend to incriminate him.
- (7) Any person who, without reasonable excuse, refuses or fails-
- (a) to attend and give evidence when required to do so by a Disciplinary Board conducting an inquiry under this Part; or
 - (b) to produce any record or other document or thing which he is required by a Disciplinary Board to produce, commits an offence.

(8) Any person, in giving any evidence before a Disciplinary Board, whether on oath or not and whether orally or in writing, makes a statement-

- (a) which he knows to be false in a material particular; or
- (b) which is false in a material particular and which he does not believe to be true, commits an offence.

(9) A person is not liable to be convicted of an offence under subsection (8) solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Sect. 25 - Disciplinary action

(1) Where, after an inquiry has been conducted, the Disciplinary Board finds that the authorized land surveyor whose conduct was inquired into has committed a disciplinary offence, the Disciplinary Board may-

- (a) order the Registrar to remove his name from the register permanently;
- (b) order the Registrar to remove his name from the register for such period as the Board thinks fit; or
- (c) reprimand the authorized land surveyor in writing and order the Registrar to record the reprimand on the register.

(2) An order of a Disciplinary Board made under this section takes effect notwithstanding the making of any appeal under section 27.

(3) The secretary to the Disciplinary Board shall serve a copy of an order made under subsection (1) on the authorized land surveyor concerned. (Enacted 1995)

Sect. 26 - Publication of disciplinary orders

(Past version on 30/06/1997).

(1) Where a Disciplinary Board makes an order under section 25(1), then-

- (a) subject to paragraphs (b) and (c), after the expiry of the period prescribed by Order 59, rule 4 of the Rules of the High Court (Cap 4 sub. leg. A) for serving notice of appeal against the order;
- (b) subject to paragraph (c), if the Court of Appeal on an application made within the period referred to in paragraph (a) extends that period, after the expiry of the period as so extended; or
- (c) if an appeal is made within the period referred to in paragraph (a) or the extended period referred to in paragraph (b) to the Court of Appeal against the order under section 27, after the appeal is finally determined, the Committee-
- (d) shall publish a copy of the order or, if the order is varied on appeal, the order as so varied in at least 1 English and 1 Chinese

language newspaper circulating daily in Hong Kong; and

(e) may publish the order or, if the order is varied on appeal, the order as so varied in any other publication or manner as the Committee thinks fit. (Replaced 10 of 2005 s. 107)

(2) Where an order is published under subsection (1), the Committee-

(a) shall publish with such order sufficient particulars to acquaint the public with the nature of the matter to which the order relates; and

(b) may publish with such order an account of the proceedings of the Disciplinary Board.

(3) No action in damages for defamation lies against any person as a result of publishing an order and other particulars required or permitted under this section.

(4) For the purposes of subsection (1)(c), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances-

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal-

(i) when the application is withdrawn or abandoned;

(ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

(iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal-

(i) when the application is withdrawn, abandoned or refused; or

(ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of. (Added 10 of 2005 s. 107)

(5) In subsection (4)-

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期)-

(a) in the case of an application for leave to appeal made to the Court of Appeal, means-

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means-

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended. (Added 10 of 2005 s. 107) (Enacted 1995)

Sect. 27 - Appeals from decisions or orders of the Disciplinary Board

(Past version on 01/07/1997).

(Past version on 30/06/1997).

(1) Any party to an inquiry by a Disciplinary Board under this Part who is dissatisfied with the decision or order of the Disciplinary Board in relation to the inquiry may appeal to the Court of Appeal, and Order 59 of the Rules of the High Court (Cap 4 sub. leg. A) applies to the appeal. (Amended 25 of 1998 s. 2; 10 of 2005 ss. 104 & 108)

(2) The Court of Appeal may affirm, reverse or vary the decision or order of the Disciplinary Board appealed against. (Amended 10 of 2005 s. 108)

(3) The hearing of an appeal under this section shall be in open court unless, and to the extent to which, the Court of Appeal otherwise directs.

Sect. 28 - Responsibilities of an authorized land surveyor

PART VI

AUTHORIZED LAND SURVEYORS AND LAND BOUNDARY SURVEY

(1) An authorized land surveyor shall ensure that every land boundary survey or any part thereof undertaken by him is carried out, whether by himself or by other persons under his supervision or direction, in accordance with the

requirements of any codes of practice approved under this Ordinance.

(2) An authorized land surveyor shall ensure that any field note, survey record plan or land boundary plan prepared by him or by other persons under his supervision or direction complies with the requirements of any codes of practice approved under this Ordinance, whether the land boundary survey from which such note or plan is produced is carried out-

- (a) by him personally;
- (b) by other persons under his supervision or direction; or
- (c) partly by or under the supervision or direction of another authorized land surveyor.

(3) An authorized land surveyor shall sign and certify in the specified form all field notes, survey record plans and land boundary plans prepared by him or by other persons under his supervision or direction.

(4) An authorized land surveyor shall be personally responsible for the accuracy and completeness of every land boundary plan signed and certified by him and produced from a land boundary survey carried out by him personally or by other persons under his supervision or direction, or partly by or under the supervision or direction of another authorized land surveyor, and he shall be liable for any loss or damage suffered by any person as a result of any inaccuracy or incompleteness of any land boundary plan so signed and certified. (Enacted 1995)

Sect. 29 - Approval of codes of practice by the Authority

(1) For the purpose of providing practical instruction or guidance in respect of land boundary surveys and related matters, the Authority, after consultation with the Institute, may-

- (a) approve and issue such codes of practice (whether prepared by him or not) as in his opinion are suitable for that purpose;
- (b) approve such codes of practice issued or proposed to be issued otherwise than by him as in his opinion are suitable for that purpose.

(2) Where a code of practice is approved under subsection (1), the Authority shall, by notice in the Gazette, identify or publish the code of practice concerned and specify the date on which its approval is to take effect.

(3) The Authority may-

- (a) from time to time revise any code of practice prepared by him in pursuance of this section; and
- (b) approve any revision or proposed revision of any part of any code of practice for the time being approved under this section, and the provisions of subsection (2), with the necessary modifications, apply in relation to the approval of any revision under this subsection as they apply in relation to the approval of a code of practice under subsection (1).

(4) The Authority may at any time withdraw his approval of any code of practice approved under this section.

(5) Where under subsection (4) the Authority withdraws his approval of a code of practice approved under this section, he shall, by notice in the Gazette, identify the code of practice concerned and specify the date on which his approval of it is to cease to have effect.

(6) References in this Ordinance to an approved code of practice are references to that code of practice as it has effect for the time being by virtue of any revision of it approved under this section.

(7) The power of the Authority under subsection (1) to approve a code of practice issued or proposed to be issued otherwise than by him includes the power to approve a part of such a code and, accordingly, in this Ordinance "code of practice" may be read as including a part of such a code.

(8) Any code of practice approved under this section shall not be regarded as subsidiary legislation for the purpose of section 34 of the Interpretation and General Clauses Ordinance (Cap 1). (Enacted 1995)

Sect. 30 - Land boundary plans for subdivisions

(Past version on 30/06/1997).

Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) Subject to subsection (2), any deed, conveyance or other instrument in writing executed after the commencement of this section, effecting a division of any land and delivered into the Land Registry for registration under the Land Registration Ordinance (Cap 128) shall be accompanied by a land boundary plan-

(a) showing and delineating the parcels of land resulting from the division; and

(b) subject to subsection (3), signed and certified by an authorized land surveyor in the specified form.

(2) Where a division of land is effected by a will or judgment and the grant of probate in respect of the will or the judgment, as the case may be, is delivered into the Land Registry for registration under the Land Registration Ordinance (Cap 128), it shall not be necessary for the grant or judgment to be accompanied by a land boundary plan referred to in subsection (1), but the deed, conveyance or other instrument in writing transferring the title of any parcel of land resulting from the division delivered into the Land Registry for such registration shall be accompanied by such a land boundary plan.

(3) It shall not be necessary for a land boundary plan accompanying any deed, conveyance or other instrument in writing to which subsection

(1) or (2) applies and which plan is prepared by the Government to be signed

and certified by an authorized land surveyor.

(4) An authorized land surveyor who certified a land boundary plan referred to in subsection (1) or (2) shall deposit with the Authority a duplicate of the land boundary plan and the survey record plan of the relevant land boundary survey both signed and certified in the specified form, not later than 7 days after the deed, conveyance or other instrument in writing by which the land boundary plan is accompanied in accordance with subsection (1) or (2) has been delivered into the Land Registry for registration under the Land Registration Ordinance (Cap 128).

(5) A prescribed fee shall be payable to the Authority by the authorized land surveyor who deposits a duplicate land boundary plan and a survey record plan.

(6) The Authority may by notice in writing require any authorized land surveyor who has undertaken a land boundary survey or any part of such survey to deliver to the Authority for his inspection within such time as may be specified in the notice the following documents or things used in connection with or produced from the survey as may be specified in the notice-

- (a) the report of calibration of survey instruments;
- (b) the survey instruments;
- (c) field notes; and
- (d) the report in relation to the land boundary definition.

(7) The Authority shall return any document or thing delivered under subsection (6) as soon as it is practicable after inspection.

(8) The Authority may by notice in writing require an authorized land surveyor who deposited with the Authority under subsection (4) a duplicate land boundary plan and a survey record plan to amend the duplicate land boundary plan or the survey record plan or both so deposited with respect to the new boundary line created by a division of land and shown and delineated thereon in such manner as specified in the notice to make them comply with any code of practice approved under this Ordinance within such time as specified in the notice.

(9) For the purpose of this section, "judgment" includes a judgment or order of the Court of First Instance, the District Court or the Lands Tribunal.
(Amended 25 of 1998 s. 2)

(10) For the avoidance of doubt, it is declared that a land boundary plan referred to in subsection (1) shall not have effect other than the effects it has by virtue of its being a plan attached to or endorsed on or accompanying an instrument delivered into the Land Registry for registration under the Land Registration Ordinance (Cap 128).

Sect. 31 - Inspection of land boundary record

The Authority may allow an authorized land surveyor or an employee of such surveyor authorized for the purpose to inspect, during office hours, any

land boundary record subject to the payment of the prescribed fee and may supply such surveyor or employee with copies of any land boundary plan or survey record plan subject to the payment of the prescribed fee. (Enacted 1995)

Sect. 32 - Preservation of boundary marks

(1) No person shall, without lawful authority or reasonable excuse, alter, move, interfere with, damage or destroy any boundary mark on any land.

(2) A person who proposes to carry out any work which is likely to interfere with a boundary mark-

(a) shall, at least 7 days before the proposed date of commencement of the work, notify the Authority of such likely interference;

(b) shall not commence the work unless he has taken all necessary steps to safeguard the mark to the satisfaction of the Authority.

(3) Where any boundary mark has been removed, displaced or destroyed in a land boundary survey, the authorized land surveyor who undertakes the land boundary survey shall within 3 months of the removal, displacement or destruction, at his own expense, cause the mark to be reinstated.

(4) A public officer authorized by the Authority for the purpose of this section may enter any land at any reasonable time for the purpose of ascertaining whether the requirements of this section have been complied with subject to the giving of reasonable advance notice to the occupants of the land.

(5) In exercising the power of entry under this section, the public officer authorized under this section shall, if so requested, produce written evidence of his identity and of his authorization.

(6) Any person who contravenes subsection (1) or (2)(a) or (b) commits an offence.

(7) An authorized land surveyor who contravenes subsection (3) commits an offence.

(8) In this section, "boundary mark" means a survey mark which demarcates the boundary of a parcel of land. (Enacted 1995)

Sect. 33 - Limitation of public liability

PART VII

MISCELLANEOUS

(1) No liability rests upon the Government or upon any public officer by reason of the fact that any land boundary survey is carried out in accordance with any code of practice approved under this Ordinance, or that any field note, survey record plan or land boundary plan is prepared in accordance with any such code, or that the plans and records resulting from the survey are deposited with the Authority, nor shall anything in this Ordinance make it

obligatory for the Authority to ascertain that the requirements of this Ordinance are complied with or that plans and records deposited with the Authority are accurate or consistent with the results of the relevant land boundary surveys or the land boundary record.

(2) No act or omission by the Authority or by any public officer acting under his direction, if it were done or made in good faith in the performance or purported performance of his functions under this Ordinance or for the purpose of enforcing this Ordinance, subjects the Authority or such public officer personally to any action, liability, claim or demand whatsoever.

(3) Without prejudice to the generality of subsection (1), neither the Government nor the Authority, nor any public officer acting on the Authority's behalf is subject to any action, liability, claim or demand by reason of or in relation to-

- (a) the supply of any plan or record or any copy thereof or of any information under this Ordinance; or
- (b) the Authority's allowing an authorized land surveyor or his employee authorized for the purpose to inspect any plan or record kept by the Authority.

(4) Nothing in this Ordinance exempts any person from any proceeding by way of mandamus, injunction, prohibition or other order unless it is expressly so enacted. (Enacted 1995)

Sect. 34 - Protection of members, etc. of the Committee and the Disciplinary Board

No-

- (a) member of the Committee;
- (b) member of a Disciplinary Board; or
- (c) employee of the Committee, acting in good faith is personally liable for any act or omission without negligence of-
 - (i) the Committee;
 - (ii) the Disciplinary Board; or
 - (iii) any such member or employee, in the performance or purported performance of any function under this Ordinance. (Enacted 1995)

Sect. 35 - Offences and penalties

(1) Any person who-

- (a) fraudulently obtains registration or renewal of registration for himself or any other person;
- (b) obtains registration or renewal of registration for himself or any other person by means of any misleading, false or fraudulent

representation or statement, either orally or in writing;

- (c) makes or causes to be made any falsification in the register;
- (d) impersonates or falsely represents himself as being the person referred to in any certificate or document presented to the Committee or a Disciplinary Board in connection with the performance of any of its functions under this Ordinance;
- (e) falsely takes or uses any name, initials, title, addition or description implying that his name is entered in the register;
- (f) not being an authorized land surveyor, uses or knowingly permits the use of in connection with his business or profession the description "authorized land surveyor";
- (g) not being an authorized land surveyor, advertises or represents himself as an authorized land surveyor or knowingly permits himself to be so advertised or represented, commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.

(2) Any person who commits an offence under section 24 or 32(6) is liable on conviction to a fine at level 3 and to imprisonment for 3 months.

(3) An authorized land surveyor who commits an offence under section 32(7) is liable on conviction to a fine at level 4 and to imprisonment for 6 months.

(Enacted 1995)

Sect. 36 - Forms

The Authority may specify the form of any document which is required to be in the specified form under this Ordinance. (Enacted 1995)

Sect. 37 - Regulations

(Past version on 30/06/1997).

Adaptation amendments retroactively made - see 62 of 2000 s. 3

(1) The Chief Executive in Council may make regulations to provide for the fees and charges payable under this Ordinance. (Amended 62 of 2000 s. 3)

(2) The Secretary may make regulations to provide for all or any of the following matters-

- (a) the conduct of inquiries by a Disciplinary Board of alleged disciplinary offences and other matters relating to the investigation of alleged disciplinary offences;
- (b) matters relating to the direction of authorized land surveyors;
- (c) any matter, other than fees and charges, which may be prescribed under this Ordinance. (Enacted 1995)

Sect. 38 - Service of notice and order

Any notice or order required to be served under this Ordinance may be served by serving a copy-

- (a) personally;
- (b) by registered post addressed to the last known place of business or residence of the person to be served; or
- (c) by leaving it with an adult occupier of the land to which the notice or order relates or by posting it upon a conspicuous part of such land. (Enacted 1995)

Sect. 39 - Certificate as evidence

A certificate, purporting to be signed by the Registrar, that the name of a person has or has not been entered in or has been removed from the register is for all purposes, without further proof, evidence of the facts stated in the certificate. (Enacted 1995)

Sect. 40 - (Omitted as spent)

(Omitted as spent) (Enacted 1995)

Sect. 41 - (Omitted as spent)

(Omitted as spent) (Enacted 1995)