

Survey Act 1969

Chapter 95.

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Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Chapter 95.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

Survey Act 1969,

Being an Act to provide for the registration of surveyors and the regulation of the practice of land surveying, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

[1]“**authorized survey**” means a survey of land authorized or required—

(a) by, under or for the purpose of any law; or

(b) by the Government; or

(c) by the owner, lessee, mortgagee or other person having an interest in the land;

and in the case of a certified measurer means a Rural Class 3 Survey;

“the Board” means the Papua and New Guinea Surveyors Board established by Section 6;

“certificate of registration” means a certificate of registration issued under Section 17;

^[2]**“certified measurer”** means a person whose name is entered in the Register of Certified Measurers;

“the Chairman” means the Chairman of the Board;

“the Deputy Chairman” means the Deputy Chairman of the Board;

^[3]**“mark”** means any beacon, concrete block, metal pin, plaque, peg, stone cairn or any other mark placed on land for the purposes of marking a boundary or effecting a survey;

“reciprocating board” means the surveyors board or other competent authority in a reciprocating State;

“reciprocating State” means a country or place with the surveyors board or other competent authority of which the Board has entered into a reciprocal arrangement under Section 22;

“the register” means the Register of Surveyors kept under Section 16;

^[4]**“Register of Certified Measurers”** means the Register of Certified Measurers kept under Section 16;

“registered surveyor” means a person whose name is entered in the register;

“the Registrar” means the Registrar of Surveyors appointed under Section 15;

“the regulations” means any regulations made under this Act;

^[5]**“Rural Class 3 Survey”** means a survey of rural lands requiring an accuracy of less than 1m in 1,000m;

^[6]**“survey mark”** has the meaning given to it in Section 42;

“surveyor” means a person who is a land surveyor;

“this Act” includes the regulations;

^[7]**“urban lands”** means lands within or immediately adjacent to a gazetted city or town boundary, or any other lands closely subdivided for town, patrol post or community centre purposes outside of a gazetted town boundary.

2. REFERENCES TO SURVEYORS, ETC.

Where in any law a reference is made to a surveyor or to a licensed or registered surveyor, that reference shall be read as a reference to a registered surveyor within the meaning of this Act.

3. APPLICATION.

^[8](1) This Act applies only to and in relation to surveys of the boundaries of, or for the purpose of the establishment, re-establishment or determination of titles to, land, and other surveys authorized by the Surveyor General.

(2) Subject to Subsection (3)–

(a) a survey carried out; or

(b) a plan prepared,

otherwise than by or under the provisions of Section 37 shall not be used in any document dealing in land.

(3) The Surveyor General may accept—

- (a) a survey carried out; or
- (b) a plan prepared,

otherwise than by or under the provisions of Section 37, if it defines land of a low value in an isolated area where the cost of a survey carried out under Section 37 would be unjustified.

(4) For the purpose of this section ‘dealing in land’ includes a transfer, a mortgage, an encumbrancing, a leasing, the granting of an easement, right, power or privilege of, over, in or in connection with land or an agreement or contract to make, do, give or grant any of those things in relation to land.

PART II. – ADMINISTRATION.

4. SURVEYOR GENERAL.

(1) The Head of the Division of Surveys of the Department responsible for land matters is the Surveyor General, and is charged with the administration of this Act.

(2) The Surveyor General is charged with the general supervision of authorized surveys in the country, and has such other powers, responsibilities and functions as are prescribed.

5. DELEGATION.

The Surveyor General may, by instrument, delegate to any person any of his powers and functions under this Act or any other law (except this power of delegation).

PART III. – SURVEYORS BOARD.

6. ESTABLISHMENT OF THE BOARD.

(1) A Papua and New Guinea Surveyors Board is hereby established.

(2) The Board—

- (a) is a corporation; and
- (b) has perpetual succession; and
- (c) shall have a common seal; and
- (d) may sue and be sued in its corporate name.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document, and shall presume that it was duly affixed.

7. MEMBERS OF THE BOARD.

(1) The Board shall consist of the Surveyor General and six members, being registered surveyors, appointed by the Minister by notice in the National Gazette.

(2) Three of the members of the Board shall be appointed from a panel of names of four registered surveyors submitted to the Minister by the Association of Surveyors of Papua New Guinea.

(3) Three members of the Board (other than the members referred to in Subsection (2)) shall be officers of the Department who are registered surveyors.

(4) If the Minister is not satisfied that there are, on a panel of names submitted to him under Subsection (2), the names of three persons suitable for appointment by him under this section, he may request the Association of Surveyors of Papua New Guinea to submit a further name or further names.

(5) In the event of a failure on the part of the Association of Surveyors of Papua New Guinea to submit a panel of names in accordance with Subsection (2), or a further name or further names under Subsection (4), within what, in the opinion of the Minister, is a reasonable period after being requested by him to do so, the Minister may appoint the necessary number of persons without further reference to the Association.

8. CHAIRMAN AND DEPUTY CHAIRMAN.

(1) The Surveyor General is the Chairman of the Board.

(2) The members of the Board shall elect one of their number to be the Deputy Chairman.

9. TENURE OF OFFICE.

(1) A member of the Board, other than the Surveyor General, holds office for a term of two years and is eligible for re-appointment.

(2) Where the office of a member becomes vacant before the expiration of his term of office, the person appointed to fill the vacancy—

(a) if the member had been appointed in accordance with Section 7(2)—shall be appointed in accordance with that subsection or Section 7(5), as the case requires; and

(b) if the member had been appointed under Section 7(3)—shall be a registered surveyor who is an officer of the Department.

(3) A person appointed under Subsection (2) holds office until the expiration of the term of office of the member whose office has become vacant.

10. DISQUALIFICATION.

The following persons are not eligible to be or to continue to be members of the Board appointed by the Minister:—

(a) a person who is not of the age of 21 years; or

(b) a person who is an undischarged bankrupt or insolvent; or

(c) a person of unsound mind as that expression is used in the *Public Health Act 1973*; or

(d) a person who has been convicted of an offence under a law of—

- (i) Papua New Guinea; or
- (ii) Australia; or
- (iii) a State or Territory of Australia,

punishable by death or imprisonment for one year or longer, and as a result of the conviction—

- (iv) is subject to be sentenced to death or imprisonment; or
- (v) is under sentence of death or is undergoing imprisonment; or
- (vi) is under bond to appear for sentence if called upon.

11. FEES AND ALLOWANCES.

The members of the Board shall be paid such fees (if any) and allowances (if any) as the Minister determines.

12. REMOVAL OF MEMBER FROM OFFICE.

The Minister may at any time terminate the appointment of a member of the Board, other than the Surveyor General, for misbehaviour or incapacity.

13. VACATION OF OFFICE BY MEMBER.

A member of the Board, other than the Surveyor General, shall be deemed to have vacated his office if—

- (a) his appointment is terminated by the Minister under Section 12; or
- (b) he becomes a person referred to in Section 10; or
- (c) he resigns his office in writing addressed to the Minister and the resignation is accepted by the Minister; or
- (d) he is absent, except on leave granted by the Board, from two consecutive meetings of the Board; or
- (e) he ceases to have the qualification by reference to which he was appointed.

14. MEETINGS OF THE BOARD.

(1) The Board shall meet at least once in each year.

(2) Subject to Subsection (3), a meeting of the Board shall be convened by the Chairman by written notice to the other members of the Board, and shall be held at the time and place specified in the notice.

(3) The Minister may, by written notice to each member, direct that a meeting be held at the time and place specified in the notice.

(4) At a meeting of the Board—

- (a) four members, of whom one is the Chairman or the Deputy Chairman, are a quorum; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside; and
- (c) all questions shall be decided by the majority of votes of the members present and voting; and
- (d) the member presiding has a deliberative and, in the event of an equality of votes on a question, also a casting vote.

(5) Subject to this Act, the procedure at meetings of the Board is as the Board determines.

PART IV. – REGISTRATION AND QUALIFICATIONS.

Division 1.^[9]

General.

15. REGISTRAR OF SURVEYORS AND CERTIFIED MEASURERS.

^[10]The Minister may, by notice in the National Gazette, appoint an officer of the Department to be the Registrar of Surveyors and Certified Measurers.

16. REGISTER OF SURVEYORS AND REGISTER OF CERTIFIED MEASURERS.

^[11]The Registrar shall keep—

- (a) a register to be called the Register of Surveyors; and
- (b) a register to be called the Register of Certified Measurers.

Division 2.^[12]

Registration, etc., of Surveyors.

17. MANNER OF REGISTRATION OF SURVEYORS.

^[13](1)^[14] ^[15]Where the Board has authorized the registration of a person as a surveyor, the registration shall be effected by entering in the register—

- (a) his name; and
- (b) his professional address or addresses (if any) in the country, or if he has no such professional address his place of residence, whether in the country or elsewhere; and
- (c) particulars of his qualifications; and
- (d) a registration number to be allotted to him; and
- (e) the date of his registration; and
- (f) such other particulars (if any) as are prescribed.

(2) An entry in the register shall be signed by the Registrar.

(3) On payment of the prescribed fee, the Board shall cause to be issued to a registered surveyor a certificate of registration signed by the Chairman or the Deputy Chairman.

18. QUALIFICATIONS FOR REGISTRATION AS A SURVEYOR.

^[16](1) Subject to Subsections (2) and (3), the Board shall authorize the registration of a person as a surveyor if he satisfies the Board that he is not less than 21 years of age and is a fit and proper person to be registered as a surveyor, and that—

- (a) he has obtained the prescribed certificate of competency on passing the prescribed examinations in surveying after completing training and field service as prescribed; or

(b) he is registered, licensed or authorized to practise as a land surveyor in a reciprocating State, or holds a certificate of competency issued by a reciprocating board, and has complied with the provisions of this Act; or

(c) he has—

(i) in a country outside Papua New Guinea, other than a reciprocating State, passed an examination in surveying approved by the Board; and

(ii) in Papua New Guinea—

(A) passed such further examination; or

(B) completed such field service,

as the Board requires.

(2) The Board may require an applicant for registration to attend personally before the Board, and if he fails to attend as required may refuse the application.

(3) Before a person is registered as a surveyor he shall—

(a) take the oath or make the affirmation set out in Schedule 1 before the Surveyor General or a person authorized for the purpose by the Surveyor General; and

(b) pay the prescribed registration fee.

(4)^[17] ^[18]The Board may, by written instrument, delegate to the Chairman of the Board and one other member of the Board the power to authorize the registration of a person as a surveyor under Subsection (1)(b) or (c).

19. ANNUAL REGISTRATION FEE.

(1) Before 1 July in each year, a registered surveyor shall pay to the Board the prescribed annual registration fee.

(2) If a registered surveyor fails to pay the annual registration fee for a period of 12 months after it has become payable, the Board may remove his name from the register.

(3) A person whose name has been removed under Subsection (2) may apply to the Board to have his name restored to the register and, on payment of the prescribed fee, the Board may restore his name.

Division 3.^[19]

Registration, etc., of Certified Measurers.

19A. MANNER OF REGISTRATION OF CERTIFIED MEASURERS.

^[20](1) Where the Board has authorized the registration of a person as a certified measurer, the registration shall be effected by entering in the Register of Certified Measurers—

(a) his name; and

(b) his professional address (if any) in the country, or if he has no such professional address,

his place of residence, whether in the country or elsewhere; and
(c) particulars of his qualifications; and
(d) a registration number to be allotted to him; and
(e) his date of registration; and
(f) such other particulars (if any) as are prescribed.

(2) An entry in the Register of Certified Measurers shall be signed by the Registrar.

(3) On payment of the prescribed fee, the Board shall cause to be issued to a certified measurer a certificate of registration signed by the Chairman or the Deputy Chairman.

19B. QUALIFICATIONS FOR REGISTRATION AS A CERTIFIED MEASURER.

^[21](1) Subject to Subsections (2), (3) and (4), the Board shall authorize the registration of a person as a certified measurer if he satisfies the Board that he is not less than 20 years of age and is a fit and proper person to be registered as a certified measurer, and that—

(a) he has completed a prescribed course of study; and
(b) he has completed prescribed field practice; and
(c) he has submitted to the Board prescribed projects; and
(d) he has passed prescribed tests and examinations.

(2) The Board may, during a period of two years commencing on the date of the coming into operation of the *Survey (Amendment) Act 1987*, exempt from the requirements of Subsection (1)(a), (b), (c) and (d) a person who has at least five years field experience acceptable to the Board.

(3) The Board may require an applicant for registration to attend personally before the Board, and if he fails to attend as required may refuse the application.

(4) Before a person is registered as a certified measurer he shall—

(a) take the oath or make the affirmation set out in Schedule 1 before the Surveyor General or a person authorized for the purpose by the Surveyor General; and
(b) pay the prescribed registration fee.

19C. ANNUAL REGISTRATION FEE.

^[22](1) Before 1 July in each year, a certified measurer shall pay to the Board the prescribed annual registration fee.

(2) Where a registered certified measurer fails to pay the annual registration fee for a period of 12 months after it has become payable, the Board may remove his name from the Register of Certified Measurers.

Division 4.^[23]

Provisions Relating to Registered Surveyors and Certified Measurers.

20. REFUSAL TO REGISTER.

[24]If the Board refuses to authorize the registration of a person as a surveyor or as a certified measurer, the Board shall, if the person so requests, state in writing the reason for the refusal.

21. PROOF OF REGISTRATION.

(1)^[25] ^[26]A certificate of registration under Section 17 or Section 19A is evidence that the person specified in the certificate was registered under this Act on the date specified in the certificate and in respect of the qualifications specified.

(2) A certificate purporting to be under the hand of the Chairman or Deputy Chairman and stating that—

(a) any person was or was not registered; or

(b) the registration of a person was suspended on any date or dates during any period mentioned in the certificate,

is, in all courts and before all persons and bodies authorized to receive evidence, evidence of the matters so stated.

22. RECIPROCAL ARRANGEMENTS.

(1) The Board may enter into a reciprocal arrangement with the surveyors' board or other competent authority in any country or place for—

(a)^[27] the recognition of the status of a person registered, licensed or authorized by the board or other competent authority to practise as a land surveyor or certified measurer in that country or place, and for his registration as a surveyor or certified measurer under this Act; and

(b)^[28] similar recognition, registration, licensing or authorization in that country or place of surveyors or certified measurers registered under this Act.

(2) An arrangement under Subsection (1) may contain a condition that a person applying to be registered under this Act furnish such additional evidence of character and competency as the Board considers satisfactory.

(3) If an arrangement is made under Subsection (1), the Board may adopt examination papers set by the board or other competent authority of the reciprocating state for the purpose of examinations to be conducted under this Act.

23. FRAUDULENT REGISTRATION.

A person who, in connection with an application for registration under this Act, makes a false or misleading statement or produces a false certificate, testimonial or other document is guilty of an offence.

Penalty: ^[29]A fine not exceeding K1,000.00.

24. CHANGE OF ADDRESS TO BE NOTIFIED.

(1)^[30] ^[31]A registered surveyor or a certified measurer who changes his professional address in the country, or establishes a professional address or an additional professional address in the country, must, within 21 days after the change or establishment, notify the Registrar in writing.

(2)^[32] ^[33]A registered surveyor or a certified measurer, not having a professional address in the country, who changes his place of residence must, within 21 days after the change, notify the Registrar in writing.

Penalty: A fine not exceeding K10.00.

Default penalty: A fine not exceeding K2.00.

25. ALTERATION OF REGISTERS.

^[34](1) The Board shall cause to be removed from the Register of Surveyors or the Register of Certified Measurers (as the case requires) the names of all registered surveyors or certified measurers who have died or who have requested their names to be removed, and may cause such alterations to be made to the particulars in the appropriate Register as are necessary.

(2) By notice to a registered surveyor or certified measurer, posted or otherwise delivered to him at his professional address or at one of his professional addresses recorded in the Register of Surveyors or Register of Certified Measurers, or at his last known place of residence, the Board may inquire whether his professional address or addresses in the country, or his place of residence, is or are still the address or addresses in the country, or his place of residence, shown in the Register of Surveyors or Register of Certified Measurers, as the case may be.

(3) If an answer to a notice under Subsection (2) is not returned within six months after the date of the posting or other delivery of the notice, the Board may cause the name of the surveyor or certified measurer to be removed from the appropriate Register.

26. CANCELLATION OR SUSPENSION FOR FRAUD, ETC.

(1)^[35] ^[36]The Board may cause to be removed from the Register of Surveyors or the Register of Certified Measurers, as the case requires, the name of a person—

(a) whose registration has been obtained by fraud or misrepresentation; or

(b)^[37] who is convicted, whether in the country or elsewhere, of an offence punishable by imprisonment for one year or longer or of any other offence that, in the opinion of the Board, renders him unfit to practise as a surveyor or as a certified measurer; or

(c) who is convicted of an offence against this Act or who breaks an undertaking given by him under Subsection (2)(b); or

(d)^[38] who is convicted of an offence against any other law relating to the duties or functions of surveyors or certified measurers or matters incidental to such duties or functions; or

(e)^[39] whose name is removed, otherwise than at his own request, from a register of surveyors or certified measurers or like record kept by a reciprocating board; or

(f) who becomes of unsound mind as that expression is used in the *Public Health Act 1973*; or

(g) who is found by the Board to have been guilty of—

(i) habitual drunkenness or addiction to a narcotic drug; or

(ii) disgraceful or improper conduct; or

- (iii)^[40] allowing a person, other than a registered surveyor or a certified measurer, to practise in his name as a surveyor or a certified measurer; or
- (iv)^[41] directly or indirectly giving or offering or agreeing to give or offer to a person any valuable consideration for securing or attempting to secure for the registered surveyor or a certified measurer employment or work as a surveyor or a certified measurer; or
- (h) who has contravened or failed to comply with a provision of this Act or the *Survey Co-ordination Act 1967* or of a request, requirement or direction under this Act; or
- (i) who has certified to the accuracy of a survey, either knowing it to be inaccurate or without having taken reasonable precautions to verify its accuracy; or
- (j) who wilfully or by culpable negligence or through incompetence has made, or caused to be made under his supervision, a survey that is so inaccurate or defective as to be unreliable; or
- (k) who ceases to hold the qualifications by reference to which he was registered.

(2)^[42] ^[43] Instead of causing to be removed from the appropriate Register the name of a person who has been found guilty of conduct or an act specified in Subsection (1)(c), (d), (g), (h), (i), or (j), the Board may—

- (a) reprimand him; or
- (b) require him to give an undertaking to abstain from conduct specified by the Board for such period as is specified by the Board; or
- (c) fine him an amount not exceeding K100.00; or
- (d) suspend his registration for such period, not exceeding one year, as the Board thinks proper.

(3)^[44] ^[45] Where the entitlement of a surveyor or certified measurer to practise in a reciprocating State is suspended, the Board may suspend the registration of the surveyor or certified measurer under this Act for a period not extending beyond the period of suspension in that State.

27. INQUIRY TO BE HELD.

(1) Before taking action under Section 26 in relation to a person, the Board shall hold an inquiry, after giving notice to him of the matters to be inquired into and of the time and place at which the inquiry is to be held.

(2) At the inquiry the person may be represented by a lawyer or agent, who may examine witnesses and address Board on his behalf.

(3) In conducting the inquiry, the Board is not bound by technical rules of evidence or legal procedure, but may inform itself in such manner as it thinks fit.

(4) The Attorney-General may appoint a lawyer to assist the Board.

(5) Pending the holding of the inquiry, the Board may suspend the registration of the person registered.

28. BOARD TO RECORD FINDING ON WHICH DECISION BASED.

Where the Board takes any action under Section 26 in relation to a person, the Board shall—

- (a) record the finding on which the decision was based and its reasons; and
- (b) if the person concerned so requests, furnish to him a copy of the findings and reasons.

29. SURRENDER OF CERTIFICATE ON REMOVAL OF NAME FROM REGISTER ON SUSPENSION.

(1)^[46] ^[47]Where the name of a person is removed from the Register of Surveyors or Register of Certified Measurers, as the case requires, or the registration of a person is suspended, the Board may, by written notice posted or otherwise delivered to him at his professional address or one of his professional addresses as last recorded in the register, or at his last-known place of residence, require him to deliver his certificate of registration to the Board for cancellation, within 14 days after receipt of the notice.

(2) A person who fails to comply with a notice served on him under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K20.00.

Default penalty: A fine not exceeding K4.00.

(3) It is a defence to a prosecution for an offence against Subsection (2) if the accused satisfies the court that—

- (a) the certificate has been destroyed; or
- (b) after diligent search, he has been unable to find the certificate.

30. EFFECT OF SUSPENSION OF REGISTRATION.

(1)^[48] ^[49]For the purposes of this Act a person whose registration is suspended under this Act shall be deemed to be, during the period for which the registration is suspended, a person who is not registered as a surveyor or a certified measurer under this Act.

(2) The Board may, by written notice, revoke the suspension, and may direct in the notice that the revocation have effect from a date specified in the notice.

(3) Where the Board revokes a suspension the Board shall promptly return the certificate of registration to the holder.

31. APPLICATION FOR RE-REGISTRATION.

^[50]Where, under Section 26, the name of a person has been removed from the Register of Surveyors or Register of Certified Measurers, he may apply for re-registration, but is not entitled to be registered again unless the Board thinks fit to authorize the re-registration.

32. COLLECTION OF FEES.

The Board may demand and collect in advance such fees as are prescribed.

33. LIST OF REGISTERED SURVEYORS AND CERTIFIED MEASURERS TO BE PUBLISHED ANNUALLY.

^[51]The Surveyor General shall cause to be published in the National Gazette before the last day of February in each year—

- (a) a list containing the names and address of all surveyors; and
- (b) a list containing the names and addresses of all certified measurers,

registered under this Act as at the previous 31 December.

PART V. – APPEALS.

34. APPEALS.

(1) Where the Board—

- (a) refuses an application for the registration of a person (other than an application under Section 31); or
- (b) causes the name of a person to be removed from the register; or
- (c) reprimands a person; or
- (d) makes a requirement on a person under Section 26(2)(b); or
- (e) fines a person; or
- (f) suspends, otherwise than under Section 26(3), the registration of a person,

the person may appeal to the National Court against the decision of the Board within 21 days after the decision was given.

(2) An appeal shall be in the nature of a re-hearing.

(3) The Board shall be the respondent on an appeal.

(4) The National Court may—

- (a) affirm, set aside or vary the decision of the Board; and
- (b) give such decision as to it seems proper; and
- (c) make such other order as to it seems proper.

PART VI. – REGULATION OF THE PRACTICE OF LAND SURVEYING.

35. RIGHT TO PRACTISE.

^[52]Subject to this Act and to any other law—

- (a) a registered surveyor may practise his profession and make authorized surveys in the country; and
- (b) a certified measurer may only carry out Rural Class 3 Surveys.

36. CODE OF ETHICS.

(1)^[53] ^[54]The Association of Surveyors of Papua New Guinea may from time to time lay down a Code of Ethics for Surveyors and Certified Measurers.

(2)^[55] ^[56]A copy of a Code of Ethics laid down under Subsection (1) shall be posted or delivered to each registered surveyor and certified measurer at his professional address or one of his professional addresses as last recorded in the Register of Surveyors or Register of Certified Measurers, as the case requires, or at his last-known place of residence.

(3) A contravention of a Code of Ethics laid down under Subsection (1) is prima facie evidence of improper conduct within the meaning of Section 26(1)(g)(ii).

37. MAKING OF AUTHORIZED SURVEYS.

An authorized survey must—

- (a) be carried out subject to any directions given by the Surveyor General; and
- (b) be made in accordance with any survey information supplied by or by the authority of the Surveyor General.

37A. ESTABLISHMENT OF PLAN REGISTRY AND LODGEMENT OF PLANS, ETC.

^[57](1) The Surveyor General shall establish a Plan Registry in which shall be lodged, in accordance with the provisions of this section, such survey plans as are prescribed.

(2) A—

- (a) registered surveyor; or
- (b) certified measurer; or
- (c) person otherwise carrying out a survey,

who prepares a survey plan of a type prescribed under Subsection (1), shall, within three months of the date of completion of the survey, submit the survey plan to the Surveyor General for approval and, if approved, registration in the Plan Registry.

(3) A survey plan shall—

- (a) not be registered in the Plan Registry until approved as correct by the Surveyor General; and
- (b) not be used in any dealing in land, except with the consent of the Surveyor General.

(4) For the purpose of this section, ‘dealing in land’ has the meaning given in Section 3(4).

38. CORRECTION OF ERRORS.

(1)^[58] ^[59]The Surveyor General may, by written notice—

- (a)^[60] request a registered surveyor or certified measurer to correct, at his own expense and within the time specified in the notice, an error made by him in an authorized survey; or
- (b)^[61] instruct another registered surveyor or certified measurer to make the correction, and require the registered surveyor who made the error to pay the cost of the correction.

(2)^[62] ^[63]If a registered surveyor or certified measurer refuses or omits to correct an error within the time specified in a notice under Subsection (1), or omits to pay the cost of the

correction of an error when called on to do so, the Surveyor General may recover the reasonable cost of the correction as a debt.

(3) A request or an instruction under this section for the correction of a survey shall not be made after one year from the date of lodgement of the plan of survey with the Surveyor General.

39. OFFENCES AS TO PRACTISE AS A SURVEYOR OR CERTIFIED MEASURER.

^[64](1)^[65] ^[66]Subject to Subsection (2)–

(a) a person other than a registered surveyor who–

- (i) pretends that he is or holds himself out to be a registered surveyor; or
- (ii) takes or uses the name or title of a registered surveyor, or a name, title, addition or description implying that he is a registered surveyor; or
- (iii) except in the case of a certified measurer, to the extent allowed to a certified measurer under this Act–

(A) practises as a surveyor, or charges or receives a fee for work done as a surveyor; or

(B) makes or pretends to make, or holds himself out, directly or indirectly, to be competent to make an authorized survey; or

(C) certifies to the accuracy of a plan purporting to be an authorized survey plan of an authorized survey; or

(b) a person other than a certified measurer who–

- (i) pretends that he is or holds himself out to be a certified measurer; or
- (ii) takes or uses the name or title of a registered surveyor, or a name, title, addition or description implying that he is a certified measurer,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K100.00.

(2) It is a defence to a charge of an offence under Subsection (1)(c), (d) or (e) in relation to a survey if the person charged proves that–

(a) he was authorized by the Surveyor General to carry out the survey; or

(b) he carried out the survey on behalf of the Government and as part of his duties as an officer; or

(c) he was, or was a servant or agent of, the owner, lessee, mortgagee or other person having an interest in the land surveyed, and the survey was not made for the purposes of any law; or

(d) the survey was authorized or required by, under or for the purposes of the *Land Titles Commission Act 1962*.

39A. FEES.

^[67](1) The Minister may, from time to time, fix the fees to be charged by a certified measurer for carrying out a Rural Class 3 Survey.

(2) The Surveyor General may, on behalf of the State, charge fees for surveys carried out by the State on behalf of private persons, organizations or statutory authorities—

(a) in the case of Rural Class 3 Surveys—

(i) at the rate fixed under Subsection (1), where fees have been so fixed; or

(ii) where no fees have been fixed under Subsection (1), at the rate fixed for Rural Class 3 Surveys in the Code of Ethics laid down under Section 36; and

(b) in all other cases, at the rate fixed in the Code of Ethics laid down under Section 36.

(3) Where, at the request of the Surveyor General, a survey has been carried out on behalf of the State, the fees payable by the State are those applicable under Subsection (2).

(4) The fees for—

(a) lodgement of plans under Section 37A; and

(b) re-lodgement of plans following a notice under Section 38; and

(c) examination of plans for approval; and

(d) re-examination of plans following re-lodgement under Paragraph (b),

are as prescribed.

40. FIRMS AND CORPORATIONS.

(1) No firm or corporation within the meaning of the *Companies Act 1997* may carry out, or cause its employees to carry out, a survey or pretend or undertake or hold itself out to be competent to carry out a survey, unless—

(a) all the members of the firm or all the directors of the corporation, as the case may be, are registered surveyors; or

(b) the majority of the members of the firm or of the directors are registered surveyors and the rest are members (not being students) of a prescribed profession; or

(c) in the case of a corporation—

(i) at least half the shares in the corporation are held by directors who are registered surveyors; and

(ii) the controlling shares (if any) are held by directors who are registered surveyors; and

(iii) the balance of the shares are held by persons approved by the Board; and

(iv) the true liability of the shareholders is substantial and consistent with the probable liabilities of the corporation,

and the names and professional qualifications of all the members or directors are included on all stationery used by the firm or corporation in connection with surveying.

(2) If a firm or corporation contravenes Subsection (1), the members of the firm or the directors of the corporation, as the case may be, are each guilty of an offence.

Penalty: ^[68]A fine not exceeding K1,000.00.

Default penalty: A fine not exceeding K100.00.

(3) The Board may issue to a firm or corporation that complies with the requirements of Subsection (1) a certificate to that effect, and such a certificate is *prima facie* evidence of compliance with those requirements.

(4) A certificate referred to in Subsection (3) may be made subject to such conditions and limitations as the Board thinks proper, and in such a case the certificate is valid accordingly.

(5) A certificate referred to in Subsection (3) may be cancelled by the Board at any time for good cause shown.

(6) Notwithstanding Subsection (1), in the case of the death of a member of a firm or a director of a corporation to which Subsection (1)(a) or (b) applies, the executor of the will or the administrator of the estate of the deceased person may continue the business of that person for a period of not more than six months after the death, or for such longer period as the Board permits.

41. ADMINISTRATION OF ESTATE OF DECEASED SURVEYOR.

On the death of a registered surveyor who was at the time of his death carrying on business as a surveyor, an executor, administrator or trustee of his estate, if the practice of surveying in the business is carried on by a registered surveyor, may continue the business for a period of two months or for such longer period as the Board permits.

PART VII.^[69] – SURVEY MARKS.

42. FORM OF SURVEY MARKS.

^[70](1) Where a mark–

(a) is placed as a result of directions made or given by the Surveyor General under Section 37; or

(b) defines a boundary of land on a plan accepted by the Surveyor General under Section 3(3); or

(c) is used to facilitate the placement or location of marks in Paragraphs (a) or (b),

that mark will be a survey mark.

(2) Where a survey mark bears a broad arrow, any destruction, obliteration, removal, injury or defacement of it shall, until the contrary is proved, be deemed to have been done knowingly.

43. INTERFERING, ETC., WITH SURVEY MARK.

^[71](1) Subject to Section 44, a person who, without the permission of the Surveyor General, interferes with a survey mark, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a period not exceeding 12 months.

(2) Where a person is convicted of an offence against Subsection (1), in addition to any penalty imposed by that subsection, the court that convicts him may order him to pay the costs of reestablishing the survey mark.

43A. CIRCUMSTANCES IN WHICH A SURVEY MARK MAY BE INTERFERED WITH.

^[72](1) A person may remove a survey mark defining a boundary in order to erect a fence, wall or other permanent improvement along that boundary.

(2) A person who proposes to carry out work likely to interfere with a survey mark, other than in circumstances referred to in Subsection (1), shall take all necessary precautions to ensure that such survey mark is not interfered with during the carrying out of that work.

(3) A person who causes interference with a survey mark placed to define a boundary established in the course of a cadastral survey shall advise the Surveyor General, or engage a registered surveyor or certified measurer, as may be, in cases of authorized surveys and surveys authorized to be carried out by certified measurers, to reinstate that survey mark.

(4) Where a registered surveyor or certified measurer has not been engaged for the purposes of reinstatement of a survey mark under Subsection (3), the Surveyor General shall reinstate the mark and recover the costs of such reinstatement from the person responsible for the interference.

43B. UNCOVERING OF SURVEY MARK.

^[73](1) A registered surveyor, or person authorized in writing by him, may break up the surface of land, whether paved or not, to the extent necessary to uncover a survey mark which he believes to be buried under the surface and to be essential for the performance of a survey.

(2) A person who breaks up the surface of land under Subsection (1) shall forthwith repair and reinstate the land so broken up.

44. UNAUTHORIZED PERSONS NOT TO USE SURVEY MARK.

^[74]A person who, otherwise than in the conduct of an authorized survey, makes use of a survey mark in marking a boundary, or so as to appear to indicate a boundary, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a period not exceeding 12 months, or both.

PART VIII. – MISCELLANEOUS.

45. POWER TO SUMMON WITNESSES.

(1) The Chairman or the Deputy Chairman may, by writing under his hand, summon a person to attend the Board at a time and place specified in the summons and then and there to give evidence and produce such books, documents or writings in his custody or control as he is required by the summons to produce.

(2) A summons under this section may be served–

(a) personally; or

(b) by sending it by post to the person at his place of abode or business last-known to the Chairman or Deputy Chairman; or

(c) by leaving it at that place of abode or business with some person apparently living or employed at that place and apparently not less than 16 years of age.

46. POWER TO EXAMINE ON OATH.

A member of the Board may administer an oath to a person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and the witness may be examined on oath.

47. FAILURE TO ATTEND OR PRODUCE DOCUMENTS.

(1) A person served with a summons to attend the Board who refuses or fails, without reasonable excuse, to attend the Board, or to produce the books, documents or writings in his custody or control that he is required by the summons to produce, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not exceeding K10.00.

(2) It is a defence to a prosecution for refusing or failing, without reasonable excuse, to produce a book, document or writing if the defendant proves that the book, document or writing was not relevant to the matter the subject of the Board's proceedings.

48. REFUSAL TO BE SWORN OR GIVE EVIDENCE.

(1) A person appearing as a witness before the Board who refuses to be sworn or to make an affirmation, or to answer a question relevant to the proceedings put to him by a member of the Board, is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(2) A statement or disclosure made before the Board by a witness is not, except in an appeal to the National Court under Part V or in proceedings for giving false testimony before the Board, admissible in evidence against him in any civil or criminal proceedings.

49. PROTECTION OF WITNESSES.

A witness before the Board has the same protection as a witness in a matter before the National Court.

50. FEES AND ALLOWANCES TO WITNESSES.

A person who attends for the purpose of giving evidence before the Board is entitled to receive such fees and allowances as the Chairman, or in his absence the Deputy Chairman, thinks fit to allow in accordance with the prescribed scale of fees and allowances.

51. BOARD MAY INSPECT BOOKS, ETC.

The Board may inspect any books, documents or writings before it and may—

- (a) retain them for such reasonable period as it thinks fit; and
- (b) make copies of such portions of them as are relevant to a matter before the Board.

52. EXAMINATIONS.

The Board may appoint examiners and supervisors of examinations and pay such fees to them as the Minister determines, and may hold examinations and shall give certificates of competency in surveying to persons who have fulfilled the prescribed conditions.

53. POWER OF ENTRY ON LAND, ETC.

^[75](1) Notwithstanding any other law—

- (a) a registered surveyor, and such assistants as he thinks necessary; or
- (b) a person authorized by a registered surveyor; or
- (c) a certified measurer, and such assistants as he thinks necessary; or
- (d) a person authorized by a certified measurer,

may, at all reasonable times, and, subject to Subsection (2), on giving notice to the owner or occupier of the land of his intention to enter on the land, enter on any land (whether it is the land to be surveyed or other land) for the purpose of making an authorized survey and may, for that purpose, open any fence, place survey marks on the land and enter any building on the land to determine the position of a wall or to define a boundary.

(2) Notice under Subsection (1) need not be given if—

- (a) the land to be surveyed or part of it is in a Local-level Government area and written notice has, not less than one week before the entry, been given to the Local-level Government specifying the area, or the approximate area, in which the survey is to be conducted, together with a request that the Local-level Government advise any persons likely to be affected of the intended survey; or
- (b) the name or place of abode or business of the owner or occupier is not known to the surveyor or certified measurer; or
- (c) the land is apparently unoccupied; or
- (d) the owner or occupier cannot, with the exercise of reasonable diligence, be found before the survey is due to commence, and unreasonable delay or expense would otherwise be caused,

but in any such case the surveyor or certified measurer shall—

- (e) advise any person who, at or about the time of the survey, asks for his authority for being on the land that he is conducting a survey and for what purpose; and
- (f) as soon as practicable notify the Subdistrict Office of the Subdistrict in which the land is situated of any damage done to the land or anything on the land in the course of the survey.

(3) In addition to the powers conferred by Subsection (1), the registered surveyor or certified measurer and his assistants or a person authorized by the registered surveyor or certified

measurer may, with as little damage as possible, trim, lop or cut down trees or bushes that may obstruct the survey.

(4) A person who, without reasonable excuse, hinders or obstructs a person in the exercise of the powers conferred by this section, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(5) A registered surveyor or certified measurer is liable to pay compensation to the owner of land entered for damage caused in the exercise of the powers conferred by this section.

(6) Where the damage caused was necessary for the purposes of the survey, the person who engaged or employed the registered surveyor or certified measurer shall reimburse the registered surveyor or certified measurer the amount that he is required to pay as compensation for the damage.

(7) A notice of intention to enter land under Subsection (1) may be given—

(a) in writing or orally to the owner personally; or

(b) in writing by post addressed to the owner at his usual or last known place of abode or business; or

(c) in writing to a person apparently living or employed at that place of abode or business and apparently not less than 16 years of age,

but where notice of intention is given in accordance with Paragraph (b) entry must not be made before the notice would be delivered in the ordinary course of post.

54. JUDICIAL NOTICE.

All courts, Judges and persons acting judicially shall take judicial notice of the signature of the Chairman or Deputy Chairman appearing on a certificate issued under this Act and of the fact that the person by whom the certificate purports to have been signed was, at the time when the certificate was signed, the Chairman or Deputy Chairman, as the case may be.

55. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing matters providing for and in relation to—

(a) the fees (if any) payable in respect of any application, registration, certificate or other proceeding, act or thing provided for or required under this Act; and

(b) the forms to be used for the purposes of this Act; and

(c) the requirements of and the registration of all indentures and contracts of cadetship in land surveying, and for providing for the appointment of examiners and the holding of, subjects of, and fees for, examinations; and

(d) the rates of survey fees to be paid for surveying services provided by or on behalf of the State, and the circumstances under which those rates are applicable; and

(e) penalties of fines not exceeding K100.00 and default penalties of fines not exceeding K10.00 for offences against the regulations.

SCHEDULE 1 – OATH AND AFFIRMATION OF OFFICE OF REGISTERED SURVEYOR.

Sec. 18(3).

Oath.

“I, . . . , of . . . , do swear that I will, to the best of my ability and without fear or favour, affection or ill-will, correctly survey and delineate the boundaries of any lands which I may be instructed to survey.

So help me God!”

Affirmation.

“I, . . . , of . . . , do solemnly and sincerely declare that I will, to the best of my ability and without fear or favour, affection or ill-will, correctly survey and delineate the boundaries of any lands which I may be instructed to survey.”

Office of Legislative Counsel, PNG

^[1] Section 1 (definition of “authorized survey”) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s2(a).

^[2] Section 1 (definition of “certified measurer”) added by *Survey (Amendment) Act 1987* (No. 47 of 1987), s2(b).

^[3] Section 1 (definition of “mark”) added by *Survey (Amendment) Act 1987* (No. 47 of 1987), s2(c).

^[4] Section 1 (definition of “Register of Certified Measurers”) added by *Survey (Amendment) Act 1987* (No. 47 of 1987), s2(d).

^[5] Section 1 (definition of “Rural Class 3 Survey”) added by *Survey (Amendment) Act 1987* (No. 47 of 1987), s2(e).

^[6] Section 1 (definition of “survey mark”) repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s2(f).

^[7] Section 1 (definition of “urban lands”) added by *Survey (Amendment) Act 1987* (No. 47 of 1987), s2(g).

^[8] Section 3 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s3.

^[9] Division IV.1: heading inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s4.

^[10] Section 15 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s5.

^[11] Section 16 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s6.

^[12] Division IV.2: Heading inserted by *Survey (Amendment) Act 1987* (No.47 of 1987), s7.

^[13] Section 17: headnote amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s8(a).

^[14] Section 17(1) amended by *Survey (Amendment) Act 1987* (No.47 of 1987), s8(b).

^[15] Section 17(1) amended by *Survey (Amendment) Act 1987* (No.47 of 1987), s8(b).

- [16] Section 18: headnote amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s9(a).
- [17] Section 18(4) added by *Survey (Amendment) Act 1987* (No. 47 of 1987), s9(b).
- [18] Section 18(4) added by *Survey (Amendment) Act 1987* (No. 47 of 1987), s9(b).
- [19] Division IV.3 inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s10.
- [20] Section 19A inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s10.
- [21] Section 19B inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s10.
- [22] Section 19C inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s10.
- [23] Division IV.4: Heading inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s11.
- [24] Section 20 amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s12.
- [25] Section 21(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s13.
- [26] Section 21(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s13.
- [27] Section 22(1)(a) repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s14(a).
- [28] Section 22(1)(b) repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s14(b).
- [29] Section 23: Penalty clause amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s15.
- [30] Section 24(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s16(a).
- [31] Section 24(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s16(a).
- [32] Section 24(2) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s16(b).
- [33] Section 24(2) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s16(b).
- [34] Section 25 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s17.
- [35] Section 26(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(a)(i).
- [36] Section 26(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(a)(i).
- [37] Section 26(1)(b) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(a)(ii).
- [38] Section 26(1)(d) repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(a)(iii).
- [39] Section 26(1)(e) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(a)(iv).
- [40] Section 26(1)(g)(iii) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(a)(v).
- [41] Section 26(1)(g)(iv) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(a)(vi).
- [42] Section 26(2) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(b).
- [43] Section 26(2) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(b).
- [44] Section 26(3) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(c).
- [45] Section 26(3) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s18(c).
- [46] Section 29(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s19.
- [47] Section 29(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s19.
- [48] Section 30(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s20.
- [49] Section 30(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s20.
- [50] Section 31 amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s21.
- [51] Section 33 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s22.
- [52] Section 35 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s23.
- [53] Section 36(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s24(a).
- [54] Section 36(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s24(a).
- [55] Section 36(2) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s24(b).
- [56] Section 36(2) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s24(b).
- [57] Section 37A inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s25.

- [58] Section 38(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s26(a).
- [59] Section 38(1) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s26(a).
- [60] Section 38(1)(a) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s26(a)(i).
- [61] Section 38(1)(b) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s26(a)(i).
- [62] Section 38(2) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s26(b).
- [63] Section 38(2) amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s26(b).
- [64] Section 39: headnote amended by *Survey (Amendment) Act 1987* (No. 47 of 1987), s27(a).
- [65] Section 39(1) repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s27(b).
- [66] Section 39(1) repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s27(b).
- [67] Section 39A inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s28.
- [68] Section 40(2): Penalty clause repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s29.
- [69] Part VII repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s30.
- [70] Section 42 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s30.
- [71] Section 43 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s30.
- [72] Section 43A inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s30.
- [73] Section 43B inserted by *Survey (Amendment) Act 1987* (No. 47 of 1987), s30.
- [74] Section 44 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s30.
- [75] Section 53 repealed and replaced by *Survey (Amendment) Act 1987* (No. 47 of 1987), s31.