

**CONSOLIDATED TO 30 JUNE 2012**

**LAWS OF SEYCHELLES**

**CHAPTER 109**

**LAND SURVEY ACT**

*[1st June, 1964]*

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## PART I

### *Preliminary*

1. This Act maybe cited as the Land Survey Act.
2. In this Act unless the context otherwise requires-

“absentee” means a person who is absent from Seychelles or who is on one of the outlying islands and is not represented by any agent or proxy duly authorized by his power of attorney to act for or represent his principal in any relevant transactions required or permitted to be done under this Act;

“approved” in relating to any plan or diagram means the signature of such plan or diagram by the Director in order to signify that the requirements of this Act have been complied with in regard to such plan or diagram;

“beacon” means the mark or structure made or erected at, or indicative of, the corner point of a parcel of land, or at an intermediate line point on a rectilinear boundary of a parcel of land, by a land surveyor or by his agents, servants or workmen acting under his direction, and includes a bench mark, reference mark or control point made or erected by a land surveyor, a Government surveyor or a cadastral surveyor;

“Board” means the Land Surveyors Board established by section 3;

“diagram” means a document containing geometrical, numerical and verbal representations depicting, in such manner and to such standards of accuracy as may be prescribed, the beacons, boundaries and dimensions of one parcel of land as surveyed by a land surveyor, which document has been signed by such surveyor or which document has been signed by such surveyor or which has been certified by the Director as having been compiled under his authority and supervision from the records of a survey or surveys carried out by one or more land surveyors either before or after the date of commencement of this Act and includes any document which, at any time prior to the date of commencement of this Act, has been accepted as a diagram in the office of the Director or his predecessors;

“Director” means a person appointed by the President as Director of Surveys for the purposes of this Act and shall include any Government surveyor deputed by the Director to do any act which may lawfully be done by him under this Act.

“Government surveyor” means a land surveyor in the service of the Government and includes the Director.

“land surveyor” means a person holding a licence;

“licence” means a licence to practise as a land surveyor issued by the Licensing Authority;

“Licensing Authority” means the Licensing Authority established by section 3 of the Licences Act;

“outlying islands” means such islands or group of islands as are listed as outlying islands in the First Schedule to the Peace Officers (Inner Islands and Outlying Islands) Act;

“owner” means, in ordinary cases, a person having the full ownership; the term “owner” means-

- (a) in any case where full ownership does not rest with the same person, the usufructuary and the bare owner;
- (b) the owner’s agent or proxy duly authorized by his power of attorney to act for or represent his principal in the relevant transaction required or permitted to be done under this Act;
- (c) in case of co-ownership, the fiduciary;
- (d) in cases of vacant estates and successions, the Curator of Vacant Estates;
- (e) in cases of a succession which has opened but has not yet been settled, the executor;
- (f) in cases of minority, the administrator or the guardian;
- (g) in cases of interdiction, the guardian;
- (h) in cases of appointment of a curator under Article 499 or Article 513 of the Civil Code of Seychelles, the person to whom a curator has been appointed and the curator; and
- (i) in cases of substitution, the institute (grevé) acting with the concurrence of the tutor to the substitution;

“parcel of land” means any piece or unit of land, enclosed within determinable boundaries;

“prescribed” means prescribed by the regulations;

“the regulations” means the regulations made under this Act.

## PART II

### *Land Surveyors Board*

3. (1) There is hereby established a Board, to be known as the Land Surveyors Board, which shall consist of the Director, who shall be chairman, and two other members appointed by the Minister, who shall, if practicable, be land surveyors.

(2) Subject to subsection (3), a member appointed by the Minister shall hold office for a period of two years but shall be eligible for re-appointment.

(3) The Minister may at any time terminate the term of office of a member of the Board.

(4) The chairman of the Board may co-opt a member of the legal profession to assist the Board in its deliberations.

4. The duties of the Board shall be to-

- (a) make recommendations to the Licensing Authority on the granting of licences;
- (b) make provision for examinations to be taken by applicants for licences;
- (c) keep a register of licences land surveyors which shall contain the names, addresses and qualification of all persons to whom licences have been granted, the date on which each such licence was granted, and such other particulars as may be prescribed.
- (d) to act as arbitrator in any dispute between a licensed land surveyor and a client as to the fees charged by the licensed land surveyor;
- (e) advise the Minister on the amendment or revision of this Act and the Schedules of fees made thereunder; and
- (f) perform such other functions as may be prescribed;

## PART III

### *The licencing of Land Surveyors, duties of Land Surveyors and*

#### *Disciplinary proceedings against Land Surveyors*

5. (1) A person shall be entitled to be granted a licence by the Licensing Authority on recommendation of the Board to practise as a land surveyor if-

- (a) he has attained the age of 21 years; and
- (b) he is qualified as hereinafter provided; and
- (c) he has complied with the provisions of this Act.

(2) The Director shall by virtue of his appointment be deemed to have been granted a licence by the Licensing Authority to practice as a land surveyor so long as his appointment subsists.

**6.** (1) A person holding any of the qualifications mentioned in the following subsection shall be deemed to be qualified for the purposes of paragraph (b) of section 5 if in addition-

- (a) he satisfied the Board that he has had field experience in land surveying; and
- (b) he carries out to the satisfaction of the Board a trial survey; and
- (c) he satisfies the Board that he is capable of conducting land surveys in accordance with the laws in force in Seychelles.

- (2) (a) A commission as sworn land surveyor under the provisions of the Sworn Land Surveyors Act (now repealed); or
- (b) a qualification in land surveying approved by the Minister for the purposes of subsection (1).

**7** (1) Every person who applies for a licence as land surveyor shall before receiving such licence give security in the sum of rupees five thousand for the due performance of his duties. A Government surveyor shall be exempt from giving security as provided under this section.

(2) Such security shall be of the following nature:-

- (a) a first line mortgage on real property; or
- (b) a joint bond signed before a Judge in Chambers by the land surveyor and by two solvent persons resident in Seychelles and deposited in the Registry of the Supreme Court; or
- (c) cash deposited in an account with the Government.

(3) The security shall be approved by the Minister and shall be subject as to release to the provisions of the Public Officers Security Act.

**8.** The Director and every land surveyor shall as soon as may be after his appointment or receiving his licence take the prescribed oath.

**9** (1) A land surveyor shall-

- (a) carry out every survey undertaken by him in such manner as will ensure accurate results and in accordance with the provisions of this Act;
- (b) be responsible to the Director for the correctness of every survey carried out by such land surveyor or under his supervision and of every diagram which bears his signature;

- (c) deposit with the Director, for the purpose of being permanently filed in the office of the Director, such records as may be prescribed relative to every survey carried out by him after the date of commencement of this Act; and
- (d) when required by the Director, without delay correct in any survey carried out by such land surveyor after the date of commencement of this Act or in any work appertaining thereto, any error which is in excess of the prescribed limits of error and take such steps as may be necessary to ensure the amendment of any diagram based on such incorrect survey and to adjust the position of any beacon he has placed in accordance with such incorrect survey.

(2) Neither the Government nor any officer thereof shall be liable for any defective survey or work appertaining thereto performed by a land surveyor not being a Government surveyor notwithstanding that a diagram relating to such survey or work has been approved.

**10** (1) All cases of breach of duty or misconduct committed by a land surveyor shall dealt with by the Licensing Authority.

(2) A land surveyor shall be deemed to be guilty of breach of duty or of misconduct if he-

- (a) signs, except as provided in sections 27 and 28, a diagram of any parcel of land in respect of which he has not carried out or personally supervised the whole of the survey and field operations and carefully examined and satisfied himself of the correctness of the entries in any field book, and the calculations, working plans and other records in connection therewith, which may have been made by any other person;
- (b) Signs a defective diagram knowing it to be defective; or
- (c) Repeatedly performs, through negligence or incompetence, defective surveys or surveys to which adequate checks have not been applied; or
- (d) Makes any entry in a field book, copy of a field book or other document which purports to have been derived from actual observation or measurement in the field when it was not in fact so derived; or
- (e) Supplies erroneous information to the Director in connection with any survey, boundaries or beacons of land knowing it to be erroneous; or
- (f) Is guilty of such other breach of duty or such misconduct as renders him unfit to hold a licence or to practise as a land surveyor.

**11.** Any person who, without holding a licence as a land surveyor or without having received the special written permission of the Minister, shall act or hold himself out as a land surveyor or shall in consideration of any remuneration make a survey of land in Seychelles for the purpose of determining the position of beacons and boundaries, shall be guilty of an offence and shall on conviction be liable to imprisonment not exceeding one year or to a fine not exceeding R.10,000 or to both such imprisonment and fine.

#### PART IV

*Original surveys, re-surveys and division surveys*

**12** (1) All owners of land whose rights may be affected by a survey shall have a right to be present at such survey.

(2) A land surveyor before performing a survey shall summon such owners to attend the survey at a place, date and time to be specified in the summons. The summons shall be sent by registered post to the last known address of the owner in Seychelles and shall be posted seven days before the day of the survey. The owner of the land under survey at whose instance the survey is to be performed need not be summoned as provided under this subsection.

(3) The duty imposed upon a land surveyor by the provisions of subsection (2) shall be carried out by him with all due diligence. Failure on his part to summon any such owners or failure on the part of any such owners to be present at the survey shall not preclude the land surveyor from performing the survey and shall not invalidate such survey.

(4) No summons need be sent as provided under subsection (2) in the case where-

- (a) any owner who should be summoned:-
  - (i) agrees in writing to be present at the survey; or
  - (ii) agrees in writing to the survey being performed in his absence; or
  - (iii) a beacon or boundary deemed under section 21 to have been lawfully established is being resurveyed for purposes not involving an alteration in the position of such beacon or boundary.

**13.** (1) An agreement as to beacons and boundaries (in this section referred to as “the agreement”) shall be required in the following cases and in such other cases as may be prescribed-

- (a) when a survey is carried out of any previously unsurveyed boundary;
- (b) when, in the course of an original survey abutting upon a previous survey or a re-survey or of a division survey the data derived from the later survey differ beyond the prescribed limits from the data obtained in the previous survey;
- (d) when a survey is performed for the purpose of settling a boundary dispute, when such dispute has been resolved and diagrams resulting from such survey are to be approved.

(2) The agreement shall be, as far as practicable, in such form as may be prescribed and shall be signed by the owner of the parcel of land under survey, by every contiguous owner and by the land surveyor performing the survey. If any party who is required to sign the agreement under the provisions of this subsection is unable so to do from physical disability or otherwise, such party shall affix a mark thereto.

Provided that such mark shall be affixed in the presence of two witnesses who shall identify the party, attest that the mark was affixed in their presence and sign the agreement.



(3) If any contiguous owner fails to sign the agreement within a period of one month from the date upon which he was called upon to sign the agreement, the owner of the land under survey shall serve upon such contiguous owner a notice in writing, informing him that if he fails, within a further period of two months from the date of service of such notice to lodge in the Registry of the Supreme Court an objection to the boundaries or beacons of such parcel of land as set forth in the agreement which he was called upon to sign, he will be deemed to have agreed to such boundaries and beacons:

Provided that if such contiguous owner is an absentee or if the address of such contiguous owner cannot be ascertained it shall not be necessary to call upon such contiguous owner to sign the agreement prior to serving a notice upon him as set out under the preceding provision of this subsection:

Provided also that if such contiguous owner is an absentee when so served with such notice the period of two months shall be extended to six months:

And provided further that if the address of any such contiguous owner is not known, the publication of such a notice in an issue of the Gazette and once each week during two consecutive weeks in a newspaper published and circulated in Seychelles, shall be deemed to be service of such notice for the purpose of this subsection.

(4) The service of notice referred to in subsection (3) shall, subject to the third proviso of that subsection, be effected by personal delivery or by registered post.

(5) Whenever:

- (a) a contiguous owner has failed to sign the agreement; and
- (b) the Director has been satisfied by such proof as he may deem necessary that the provisions of subsection (3) have been complied with; and
- (c) no objection to any beacon or boundary adopted in the survey to which the agreement relates has been lodged in the Registry of the Supreme Court by such contiguous owner within the period mentioned in the notice served upon him in terms of subsection (3), or if such contiguous owner has lodged an objection but due to his failure to institute an action in the Supreme Court is deemed by virtue of subsection (7) to have agreed to the beacons and boundaries; and
- (d) the other requirements of this Act have been complied with in regard to the survey and resulting plans and diagrams, the Director shall approve the survey to which the agreement relates. In the case of surveys carried out by the Director, the functions of the Director under this subsection shall be performed by such other officer or person as may be prescribed.

(6) If any contiguous owner has failed to sign the agreement, and has, within the period mentioned in any such notice as is referred to in subsection (3), lodged at the Registry of the Supreme Court an objection to any beacon or boundary adopted in the survey in question, a Judge in Chambers may, if every person affected by such objection undertakes to accept the award of an arbitrator or arbitrators to be appointed by the Judge as final and conclusive upon all matters in dispute in connection with any beacon or boundary and in regard to the cost of or incidental to such arbitration, appoint such arbitrator or arbitrators to determine such matters

and costs and his or their award shall thereupon be final and conclusive and shall not be challenged in any court.

(7) If any person who has lodged an objection mentioned in subsection (6) fails to give the undertaking therein referred to, he may within three months after the date upon which he was called upon to accept the award of an arbitrator or arbitrators institute an action in the Supreme Court to determine any such matter and if he fails within such period to institute such action he shall be deemed to have agreed to such beacons and boundaries.

(8) In cases of minority, interdiction or substitution, a person deemed under section 2 to be the owner shall have full power to accept the agreement and render it binding notwithstanding that such acceptance may amount to a transfer, compromise or to an act not purely of administration.

(9) For the purposes of this section-

“contiguous owner” means the owner of any land abutting upon the boundary under survey; and

“sign” includes affixing a mark in the manner set out in subsection (2).

(10) This section shall not apply to any survey started on or after 1<sup>st</sup> January, 1981.

**14.** (1) The owner of the property under survey or a contiguous owner may object to beacons and boundaries in the following cases and in such others as may be prescribed-

- (a) when a survey is carried out of any previously unsurveyed beacon or boundary;
- (b) when a survey is carried out of a period which abuts on to a parcel the survey of which has not been approved by the Director;
- (c) where a sub-division is carried out of a parcel the survey of which has not been approved by the Director;
- (d) when, in the course of an original survey abutting on a previous survey or of a re-survey or of a division survey, the data derived from the later survey differs beyond the prescribed limits from the data derived from the previous survey; and
- (e) when a survey is carried out for the purpose of settling a boundary dispute, when such dispute has been resolved and diagrams resulting from such survey are to be approved.

(2) On completion of a survey of any land, the land surveyor shall serve on the owner and all contiguous owners of whom he is aware, a notice in writing informing them that the survey has been lodged with the Director and that any objections to the beacons and boundaries set out in the related survey records must be lodged in the Registry of the Supreme Court within 2 months of the date of the notice.

(3) In addition to the notice served under subsection (2) the land surveyor shall publish in the Gazette and in a newspaper circulating in Seychelles a notice stating that the survey has been lodged with the Director and that any objections to the beacons and boundaries

set out in the related survey records must be lodged in the Registry of the Supreme Court within 2 months of the date of publication.

(4) An owner or contiguous owner may indicate in writing his acceptance of the beacons and boundaries and, if he fails to do so or to lodge an objection within the period specified in subsection (2) or (3) he shall be deemed to have accepted the beacons and boundaries.

(5) Service of a notice under subsection (2) and publication of a notice under subsection (3) shall be necessary in the case of a subdivision of a parcel the survey of which has not been approved by the Director:

Provided that-

- (i) service of a notice shall not be necessary on those owners or contiguous owners who are absentees or whose address cannot be ascertained who have accepted or who are deemed to have accepted the beacons and boundaries or whose objections thereto have been dismissed by the Supreme Court or as a result of arbitration under this section;
- (ii) failure to serve a notice under subsection (2) shall not invalidate the survey and the Director may approve such survey notwithstanding such failure.

(6) If an owner or contiguous owner has lodged an objection under this section in the Registry of the Supreme Court, a judge in Chambers may, if every person affected by such objection undertakes to accept the award of an arbitrator or arbitrators to be appointed by the judge as final and conclusive upon all matters in dispute in connection with any beacon or boundary and in regard to the costs of or incidental to such arbitration, appoint such arbitrator or arbitrators to determine such matters and costs and his or their award shall thereupon be final and conclusive and shall not be challenged in any court.

(7) If any person who has lodged an objection under this section fails to give the undertaking referred to in subsection (6) he may, within 3 months after the date he was called upon to accept the award of an arbitrator or arbitrators, institute an action in the Supreme Court to determine the matter, and if he fails within such period to institute such action he shall be deemed to have accepted such beacons and boundaries.

(8) If any person affected by an objection lodged under this section fails or is unable for any reason to give the undertaking referred to in subsection (6) and the matter cannot be referred to arbitration under that subsection, the person who lodged the objection may, within 3 months of the filing of the objection, institute an action in the Supreme Court to determine the matter, and if he fails within such period to institute such action he shall be deemed to have accepted such beacons and boundaries.

(9) The Director shall approve a survey lodged with him when the beacons and boundaries of that survey have been accepted or are deemed under this section to have been accepted or when the position of such beacons and boundaries is in accordance with a judgment or order of the Supreme Court or with the award of an arbitrator or arbitrators made under subsection (6); in the case of surveys carried out by the Director, for functions of the Director under this subsection shall be performed by such other person as may be prescribed.

(10) In cases of co-ownership, succession, minority, interdiction or substitution a person deemed under section 2 to be the owner shall have full power to accept beacons and

boundaries notwithstanding that such acceptance may amount to a transfer, compromise or an act not purely of administration.

(11) In this section “contiguous owner” has the same meaning as in section 13.

(12) This section shall apply to surveys stated on or after 1st January 1981.

**15.** (1) Whenever a dispute in regard to any boundary or beacon of contiguous parcels of land has been finally determined by a judgment of the Supreme Court or by the award of an arbitrator or arbitrators, the owners of any land affected by such judgment or award or such of them as may be specially directed thereby, shall take such steps as may be necessary to have a survey made for the purpose of framing a diagram correctly representing the boundaries and beacons of such land as determined by such judgment or award.

(2) Any judgment or award mentioned in subsection (1) shall determine in what proportion the cost of any survey for the purpose of framing any diagram or otherwise giving effect to such judgment or award shall be borne by the owners of any land affected by such judgment or award.

**16.** (1) Whenever it is established to the satisfaction of the Director that an approved diagram does not correctly represent the boundaries of a parcel of land the owner thereof may apply to the Director for the cancellation of the existing diagram and the approval in lieu thereof of a new diagram of such land based on a re-survey.

(2) The provisions of section 13 or section 14 shall apply mutatis mutandis in regard to such new diagram and to all matters in connection therewith or to the survey upon which it is based and such new diagram shall not be approved unless the said provisions have been complied with.

(3) If it appears from a re-survey under this section that an existing diagram is correct, the Director shall endorse thereon a certificate that the land represented thereby has been resurveyed and the beacons and boundaries of such parcel of land shall be deemed to have been lawfully established in accordance with section 21:

Provided that the provisions of section 13 or section 14 shall apply mutatis mutandis in the manner as if such re-survey were a survey and as if such endorsement were an approval of the diagram for the purposes of that section, and that such endorsement shall not be made unless those provisions have been complied with.

**17.** (1) Whenever the owner of a parcel of land surveyed under this Act desires to subdivide the same into one or more portions of land, each such portion shall be surveyed and a diagram thereof prepared in accordance with the provisions of this Act shall be submitted to the Director for approval.

(2) The Director may, in his discretion, permit one of the portions to be described as the remaining extent, in which case it shall not be necessary to submit a diagram of such remaining extent.

**18.** If on the re-survey of a parcel of land or on the survey of such parcel for the purpose of division (in this section referred to as the re-survey), the numerical data derived from the re-survey are found to differ from those numerical data on the diagram of the parcel of land under re-survey, the Director shall-

- (a) when the difference is beyond the prescribed limits of error, approve a diagram prepared in accordance with the re-survey as if the parcel of land such as is referred to in section 13 or section 14 and in subsection (1) of section 16:

Provided that the provisions of section 13 or section 14 have been complied with mutatis mutandis in regard thereto and to all matters in connection therewith:

Provided further that every parcel of land, a beacon or boundary whereof has a bearing on or reference to the parcel of land represented on the said diagram shall be deemed to be contiguous to such parcel of land for the purposes of section 13 or section 14,

- (b) when the different is not beyond the prescribed limits of error and he is satisfied that the re-survey has been more accurately performed than the previous survey, and that the positions of the beacons and boundaries adopted in both such surveys are identical, approve a new diagram of the parcel of land under re-survey, or a diagram of any portion thereof prepared in accordance with the re-survey;
- (c) when the difference is beyond the prescribed limits of error in respect of certain only of the beacons and boundaries, while the numerical data of the remaining beacons and boundaries either agree or do not differ beyond the said limits, approve a new diagram of the parcel of land under re-survey or a diagram of any portion thereof prepared in accordance with the resurvey, if the provisions referred to in paragraph (a) of this section have been complied with in regard to those beacons and boundaries the data whereof differ beyond the prescribed limits, and the conditions referred to in paragraph (b) of this section are present in regard to all other beacons and boundaries:

Provided that the Director may at his discretion approve the diagram without compliance with the provisions of subsection (1) of section 13 or section 14 in respect of any beacon or boundary in regard to which there is documentary evidence in his office proving that the position determined for such beacon or boundary is correct.

**19.** When a parcel of land not already surveyed under this Act is subdivided into one or more precise fractions, the Director may withhold his approval of a diagram purporting to represent an exact fraction of the total area of such parcel of land until he is satisfied that such total area has been redetermined by a survey of the whole of such parcel of land performed in accordance with the provisions of this Act in conjunction with the survey of the subdivisinal fraction or fractions.

**20.** Every land surveyor who executes a survey shall deliver or transmit to the Director for examination and filing-

- (a) such records as may be prescribed relative to such survey and any other information which such land surveyor may consider material and useful or which the Director may require;
- (b) in the case of a re-survey or of a division survey under sections 16 and 18, a report with an explanatory plan clearly setting forth the degree or particulars in which such re-survey or division survey differs from the survey upon which the existing diagram or diagrams was or were based as disclosed by such diagram or diagrams and containing such other information as such land surveyor may deem material or useful or which the Director may require;

- (c) where applicable, an agreement as to beacons and boundaries as presented in section 13.

## PART V

### *Beacons and boundaries*

**21.** (1) The position of any beacon or boundary deemed in terms of this section to have been lawfully established shall be unimpeachable, that is to say, it shall not be capable of being brought into question in any Court, and the Director shall not accept for approval or filing any document which shows any beacon or boundary inconsistent with such position.

(2) Subject to the provisions of subsection (3) a beacon or boundary shall be deemed to have been lawfully established-

- (a) when its position is in agreement with the position thereof adopted in an original survey and when a diagram based on such original survey has been approved in accordance with the provisions of section 13 or section 14;
- (b) when its position is in agreement with the position thereof adopted in a re-survey and when a diagram based on such re-survey has been approved in accordance with the provisions of section 16;
- (c) when its position is in agreement with the position thereof adopted in a re-survey such as is referred to in-
  - (i) paragraph (a) of section 18;
  - (ii) paragraph (c) of section 18 if the provisions of paragraph (a) of that section have been complied with in regard to such beacon or boundary,

and when a diagram based on such re-survey has been approved;

- (d) when its position is in agreement with a judgment or order of the Supreme Court or with the award of an arbitrator or arbitrators made under the provisions of subsection (6) of section 13 or section 14.

(3) A contiguous owner who was not called upon to sign the agreement as to beacon or boundaries in accordance with the provisions of subsection (3) of section 13 or section 14 shall be deemed to have accepted the position of such beacons and boundaries and be bound thereby if ten years have elapsed from the time when such beacons and boundaries would but for such failure have been lawfully established under the provisions of section (2):

Provided that is if at any time within the said ten years it comes to light that such contiguous owner exists and should have been called upon to sign the agreement the procedure laid down in subsections (3) to (9) of section 13 or section 14 shall be followed before the beacons and boundaries to which the agreement relates may become lawfully established.

(4) The beacons and boundaries shown on a plan filed under subsection (6) of section 15 of the Land Registration Act shall be deemed to have been lawfully established after 10 years have elapsed from the first registration under the provisions of the said Act of the

parcel of land to which such plan relates or on the conversion by an order of the Supreme Court of the title to such parcel from a qualified to an absolute title.

(5) The period of the years mentioned in subsections (3) and (4) shall not be suspended by any event or for any cause whatsoever and shall run against all persons without exception notwithstanding anything in any enactment to the contrary.

**22.** (1) All beacons erected for the purpose or in consequence of any survey or re-survey of land under this Act shall be substantially and durably constructed under the supervision of and in the position determined by a land surveyor.

(2) Beacons shall be composed of such material, and erected in such manner, as may be prescribed.

(3) subject to the proviso to subsection (4) of section 24 the costs of erecting beacons, including the cost of determining their position by survey, when necessary, shall be borne by the owner of the land surveyed or resurveyed, who shall be entitled to recover from the owner or owners of land contiguous to the boundaries concerned a proportionate share of the cost of determining the position of, or of erecting, any beacon which is also a corner beacon of his or their properties.

**23.** Except with the consent of the Director, it shall not be lawful for any person to place any erection or to make any excavation within 0.5 meter of any beacon or survey station.

**24.** (1) Every owner of land shall maintain in proper order and repair, and shall do so in accordance with the regulations, any beacon or mark defining a corner point of his parcel of land whether such beacon or mark was erected for the purpose of or in connection with a survey or re-survey of such land under this Act or any prior law, or for the purpose of or in connection with a survey or re-survey of any land contiguous thereto.

(2) If any such beacon or mark has not been maintained in proper order or repair or has been removed or obliterated, the Director may, by delivery or by registered post, serve upon the owner of land whereof such beacon or mark indicates a corner point, a notice in writing calling upon him to arrange for the restoration of such beacon or mark to its correct position, or to have it re-erected in the prescribed manner, as the case may be:

Provided that the restoration or the re-erection of any such removed or obliterated beacon or mark shall be carried out by or under the immediate supervision of a land surveyor.

(3) If a beacon or mark in respect of which notice has been given under subsection (2) of this section is not restored or re-erected within six weeks of the date upon which any such notice was delivered or posted, the Director may cause such beacon or mark to be so restored or re-erected by a land surveyor.

(4) The owners of all parcels of land of which a beacon or mark indicates the corner points shall be liable in equal shares for the costs of the repair, restoration or re-erection of any such beacon or mark and the Director may recover from every such owner his proportionate share of all costs incurred by the Director under subsection (3):

Provided that if it is clearly established that any such owner, or the servant or agent of any such owner, has damaged, removed or obliterated any such beacon or mark the entire cost of the repair, restoration or re-erection of such beacon or mark shall be borne by such owner.

**25.** Any person who, for the purpose of carrying out any work which he may lawfully perform, desires to remove or disturb any beacon or mark, erected in connection with the survey of land may apply to the Director for authority to effect such removal or disturbance and the Director may thereupon authorize in writing such removal or disturbance and, at the expense of such applicant, employ any land surveyor to effect or supervise the removal or disturbance and subsequent replacement of such beacon or mark or the erection or placing of any other mark to indicate the position of such removed or disturbed beacon or mark in such manner as the Director may direct.

## PART VI

### *Diagram*

**26.** Every diagram submitted for approval shall be prepared in accordance with the requirements prescribed, and the numerical and other data recorded thereon shall be within the prescribed limits of consistency:

Provided that the Director may approve a diagram prepared Before the date of commencement of this Act in accordance with any law in force at the time of such preparation.

**27.** No diagram shall be approved unless it is prepared under the direction of and signed by a land surveyor and accords with the requirements of this Act:

Provided that a diagram may be approved if it has been framed from a general plan or from a diagram or diagrams filed in the Director's office without the signature thereon of the land surveyor who signed the original diagram, if he is not available or unreasonably refuses to sign the diagram so framed.

**28.** The director may approve a diagram which has been compiled under his authority and supervision from calculations or other records lodged in his office:

Provided that the numerical data of the diagram so compiled are consistent within the prescribed limits.

## PART VII

### *Miscellaneous*

**29** (1) The Director, a Government surveyor, a land surveyor and any other person generally or specially authorised in that behalf by the Minister may, for the purpose of performing any duties relating to survey-

- (a) enter upon any land with such assistants or servants, vehicles, appliances and instruments as are necessary for or incidental to the performance of such duties;
- (b) place, erect or set up any permanent beacon, bench mark, reference mark or trigonometrical station or any temporary flag, signal or other mark upon such land or upon any building or structure erected thereon;
- (c) alter or repair any beacon;



- (d) make use of any natural material upon which no work has previously been expended, and of any water, whether conserved or not, found upon or in such land;
- (e) enter at all reasonable hours any building or enclosed place for the purpose of obtaining any measurements necessary to a proper and satisfactory performance of his duties;
- (f) inspect all beacons and boundaries;
- (g) cut down any trees, branches, vegetation or brushwood in the vicinity of any beacon, mark, station, flag or signal for the purpose of enabling observations to be made thereto or therefrom:

Provided that-

- (i) reasonable notice of the intention to exercise any of the powers conferred by this subsection shall be given to the owner, or, if such owner is not in occupation, to the occupier of such land; and
- (ii) as little damage and inconvenience as possible shall be caused by the exercise of the said powers and such owner or occupier shall be entitled to compensation for any damage caused to or in any building or enclosed place and for any unreasonable damage caused to any other property belonging to such owner or occupier and such compensation shall be determined and paid in the prescribed manner.

(2) Any person who in any manner whatsoever prevents, obstructs or impedes or attempts to prevent, obstruct or impede, the exercise of any power conferred by subsection (1) or removes, obscures or destroys any flag, peg signal or other mark of a temporary character lawfully placed on any land in connection with any surveying operations, shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

**30.** The Minister may require that a servitude in favour of the Republic protecting any beacon, bench mark, reference mark or trigonometrical station and ensuring an unobstructed view to and from any such beacon, mark or station, shall be granted over any land upon or near which any such beacon, mark or station is situated by the person who may lawfully grant the same in respect of such and may cause such servitude to be transcribed against the title of such land:

Provided that reasonable compensation for the depreciation, if any, in the value of the servient tenement by reason of the establishment of such servitude shall be paid by the Republic.

**31.** The Minister may make regulations prescribing-

- (a) the fees to be paid by an owner of land any survey of such land, including any records relating to such survey, the manner in which and the person by whom such fees may be taxed, the cost of such taxation and by whom they shall be borne;

- (b) the manner in which surveys shall be performed and the manner and form in which the records of such surveys shall be prepared and furnished to the Director;
- (c) the degree of accuracy to be obtained and the limit of error to be allowed in surveys and re-surveys of land;
- (d) the diagrams required in respect of all surveys of parcels of land, the manner of preparing such diagrams, the information to be recorded thereon and the number of such diagrams to be supplied;
- (e) the form and dimensions of beacons, reference marks, bench marks and trigonometrical stations, the manner of marking the same for identification and the manner of their construction, erection, protection, maintenance and repair;
- (f) the procedure to be followed in arbitration proceedings under this Act, the powers and duties of arbitrators appointed thereunder and the principles by which they should be guided in arbitration proceedings;
- (g) the manner in which surveys shall be based upon existing secondary and tertiary triangulations;
- (h) the steps to be taken by the Director to test the accuracy of surveys, the records of which are lodged with him for approval and in the event of such surveys being inaccurate, in the opinion of the Director, the action to be taken to ensure the rectification of the survey and the records thereof;
- (i) the testing of surveying instruments and of measuring tapes to be used in the survey of land;
- (j) the unit of measure to be used on diagrams;
- (k) the evidence which shall be produced and the conditions which shall be fulfilled by any person applying for a licence to practise as a land surveyor under this Act;
- (l) the method of examination of persons desirous of qualifying for a licence, the syllabus of subjects therefore, the standard to be reached at the examination in each subject and the fees payable for examination;
- (m) what certificates of examination, diplomas, degrees, licences or titles shall be recognized for the purpose of exempting a person from passing the whole or any part of any examination;
- (n) the fees or charges to be paid in respect of any diagram, plan or document issued by or any act or matter required or permitted to be performed or dealt with in the office of the Director;
- (o) the duties of the Director and the records to be kept in his office;
- (p) anything which is to be prescribed under this Act;

and generally as to any matter appertaining to the surveying and charting of land and for carrying out the objects and purposes of this Act.

**32.** All memoranda of survey and plans in the custody of the Registrar of Deeds shall be handed over to the Director for the purpose of being permanently filed in the records of his office.

**33.** (1) The Director may issue certified copies of diagrams, plans, or other records in his custody and such copies shall be admissible in evidence to the same extent and in the same manner as the original would but for this provision be admissible. Certificates that such copies or extracts are true and purporting to be signed by the Director shall, in the absence of proof to the contrary, be held to have been so signed.

(2) Section 8 of the Evidence Act shall apply to the Director in respect of the records filed in his office.

(3) The Director shall not, except on the order of a Court, issue a certified copy of any diagram, plan or other record in his custody and relating to a survey unless he is satisfied that the fees of the land surveyor who carried out the survey have been paid. This prohibition shall not apply after the death of the land surveyor concerned.

**34.** A land surveyor who has carried out a survey under this Act or under any prior enactment may only issue certified copies of such documents or other records as may be prescribed relative to such survey.

**35.** If a survey started before the date of commencement of this Act is not completed before such date or if the memorandum relating thereto is not registered or deposited with the Registrar of Deeds before such date, such survey may be completed in accordance with the Sworn Land Surveyors Act and the memorandum relating thereto shall be registered at the Mortgage and Registration Office and deposited after registration with the Director for the purpose of being permanently filed in his office.

