



ST. CHRISTOPHER AND NEVIS

CHAPTER 10.10

LAND SURVEYORS ACT

Revised Edition
showing the law as at 31 December 2002

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CHAPTER 10.10
LAND SURVEYORS ACT

AN ACT TO PROVIDE FOR THE LICENSING AND PROFESSIONAL CONDUCT OF LAND SURVEYORS; TO PROVIDE FOR THE MAKING OF LAND SURVEYS; TO PROVIDE FOR THE ESTABLISHMENT OF A LAND SURVEYORS BOARD; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Land Surveyors Act.

Interpretation.

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

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

“Chairperson” means the Chairperson of the Board;

“land registry” means the office of the registrar of titles established under the Title by Registration Act, Cap. 10.19;

“Minister” means the Minister responsible for lands;

“owner” in relation to any land, means any person receiving or entitled to receive rents or profits from any tenant or occupier thereof whether on his or her own account, or as an agent or trustee for any other person or who would receive the same if the land were let;

“plan” includes a map, plot, diagram, aerial photograph or a mosaic compiled from aerial photographs approved by the Minister as suitable for survey purposes;

“registered land” means land registered in the Land Registry;

“registered owner” means any person having a legal interest in registered land;

“registrar” means the Registrar of Titles;

“survey” means a survey defining the boundaries of land in Saint Kitts and Nevis;

“surveyor” means a surveyor licensed under this Act;

“Vice-Chairperson” means the Vice-Chairperson of the Board.

PART II

THE LAND SURVEYORS BOARD

Establishment of Board.

3. (1) There is established a Board to be known as the Land Surveyors Board, which Board shall consist of five persons appointed by the Governor-General on the recommendation of Cabinet.

(2) Two of the Board members appointed under subsection (1) of this section shall be licensed surveyors.

(3) The Board may, from time to time, co-opt a member of the legal department to assist in its deliberations.

Tenure of members of the Board.

4. (1) Members of the Board shall, subject to subsection (2) of this section hold office for such period, not exceeding three years, as may be specified in their instrument of appointment.

(2) A member whose period of appointment expires in accordance with the provisions of subsection (1) shall continue to hold office until his or her successor is appointed.

(3) The Chairperson of the Board shall be a licensed surveyor and shall be appointed by the Governor-General from among members of the Board.

(4) The Governor-General shall appoint a Vice-Chairperson from among members of the Board.

(5) The Chairperson and Vice-Chairperson, unless any of them earlier vacates office, as the case may be, shall hold office for one year, except that they may be eligible for re-appointment to that office.

(6) The names of the members of the Board as first constituted and every change in the membership of the Board shall be published in the *Official Gazette*.

Functions of the Board.

5. The Board shall be responsible for—

- (a) examining the credentials and qualifications of applicants who apply to the Board to be registered as surveyors;
- (b) processing applications submitted to the Board by applicants who wish to practise as surveyors;
- (c) keeping a register of all surveyors;
- (d) taking disciplinary proceedings against surveyors in accordance with the provisions of this Act;
- (e) hearing and determining any dispute between any surveyor and his or her client; and
- (f) performing such other functions as are prescribed by this Act or any regulations made under this Act.

Resignations from the Board.

6. (1) The Chairperson or Vice-Chairperson may, at any time, in writing resign his or her office and the resignation shall be addressed to the Governor-General.

(2) A member of the Board, other than the Chairperson and Vice-Chairperson, may, at any time, resign from office and the resignation shall be addressed to the Chairperson.

Termination of appointment of members.

7. The Governor-General may, acting on the advice of Cabinet, terminate the appointment of any member of the Board who—

- (a) becomes of unsound mind or incapable of carrying out his or her duties;
- (b) becomes bankrupt or compounds with, or suspends payment to his or her creditors;
- (c) is sentenced to a term of imprisonment which is over six months;
- (d) is convicted of any offence involving dishonesty;
- (e) is found guilty of misconduct in relation to his or her duties;
- (f) is absent, without permission of the Board, from three consecutive meetings of the Board; or
- (g) fails to carry out any of the duties or functions conferred or imposed on him or her by or under this Act.

Proceedings etc. of the Board.

8. The First Schedule to this Act shall apply to meetings and other matters of the Board as specified in that Schedule.

Disclosure of interest.

9. (1) A member of the Board whose interest is likely to be affected whether directly or indirectly by a decision of the board on any matter or is likely to evoke an allegation of bias, shall disclose the nature of his or her interest at the first meeting of the Board at which he or she is present after the relevant facts have come to his or her knowledge.

(2) A disclosure under subsection (1) of this section shall be recorded in the minutes of the Board and after the disclosure the member making the disclosure shall, unless the Board otherwise directs, leave the meeting.

(3) Where a member referred to in subsection (2) of this section is allowed by the Board to stay in the meeting, the member shall not take part in the deliberations on the matter by the Board nor shall the member vote on the matter.

Secretary to the Board.

10. There shall be a secretary to the Board who shall be seconded from the Ministry responsible for Lands, and the Secretary shall be responsible for servicing the Board and carrying out such other duties as the Board may direct, and may take part in the deliberations of the Board except that he or she shall not vote on any matter before the Board.

PART III

REGISTRATION, LICENSING AND DISCIPLINING OF SURVEYORS

Registration of surveyors.

11. No person shall be registered as a surveyor unless that person has a recognised degree or diploma in Survey Science or Geometrics from a recognised University, College, or Institute of higher learning.

Licensing of surveyors.

12. (1) No person shall practice as a surveyor without a licence granted to him or her under the provisions of this Act.

(2) A licence referred to in subsection (1) of this section shall be granted by the Governor-General on the advice of the Minister, and shall be in the Form set out in the Second Schedule to this Act.

Licence fee.

13. There shall be payable to the Treasury in respect of the grant of a licence to a surveyor the fee prescribed in the Schedule to the Licences on Businesses and Occupations Act.

Register of surveyors.

14. The Register to be kept by the Board shall contain the names, addresses, and qualifications of all persons to whom licences are granted, the dates on which such licences are granted and any other particulars which may be prescribed.

Disciplinary proceedings.

15. (1) The Board may commence disciplinary proceedings against a surveyor on any of the following grounds, that is to say—

- (a) where the surveyor is accused of having conducted himself or herself unprofessionally;
- (b) if the surveyor is convicted of a criminal offence involving moral turpitude or dishonesty;
- (c) if the surveyor is convicted of a criminal offence in which he or she is sentenced to six or more months' imprisonment.

(2) A person against whom disciplinary proceedings are commenced under subsection (1) of this section shall be afforded an opportunity of being heard, either in person or by an advocate.

(3) For the purpose of proceedings by the Board under this section, the Board may administer oaths and affirmations and may, subject to the provision of any regulations made under this Act, enforce the attendance of persons as witnesses and the production of books and documents.

(4) Any person who is summoned by the Board in accordance with the provisions of this Act to attend before it and fails to attend or fails to produce any book or document which he or she is required to produce commits an offence.

(5) A summons issued under this section shall be in the Form set out in the Third Schedule to this Act.

Power of the Board to impose penalty.

16. (1) Where, after the conclusion of the disciplinary proceedings under section 15 of this Act, the Board finds that a surveyor behaved in an unethical manner which does not warrant revocation of his or her licence, the Board may impose any of the following penalties, that is to say—

- (a) reprimand the surveyor;
- (b) suspend the licence of the surveyor for a period not exceeding three years; or

(2) Where, after the conclusion of the disciplinary proceedings under section 15 of this Act, the Board is of the opinion that a surveyor's licence should be revoked the Board shall accordingly make a recommendation to the Minister.

Appeal.

17. (1) A person aggrieved by a decision of the Board made under paragraph (a) or (b) of subsection (1) of section 16 of this Act may, within two months of the decision of the Board, appeal to an Appeals Board against the decision of the Board and the Appeals Board shall review the decision.

(2) Where a person is aggrieved by a decision made by the Appeals Board under subsection (1) of this section he may, within two months of the decision appeal to the High Court against the decision, and the High Court, upon receipt of the appeal, may determine the appeal and give such relief as may be appropriate.

(3) The Appeals Board shall consist of three suitably qualified persons appointed by the Minister upon such terms and conditions as the Minister may specify in their instruments of appointment.

Grant, revocation etc. of licence to be Gazetted.

18. Notice of the grant, suspension and revocation of any licence, and of setting aside of the suspension or revocation of any licence shall be published in the *Official Gazette*.

PART IV

CONDUCT OF SURVEYS

Only surveyors to survey land.

19. (1) A person shall not, other than a surveyor or his or her assistant—

- (a) survey any holding or land for the purpose of preparing any plan which is attached to or is referred to in any document or instrument purporting to confer, declare, transfer, limit, extinguish or otherwise deal with or affect any right, title or interest, whether vested or contingent to, in, or over land;
- (b) perform any survey which affects or may affect the definition of the boundaries, or the location of survey marks of any holding or land registered or to be registered under any law for the time being in force relating to the registration of land.

(2) A person who contravenes the provisions of this section commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or both.

Conduct of surveys.

20. A surveyor shall carry out a survey undertaken by him or her in such manner as will ensure that the survey accords in all respects with the provisions of this Act and any regulations made under this Act, and shall be responsible for the correctness and completeness of each survey carried out by him or her or under his or her supervision.

Surveyors and assistants may enter upon land and set up marks etc.

21. (1) For the purposes of any public survey, the surveyor authorised by the Minister may enter upon any land, with such assistants as may reasonably be required, and affix any instrument on the land that may be necessary for the survey and do any other thing necessary for such survey.

(2) Every surveyor shall give at least seven days notice to the owner or occupier of the land of his or her intention to enter the land, and where the owner or occupier cannot be found the surveyor shall place the notice in a conspicuous place on the land.

Compensation for damage to crops or trees.

22. (1) Compensation shall, in case of a Government surveyor, be payable out of the Consolidated Fund to any person whose crops or trees are cut or damaged in the exercise of the powers conferred on a surveyor by section 21 of this Act.

(2) Where any question arises as to the amount of compensation to be paid or the right of a claimant to recover compensation the question shall, in case the surveyor and any person concerned cannot agree, be determined by a Magistrate upon application made by either party.

(3) No application referred to under this section shall, except with the approval of the High Court, be granted if it is made more than six months after the date on which the crops or trees in respect of which the claim is brought were cut or damaged.

Passage over land.

23. (1) After giving notice as required by subsection (2) of section 21 of this Act a surveyor with assistants may, for the purpose of surveying any land which he or she is employed to survey, enter on and pass over any land causing as little inconvenience to the owner or occupier of such land as is consistent with his or her duties.

(2) Compensation shall be payable for any damage done to any land by reason of the exercise of the powers contained in subsection (1) of this section.

(3) Where a surveyor is a Government employee compensation shall be assessed in accordance with the procedure set out in section 22 of this Act.

(4) Where the surveyor is not a Government employee any compensation payable shall be subject to agreement between the surveyor and the aggrieved party.

(5) Where the parties referred to in subsection (4) of this section cannot agree compensation shall be determined by a Magistrate as provided in section 22 of this Act.

PART V

PRESERVATION OF SURVEY MARKS

Removing or damaging survey marks.

24. (1) No person, other than a person authorised by the Board, shall obliterate, remove, or damage—

- (a) any trigonometrical station, monument, survey beacon; or
- (b) any mark or pole of any boundary mark affixed, setup or placed for the purpose of conducting any public or other survey under this Act.

(2) A person who contravenes the provisions of subsection (1) of this section commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or both, and in addition to that punishment the Court may order the accused person to pay the cost of repairing or replacing the thing obliterated, removed or damaged and of making any survey rendered necessary by the act in respect of which the conviction is made.

Obstruction etc. of surveyors.

25. A person who obstructs or threatens any surveyor in the execution of his or her duty, or any workman or other person acting in aid of the surveyor, commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months or both.

Recovery of sums due.

26. Any sum due under the provisions of this Act may be sued for and recovered by the surveyor or any person authorised by him or her by action in any court of competent jurisdiction.

PART VI

MISCELLANEOUS PROVISIONS

Surveyors to send plans to Registrar.

27. (1) A surveyor who executes any survey in accordance with the provisions of this Act or of any regulations made under this Act shall send one copy of any plan relating to the survey to the Registrar of the High Court and another copy to the Department of Surveys, and the plan shall become the property of the Government.

(2) No plan which is submitted to the Registrar of the High Court in accordance with subsection (1) of this section shall be altered or amended in any way without the permission of the Minister.

Minister may order checks on surveys.

28. (1) The Minister may, at any time, order that field or office checks be carried out on the survey work of any surveyor as he or she thinks fit.

(2) The Minister may, by notice in writing, instruct any surveyor to correct, at his or her own expense and within a time specified in the notice, any error made by him or her in the survey represented by the plan submitted to the Department of Surveys.

(3) In the event of the surveyor refusing or neglecting, within the time specified, to correct the error the Minister may cause the correction to be made and may order the surveyor to pay the cost of making the correction.

(4) Where a surveyor refuses or neglects to pay the cost of the correction referred to in subsection (3) of this section within twenty-one days of the making of the order, the Board shall commence disciplinary proceedings against the surveyor and may after the conclusion of the proceedings require the surveyor to pay the cost of correction to the Board immediately, and if the surveyor neglects to comply with the order within one month after the date of the order, the Board may, subject to the provisions of section 22 of this Act, suspend the licence of the surveyor until the cost of the correction is paid.

Aerial photographer to notify Minister in advance and supply him with copies.

29. (1) A person who intends to carry out any aerial photography of the Federation for use in mapping or similar purpose shall, before carrying out the same, give to the Minister, in writing, not less than one month's notice of his or her intention to do so.

(2) A person who has carried out any aerial photography shall, if the Minister so requires in writing—

- (a) produce to the Minister for his or her inspection any photograph produced as the Minister may specify; and
- (b) supply to the Minister, at the Minister's cost, such copies and diagrams as the Minister may require of the photographs,

except that the supply of photographs to the Minister under this section shall not in any way affect the copyright in the photographs of the person supplying them or other owner of the copyright.

Regulations.

30. (1) The Minister may make regulations—

- (a) prescribing the manner in which surveys are to be made;
- (b) prescribing the records to be kept by surveyors and the manner of keeping the prescribed records;
- (c) prescribing the manner in which survey marks shall be constructed;
- (d) with regard to plans of survey, their preparation and the matters to be shown on the plans;
- (e) with regard to the publication, issue, service and form of the notices to be published, issued or served under this Act or regulations made under this Act;
- (f) prescribing returns to be made by surveyors;
- (g) requiring surveyors to report on matters connected with surveys on which they are engaged or with previous surveys ascertained by them during the course of their work;
- (h) for securing the maintenance of survey marks in their correct position and the preservation of the same;
- (i) providing for checking of surveys payments alleged to be erroneous and for the payment of the expenses of the checking;

- (j) providing for the checking of tapes and instruments used by surveyors;
- (k) providing for and regulating the inspection and the taking of copies of plans of surveys in the Department of Surveys;
- (l) prescribing any fees which may be charged under this Act;
- (m) prescribing any other matter which is required to be prescribed under this Act; and
- (n) generally for giving effect to the purposes of this Act.

(2) The Minister may, under the regulations made pursuant to the provisions of subsection (1) of this section, create summary offences and impose penalties, except that any penalty imposed shall not exceed a fine of one thousand dollars or a term of imprisonment of six months.

FIRST SCHEDULE

(Section 8)

MEETINGS AND PROCEDURE OF THE BOARD

1. The Board shall meet at such times and at such places as the Board considers necessary or expedient for the transaction of the business of the Board.
2. The Chairperson may at any time call a special meeting of the Board, and shall call a special meeting within fourteen days of the receipt of a request for that purpose addressed to him or her in writing and signed by any three members of the Board.
3. The quorum of the Board at any meeting shall be the majority of the membership of the Board.
4. The Chairperson or, in his or her absence, the Vice-Chairperson shall preside at meetings of the Board and, in the absence of both the Chairperson and the Vice-Chairperson, the members present and constituting a quorum shall elect a temporary Chairperson from among their number to preside at that meeting.
5. The decisions of the Board shall be by a majority of votes and, in any case in which the voting is equal, the Chairperson, Vice-Chairperson or other member presiding at the meeting shall have, in addition to his or her deliberative vote, a second or casting vote.
6. The Vice-Chairperson shall perform the duties of Chairperson in the absence of the Chairperson or where there is a vacancy in the office of the Chairperson.
7. (1) Minutes of each meeting shall be recorded and kept by the Secretary.
(2) A certified copy of the minutes of each meeting confirmed by the Chairperson or Vice-Chairperson shall be forwarded to the Minister within fourteen days after the meeting at which they were confirmed.
8. (1) The Chairperson may invite any person to attend the meeting of the Board where the Board considers it necessary to do so.
(2) A person referred to in subparagraph (1) of this paragraph may take part in the deliberations of the Board but shall not vote on any matter.
9. Subject to this Schedule, the Board may regulate its own procedure and may delegate to any of its members power and authority to carry out on behalf of the Board such duties as the Board may determine.

SECOND SCHEDULE

(Section 12)

THE LAND SURVEYORS ACT, CAP. 10.10

LICENCE TO LAND SURVEYOR

WHEREAS the Governor-General, on the advice of the Minister given in accordance with the provisions of subsection (2) of section 12 the Land Surveyors Act, Cap. 10.10 has duly satisfied himself that

Mr.

By virtue of (here state particulars of qualifications)

.....
.....

is duly qualified to practise as a Land Surveyor;

NOW THEREFORE, I.....

..... Governor-General of the
Federation of Saint Christopher and Nevis, by virtue of the provisions of the Land
Surveyors Act, Cap. 10.10, hereby authorise the said to practise as
a Land Surveyor in St. Kitts and Nevis.

Dated thisday of

Governor-General

THIRD SCHEDULE

(Section 15(5))

THE LAND SURVEYORS ACT, CAP. 10.10

SUMMONS TO WITNESS

IN THE MATTER OF A LICENSED SURVEYOR.

IN THE MATTER OF THE LAND SURVEYORS' ACT, CAP. 10.10.

To

You are hereby summoned to attend before the Land Surveyors' Board
at on the day
of at the hour ofand so from day to day
until the above matter is heard to give evidence respecting such matter and also to
bring with you and produce at the time and place aforesaid

Given under my hand this day of

.....

Chairman, Land Surveyors' Board
