

# **Survey Act 1939 (Ch 232)**

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## **CHAPTER 232**

### **THE SURVEY ACT.**

*Commencement:* 31 May, 1939.

**An Act to provide for and regulate the survey of lands.**

#### **1. Interpretation.**

In this Act, unless the context otherwise requires, "surveyor" means a land surveyor.

## **2. Power of the commissioner to order, control and carry out surveys.**

The commissioner of lands and surveys (hereafter referred to as the “commissioner”) at any time may authorise the carrying out of any trigonometrical or topographical survey or of any other survey which, in the opinion of the commissioner, is necessary; but where any general survey is to be carried out in any area, notice of the survey specifying the local limits of the area affected shall be published in the Gazette before the survey is undertaken.

The commissioner and his or her officers (hereafter referred to as “Government surveyors”) shall be responsible for controlling and carrying out any survey under this section.

## **3. Power of the Minister to order a special survey.**

The Minister, at any time, may order a survey of a special nature, not provided for in section 2, in respect of any part of Uganda and may appoint an officer (who shall not necessarily be the commissioner) and officers to control the survey.

Every such order for a survey shall be published in the Gazette and shall specify—

the nature and purpose of the survey;

the area of Uganda within which the survey is to be carried out; and

the provisions of this Act which are to be applicable to the

survey.

## **4. Establishment and membership of the Surveyors Licensing Board.**

There shall be established a board to be known as the Surveyors Licensing Board which shall consist of the commissioner as chairperson and not less than three other members.

The members shall be appointed by the Minister, and two of the members shall be licensed surveyors.

A member, other than the chairperson, shall hold office for a period of three years, but shall be eligible for reappointment.

A member, other than the chairperson, may at any time, by writing under his or her hand addressed to the chairperson, resign his or her membership on the board.

## **5. Meetings of the board.**

The board shall meet at such times and places as may be necessary for the performance of its duties, and the chairperson may at any time convene a meeting of the board.

At every meeting of the board the chairperson and two members shall constitute a quorum.

All accounts, matters and things authorised or required to be done by the board shall be decided by resolution at a meeting of the board at which a quorum is present.

The chairperson shall in addition to his or her deliberative vote have a casting vote if on any question the voting is equal.

Subject to this section, the board shall have the power to regulate its own proceedings.

## **6. Duties of the board.**

The duties of the board shall be—

to make arrangements for the examination of persons seeking to be licensed as surveyors in accordance with this Act;

to issue, on the payment of the prescribed fees, a licence to any person to whom a licence may be granted in accordance with this Act;

to keep a register of licensed surveyors;

subject as hereafter provided, to take disciplinary proceedings against licensed surveyors; and

to perform such other functions as are conferred on the board by this Act.

## **7. Employment of staff.**

The board may from time to time appoint or employ on such terms and conditions as may be approved by the Minister such examiners and other officers as may be necessary for carrying out its duties.

## **8. Acts done in good faith by the board and members.**

Neither the board nor any member of the board shall be liable in damages for any act or default done or committed in good faith in the carrying out of any function or in the performance of any duty under this Act.

## **9. Licences which the board may grant.**

Subject to this Act, the board shall, upon payment of the prescribed fee, grant licences to persons authorising those persons to undertake land surveys.

Licences granted under this section shall be of two categories and shall be known as class A licences and class B licences.

A class A licence shall authorise the licensee to act as a land surveyor in any part of Uganda.

A class B licence shall authorise the licensee to undertake only such land surveys as the commissioner may from time to time in writing specifically authorise.

(5) A person to whom a licence is granted under this section shall hereafter be known as a licensed surveyor.

Nothing in this section shall be deemed to authorise the grant of a licence to any person employed in the service of the Government.

The commissioner may delegate the powers conferred upon him by subsection (4).

#### **10. To whom licences may be granted.**

(1) The board may grant a licence under this Act to any person who—

in the case of an applicant for a class A licence, is the holder of a professional qualification in land surveying which is acceptable to the board; or

in the case of an applicant for a class B licence— (i) has attained the age of nineteen years, is a pupil surveyor

and has passed to the satisfaction of the board the prescribed examinations; or (ii) has, for a period of not less than five years in the period of seven years immediately preceding his or her application for the licence, been engaged in land surveying while employed in the department of land and surveys of the Government, and has been holding an appointment in a rank not lower than that of assistant surveyor, grade I.

(2) The board may refuse to grant a licence under this Act to any person—

who has been convicted of an offence under this Act or involving dishonesty or fraud;

whose licence has been cancelled under this Act;

who, by reason of professional misconduct, has been disqualified, whether in Uganda or elsewhere, from practice as a land surveyor; or

who is not ordinarily resident in Uganda.

#### **11. Board to keep a register.**

(1) The board shall keep a register of all licensed surveyors showing their class of licence.

A certified copy of any entry in the register made by the commissioner or any officer of his or her department shall be prima facie evidence in any court of the fact that a person is licensed and of the class of his or her licence.

A letter signed by the commissioner or his or her deputy stating that a person is not a licensed surveyor shall be prima facie evidence in any court of that fact.

The board shall publish a copy of the register annually in the Gazette.

## **12. Disciplinary inquiry by the board.**

(1) The board may inquire into any case in which it is alleged that a licensed surveyor has—

intentionally or through negligence, carelessness or incompetence made an incorrect survey or delivered an incorrect diagram or plan of any land or a diagram or plan which does not conform to the requirements of any rules made under this Act or to any lawful directions given to the licensed surveyor by the commissioner;

made an untrue report or memorandum of any survey;

been convicted of any offence involving fraud or dishonesty or the contravention of any of the provisions of this Act or any rules made under it; or

been guilty of such improper conduct as to render him or her unfit to practise as a surveyor.

A meeting of the board for the purpose of holding an inquiry under this section shall be convened by the chairperson whenever any allegation of any misconduct referred to in subsection (1) against a licensed surveyor comes to his or her notice; except that the chairperson may, in his or her discretion, require any such allegation to be supported by an affidavit.

At least twenty-one days prior to the date fixed for an inquiry under this section, notice in writing shall be served personally on the licensed surveyor whose conduct is the subject of the inquiry or sent to him or her by registered post at his or her last known address, informing him or her of the time and place fixed for the inquiry and of the substance of the allegation made against him or her and supplying him or her with a copy of any affidavit required under subsection (2) and where practicable of any document to be produced at the inquiry.

Any document to be produced at the inquiry shall be available at all reasonable times before the inquiry for inspection by the licensed surveyor or his or her advocate.

A licensed surveyor shall be entitled to be present throughout any inquiry under this section and, if he or she so wishes, may be represented by an advocate.

The board may, if satisfied that the allegation is proved against the licensed surveyor, reprimand him or her, or may order his or her licence to be cancelled or to be suspended for such period as the board thinks fit.

If at the time and place fixed for the inquiry the licensed surveyor fails without reasonable excuse to appear and the board is satisfied that subsections (3) and (4) have been complied with, the board may proceed with the inquiry as if the licensed surveyor were present.

An inquiry under this section shall be deemed to be a judicial proceeding for the purposes of sections 94 to 99 of the Penal Code Act.

## **13. Witnesses at an inquiry.**

For the purposes of an inquiry under section 12, the chairperson may—

issue a summons under his or her hand directing the person named in the summons to attend at the time and place mentioned in the summons to give evidence or to produce any documents specified in it; and

administer oaths.

#### **14. Offences by witnesses.**

(1) Every person who, having been served with a summons to attend and give evidence or to produce any book, plan or document—

fails without sufficient cause to obey the summons;

refuses without sufficient cause to answer fully and to the best of his or her knowledge and belief all questions put to him or

her by or with the concurrence of the board; or (c) wilfully interrupts the proceedings of the board or insults any member of the board, commits an offence and is liable on conviction to a fine not exceeding one thousand shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(2) Nothing in subsection (1) shall be construed to compel any person to answer any question if by so doing he or she will incriminate himself or herself, and every such person shall, in respect of any evidence given by him or her before the board, be entitled to all the privileges to which a witness giving evidence before the High Court is entitled.

#### **15. Recording of proceedings before the board, service of its orders and surrendering of licences.**

The evidence given before, and the findings and decision of, the board at any inquiry under this Act shall be recorded in writing, and when so recorded shall be conclusive evidence of the matters contained in the writing and of the decision of the board.

A copy of any order of suspension or cancellation of a licence shall be served on the licensed surveyor personally or by registered post addressed to him or her at his or her last known address.

Any person whose licence has been suspended or cancelled shall surrender the licence to the board within such time as the board may direct.

#### **16. Appeal to the High Court.**

Any person who has been reprimanded by the board or against whom an order has been made by the board for the suspension or cancellation of his or her licence may, within thirty days after the copy of the order has been served on him or her, appeal to the High Court against the reprimand, suspension or cancellation, and the decision of the High Court shall be final.

The Chief Justice may make rules governing appeals under this section.

#### **17. Power to apply to the board for restoration of a licence.**

Any person whose licence has been suspended or cancelled under this Act may apply to the board for the restoration of the licence, and the board may in its absolute discretion and after such inquiry as it may consider desirable grant or refuse the application.

#### **18. Offences and penalties.**

(1) Any person who—

not being a licensed surveyor practises or professes to practise as a licensed surveyor;

being the holder of a class B licence surveys any land without the written authority of the commissioner;

being a licensed surveyor purports to have surveyed any land which was not surveyed in his or her presence and under his or her supervision; or

represents himself or herself to be, or by word or act causes any person to believe that he or she is entitled to practise as, a licensed surveyor of either class when he or she is not so licensed, commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

(2) Nothing in this section shall apply to any Government surveyor or other person in the employment of the Government who is authorised by the commissioner to undertake any land surveying work.

#### **19. Power to enter on land.**

Where any survey is authorised under section 2 or 3, any Government surveyor or duly authorised officer with his or her servants and workers may enter upon any land and make all inquiries and do or cause to be done all things necessary for effecting the survey.

#### **20. Publication of notice.**

Where a general survey is authorised, a Government surveyor shall cause a general notice to be published stating that it is his or her intention to proceed to survey holdings in any specified area within such local limits as may be fixed under section 2(1), on and after a day to be fixed by the notice.

#### **21. Power to issue notice to procure attendance.**

A Government surveyor may cause a notice to be served on any person owning, occupying or otherwise interested in any land authorised to be surveyed and any land abutting on that land, or on any person employed on or connected with the management or cultivation of that land, requiring the person to attend personally or by agent before him or her at such place and time as is stated in the notice for the purpose of pointing out the boundaries of the land, or of rendering such aid as is necessary in setting up or repairing the boundary marks of the land, or of affording such assistance and information as are needed for the purposes of survey.

#### **22. Clearing of lines.**



A Government surveyor may cause a notice to be served on any owner or occupier of any land requiring him or her to clear or cause to be cleared any boundary or other line which it is necessary to clear for the purpose of any survey by cutting down and removing any trees, bushes, fences or standing crops, doing thereby as little damage as possible, or otherwise to assist in the survey of the land.

### **23. Compensation for injury done by clearance.**

(1) Where any demand for compensation is made as a result of the clearance of any boundary or other line in accordance with section 22 or 29, a Government surveyor shall, as soon as conveniently may be, inspect any trees, fences, or standing crops which are alleged to have been cut down or damaged, and, if he or she shall consider that any compensation should be paid, shall pay or tender to the owner of the trees, fences or standing crops the amount of compensation which in his or her opinion should be allowed for them; but—

no compensation shall be payable by the Government in respect of any damage done in the tracing, uncovering or repair of any survey or boundary mark previously placed in position on any land or in respect of the clearance of boundary lines which have previously been cleared for survey purposes under the powers conferred by section 22 or 29 or otherwise; and

no compensation shall be payable by the Government in any case where a survey is carried out in consequence of an

application by any private party for the survey, but this provision shall not relieve that party from any liability to pay compensation to any person who may suffer damage as a result of the survey.

(2) If the owner is dissatisfied with the amount of compensation assessed by the Government surveyor or with the fact that compensation has been refused, the matter shall be referred for decision to a chief magistrate or a magistrate grade I.

### **24. Power to summon a person to give information.**

A Government surveyor may also issue a notice calling upon any person who he or she has reason to believe can give any information respecting the boundaries of any land to attend before him or her personally or by agent and give that information on a date and at a place to be mentioned in the notice.

Every person on whom any such notice is served shall be legally bound to attend as required by the notice and to give such information as he or she is able to supply relating to the boundaries of the land mentioned in the notice.

### **25. Government surveyor to mark out boundaries.**

A Government surveyor shall after making such inquiry as he or she thinks fit determine and mark out the boundaries of the land and may, subject to all rules lawfully made for that purpose, cause boundary marks of such materials in such number and in such manner as he or she thinks fit to be erected, but the determination of any such boundary by the surveyor shall not debar any person from any legal remedy he or she would otherwise have for disputing the boundary or establishing any other boundary.

### **26. Duty to preserve survey and boundary marks.**

(1) The owner of any land shall maintain or cause to be maintained any survey or boundary mark lawfully erected on his or her land, or on the boundaries of the land, in good condition and repair, and shall at all times

keep or cause to be kept every such mark clear of high grass and brushwood.

(2) Every owner or occupier of land shall give immediate notice at the nearest administrative headquarters, or to the officer in charge of the nearest police station, if any survey or boundary mark lawfully erected on his or her land is injured, destroyed or removed.

#### **27. Power to reerect and repair survey and boundary marks.**

Whenever the commissioner becomes aware that any survey or boundary mark lawfully erected has been injured, destroyed or removed, or requires repair or clearance, the commissioner may cause the mark to be reerected, repaired or cleared, and may recover any expenses incurred in respect thereof from the person bound under section 26 to preserve the mark and keep it clear.

#### **28. Duties of chiefs.**

It shall be the duty of every chief to prevent the destruction, injury or alteration of any survey or boundary mark within the local limits of his or her jurisdiction and whenever he or she shall become aware that any such mark has been destroyed, injured or altered to report immediately to the nearest district commissioner such destruction, injury or alteration.

#### **29. Power to perform an order under the Act at the expense of the person disobeying.**

If any person who is ordered under the provisions of this Act to perform any act fails to perform the act within a reasonable time, the officer who gave the order may, after giving notice to that person of his or her intention so to do, cause the act to be performed.

The expenses incurred in that performance may be recovered by the commissioner from that person; except that where any person has been required to perform any act in relation to any survey which is being carried out by the commissioner on the application of any private party and that person is neither the applicant nor owner or occupier of the land being so surveyed, the expenses so incurred as aforesaid may be recovered only from the applicant.

#### **30. Penalty for noncompliance with orders or notices.**

Any person who being legally bound to comply with any order under this Act, or with the requisition contained in any notice served upon him or her under this Act, wilfully refuses, or without reasonable excuse neglects, to comply with it, commits an offence and is liable on conviction to a fine not exceeding one hundred shillings.

#### **31. Penalty for obstructing a survey.**

Any person who wilfully obstructs or hinders or resists any Government surveyor or any worker or other person acting in aid of any such surveyor in the execution of his or her duty in or about any survey or the ascertaining and marking out of boundaries of any land under the provisions of this Act commits an offence and is liable on conviction to a fine not exceeding one hundred shillings.

#### **32. Recovery of expenses and fees.**

Any expenses due and all fees prescribed by rules made under this Act shall be deemed to be due to the Government and may be sued for and recovered by the commissioner or any Government surveyor or any

officer, either of the Government or of the administration of a district, authorised by the commissioner for that purpose, in any court of competent jurisdiction or summarily as a civil debt.

Where the commissioner authorises an officer of the administration of a district as aforesaid, it shall be lawful for the amount due to be recovered by that officer in the name of the commissioner in a court constituted under the [Magistrates Courts Act, notwithstanding any](#) provisions to the contrary of any other law.

The amount of such expenses or fees due shall be notified to the registrar of titles in such manner as he or she may require and shall, until recovered, be a first charge in favour of the Government on the land in respect of which the amount due was incurred.

### **33. Service and publication of notices, etc.**

Any notice, order, plan or other matter required by this Act, or by any rules made under this Act, to be served, posted or published may, where no particular method is provided, be served on any person by registered post or by delivery to the address where that person or his or her agent lives, or if directed to a person subject to customary law or to a group or class of such persons, shall be communicated in such manner as may be deemed proper according to custom, and in such case shall also be posted in a conspicuous position at the local administrative headquarters of the administration of a district in the area in which the lands to be surveyed are situated.

### **34. Survey camps.**

The commissioner, his or her officers, agents and servants may without the payment of compensation build and occupy camps on any uncultivated or unbuilt-on land and take from that land for the construction of camps, beacons and survey marks such materials, wood, not being timber of special value, or water as may reasonably be required for those purposes.

### **35. Rules.**

The Minister may make rules generally for carrying this Act into effect, and, in particular, and without prejudice to the generality of the foregoing power, the rules may prescribe—

the fees to be paid in connection with any survey, the expenses of Government surveyors, the preparation of plans, the erection of boundary and survey marks or other matters provided for by this Act or any rules made under this Act, the time for paying any such fees and, in proper cases, the apportionment of the fees by the commissioner among the several persons liable for them;

the manner in which any survey is to be carried out and completed, and the methods to be adopted for demarcating land and for reestablishing and readjusting boundaries made under any previous survey;

all matters relating to the erection, maintenance and removal of survey and boundary marks;

the number and form of orders, notices, plans and other documents under this Act or any rules made under this Act, and the manner of serving, posting or publishing orders and notices, plans and other documents;

the syllabus of subjects for the examinations of applicants for licences under this Act;

the enrollment of persons as pupil surveyors, and the conditions, including the taking of examinations, subject to which the pupils may be enrolled;

(g) the forms of licences and annual fees to be paid for any licence including a proportion of an annual fee where a licence is issued for less than one year; (h) the fees to be charged for services rendered by the department of lands and surveys of the Government in relation to surveys of land undertaken by licensed surveyors; (i) the conditions subject to which applications may be accepted for the prescribed examination; (j) the scales of expenses or allowances payable to witnesses and other persons engaged in an inquiry held by the board under this Act; (k) any other matter required or authorised to be prescribed.

**History:** Cap. 209; S.I. 135/1968, [s. 2](#); Act 34/1970.

#### **Cross References**

[Magistrates Courts Act, Cap. 16](#). Penal Code Act, Cap. 120