

LAWS OF DOMINICA

LAND SURVEY ACT

CHAPTER 53:04

**Act
16 of 1988**

Current Authorised Pages

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**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

CHAPTER 53:04

LAND SURVEY ACT

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CHAPTER 53:04**LAND SURVEY ACT**

AN ACT to make provision for the licensing and professional conduct of land surveyors in the State, for regulating the execution of land surveys and for matters incidental and connected therewith. 16 of 1988.

[17th November 1988]

Commencement.

**PART I
PRELIMINARY**

1. This Act may be cited as the –

Short title.

LAND SURVEY ACT.

2. In this Act –

Interpretation.

“Board” means the Land Surveyors’ Board established under section 4;

“Director” means the Director of Surveys and Commissioner of Lands appointed under section 3;

“Land registry” means the registry established by law for registration of title to land;

“licensed surveyor” means a surveyor licensed under this Act;

“Minister” means the Minister responsible for Lands and Surveys;

“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 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 or diagram approved by the Director for survey purposes;

“prescribed” means prescribed under this Act;

“public survey” means any survey made for the purpose of defining the boundaries of any land which is owned by the State or any public authority, or in which the State or any public authority possesses or disposes of any interest, or any survey of the State or any part thereof;

“Registered land” means land registered in the Registry under the Title by Registration Act;

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“Registered owner” means the person in whose name a certificate of title is issued for the land;

“Registrar” means the Registrar of Titles as defined in the Title by Registration Act;

“Regulations” means Regulations made under section 27;

“survey” means a survey defining the boundaries of any land in the State and includes a survey for the purposes of registration of title to land;

“Survey Department” means the Department of Lands and Surveys in the Ministry of Agriculture; and

“surveyor” means a licensed land surveyor or an officer of the Survey Department authorised by the Director to carry out surveys.

Director of
Surveys and
Commissioner of
Lands and his
duties.

3. (1) There shall be in the public service a Director of Surveys and Commissioner of Lands who shall, subject to the provisions of this Act –

- (a) direct and control all public surveys;
- (b) supervise and control all other surveys;
- (c) examine all general and particular plans of surveys before any registration of title is effected in accordance with the Title by Registration Act and approve such plans if satisfied that the surveys have been carried out and the plans prepared in accordance with the Regulations;
- (d) take charge of and preserve all survey records;
- (e) cancel or amend in accordance with the provisions of any Act any survey plan or diagram found to be incorrect, outdated or inadequate; and
- (f) prepare, certify and issue at the request of any person, upon payment of the prescribed fees, copies of plans and documents filed in the Survey Department which are available to the public.

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(2) The Director shall be the authority for the preparation and publication of the official map of the State.

(3) No person shall, without the written permission of the Director, make use of any material which has been prepared or published in official maps in the preparation or publication of any other map.

PART II
THE LAND SURVEYORS' BOARD

4. (1) There shall be established a Board to be known as the Land Surveyors' Board.

Establishment of
the Land
Surveyors'
Board.

(2) The Board shall consist of the Director, who shall be the Chairman of the Board, and two other persons, appointed by the Minister, who shall be licensed surveyors.

(3) The Chairman of the Board may request the assistance and attendance at any particular meeting or meetings of a nominee of the Minister for Legal Affairs to assist in its deliberations.

(4) A member of the Board shall hold office for two years, and may at any time resign his appointment by notice in writing given to the Minister.

(5) The Minister may at any time revoke the appointment of a member of the Board.

(6) The Minister shall appoint an officer of the Department of Lands and Surveys to act as secretary to the Board.

5. The Board shall –

Duties of the
Board.

- (a) in accordance with the provisions of this Act grant to duly qualified persons licences to practice land surveying in the State;
- (b) keep a register of all licensed surveyors in accordance with section 7;
- (c) have powers to take disciplinary action against licensed surveyors within the provisions of this Act;
- (d) have powers to hear and determine any dispute between a licensed surveyor and his client as to the fees charged by the licensed surveyor; and
- (e) perform such other functions as are prescribed by this Act or any Regulations made thereunder.

6. (1) The Board shall not grant licence to practise land surveying to any person unless that person is at least 18 years of age and produces satisfactory evidence of character and either –

Conditions for
grant of
surveyors'
licence.

- (a) is a member of the Royal Institute of Chartered Surveyors, Land Surveying Section; or
- (b) is a member of a similar institution of land surveyors of a Commonwealth country; or
- (c) possesses such other qualification in land surveying from a recognised examining or teaching body as may be approved by the Board;

and produces such evidence of practical survey work carried out by him to the satisfaction of the Board, for a period of at least six months under the supervision of the Director or a licensed surveyor approved for the purpose by the Director.

(2) A fee, as may be prescribed by the Minister, shall be payable to the State in respect of the grant of a licence to a surveyor.

Register of
licensed
surveyors.

7. (1) The Board shall cause a register to be kept which shall contain the names, addresses and qualifications of all persons to whom licences have been granted and any other particulars which may be prescribed.

(2) If a licensed surveyor does not practise his profession for a period of three consecutive years, due to his absence from the country or otherwise, his licence shall be deemed to have expired and his name shall be removed from the register.

Disciplinary
powers of the
Board.

8. (1) Where a licensed surveyor is found guilty of professional misconduct or has been convicted of a criminal offence and, after due enquiry, the Board is of the opinion that the misconduct or offence is of such a nature as to render the surveyor unfit to practise his profession, the Board may –

- (a) revoke the licence granted to him; or
- (b) suspend the licence granted to him for a period not exceeding three years.

(2) If the Board is of the opinion that the misconduct or offence is not of such a nature as to render the surveyor unfit to practise his profession the Board may –

- (a) impose on him a fine not exceeding five hundred dollars; or

(b) reprimand him.

(3) Before holding any inquiry the Board shall give the surveyor at least one week's notice.

(4) Upon any inquiry the surveyor shall be afforded an opportunity of being heard either in person or through his legal representative.

(5) The Board may, at any inquiry, subject to any Regulations made under this Act, administer oaths and enforce the attendance of persons as witnesses and the production of relevant books and documents.

(6) Any person who having been summoned by the Board to attend before it fails to attend, or who having been requested to produce any books or documents fails to do so, is liable on summary conviction to a fine of five hundred dollars.

(7) Where the Chairman or any of the member of the Board is the complainant against a licensed surveyor, against whom an inquiry is proposed to be conducted by the Board, the Chairman or the member in question shall be excluded from the Board and an appropriate substitute appointed by the Minister to take the place of the Chairman or the member, as the case may be, on the Board for the purpose of the inquiry.

9. (1) Any person aggrieved by a decision of the Board may, Appeals. within one month after the date of the decision, appeal to the High Court against the decision and the Court may make such order or give such directions in the matter as it thinks appropriate.

(2) Any person aggrieved by an order or direction of the Court may appeal to the Court of Appeal.

10. Where an order has been made for the revocation of the licence granted to any person or for suspending such a licence, the Board may, Grant of new licence and termination of suspension. either of its own motion or on the application of the person concerned, and in either case, after holding such inquiry as the Board may think fit, grant a new licence and cause the name of that person to be restored to the register.

11. (1) A licence to a surveyor under this Act shall be in the form set out in the Schedule. Notice of grant, cancellation, etc., of licence to be gazetted. Schedule.

(2) Notice of the grant, revocation or suspension of any licence, or of the termination of the suspension thereof, shall be published in the *Gazette*.

PART III

THE CONDUCT OF SURVEYS

Duties of
licensed
surveyors.

12. (1) Every surveyor shall carry out any survey undertaken by him in such a manner as will ensure that the survey is in accordance with the provisions of this Act and any Regulations made thereunder, and shall be responsible for the correctness and completeness of every survey carried out by him or under his supervision.

(2) The Director may, in his discretion in the case of a particular survey, by notice in writing to the surveyor, direct that the standards of accuracy prescribed by the Regulations may be relaxed in such manner, to such extent and subject to such conditions as he may specify in the notice.

(3) Neither the State nor any public officer shall be liable for any defective survey or any work appertaining thereto performed by or under the supervision of a licensed surveyor, notwithstanding that any plan relating to the survey has been authenticated in accordance with the requirements and provisions of this Act or accepted for registration.

Unauthorised
persons not to
undertake
surveys.

13. (1) No person other than a surveyor shall –

- (a) survey any holding or land for the purpose of preparing any plan which is attached to, or which is referred to, or which is intended to be attached to or referred to in a 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 any holding or land, being a document or instrument which is required to be registered, or is ineffectual until registered, under any law for the time being in force relating to the registration of transactions in or of title to land; or
- (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 under any law for the time being in force relating to the registration of land or of title to land.

(2) Any person who contravenes this section is liable on summary conviction to a fine of one thousand dollars.

14. (1) For the purposes of any public survey the Director or any surveyor duly authorised by him in writing may enter upon any land, with such assistants as may reasonably be required by him, and may affix or set up or place thereon or therein trigonometrical stations, monuments, survey beacons, marks or poles and do all things necessary for such survey.

Powers in relation to all public surveys.

(2) The surveyor shall give at least three days' notice in writing to the owner or occupier of the land of his intention to enter thereon and where the owner or occupier cannot be found, the notice may be placed in a conspicuous place on the land.

15. (1) Any surveyor who is employed to survey any land shall give at least three days' notice in writing of his intention to do so to the owner or the occupier of the adjoining lands.

Power of surveyor to enter land.

(2) After the giving of the notice mentioned in subsection (1), any surveyor may, with his assistants, enter on and pass over any land, whether public or private, causing as little inconvenience to the owner or occupier of such land as is consistent with his duties.

(3) Compensation shall be payable for any damage done to any land by reason of the exercise of these powers conferred on any surveyor under this section in accordance with section 16.

16. (1) Where the surveyor is a public officer or a private surveyor employed by the State and is authorised by the Director to carry out the survey, compensation shall be payable out of the public revenues to the owner of any crops or trees cut or damaged in the exercise of the powers conferred in section 14, and if any question arises as to the amount of compensation to be paid or the right of a claimant to recover compensation such question shall, in default of agreement between the Director and all persons concerned, be determined by the High Court on application made by the Director or by any person authorised by him in that behalf or by any person claiming to be entitled to compensation under the provisions of this section.

Compensation.

(2) Save at the discretion of the Director no such application by any person claiming to be entitled to compensation shall be granted if it is made more than thirty days after the date on which notice has been

given to the owner of the crops or trees in respect of which the claim is brought of his right to make such claims and of the time limit imposed by this section.

(3) Any notice under subsection (2) shall be in writing and served on the owner of the crops or trees in person, or by leaving the same at his last known place of abode or failing this, if the identity of the owner is not known, by posting the same at a prominent place on the land where the crops or trees are planted.

(4) The decision of the High Court with respect to any application made under subsection (1) or (2) shall be final.

(5) Where the surveyor is privately employed any compensation payable shall be subject to agreement between the surveyor and the aggrieved party.

(6) Where the surveyor and the aggrieved party are unable to agree on the amount of compensation to be paid, the Director shall act as arbitrator and in default of agreement between the arbitrator and all persons concerned compensation shall be determined by the High Court as provided in subsection (1).

(7) No compensation shall be payable out of public revenues for damage to land by reason of the exercise by a privately employed surveyor of the powers contained in section 15.

PART IV

PRESERVATION OF SURVEY MARKS

Penalty for
removing survey
marks.

17. Any person who, not being duly authorised to do so, wilfully obliterates, removes or damages any trigonometrical station, monument, survey beacon, mark, pole or any boundary mark affixed, set up or placed for the purpose of conducting any public or other survey under this Act, is liable on summary conviction to a fine of one thousand dollars, and in addition, may be ordered to pay the cost of repairing the damage done or replacing the mark obliterated, removed or damaged and of making any survey rendered necessary by the act for which the conviction is had.

Penalty for
obstructing
surveyors.

18. Any person who wilfully obstructs, hinders, resists or threatens any surveyor in the execution of his duty in or about the conduct of any public survey or other survey within the meaning of this Act, or any workman or other person acting in aid of any such surveyor, is liable on summary conviction to a fine of one thousand dollars.

19. (1) Any surveyor who executes any survey in accordance with the provisions of this Act or any Regulations made thereunder shall lodge with the Director the originals of all plans, together with copies of field notes and computations relating thereto, and all such plans, field notes and computations shall be deposited in the Survey Department and shall become the property of the State.

Survey plans, records to be lodged with Director.

(2) Any surveyor who deposits any plans, field notes and computations with respect to any survey shall for the scrutiny and authentication of any such plans, field notes and computations by the Director pay such fees as may be prescribed by Regulations.

(3) No plan deposited with the Survey Department in accordance with subsection (1) shall be altered or amended in any way without the permission of the Director.

20. (1) The Director may at any time undertake such field and office checks on the survey work of a licensed surveyor as he thinks fit.

Correcting errors.

(2) The Director may, by notice in writing, instruct a licensed surveyor to correct, at his own expense, within a time specified in the notice, any error made by him in the survey represented by the plan submitted for authentication.

(3) In the event of the licensed surveyor refusing or neglecting within the time specified in the notice to correct the error it shall be lawful for the Director to undertake such correction and all expenses incurred thereby shall be payable by the surveyor.

(4) If the licensed surveyor refuses or neglects to pay the cost of the correction referred to in subsection (3) within fourteen days of the notice in writing given to him requesting payment, the Director may report the facts to the Board for disciplinary action, and, after due enquiry, the Board may order the licensed surveyor to pay the cost of correction to the Director; and if the licensed surveyor refuses or neglects to comply with the order within one month after the date of the order, the Board may suspend the licence of the surveyor until the costs of correction is paid or for a period not exceeding three years, whichever is considered appropriate.

21. (1) No land shall be deemed to have been surveyed or resurveyed until the plan thereof has been authenticated by the signature of the Director.

Authentication of plans.

(2) Every plan authenticated by the Director under subsection (1) shall in any court of law or in any proceeding of a legal or quasi-legal nature be evidence of the survey information comprised therein unless and until the plan is cancelled by the Director by virtue of section 22.

(3) Every plan purporting to bear the signature of the Director for the purpose of subsection (1) shall be deemed to be properly authenticated unless and until the contrary is proved.

Power to cancel authentication of plans.

22. (1) Where, in the case of a document or instrument to which an authenticated plan is attached or in which a reference to such a plan is made –

- (a) the plan is found to be inaccurate by reason of any error or omission in the survey, or
- (b) the plan does not conform with the terms and conditions subject to which permission to subdivide the land to which the plan relates has been given,

the Director may cancel the authentication of the plan and may recall any copies which may have been issued, and in every such case the provisions of section 20 shall apply.

(2) The Director shall forthwith, upon the cancellation of the authentication of any plan, notify in writing –

- (a) the owner of the land to which the plan relates;
- (b) the surveyor by whom the survey was executed; and
- (c) the Registrar.

PART V

GENERAL

Aerial survey.

23. (1) Any person, firm or organisation who intends to carry out any aerial photography of the State or any part of the State for use in mapping or any other purpose of photo-interpretation shall, before carrying out the same, obtain the prior approval of the Director in writing, not less than one month before he intends to do so.

(2) Any person who has carried out any such aerial photography shall, if the Director so requires in writing –

- (a) produce to the Director for his inspection all of the photographs so produced or such of them as the Director may specify; and

(b) supply to the Director, free of cost, one set of all the photographs so produced, or such of them as the Director may specify, and two sets of photo indexes of the entire area photographed.

(3) The supply of photographs to the Director under this section shall not in anyway affect the copyright therein of the person, firm or organisation supplying them or any other owner of the copyright.

24. (1) The Director may, by notice in the *Gazette*, delegate any of his functions under this Act to any officer of the Survey Department by name or office.

Delegation of functions.

(2) Any such delegation shall be revocable at will and no delegation shall prevent the exercise by the Director of any of his functions under this Act.

25. (1) Any information required by this Act to be laid by the Director may be laid by any person duly authorised by him in writing in that behalf.

Information may be laid by deputy.

(2) On the hearing of any information under this Act a copy of any petition for grant of land and proceedings on such petition which is certified under the hand of the Director to be a true copy, shall be admissible in evidence without any further proof of the same.

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

Recovery of monies due.

27. For the purposes of this Act the Minister may make Regulations –

Power of Minister to make Regulations.

- (1) prescribing the conditions to the grant of licence to practise as a surveyor;
- (2) prescribing the manner in which surveys are to be executed and the records to be maintained by licensed surveyors;
- (3) prescribing the manner in which survey marks shall be constructed;
- (4) with regard to plans of survey, their preparation and matters to be shown thereon;

- (5) with regard to the publication, issue, service and form of the notices to be published, issued or served under this Act or Regulations made thereunder;
- (6) prescribing the returns to be made by licensed surveyors to the Director;
- (7) requiring surveyors to report to the Director matters connected with surveys on which they are engaged or with previous surveys, ascertained by them during the course of their work;
- (8) for securing the maintenance of survey marks in their correct position and preservation of the same;
- (9) providing for checking of instruments used by surveyors;
- (10) providing for and regulating the inspection and the taking of copies of plans of surveys in the office of the Survey Department;
- (11) prescribing any fees which may be charged under this Act;
- (12) prescribing any other matters which this Act requires or authorises to be prescribed; and
- (13) generally for giving further and better effect to the provisions of this Act.

General penalty.

28. Any person who contravenes or fails to comply with any provision of this Act is, unless otherwise provided, liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months.

Onus of compliance.

29. Where there exists a relationship of employer and employee, principal and agent, or corporation and officer of that corporation, every such person in that behalf shall be jointly and severally responsible for compliance with the provisions of this Act.

Repeal with savings.
Cap. 167.
(1961 Ed.).

30. Without prejudice to any rights and liabilities existing, or capable of arising thereunder, the Consolidated Surveys Ordinance is hereby repealed.

Further savings.
Cap. 167.
(1961 Ed.).

31. Every surveyor who, at the commencement of this Act, was licensed under section 4 of the Consolidated Surveys Ordinance shall be deemed to have been licensed under section 6 of this Act.

SCHEDULE

Section 11.

THE LAND SURVEY ACT (Ch.53:04)

LICENCE TO LAND SURVEYOR

WHEREAS the Land Surveyors' Board constituted under the above-mentioned Act have duly satisfied themselves that Mr./Ms.
ofby virtue of
.....
.....
.....
(here state his/her qualifications)

is duly qualified to practise as a land surveyor;

NOW THEREFORE I,.....
Chairman, Land Surveyors Board, under and by virtue of the provisions of the
above-mentioned Act, hereby authorised the said Mr./Ms......
to practise as a land surveyor in the Commonwealth of Dominica.

Dated this day of 19.....

*Chairman,
Land Surveyors' Board,
Commonwealth of Dominica.*

