

LICENSED LAND SURVEYORS
ACT 1958
(ACT 458)

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ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Establishment of the Board.
4. Constitution of the Board.
5. Chairman and Deputy Chairman of the Board.
6. Meetings of the Board, and quorum.
7. Power to appoint Secretary, examiners and other officers.
8. Register.
9. Persons entitled to be registered.
10. Licence to practise and renewal of licence.
11. General funds of the Board, accounts and expenses.
12. Arrangements with reciprocating territories.
13. Powers of a licensed land surveyor.
14. Deposit of plans.
15. Approval of title surveys.
16. Correction of errors.
17. Disciplinary powers of the Board.
18. Appeal to the High Court.
19. Illegal practice.
20. Existing licensed surveyors.
21. Regulations.
22. Repeal.

SCHEDULE.

LICENSED LAND SURVEYORS ACT 1958

(Act 458)

An Act relating to the licensing and control of land surveyors and for matters connected therewith.

[1st May 1958.]

1. Short title.

This Act may be cited as the Licensed Land Surveyors Act 1958.

2. Interpretation.

In this Act, unless the context otherwise requires—

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

“boundary mark” means any mark authorised by law for the purpose of marking boundaries;

“Director General of Survey” means the officer performing the duties of the head of the Survey Department of the States of West Malaysia;

“Government surveyor” means any public officer of Malaysia who is authorised by the Director General of Survey to undertake any title survey;

“licence to practise” means a licence to practise as a licensed land surveyor issued under section 10;

“licensed land surveyor” means a person whose name has been placed upon the Register and to whom a licence to practise has been issued by the Board;

“member” means a member of the Board;

“Minister” means the Minister charged with the responsibility for lands;

“reciprocating territory” means any country or territory within the Commonwealth with which arrangements may have been

made by the Board with the approval of the Yang di-Pertuan Agong for the recognition of the status of land surveyors;

“Register” means the register of licensed land surveyors kept in accordance with section 8;

“Secretary” means the person appointed as such under section 7;

“survey plan” means a plan signed by a licensed land surveyor recording the work carried out by him on a title survey, or a plan signed by an officer authorised by the Director General of Survey to do so and recording the work of a Government surveyor;

“title survey” means any survey which by any written law is required for the purpose of or in connection with the registration of any title to land or any assurance or instrument affecting or purporting to affect title to land, and includes in connection therewith—

- (a) the delimitation of the boundaries of any land whether privately owned or not;
- (b) the emplacement, replacement and removal of boundary marks;
- (c) surveys required for the correct inter-relation of boundaries or of boundary marks; and
- (d) the making and recording of all measurements and calculations relevant thereto and the drawing and reproduction of plans therefrom.

3. Establishment of the Board.

(1) There shall be established a board to be called the Land Surveyors Board which shall have an office in West Malaysia.

(2) The Board shall be a body corporate with perpetual succession and shall have a common seal.

4. Constitution of the Board.

(1) The Board shall consist of—

- (a) the Director General of Survey;
- (b) the Deputy Director General of Survey;
- (c) a Director of Survey, appointed by the Minister; and

(d) three licensed land surveyors who are registered under section 9 and resident and practising in the States of West Malaysia, appointed by the Minister.

(2) The members appointed under subsection (1) (c) and (d) shall hold office for three years or for such shorter period as the Minister may specify and shall be eligible for re-appointment.

5. Chairman and Deputy Chairman of the Board.

(1) The Director General of Survey shall be Chairman of the Board and the Deputy Director General of Survey shall be the Deputy Chairman thereof.

(2) The Chairman, if present, or in his absence the Deputy Chairman, shall preside at meetings of the Board. In the absence of both the Chairman and the Deputy Chairman the members present at the meeting of the Board shall elect one of themselves to act as Chairman of the meeting.

6. Meetings of the Board, and quorum.

(1) The Board shall meet at such times and such places as the Chairman may appoint.

(2) The quorum at all meetings of the Board shall be four members present.

(3) The member presiding at any meeting of the Board shall have an original vote and also, if upon any question the votes shall be evenly divided, a casting vote.

(4) The Board may make rules for the conduct of its business.

7. Power to appoint Secretary, examiners and other officers.

(1) The Board may appoint a Secretary, examiners and such other officers as from time to time shall appear to be necessary for the discharge of the functions of the Board.

(2) The Secretary shall not be a member of the Board and shall not have any vote in its deliberations.

8. Register.

(1) The Board shall cause a Register to be kept which shall contain the names, addresses and qualifications of all licensed

land surveyors, and all such other matters as may be prescribed. In the event of the cancellation or suspension of any licence to practise, the Board shall cause an entry thereof to be made in the Register.

(2) The Register shall be maintained and kept by the Secretary at the office of the Board and shall be open to inspection by any person on payment of the prescribed fee.

(3) The Board shall, before the thirty-first March in each year, publish in the *Gazette* a list of the names of all licensed land surveyors and shall within six weeks of the issue, cancellation or suspension of any licence to practise publish a notice thereof in the *Gazette*.

(4) A copy of any entry in the Register purporting to be certified by the Chairman or Secretary as a true copy, shall in all proceedings whatsoever be *prima facie* evidence that the person named therein is a licensed land surveyor and possesses the qualifications mentioned therein or that his licence has been cancelled or suspended.

(5) The Board shall remove or amend any entry in the Register which is proved to its satisfaction to have been fraudulently procured or made, or to be incorrect.

(6) The Secretary shall remove from the Register the name of any person, not being a Government surveyor, whose licence to practise has not been renewed before the first day of February in any year.

(7) The Board may, if it thinks fit, restore to the Register any name removed therefrom with or without the payment of the prescribed fees.

9. Persons entitled to be registered.

(1) Subject to this Act every person shall be entitled to have his name placed upon the Register upon making application to the Board and proving to the satisfaction of the Board that—

(a) he has attained the age of twenty-one years and is of good character; and

(b) (i) he has obtained the prescribed certificate or competency issued by the Board after passing the prescribed examinations, or

(ii) he has passed a professional examination recognised by the Board as carrying exemption from the Board's examinations and has passed such further examination and has completed such further period of training in the States of West Malaysia or the Republic of Singapore as the Board may prescribe; and

(c) he has made a declaration in the form and manner prescribed in the Schedule; and

(d) he has paid the prescribed registration fee; and

(e) he has not had his name struck off the register and is not under suspension from practice under section 16 or 17.

(2) The name of any Government surveyor who is otherwise eligible for registration under this section may be placed upon the Register without payment of the prescribed registration fee.

10. Licence to practise and renewal of licence.

(1) The Board shall issue to each person other than a Government Surveyor, registered in accordance with section 9 upon application by such person in the prescribed form and on payment of the prescribed fee a licence to practise in the prescribed form, valid for the year of registration: Provided that no such licence shall be issued to any such person who is not a citizen without the approval of the Minister.

(2) Every such person intending to continue to practise as a licensed land surveyor thereafter shall apply annually, in the prescribed manner for a licence to practise and shall pay the prescribed fee for such licence.

(3) The licence to practise shall subject to the proviso to subsection (1) be issued by the Secretary and shall be in force from the date of issue to the end of the year. Any licence to practise taken out during the month of January shall be deemed to have been in force from the first day of that month.

(4) The licence to practise shall remain the property of the Board and shall be returned to the Board when so required by the Board.

11. General funds of the Board, accounts and expenses.

(1) All fees and fines payable under this Act and such other sums as may be paid to the Board shall be credited to the general funds of the Board,

(2) There shall be paid from the funds of the Board to the members such fees for attendance and such reasonable travelling expenses and subsistence allowances as may from time to time be approved by the Minister.

(3) All salaries, remunerations, allowances and other expenses incurred by the Board in the discharge of its functions may be paid out of the general funds of the Board.

(4) The accounts of the Board shall be audited annually by an auditor appointed by the Board with the approval of the Minister. The accounts, together with the auditor's report, shall be submitted to the Minister.

12. Arrangements with reciprocating territories.

(1) The Board may enter into arrangements with the Surveyors Board or other competent authority of a reciprocating territory for the recognition of the status of any person authorised by such Board or other authority to practise as a licensed land surveyor in such reciprocating territory and may prescribe what additional evidence of character and competency must be produced before such person may be licensed under this Act,

(2) The Board may enter into arrangements with the Surveyors Board or other competent authority in a reciprocating territory for the setting and acceptance of joint papers in professional subjects under the examination rules prescribed by the Board.

13. Powers of a licensed land surveyor.

(1) Subject to this Act a licensed land surveyor whose name appears on the Register and who has paid the annual licence fee in respect of the current year, shall be entitled to practise his profession as a land surveyor and shall be authorised to undertake title surveys.

(2) Nothing in this Act shall affect the right of the Director General of Survey to employ Government surveyors, whether

licensed land surveyors or not, on any type of title survey whatsoever.

(3) Nothing in this Act shall affect the right of any person, not being a licensed land surveyor to undertake surveys other than title surveys.

(4) A licensed land surveyor and his assistants may, for the purpose of carrying out a title survey, at any reasonable time during the hours of daylight enter upon all lands which he is employed to survey, and upon any neighbouring lands and any buildings on such lands and may emplace any boundary mark in or upon such lands and may dig up any ground for the purpose of emplacing such boundary mark and may cut down and remove any timber or other growth which may obstruct any survey line or any boundary causing as little damage as possible thereby:

Provided that nothing in this section shall exempt such licensed surveyor or his assistant from liability for any damage which he may cause in the exercise of the powers conferred by this subsection.

(5) For the purpose of obtaining data for a title survey, the survey plan of which is to be lodged with a Government Survey Department, a licensed land surveyor may at all reasonable times be permitted to inspect relevant Survey Department maps and plans and to take copies of such information therefrom as he may require without payment of search fees, but he may not remove any such maps and plans from departmental custody and he will be held pecuniarily liable for any damage which he may cause to them while they are under his control.

14. Deposit of plans.

On completion of a title survey, the survey plan of which is to be lodged with the Government Survey Department, the licensed land surveyor who signs the survey plan thereof shall deposit such plan together with the relevant field books, calculation sheets and survey data with the Survey Department and all such documents shall, if such plan is approved by the Director General of Survey or other officer appointed by him to approve the same on his behalf, become the property of Government and shall be filed as permanent survey records.

15. Approval of title surveys.

No title survey or survey plan thereof shall be accepted or adopted for the purpose of any written law unless it has been approved by the Director General of Survey or other officer appointed by him to approve survey plans on his behalf.

16. Correction of errors.

(1) The Director General of Survey or any Government surveyor so authorised by him may at any time undertake such field and office checks on the title survey work of a licensed land surveyor as he thinks fit.

(2) The Director General of Survey or other person authorised by him to approve survey plans, may by notice in writing, instruct any licensed land surveyor to correct at his own expense within a time specified in such notice any error made by him:

Provided that such notice is sent not more than twelve months after the date on which the relevant survey plan was deposited with the Survey Department as provided in section 14.

(3) In the event of such licensed land surveyor refusing or neglecting within the time specified to correct such error it shall be lawful for the Director General of Survey to undertake such correction departmentally and to recover the whole cost of such correction from the licensed land surveyor concerned.

(4) If such licensed land surveyor refuses or neglects to refund the cost of the correction survey referred to in subsection (3) within fourteen days of the receipt of the statement of cost the Director General of Survey may report the facts to the Board for disciplinary action, and after due enquiry the Board may order such licensed land surveyor to pay the cost of correction of his work or to pay his client such sum by way of compensation as the Board thinks fit; and if such licensed land surveyor refuses or neglects to comply with such order within one month of the date of such decision the Board may, subject to section 18, suspend such licensed land surveyor from practice as a licensed land surveyor until the cost of such correction survey has been paid, or for a period not exceeding three years.

17. Disciplinary powers of the Board.

Where, after due enquiry by the Board, a licensed land surveyor has been found to have been guilty of professional misconduct,

or having been convicted of a criminal offence, is found by the Board to be unfit to practise, the Board may—

- (a) strike off the name of such licensed land surveyor from the Register; or
- (b) suspend such licensed land surveyor from practice as a licensed land surveyor for a period not exceeding three years; or
- (c) impose a fine on such licensed land surveyor not exceeding five hundred ringgit; or
- (d) reprimand such licensed land surveyor.

18. Appeal to the High Court.

Any person aggrieved by a decision of the Board under section 16 (4) or section 17 may, within one month of the date of such decision, appeal to the High Court against such decision and, on any such appeal, the High Court may give such directions in the matter as it thinks proper, including any directions as to the costs of the appeal and no appeal shall lie from an order of the High Court under this section.

19. Illegal practice.

Any person who, not being a licensed land surveyor, wilfully and falsely pretends, or takes or uses any name or title implying that he is a licensed land surveyor, or not being a licensed land surveyor or a Government surveyor, certifies to the accuracy of any title survey or signs or initials any survey plan or, not being a person acting under the immediate personal direction and supervision of a licensed land surveyor, carries out or undertakes to carry out any work, in connection with a title survey, shall be guilty of an offence against this Act and shall be liable to a fine not exceeding five hundred ringgit for each offence and to a further penalty of fifty ringgit for each day during the continuance of such offence.

20. Existing licensed surveyors.

Notwithstanding sections 9 and 10, the name of every person who immediately before the coming into force of this Act was resident and practising in the States of Malaya and was licensed to practise under the Surveyors Ordinance of the Straits Settlements shall be placed upon the Register without payment of the

prescribed registration fee and the Board shall issue to every such person a licence to practise without payment of the prescribed licence fee in respect of the year 1958.

21. Regulations.

(1) Subject to this Act the Board may with the approval of the Minister make regulations to prescribe anything which under this Act is required to be prescribed and generally to carry out the objects and purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing, such regulations may—

- (a) prescribe the conditions under which persons desirous of becoming licensed land surveyors under this Act may so qualify;
- (b) regulate the practice and conduct of licensed land surveyors;
- (c) prescribe fees for registration, annual licences, examinations and other purposes under this Act;
- (d) regulate the disciplinary proceedings of the Board;
- (e) prescribe forms of application and of the annual licence; and
- (f) prescribe the form of the Register and the particulars to be entered therein.

22. Repeal.

The Surveyors Ordinance is hereby repealed.

SCHEDULE

[Section 9 (1) (c)]

I, A.B., do hereby solemnly and sincerely declare that I will to the best of my ability, without partiality or favour, correctly survey and delineate the boundaries of any lands I may be instructed to survey, in strict compliance with the regulations and instructions, for the time being in force, of the Board constituted by the Licensed Land Surveyors Act 1958.

A.B.

Note— The above declaration shall be made in accordance with the Statutory Declarations Act 1960 (Act 13).