

THE LAND SURVEY ACT NO.9 OF 1990

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ACT NO.9 OF 1990

I ASSENT

**SALMIN AMOUR
PRESIDENT OF ZANZIBAR AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

1st August 1991

**AN ACT TO MAKE PROVISIONS FOR THE LICENSING AND
PROFESSIONAL CONDUCT OF LAND SURVEYORS, FOR
REGULATING AND THE MAKING OF LANDSURVEYS, AND
FOR MATTERS CONNECTED THEREWITH
AND INCIDENTAL THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

- Short title. 1. This Act may be cited as the Land Survey Act, 1989 and shall come into operation immediately upon being assented by the President.
- Interpretation. 2. In this Act, unless the context otherwise requires:-
- "assistant" means a person, not being a surveyor, who is engaged on survey work directly under the control of a surveyor;
- "Board" means the Land Surveyor's Board established pursuant to the provisions of section 4;
- "cadastral survey" means any survey the purpose of which is to obtain information for recording the position of the boundaries of lands in separate ownership, or intended to be the subject of any disposition or partition, or re-establishing such boundaries on the ground or setting out new boundaries on the ground;

“Director” means the Director of Surveys appointed under section 3(1);

“Licensed Surveyor” means a land surveyor duly licensed as such under the provisions of this Act;

“Minister” means the Minister responsible for survey matters;

“old law” means the Land Survey Decree, Cap. 100 of the Laws of Zanzibar;

“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 person or who would receive the same if the land were let;

“plan” includes map, plot, diagram, aerial photograph or satellite image approved by the Director for survey purposes;

“prescribed” means prescribed by Regulations made under this Act;

“President” means the President of Zanzibar and Chairman of Revolutionary Council;

“public survey” means any survey made for the purpose of defining the boundaries of any land which is owned by the Government of Zanzibar or any public authority, or in which the Government or any public authority possesses or dispossesses of any interest or any survey which forms part of a survey of Zanzibar or any part thereof;

“Regulations” means Regulations made under section 25;

“section” means a section of this Act;

“survey” means a survey defining the boundaries of any land in Zanzibar;

“Survey Department” means the department in Zanzibar exercising functions relating to survey matters;

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

Appointment of Director, his powers and functions.

3.(1) There shall be a Director of Land Surveys appointed by the President.

(2) The Director 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 and approve such plans if satisfied that such surveys have been carried out and the plans have been prepared in accordance with the Regulations;
- (d) take charge of and preserve all survey-records;
- (e) subject to the provisions of this Act cancel or correct any survey plan or diagram found to be incorrect, outdated or inadequate;
- (f) prepare, certify and issue at the request of any person upon payment of the prescribed fees, copies of diagrams and documents filed within his department which are available to the public.

(3) The Director shall be a sole authority for the preparation and publication of the official maps of Zanzibar, and no other person shall, without licence in writing from 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 SURVEYOR'S BOARD

Establishment
and composition
of the Board.

4.(1) There is hereby established a Board, to be known as the Land Surveyor's Board consisting of the Director, who shall be the Chairman of the Board, and not less than four and not more than seven members appointed by the Minister and not less than three of whom shall, if practicable be surveyors licensed to practise in Zanzibar. The quorum for any meeting of the Board shall be not less than half the number of members.

(2) A member of the Board shall be appointed by the Minister for a term of three years, which is renewable and such member may at any time resign by giving notice in writing to the Minister.

(3) The Minister may, at his discretion, revoke the appointment of any person appointed by him to be a member of the Board.

(4) Notice of appointment and revocation of appointment of a member of the Board shall be published in the Gazette.

(5) The Minister shall appoint as Secretary of the Board a lawyer with an experience of more than three years. The Secretary shall not be a member of the Board.

(6) The Board shall appoint examiners and other officers who are not board members as may be necessary for carrying out the duties of the Board, and all such persons shall hold office during the pleasure of the Board.

Functions of the
Board.

5. The Board shall be the sole competent authority:-

- (a) to grant to persons duly qualified therefor in accordance with the provisions of this Act licences to practise land surveying in Zanzibar;
- (b) to provide for examination to be taken by applicants for such licences;
- (c) to keep a register of all licensed surveyors in accordance with section 8;

- (d) to take disciplinary measures against licensed surveyors in accordance with the provisions of this Act;
- (e) to hear and determine any dispute between a licensed surveyor and his client;
- (f) to perform such other functions as are prescribed by this Act or any Regulations made thereunder.

Procedure for the grant of licence to practise land surveying.

6. The Board shall not grant licence to practise land surveying to any person unless such person has passed such examination as the Board may from time to time prescribe, or who has been granted exemption therefrom.

Grant of licence.

7.(1) The grant of a licence shall be in the form prescribed in the First Schedule of this Act and notice thereof shall be published in the Gazette.

(2) There shall be payable in respect of the grant of a licence to a surveyor such fee as may be prescribed.

Register.

8. 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, the date upon which each such licence was granted and any other particulars as may be prescribed.

Breach of professional ethics.

9.(1) Where after due enquiry by the Board, a licensed surveyor has been found 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) revoke the licence granted to such licensed surveyors; or
- (b) suspend the licence for a period not exceeding three years; or
- (c) impose a fine not less than five thousand shillings and not exceeding fifty thousand shillings; or
- (d) reprimand such licensed surveyor.

(2) Upon any inquiry held by the Board under subsection

(1) of this section the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or by an advocate.

(3) For the purpose of proceedings at any inquiry held by the Board, the Board may administer oaths and affirmations and may, subject to the provisions 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, having been summoned by the Board in the form prescribed in the Second Schedule to attend before it fails so to attend, or fails to produce any books or documents which he is required to produce shall be guilty of an offence against this Act.

Appeal.

10. Any person aggrieved by a decision of the Board under section 9, or under subsection (4) of section 23, may within one month following the date of the decision, appeal to the High Court against the decision and, on any such appeal the High Court may give such directions in the matter as it thinks proper, including directions as to costs of the appeal, and no appeal shall lie from an order of the High Court under this section.

Power of the Board to restore licence.

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

Notice to be published.

12. Notice of the grant, revocation or suspension of any licence or the termination of the suspension thereof, under this part shall be by publication in the Gazette.

PART III THE CONDUCT OF THE SURVEYORS

Surveyor to abide with the law.

13.(1) Every surveyor shall carry out every survey undertaken by him in such a manner as will ensure that the survey accords in all respects with the provisions of this Act and any Regulations made thereunder; and shall be responsible to ensure that every survey carried out by him or

under his supervision is correct and complete:

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

(2) Neither the Government nor any public officer shall be liable for any defective survey, or any work appertaining thereto, performed by a licensed surveyor notwithstanding that any plan relating to such survey has been authenticated in accordance with the requirement and provisions of this Act.

Power to survey.

14.(1) No person, other than a surveyor, shall survey any holding or land for the purpose of preparing any plan which is to be attached to, or 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 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.

(2) For the purpose of any public survey the Director or any surveyor authorised by him may enter upon land with such assistants as may be reasonably required, 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 surveys.

(3) The Director or any surveyor authorised by him shall, when practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon. Where the owner or occupier cannot be found, notice may be placed on a conspicuous place on the land.

Compensation.

15. Compensation shall be payable out of the public revenues to the owner of any crops or trees cut or damaged in the exercise of any power conferred by section 14, and if any question shall arise as to the amount of compensation to be paid, or the right of a claimant to recover compensation, such question shall, in absence of agreement between the

Director and all persons concerned, be finally determined by a Magistrate on application made to him by the Director or any person authorised by him in that behalf, or by any person claiming to be entitled to compensation under the provisions of this section:

Provided that save at the discretion of the Director no such application shall be granted if it is by a person claiming to be entitled to compensation and is made more than thirty days after the date on which the crop or trees in respect of which the claim is brought were cut or damaged.

Power to enter.

16.(1) After giving notice as required by section 14 (3) any surveyor may, for the purpose of surveying any land for which he is employed to survey, enter on and pass over any land whether private or public, causing as little inconvenience to the owner or occupier of such land as is necessary in the execution of his 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 provisions of section 15.

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

Provided that where such agreement is not possible, the Director shall act as an arbitrator; and in case of disagreement between the Director and any party or parties concerned, compensation shall be determined by a magistrate as set out in section 15.

(5) No compensation shall be paid out of Government revenue for damage to land done by a private surveyor.

PART IV THE PRESERVATION OF SURVEY MARKS

Offences.

17.(1) Any unauthorised person who wilfully obliterates, removes or damages any trigonometrical station, monument, survey beacon, mark or pole, or any boundary mark affixed,

set up or place for the purpose of conducting any public or other survey under this Act, shall be guilty of an offence and in addition to any other punishment imposed on summary conviction, may be ordered to pay the cost of repairing or replacing the thing obliterated, removed or damaged and of carrying out any survey rendered necessary by the act for which he is convicted.

(2) 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 under this law, or any workman or other person acting in aid of any such surveyors, shall be guilty of an offence.

Recovery of sum as civil debt.

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

PART V GENERAL

Delegation of powers by the Director.

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

(2) Any such delegation shall be revocable at will, and no delegation shall prevent the exercise by the Director of any function so delegated.

Submission of plans to the Director.

20.(1) Every surveyor who executes any survey in accordance with the provisions of this Act and of the Regulations made thereunder, shall send to the Director all plans, 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 Government.

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

Powers of the Director.

21.(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.

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

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

(4) If such licensed surveyor refuses or neglects to pay the cost of the correction referred to in subsection (3) of this section within fourteen days of the same having been demanded of him, the Director may report the facts to the Board for disciplinary action and after due inquiry, the Board may order such licensed surveyor to pay the cost of correction to the Director and if such licensed surveyor refuses or neglects to comply with such an order within one month after the date of the order, the Board may, subject to the provisions of section 18 of this Act suspend the licence of the licensed surveyor until the cost of the correction has been paid, or for a period not exceeding three years, whichever it deems fit.

Authentication by the Director.

22.(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.

(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 conclusive evidence of the survey information contained therein unless and until such plan is cancelled by the director by virtue of section 23.

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

Inaccurate plans.

23.(1) Where, in the case of a document or instrument to which the authenticated plan is attached, or in which reference to such a plan is made:-

(a) the plan is found to be inaccurate by reason of any

error or omission in the surveys; or

- (b) the plan does not conform with the terms and conditions subject to which permission to sub-divide the land to which the plan relates had been given, the Director may cancel the authentication of such plan and may recall any copies which may have been issued, and in every such case the provision of section 21 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 such plan relates;
- (b) the surveyor by whom the survey was executed; and
- (c) such office where the title documents are registered.

Permission for aerial photography.

24.(1) Any person who wishes to carry out aerial photography of Zanzibar for use in mapping or similar purpose shall, before carrying out the same, obtain permission for such photography from the Minister.

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

- (a) produce to the Director for his inspection all the photography thereby produced or such of them as the director may specify; and
- (b) supply to the Director, at the Director's cost such copies and diagrams as the Director may require of such photographs:

Provided that the supply of photographs to the Director under this section shall not in any way affect the copyright therein of the person supplying them or other owner of such copyright.

Regulations.

25. The Minister may make Regulations:-

- (a) prescribing the manner in which surveys are to be made, the records to be kept by the licensed surveyors and the manner of keeping the same;

- (b) prescribing the manner in which survey marks shall be construed;
- (c) with regard to plans of surveys and their preparation and the manner to be shown thereon;
- (d) with regard to the publication, issue of services and forms of the notices to be published, issued or served under this Act or Regulations made thereunder;
- (e) prescribing the return to be made by licensed surveyors to the Director;
- (f) requiring surveyors to report to the Director matters connected with surveys on which they are engaged, or with previous surveys ascertained by them in the course of their work;
- (g) for securing the maintenance of survey marks in their correct position and the preparation of the same;
- (h) providing for the checking of surveys alleged to be erroneous and, for the payment of the expenses for such checking;
- (i) providing for the checking of the tapes and instruments used by surveyors;
- (j) providing for and regulating the inspection and the taking of copies of plans of surveys in any office of the Survey Department;
- (k) prescribing any fees which may be charged under this Act;
- (l) prescribing the syllabus of any examination for the purpose of section 6;
- (m) prescribing any other matter which this Act requires or authorises to be prescribed by him; and
- (n) generally for giving effect to the purposes of this Act so far as the Director and the Minister are the

appropriate authorities therefor.

Penalty.

26. Any person who contravenes or fails to comply with any provision of this Act or any regulations made thereunder shall be guilty of an offence and unless otherwise provided shall, on conviction be liable to a fine of less than five thousand but not exceeding twenty thousand shillings or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Joint responsibility.

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

Repeal and savings.

28. Without prejudice to any rights and liabilities existing or capable of arising thereunder, the Land Survey Decree, Chapter 100 of the Laws of Zanzibar is hereby repealed.

**FIRST SCHEDULE
ZANZIBAR GOVERNMENT**

**THE LAND SURVEYOR'S LICENCE
(UNDER SECTION 2)**

Mr./Mrs./Miss. of
..... is hereby registered as a Land
Surveyor in accordance with the provisions of section 7 of the
Land Surveyor's Act, 1989.

Given at Zanzibar this day of..... 19.....

.....
**CHAIRMAN
LAND SURVEYOR'S BOARD**

SECOND SCHEDULE

ZANZIBAR GOVERNMENT

THE LAND SURVEYOR'S ACT, 1989

**SUMMONS TO APPEAR BEFORE THE BOARD
(UNDER SECTION 9(4))**

To

WHEREAS of.....
has instituted a suit against you, you are hereby summoned
to appear before this Board in person, or by an advocate duly
instructed, and able to answer all material questions relating
to the suit, or who shall be accompanied by some person
able to answer all such questions, as the day of
.....19..... at o'clock in the noon, to
answer the claim; should you appear and dispute the claims
the Board will proceed to give directions for the disposal of
the suit but in default of your appearance on the day
aforementioned, the suit will be heard and determined in
your absence.

GIVEN under my hand and the Seal of the Board, this
..... day of 19.....

.....
CHAIRMAN
LAND SURVEYOR'S BOARD

PASSED in the House of Representatives on the 19th
day of December, 1989.

KHAMIS JUMA CHANDE
CLERK OF THE HOUSE OF REPRESENTATIVES OF
ZANZIBAR