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First Session Fifth Parliament Republic of Trinidad and Tobago

REPUBLIC OF TRINIDAD AND TOBAGO

FINAL REPORT

Act No. 33 of 1996

Land Surveyors Act 1996 Proposed Amendments 2000

[L.S.]

Enactment

An Act to provide for the registration of Land Surveyors,
Trinidad and Tobago Licensed Surveyors and Land Surveying
Graduates, for the regulation of the practice of land surveying and
for other connected matters.

[Assented to 19th November, 1996]

Enacted by the Parliament of Trinidad and Tobago as follows:

PART I
PRELIMINARY

Short title and
Commencement

1. (1) This Act may be cited as the Land Surveyors Act 1996.
- (2) This Act shall come into operation on a date to be fixed by the President by Proclamation.

Interpretation

2. (1) In this Act –

‘Board’ means the Land Survey Board of Trinidad and Tobago established under section 3 of this Act;

‘boundary beacon/monument’ means a post, stake, nail, pit, trench, survey mark or any other object, thing or device used to mark or designate a boundary that defines legal rights in land;

‘Cadastral Surveying’ means determining the form, contour, position, area, shape, height, depth or nature of any part of the earth or of any natural or artificial features, and the position, length, and direction of bounding lines on, below or above any part of the earth for the purposes of making legal plans defining boundaries and registering land or documents with appropriate authorities;

‘Committee’ means the Land Surveyors Disciplinary Committee established under section 36;

‘Director of Surveys’ means the Director of Surveys in the Public Service whose functions are outlined in section 13;

‘Engineering Surveying’ means

(i) Data Collection: The process by which the form, contour, position, area, shape, height, depth or nature of any part of the earth including natural and artificial features is measured so that it may be stored and recreated at any scale on a material drawing or in a computer file;

(ii) Setting-out: The process by which proposed works, designed by others and based on Engineering Surveying Data Collection, are established and controlled on the ground in such a way that the design is executed accurately in the context of the particular works themselves and also in the context of other adjacent works and infrastructure;

‘Geodetic Surveying’ means determining the size, shape and gravity field of the earth and making measurements to relate any part of the earth or any natural or artificial feature to the whole. In Trinidad and Tobago this may be extended to include the process of bringing national control into

sites of survey.

‘Hydrographic Surveying’ means measuring or depicting those parameters that are necessary to describe the precise nature and configuration of the sea-bed and any natural or artificial features located on it and their geographical relationship to the landmass; and determining and measuring the characteristics and dynamics of the sea;

‘Institute’ means the Institute of Surveyors of Trinidad and Tobago;

‘land’ includes subsoil, airspace, water, marine areas and interests in or over land;

‘Land Surveying’ means any process of determining, mapping or planning the position of or locating a point, a parcel of land, a body of water, or a structure, in relation to survey marks or any other structure whether manmade or natural or determining, mapping or planning the dimensions or form of a parcel of land or body of water; Land Surveying includes Cadastral Surveying, Engineering Surveying, Geodetic Surveying, Hydrographic Surveying, and Photogrammetric Surveying;

‘Land Surveying Graduate’ means a land surveying graduate registered under section 1;

‘Land Surveyor’ means a land surveyor registered under section 17; including Land Surveyor (Cadastral Surveying), Land Surveyor (Engineering Surveying), Land Surveyor (Geodetic Surveying), Land Surveyor (Hydrographic Surveying), Land Surveyor (Photogrammetric Surveying), or as may be prescribed by the Board;

‘Minister’ means the minister to whom responsibility for lands and surveys is assigned;

‘nominated member’ means a member of the Board appointed by the Minister on the recommendation of the Institute or the Director of Surveys;

‘Photogrammetric Surveying’ means determining the form, contour, position, area, shape, height, depth or nature of any part of the earth or of any natural or artificial features’ through the use of airborne vehicles equipped with recording devices such as cameras, scanners or other recorders using any electromagnetic medium

‘Registrar General’ means the Registrar General established under the Registrar General's Act;

‘Registrar-Secretary’ means the Secretary of the Board appointed under section 8;

‘survey mark’ means a mark established by a land surveyor for the purpose of propagating survey co-ordinates;

‘Trinidad and Tobago **Licensed** Surveyor’ (TTLS) means a Land Surveyor (**Cadastral Surveying**) who is qualified to perform cadastral surveys and is registered and licensed in accordance with section 17.

(2) A reference to a ‘Land Surveyor’ or to a ‘Licensed Surveyor’ in any other written law having effect at the coming into operation of this Act shall be read as a reference to a ‘Trinidad and Tobago **Licensed** Surveyor’ within the meaning of this Act.

PART II THE LAND SURVEY BOARD

Incorporation

3. There is hereby established a body corporate to be called the Land Survey Board of Trinidad and Tobago hereinafter referred to as ‘the Board’.

Composition of Board

4. (1) The Board shall consist of members appointed by the Minister as follows:

- (a) the Director of Surveys, who shall be Chairman; and
- (b) seven persons, being citizens of Trinidad and Tobago, of whom

—

- (i) four shall be Land Surveyors nominated by the Institute of Surveyors of Trinidad and Tobago and of those four at least two shall be Trinidad and Tobago **Licensed** Surveyors;
- (ii) two Land Surveyors nominated by the Director of Surveys and of those two at least one shall be a Trinidad and Tobago **Licensed** Surveyor;
- (iii) one person who, not being a member of the governing body of a self regulating licensing body under any other Act, nor being registered under this Act, is by reason of experience in professional or public life qualified to serve on the Board.

(2) In respect of an appointment made under subsection 1(b)(iii), such appointment shall be made after consultation with the Director of Surveys and the Institute.

(3) In respect of the **Land** Surveyors appointed to the Board, each shall have been engaged in the practice of **land** surveying for a minimum period of five years.

Duties and Functions of

the Board

5. The duties and functions of the Board shall be to –

- (a) register applicants who are fit and proper persons and possess the prescribed qualifications and experience;
- (b) prescribe the qualifications necessary in respect of each class of land surveyor and provide for the examination of applicants for registration under this Act;
- (c) promote and maintain high standards of professional education and conduct among persons engaged in the profession of land surveying in Trinidad and Tobago;
- (d) monitor adherence to and investigate breaches of the Code of Ethics;
- (e) cause disciplinary proceedings to be taken in accordance with the provisions of this Act;
- (f) negotiate and administer reciprocal arrangements with land survey boards or other similar authorities of other countries for the purpose of securing uniformity and reciprocity in the education, training and recognition of persons engaged in land surveying;
- (g) advise the Minister on amendments to the law relating to land surveying as it considers necessary;
- (h) prescribe requirements for the continuing professional development of all land surveyors;
- (i) perform such other functions as may be conferred on it by this Act or any other written law.

Tenure of office

6. (1) A member shall hold office for a period of three years and be eligible for reappointment.

(2) No person appointed under section 4(b) shall be appointed for more than two consecutive terms.

(3) The office of a member becomes vacant where –

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by written notice to the Minister;
- (d) in respect of a member nominated by the Institute, he ceases to be a member of the Institute; or
- (e) he is removed by the Minister where he –
 - (i) is unable to function because of physical or mental illness;
 - (ii) is absent from three consecutive meetings of the Board without the permission of the Chairman;
 - (iii) is guilty of misconduct in respect of his duties;
 - (iv) is sentenced to imprisonment without the option of a fine or is convicted of an offence involving dishonesty;
 - (v) is declared bankrupt in accordance with the laws of Trinidad and Tobago or any country;
 - (vi) is disqualified or suspended, otherwise than at his own request, from practising his profession in Trinidad and Tobago or any other country by an order of any competent

authority;

(vii) contravenes this Act.

(4) Where a member, is by reason of illness or otherwise, unable to perform his functions or unable to attend meetings of the Board, the Minister may, rather than declare the office vacant, appoint another suitably qualified person to act as an alternate member for the unexpired remainder of the term of the predecessor on the recommendation of the Institute or the Director of Surveys, as the case may be.

(5) Upon the request of the Institute or of the Director of Surveys, the Minister may appoint an appropriate person to be an alternate of the nominated member and that person, while acting in the absence of the member, shall be deemed to be a member of the Board and shall enjoy all the powers, rights and privileges and be subject to the duties of that member.

(6) The appointment or termination of membership of the Board whether by death, resignation, revocation or otherwise shall be published in the *Gazette*.

(7) Notwithstanding any defect in the appointment of any of its members, the Board shall be deemed to be properly constituted.

(8) Notwithstanding that the term of office of a nominated member may have expired, he shall, unless he sooner vacates his office under subsection (3), continue in office until his successor is appointed.

Remuneration

7. The Board shall pay its members such remuneration as the Minister approves.

Appointment of
Registrar-Secretary

8. (1) The Minister shall upon the recommendation of the Director of Surveys made after consultation with the Institute appoint a Trinidad and Tobago Licensed Surveyor to be Registrar-Secretary of the Board.

Tenure of office

(2) The Registrar-Secretary shall hold office for a period of three years and shall be eligible for re-appointment

(3) No person appointed under Section 8 shall be appointed for more than two consecutive terms of office

Seal

9. (1) The Board shall have a seal which shall be kept in the custody of the Chairman or Registrar-Secretary and may be affixed to instruments in the presence of the Chairman or the Registrar-Secretary.

(2) The seal of the Board shall be attested to by the signature of the Chairman and the Registrar-Secretary.

(3) All documents other than those required by law to be made under seal and all decisions of the Board may be signified under the hand of the Chairman or Registrar-Secretary.

Meetings of Board

10. (1) The Board shall meet at least once every month at a time and place to be fixed by the Board and not less than seven days notice of any meeting together with the agenda shall be given to members of the

meeting together with the agenda shall be given to members of the Board.

(2) Where two members sign a written request directed to the Chairman setting out the object of a proposed meeting of the Board, the Chairman shall duly convene such a meeting within seven days of the receipt of the request.

(3) The Chairman may at any time convene an emergency meeting whenever he thinks it necessary to do so.

(4) The Chairman shall preside at all meetings but, in his absence, the other members of the Board shall choose one of their number to act as Chairman.

(5) Each member of the Board is entitled to one vote on a matter arising for determination by the Board and, in the event of an equality of votes, the Chairman or member acting as Chairman shall have a second or casting vote.

(6) Subject to this Act, the business of the Board shall be conducted in such manner as it shall determine.

Quorum

11. (1) At any meeting of the Board, a quorum is constituted where at least four members are present and the decisions of the Board shall be by a majority of the votes of members present and voting.

(2) No decision shall be taken on any matter related to cadastral surveying unless at least two members who are Trinidad and Tobago **Licensed** Surveyors are present.

Liability of Board members

12. (1) No member of the Board is personally liable in any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or the discharge or purported discharge of any duty or function under this Act.

(2) Members of the Land Survey Board appointed or nominated under the repealed Ordinance and holding office at the commencement of this Act shall continue to hold office as members of the Board established by this Act until the appointment of a new Board.

PART III THE DIRECTOR OF SURVEYS

The Director of Surveys

13. The Director of Surveys shall –

- (a) administer, co-ordinate, maintain and extend geodetic control networks, traverses, precise levelling or other precision measurements forming the National Survey Control System, and maintain the salient permanent reference marks governing

- or providing subsidiary controls for surveys;
- (b) implement and administer such examination and approval procedures as are approved by the Board for ensuring –
 - (i) the maintenance of accuracy and standards in surveys for land title, leases or tenure purposes under any Act;
 - (ii) the integration of surveys within the survey system; and
 - (iii) the integrity of cadastral survey records;
- (c) set standards for the format in which digital data should be presented;
- (d) produce and maintain topographic maps, hydrographic charts, photogrammetric data and mapping derived from cadastral and topographic information including related thematic and special purpose mapping, hydrographic charting and digital records;
- (e) facilitate the co-ordination of aerial photography required for government purposes and capable of being used in the production of maps;
- (f) promote the integration of mapping geographically based information and land related information with the information system requirements;
- (g) specify requirements for and, where appropriate, arrange surveys for the issue of title or affecting tenure or disposition of State Land;
- (h) receive, hold, distribute, reproduce and sell, topographic, cadastral, and derived maps, aerial photographs and other survey and mapping documents resulting from activities under this Act and required for government or public use;
- (i) authorize and, where appropriate, charge for the use or reproduction of survey and mapping information recorded by the Department of Lands and Surveys in digital form;
- (j) provide surveys, mapping, land information and related services;
- (k) co-ordinate as necessary with local and international agencies on the exchange of surveys, mapping and land information data.

Survey Register and
Index Maps

14. (1) The Director of Surveys shall be the custodian of a Survey Register and appropriate index of survey plans in which any survey made by a Trinidad and Tobago **Licensed** Surveyor shall be registered.
- (2) Any survey entered in the Survey Register or Index Map shall be identified in such manner as may be necessary or expedient to facilitate the use of the Register or Index Map.
- (3) Any person may, on payment of the prescribed fee and subject to such conditions as may be prescribed by the Board, make a search or examine the Survey Register and obtain copies of any survey contained therein.

Photogrammetric

15. (1) Where the Director of Surveys grants permission to conduct a

Surveys

photogrammetric survey, he may impose such conditions, restrictions or limitations as he deems necessary in respect of the manner, area and time in which the survey shall be carried out and he may further impose limitations on the use of the data collected.

- (2) Any person who has carried out a photogrammetric survey shall, if the Director of Surveys so requires, in writing –
- (a) permit the Director of Surveys or his nominee to inspect all the records of the photogrammetric survey;
 - (b) supply the Director of Surveys, at the least possible cost, with copies of the photogrammetric survey records and images or data;
 - (c) deliver to the Director of Surveys for his permanent custody technical specifications of the photogrammetric survey on completion of the photogrammetric survey.

NOTE: The previous sections 15 (1), (4), (5) and (6) are deleted, and incorporated in Section 56 of the Regulations.

PART IV REGISTRATION

Application for
registration

16. (1) An application for registration as a –
- (a) Land Surveying Graduate;
 - (b) Land Surveyor;
 - (a) a Trinidad and Tobago Licensed Surveyor,
- shall be made to the Board on the prescribed form and shall be accompanied by the prescribed fee.
- (2) An applicant for registration shall, if the Board so requires –
- (a) furnish the Board with such information, papers or documents as it specifies; and
 - (b) verify by statutory declaration any information furnished for the purpose of the application.

Qualification for
registration

17. (1) A person shall be registered as a Land Surveying Graduate if he –
- (a) is a person of good character and reputation; and
 - (b) possesses the prescribed academic qualifications.
- (2) A person shall be registered as a Land Surveyor if he –
- (a) (i) is a person of good character and reputation and a fit and proper person to be so registered;
 - (ii) possesses the prescribed academic qualifications;
 - (iii) has gained such practical experience in a category of land surveying as is prescribed; or
 - (b) is otherwise qualified as prescribed.
- (3) A person shall be registered as a Trinidad and Tobago Licensed Surveyor if he –
- (a) is a person of good character and reputation and is a fit and proper person to be so registered;
 - (b) has gained such experience in cadastral surveying as is

- prescribed; and
 (c) is otherwise qualified as prescribed,

Licence

and the Board shall issue a licence to the applicant authorizing him to perform cadastral surveys.

(4) Upon registration the Board shall issue a certificate of registration.

Annual Registration

18. (1) Registration under this Act shall remain in force until the 31st December after the grant of registration and may be renewed for successive periods of one year expiring on 31st December.
 (2) An application for renewal of registration shall be made to the Board in writing on the prescribed form.
 (3) An application for renewal of registration shall be delivered to the Registrar-Secretary not earlier than 1st October and not later than the 30th November preceding the expiry of registration but the Board may, if it thinks fit, consider and determine an application for renewal of registration notwithstanding that it is delivered out of time.
 (4) All applications for registration or renewal shall be acknowledged forthwith.
 (5) Any person who is in the service of the Government of Trinidad and Tobago as a Land Surveyor or a Trinidad and Tobago **Licensed** Surveyor and registered under this Act, shall have his registration renewed without charge.

Suspension for nonpayment of fees

19. (1) The Board may, after due notice, suspend the registration of a person who is in default of payment of any amount owed to the Board for a period of more than three months.
 (2) Notice of the date of the suspension shall be given to the person concerned and, in the case of a Trinidad and Tobago **Licensed** Surveyor, to the Registrar General.
 (3) The suspension shall be lifted where all moneys owed to the Board and a penalty of one hundred dollars are paid and, in the case of Trinidad and Tobago **Licensed** Surveyors, the Registrar General shall be notified.

Register of Graduates and Surveyors

20. (1) The Registrar-Secretary shall keep a Register of all Land Surveying Graduates, Land Surveyors and Trinidad and Tobago **Licensed** Surveyors.
 (2) The Registrar-Secretary shall also record in the Register the **category** of **land** surveying that each **land** surveyor is qualified to practise and such other information as may be prescribed.
 (3) The Registrar-Secretary shall not later than 1st March in each year prepare a list showing the names and addresses of all persons registered under this Act as of the preceding 1st February.
 (4) In respect of the list referred to in subsection (3), the Registrar-Secretary shall –
 (a) send a copy of the list –

- (i) to the Director of Surveys; and
 - (ii) to the Institute of Surveyors of Trinidad and Tobago;
 - (b) send a copy of so much of the list as relates to Trinidad and Tobago **Licensed** Surveyors to the Registrar General;
 - (c) cause the list to be published in the *Gazette*.
- (5) The Registrar-Secretary shall forthwith cause to be removed from every register the name of every person who dies or ceases for any other reason to be registered under this Act.

Registration Records
open to public

21. The Registrar-Secretary shall, upon request and on payment of the prescribed fee, provide copies of registration records.

PART V

TRINIDAD AND TOBAGO **LICENSED** SURVEYORS

Duties of a Trinidad and
Tobago **Licensed**
Surveyor

22. (1) A Trinidad and Tobago **Licensed** Surveyor –
- (a) shall make and preserve exact and regular field notes of all his surveys and shall provide copies of them to any other Trinidad and Tobago **Licensed** Surveyor for a reasonable charge;
 - (b) shall survey any holding or land for the purpose of preparing a plan 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 or over any holding or land, being a document or instrument which is required to be registered under any law relating to the registration of title to land or transactions in land;
 - (c) shall perform any survey that affects or may affect the definition of the boundaries, or the location of a boundary beacon/monument on any holding of land registered or to be registered under any law relating to the registration of land or of title to land;
 - (d) may examine under oath any person concerning a line, boundary, corner or post to assist him in ascertaining its true position;
 - (e) or any person authorized in writing by him may, upon giving such notice as may be prescribed, enter any land at a reasonable hour for the purpose of performing a cadastral survey and may do all such things as are necessary for that purpose.

2) The provisions of subsection (1) (e) do not affect, limit or restrict the right of any person to compensation for actual injury or damage caused by a person exercising the power conferred by that subsection.

(3) Every map, plan or diagram of any land attached to any document tendered for registration under any law relating to the registration of land or title to land shall be certified by a Trinidad and Tobago

Licensed Surveyor and be registered with the Director of Surveys.

(4) Every person registered as a Trinidad and Tobago **Licensed** Surveyor is entitled to use the description 'Trinidad and Tobago **Licensed** Surveyor' or the abbreviation 'T.T.L.S.'.

(5) Any person not being a Trinidad and Tobago **Licensed** Surveyor, who performs the duties of a Trinidad and Tobago **Licensed** Surveyor, is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and imprisonment for six months.

Examination under oath

23. (1) Where a Trinidad and Tobago **Licensed** Surveyor has reason to believe

that a person has information concerning a line, boundary, corner or post that may assist him in ascertaining its true position or has a plan or other document concerning a line, boundary, corner or post and that person has refused to give the information or to produce the plan or other document to the Trinidad and Tobago **Licensed** Surveyor while being examined under section 22, a Judge of the High Court, upon an application being made, may order a *subpoena* to issue out of the Court commanding such person to appear before the Trinidad and Tobago **Licensed** Surveyor at the time and place specified in the subpoena and to bring with him any plan or other document specified therein.

(2) The *subpoena* shall be served personally on the person named in it and he shall be tendered his reasonable expenses.

3) Every person who is served with a *subpoena* under this section and who has been tendered his reasonable expenses and who fails to appear before the Trinidad and Tobago **Licensed** Surveyor in accordance with the *subpoena* or fails to produce any plan or other document specified in the *subpoena* or to give such information as he has respecting the line, boundary, corner or post in question is guilty of contempt of the High Court.

(4) In this section, 'reasonable expenses' means such amount as is payable to a witness required, under *subpoena*, to attend civil proceedings in the High Court.

Disposition of Notes of
deceased Trinidad and
Tobago **Licensed**
Surveyor

24. (1) Where a Trinidad and Tobago **Licensed** Surveyor has died and no arrangements have been made within six months of his death to place his field notes, records and indices in the custody of a Trinidad and Tobago **Licensed** Surveyor in active practice, the Board shall cause such field notes, records and indices to be delivered by the personal representative of the deceased to the Director of Surveys who shall hold them for the benefit of the estate for a period not exceeding five years and, upon expiry of that period, such field notes, records and indices become the property of the State and may be disposed of by the Director of Surveys in any manner he considers proper.

(2) The Director of Surveys shall exhibit or give copies of such field notes, records and indices as are in his custody to any person for a reasonable charge.

Certification by a
Trinidad and Tobago
Licensed Surveyor
CAP. 27:11

25. Notwithstanding the provisions of the Real Property Ordinance, a certificate under the hand of any Trinidad and Tobago Licensed Surveyor upon any map or plan that he has personally surveyed the land comprised therein and that the map or plan is a correct delineation thereof or a subdivision thereof, as the case may be, shall have the same force and effect as a declaration by that Trinidad and Tobago Licensed Surveyor to the like effect.

Transitional

26. Notwithstanding any other provision contained in this Act, a person who immediately before the commencement of this Act was licensed to practice as a Land Surveyor shall subject to the payment of any prescribed fee upon the commencement of this Act, be licensed under this Act to perform cadastral surveys and shall be registered as a Trinidad and Tobago Licensed Surveyor.

PART VI PARTNERSHIPS, ASSOCIATIONS, CORPORATIONS

Registration

27. (1) Except as provided by this section no partnership, association of persons or corporation shall be registered as a Land Surveyor or a Trinidad and Tobago Licensed Surveyor unless it applies to the Board for registration and fulfils the requirements of subsection (2).
(2) An application for registration by a partnership, association of persons or corporation shall contain the following:
- (a) the names and addresses of all partners, members, officers or directors, as the case may be;
 - (b) the names of all partners, members, directors or full time employees, as the case may be, who are Land Surveyors or Trinidad and Tobago Licensed Surveyors who will be in charge of land surveying on its behalf;
 - (c) in the case of a corporation, proof that a majority of each class of its shares is owned and registered in the name of one or more of its directors who are Land Surveyors or Trinidad and Tobago Licensed Surveyors.

Issue of certificate of
registration

28 Where the applicant complies with the provisions of section 27, the Board shall register the partnership, association or corporation, as the case may be and issue a certificate of authorization thereby authorizing the holder to engage in the practice of land surveying.

Change in particulars

29. (1) Whenever there is a change in the particulars given in an application, the holder of the certificate shall notify the Registrar-Secretary of the change within thirty days and the Registrar-Secretary may revoke the certificate until such time as a new application is made and registered

made and registered.

(2) Failure to notify the Registrar-Secretary may result in the imposition, by the Board, of a fine not exceeding ten thousand dollars.

PART VII REGULATION OF PRACTICE

Professional indemnity
insurance

30. (1) The Board shall cause to be established a scheme of professional indemnity insurance within eighteen months of the commencement of this Act and such scheme shall be compulsory for all land surveyors, who provide services in any specified class of land surveying, to members of the public.
- (2) For the purposes of this section, a class of land surveying may be specified –
- (a) in relation to a category of survey or a type of user of surveys;
or
 - (b) with respect to any other consideration which the Board deems necessary having regard to the protection of the public.

Compensation Fund

31. (1) The Board shall maintain a fund known as the 'Compensation Fund' and shall hold it in trust for the purposes of this section.
- (2) The Compensation Fund shall consist of –
- (a) all monies paid under subsection (3) by persons registered under this Act;
 - (b) all monies earned from the investment of monies of the Fund;
and
 - (c) all monies recovered under section 32(3).
- (3) Every person registered under this Act who engages in private practice shall, unless he is exempted by regulations, pay into the Compensation Fund such sum as is prescribed.
- (4) Surplus monies in the Compensation Fund not immediately required for any other purpose may be invested in securities in which trustees are authorized by law to invest.

Grants paid out of
Compensation Fund

32. (1) The Board may make a grant from the Compensation Fund to relieve or mitigate loss sustained by any person in consequence of death, dishonesty or negligence of a Land Surveyor or Trinidad and Tobago Licensed Surveyor notwithstanding that after the commission of the act of dishonesty or negligence the Land Surveyor or Trinidad and Tobago Licensed Surveyor ceased to be registered under this Act.
- (2) No grant shall be paid out of the Compensation Fund unless notice in writing of the loss is received by the Registrar-Secretary within six months after the loss came to the knowledge of the person suffering the loss or within such further time, not exceeding eighteen months, as in any case may be allowed by the Board.

(3) When a grant is made under this section, the Board is subrogated to the amount of the grant to any rights or remedies to which the person receiving the grant was entitled on account of the loss in respect of which the grant was made against the person registered under this Act or any other person or, in the event of the death or insolvency or other disability of such registered person or other person, against his estate.

(4) No person, to whom a grant is made under this section or, in the event of his death, insolvency or other disability, his estate, shall receive anything from the estate of the person registered under this Act in respect of the loss for which the grant was paid until the Board has been reimbursed the full amount of the grant.

(5) Where a grant has been paid under this section and the person registered under the Act has been declared bankrupt, the Board may prove against the bankrupt's estate for the full amount of the claim of the person to whom the grant was made and receive all dividends on such amount until the Board has been reimbursed for the full amount of the grant.

Delegation

33. (1) The Board may delegate any of its powers conferred on it in this in this Part to a committee of the Board and, whether or not the Board has made such delegation, it may also appoint a **land** surveyor who has been in practice for a minimum period of five years to be a referee and delegate to him any of the powers conferred upon it by this section that are not delegated to a committee.
- (2) Where the Board has delegated any of its powers under this section to a committee or to a referee, the committee or referee, as the case may be, shall report to the Board as the Board requires.

Code of Ethics

34. The Board shall prepare and publish a Code of Code of Ethics designed primarily for the protection of the public, which standards persons registered under this Act must subscribe to and follow in the practice of land surveying.

PART VIII DISCIPLINARY PROCEEDINGS

Application of Part

35. This Part applies to persons registered under this Act and to holders of Certificates of Authorization.

Disciplinary Committee

36. (1) The 'Land Surveyors Disciplinary Committee' (hereinafter called 'the disciplinary committee') is hereby established for the purpose of hearing and determining complaints brought before it.

(2) The Disciplinary Committee shall consist of six members appointed by the Minister after consultation with the Director of

Surveys and the Institute of whom –

- (a) one shall be an Attorney-at-law of at least ten years standing, who shall be the Chairman;
- (b) five shall be Land Surveyors, of whom not fewer than two shall be Trinidad and Tobago **Licensed** Surveyors nominated by the Institute.
- (c) no member of the Disciplinary Committee shall be simultaneously a member of the Land Survey Board

Tenure

37. (1) Subject to this Act, a member of the Disciplinary Committee shall be appointed for a term not exceeding three years, and upon the expiration of his term of office, shall be eligible for reappointment.
- (2) The office of a member of the Disciplinary Committee becomes vacant where –
- (a) he dies;
 - (b) his term of office expires;
 - (c) he resigns by written notice addressed to the Minister; or
 - (d) he is removed from office for any of the following reasons:
 - (i) he becomes a person of unsound mind;
 - (ii) he is guilty of misconduct in relation to his duties;
 - (iii) he is sentenced to imprisonment without the option of a fine or is convicted of an offence involving dishonesty;
 - (iv) he is declared bankrupt in accordance with the laws of Trinidad and Tobago;
 - (v) he is unable to perform his functions because of illness or for any other reason.
- 3) Where a member is by reason of illness or otherwise, unable to perform his functions as a member or unable to attend meetings of the Board the Minister may, rather than declare the office vacant, appoint another suitably qualified person to act as an alternate member on the recommendation of the Institute or the Director of Surveys, as the case may be.
- (4) Upon the office of a member of the committee becoming vacant, a person shall be appointed to the vacant office in accordance with the provisions of this Act and where the office becomes vacant before the expiration of the term, the person appointed to fill that vacancy shall be appointed for the balance of the term remaining.

Remuneration

38. The members of the Disciplinary Committee shall be entitled to receive such remuneration as may be determined by the Minister.

Committee to regulate its procedure

39. Subject to this Act, the Disciplinary Committee may make rules to regulate its procedure.

Expenses of Committee

40. Expenses incurred by the Disciplinary Committee in the discharge of its functions shall be met from the budget of the Lands and Surveys Division.

Procedure for hearing
complaints

41. (1) Where a person alleges that he has been aggrieved by an act of professional misconduct or default committed by a person registered under this Act, he may apply to the Board by way of letter to require that person to answer the allegations.
- (2) For the purposes of any application made to it, the Committee shall have the powers of the High Court to summon witnesses, call for the production of books and documents and examine witnesses and parties concerned on oath.

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- (3) Where in any proceedings before the Committee a person so conducts himself that had he been in proceedings before the High Court he would have been held in contempt, the Committee may make application to the High Court in accordance with rules made by the Rules Committee established by the Supreme Court of Judicature Act, for an order for committal.

Screening of complaints

42. (1) The Board may by resolution appoint the Registrar-Secretary to pre-examine all or any class of complaints made against persons registered under this Act and, in such pre-examination, the Registrar-Secretary may call upon expert advice for the better examination of complaints.

- (2) Where a resolution mentioned in subsection (1) is in force, the Registrar-Secretary shall, in relation to any complaint that he is by such resolution appointed to pre-examine, do one of the following:

- (a) refer the complaint to the Board for the Board's attention or for instructions;
- (b) undertake a preliminary investigation regarding the complaint; or
- (c) recommend to the Board that no further action be taken, if he is of the opinion that the complaint is frivolous or without basis or, if proven, would not constitute conduct unbecoming a Land Surveyor.

- (3) Where a preliminary investigation is made regarding a complaint, the Registrar-Secretary shall either –

- (a) recommend to the Board that the complaint be referred to the Committee; or
- (b) recommend to the Board that no further action be taken, if he is of the opinion that the complaint is frivolous or without basis or, if proven, would not constitute conduct unbecoming a Land Surveyor.

- (4) Where the Registrar-Secretary recommends that no further action be taken on any complaint he shall forthwith forward to the Board the complaint, a statement of the circumstances disclosed by any investigation made thereon, and a copy of his recommendation.

- (5) Whenever the Board decides that no further action be taken regarding a complaint, it shall immediately inform the complainant of

its decision.

(6) The Board's decision that no further action be taken regarding a complaint shall be final.

Laying of charge

43. If the Board does not decide that further action should not be taken regarding a complaint on the ground that the complaint is without basis or, if proven, would not constitute conduct unbecoming a Land Surveyor, it shall direct that the Registrar-Secretary lay a charge of conduct unbecoming a Land Surveyor containing particulars of the complaint against the person registered under this Act.

Conduct of meetings

44. (1) The Chairman shall preside at meetings of the Committee.
(2) Each member of the Committee shall be entitled to one vote on a matter arising for determination.
(3) A decision carried by the votes of a majority of the members of the Committee shall be a decision of the Committee.
(4) An act or proceeding by the Committee shall not be invalid by reason only of the subsequent discovery of a defect in the nomination or appointment of a member, but any such act or proceeding shall be as valid and effective as if the member had been duly nominated or appointed.

Protection from personal liability

45. No member of the Committee is personally liable in any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or purported exercise of the powers or the discharge or purported discharge of any duty under this Act.

Power of Board to investigate

46. The Board may, of its own motion or upon the complaint of any person, cause the conduct of any Land Surveyor or Trinidad and Tobago **Licensed** Surveyor registered under this Act to be investigated by the Committee.

Committee established a tribunal

47. (1) The Committee is established a Tribunal for hearing disciplinary matters under this Act.
(2) The jurisdiction and powers of the Tribunal may be exercised by the Chairman and not fewer than two other members of the Committee selected for that purpose by the Chairman.
(3) For the purpose of effectively determining the merits and justice of any complaint, the Tribunal has all the privileges and may exercise all the powers of the Committee.
(4) Each member of the Committee or Tribunal shall be entitled to one vote on a matter arising for determination.
(5) A decision carried by the votes of a majority of the members of the Committee or Tribunal shall be a decision of the Committee or Tribunal as the case may be.
(6) For the purpose of effectively determining the merits and justice of any complaint, the Tribunal has all the privileges and powers of the Committee.

Cause for disciplinary
action

48. Where a Land Surveyor registered under this Act –

- (a) has obtained his registration by reason of misrepresentation;
- (b) has been convicted of an offence under the repealed Ordinance or this Act or any offence involving dishonesty; or
- (c) has, in his practice of land surveying, conducted himself unprofessionally, or been guilty of conduct unbecoming a land surveyor,

disciplinary action may be taken against him.

Unprofessional,
unbecoming conduct

49. For the purposes of this Act, the following conduct is deemed unprofessional and unbecoming a land surveyor:

- (a) acting as a professional agent of a person not qualified to practise as a land surveyor and using or permitting his name to be used in any such agency;
- (b) doing any act that is calculated to or makes a person believe that a person who is not a land surveyor is entitled by law to practise land surveying and charge fees accordingly;
- (c) falsely certifying as to the service and practical experience under articles of a Land Surveying Graduate;
- (d) failing or neglecting to –
 - (i) instruct a Land Surveying Graduate;
 - (ii) supervise the work of a Land Surveying Graduate; or
 - (iii) ensure that a Land Surveying Graduate obtains practical experience in land surveying in the manner prescribed;
- (e) failing to answer promptly correspondence received from the Board or from the Committee;
- (f) doing any other act which under this Act is considered to be unbecoming and unprofessional conduct.

Hearings

50. (1) The Disciplinary Committee shall hear the charge against a person registered under this Act.

(2) Meetings of the Committee shall be held in private.

(3) The Committee shall give to a land surveyor registered under this Act, in relation to whom a hearing is to be held, and to any person upon whose complaint a hearing is held, not less than fourteen days notice of the time and place at which it intends to conduct the hearing.

(4) The notice shall be served by registered post and contain a copy of the charge that forms the subject of the hearing.

Right to counsel

51. (1) A person to whom notice has been given pursuant to subsection 50(4) may be represented by counsel at the hearing and shall be afforded reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Committee.

(2) If a person to whom notice has been given does not attend the hearing, the Committee may hold the hearing in his absence.

Incidental powers of
Committee

52. For the purposes of a hearing under this Part, the Disciplinary Committee may –

- (a) by summons signed on behalf of the Committee by a member of the Committee, require the attendance before it of any person whom the Committee thinks fit to call before it;
- (b) by summons signed on behalf of the Committee by a member of the Committee require the production of any books, papers or documents;
- (c) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of any of their contents;
- (d) employ assessors for the better evaluation of evidence of a technical nature tendered at a hearing;
- (e) require any person to make an oath or affirmation that he will truthfully answer all questions put to him before the Committee relevant to any matter being heard by the Committee, which oath or affirmation may be administered by any member of the Committee; and
- (f) require any person appearing before the Committee to answer any relevant questions put to him by any other member of the Committee or by any other person appearing before the Committee.

Contempt

53. (1) Any person who –

- (a) has been served with a summons to attend a hearing of the Committee and neglects or fails to attend;
- (b) has been served with a summons to produce any books, papers or documents and neglects or fails to comply;
- (c) misbehaves before the Committee, wilfully insults the Committee or any member thereof or interrupts the proceedings of the Committee; or
- (d) refuses to be sworn or to affirm or to answer any relevant question, when required to do so by the Committee,

is liable, on application made to a Judge of the High Court, to committal for contempt and may be punished for contempt of that Court.

2) Where the person referred to in subsection (1), is a person registered under this Act, his failure to attend or to produce books or documents or his interruptions or other misbehaviour before the Committee or his refusal to be sworn or to affirm or to answer questions may constitute professional misconduct.

Disposition where
proper cause for
disciplinary action
exists

54. (1) If, after conducting a hearing, the Committee is satisfied that the cause for complaint against the land surveyor was justified it may –
- (a) admonish the person in relation to whom the hearing was held;
 - (b) reprimand that person;
 - (c) require him to give an undertaking to refrain from continuing or repeating the conduct which is found to have constituted conduct unbecoming a land surveyor;
 - (d) impose a fine not exceeding five thousand dollars;
 - (e) order him at his own cost, to correct within such time as the Committee directs, any work that was the subject of the hearing and was found to be defective or, where the Committee finds that the actions or instructions of the complainant have contributed to deficiencies in the work, apportion the cost of any necessary correction between the complainant and the land surveyor in proportion to their responsibility;
 - (f) order that he pays, within such time as the Committee directs, the whole or any part of the cost of correction of any work that was the subject of the hearing and was found to be defective;
 - (g) order that his registration be suspended either absolutely or conditionally or in the case of the holder of a certificate of authorization that the certificate be suspended either absolutely or conditionally;
 - (h) order that his registration be revoked or in the case of the holder of a certificate of authorization that the certificate be revoked.
- (2) Where the Committee is satisfied that cause for disciplinary action exists and imposes any of the penalties under subsection (1), it may further order the land surveyor to pay the whole or any part of the expense of investigations made by or on behalf of the Committee, the expenses incurred by the Committee in conducting the hearing and expenses incidental to the hearing of any person who complained to the Committee or appeared at the hearing and where the complaint is dismissed on the ground that it is frivolous or vexatious, the Committee may order the complainant to pay the land surveyor such costs as the Committee thinks just.
- (3) Where the Committee makes an order for the payment of any amount against a land surveyor registered under this Act and the amount is not paid within the time fixed by the Committee, the Committee may order the suspension of the registration of that person until the amount is paid or for such period as the Committee thinks fit.
- (4) Where the Committee has ordered the payment of any amount, that amount shall be recoverable summarily.
- (5) Where the Committee makes an order under subsection (1), it is the duty of the Board to give effect to that Order.

PART IX

OFFENCES AND PENALTIES

Offences and penalties

55. (1) Subject to this section, any person not being registered in accordance with Part IV and who –
- (a) assumes, either alone or in conjunction with any other words or letters, the name or title of ‘Land Surveying Graduate’, ‘Land Surveyor’, or ‘Trinidad and Tobago **Licensed** Surveyor’;
 - (b) does anything, or causes, suffers or permits anything to be done, that is likely to cause a person reasonably to believe that he is registered as a Land Surveyor or Trinidad and Tobago **Licensed** Surveyor; or
 - (c) engages in the practice of **cadastral** surveying and is not acting under the personal supervision of a Trinidad and Tobago **Licensed** Surveyor;
- commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months.
- (2) Any person who, without lawful excuse –
- (a) alters, moves, disturbs, or wilfully damages or destroys any boundary beacon/monument, bench mark, reference mark, signal station, trigonometrical station or other survey mark intended to be permanent and erected or placed for the purpose of or in connection with any survey operations, whether such boundary beacon/monument, bench mark, reference mark, signal station, trigonometrical station or other survey mark, is upon his own land or not; or
 - (b) erects or places any boundary beacon/monument on land except under the supervision of a Trinidad and Tobago **Licensed** Surveyor, whether his intention is to alter the boundary of any land or to cause deception as to any boundary line or not,
- commits an offence and is liable on summary conviction to a fine of ten thousand dollars.
- (3) Any person who –
- (a) obstructs or causes any lawful survey of land to be obstructed whether by force or threats, or in any other manner.,
 - (b) molests a Trinidad and Tobago **Licensed** Surveyor or his assistant while they are engaged upon any lawful survey of land, commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months and, in the case of a continuing offence, to a fine of one thousand dollars for each day on which the offence continues.
- (4) Every person who is convicted of an offence under this section shall, in addition to any penalty to which he may be liable, be liable to pay the cost, including associated survey costs of repairing, replacing or restoring to its proper position any survey mark or restoring the

markings on any survey mark that is the subject of the offence for which he is convicted and such cost shall be assessed by the Magistrate and recoverable as if it were a fine.

(5) Except where expressly provided otherwise, proceedings for any offence under this Act shall be disposed of summarily.

(6) Proceedings under this section or under section 53 may commence within two years from the time when the matter of the complaint arose.

Liability for
interference with
survey mark where no
offence alleged

56. (1) Where it is alleged that any person has taken, destroyed, or altered the position of or markings on any survey mark that has been placed or set up for the control of surveys or for the purposes of any survey conducted under or for the purposes of this or any other Act, and it is not alleged that the person has committed any offence against section 52 the person shall nevertheless be liable to pay the costs including associated survey costs of repairing, replacing, or restoring to its proper position any survey mark, or restoring the markings on and survey mark, that he has taken, destroyed, or altered.

(2) Where subsection (1) applies, proceedings for the recovery of any amount claimed to be payable under that subsection shall be by way of complaint under the Summary Courts Act by a person authorized in that behalf by the Director of Surveys.

(3) Where any person is liable to pay any amount under this section by reason of any act or omission arising within the scope and in the course of his employment, the employer of that person shall pay the appropriate costs which may be recovered in the same way as if the act or omission were that of the employer.

(4) The cost of repairing, replacing, or restoring any survey mark or restoring the markings, on any survey mark shall be assessed by the Magistrate who hears the complaint.

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Offences in respect of
photogrammetric
surveying

57. (1) Any person who contravenes the provisions of section 15(1) or who fails to comply with any conditions, restrictions, or limitations imposed by the Director of Surveys under section 15(2) is guilty of an offence and liable upon summary conviction to a fine of one hundred thousand dollars and to imprisonment for six months.

(2) Where a person is convicted of an offence under subsection (1) the Court may, in addition to any other penalty imposed, order that –

- (a) any media and associated records used for capturing images and other data concerning Trinidad and Tobago and all material and reports be forfeited to the State to become part of the public records;
- (b) any instrument or equipment used in connection with the capture of images and other data concerning Trinidad and Tobago in committing the offence;
- (c) any aircraft used in committing the offence,

be forfeited to the State, and be destroyed, be sold and the proceeds thereof paid into the Consolidated Fund, or be otherwise disposed of as the Minister may direct.

PART X APPEALS

Appeals

58. (1) An appeal to the High Court shall lie against a decision or order of the Board or the Disciplinary Committee made in the exercise or purported exercise of any powers or functions under this Act except that no appeal shall lie against the Board's assessment of academic qualifications, training or relevant experience of any application for registration under this Act.
- (2) An appeal shall be instituted within one month of the making of a decision by the Board or Disciplinary Committee.

Reasons for decisions

59. (1) The Board or the Committee shall, if so required by any person affected by a decision or order made by it, state in writing the reasons for its decision.
- (2) If the reasons of the Board or the Committee are not given in writing at the time of its decision and, within fourteen days thereafter, the person affected requests the Board or the Committee to state its reasons in writing, the time for instituting an appeal shall run from the time when the written statement of those reasons is issued.
- (3) Written reasons for the decision of the Board or Committee shall be delivered within thirty days of the receipt of the request therefor.

Power to stay operations of Orders

60. Where an Order has been made by the Board or Committee and there is an appeal to the High Court, the Court may suspend the operation of the Order until determination of the appeal.

PART XI GENERAL

Right to compensation

61. The provisions of this Act do not affect, limit or restrict the right of any person to compensation for actual injury or damage caused by any person exercising the power conferred on him under this Act.

Funding of Administration of Act

62. With the exception of the Compensation Fund all expenses for the administration of this Act shall be met from the appropriations for the Lands and Surveys Division.

Certificate of Secretary

63. (1) In any legal proceeding a certificate under the hand of the Registrar-Secretary as to any matter contained in a register shall, in the

absence of proof to the contrary, be accepted as proof of the matter so certified.

(2) A document purporting to be a certificate under subsection (1) shall, in the absence of proof to the contrary, be accepted as such in all legal proceedings.

Regulations

64. Subject to the approval of the Minister, the Board may make regulations for carrying out the purposes of this Act and for giving full effect to its provisions and, without limiting the generality of the foregoing, may –

- (a) prescribe the professional qualifications and experience required for registration under this Act.,
- (b) prescribe any matter or thing relating to the supervision of Land Surveying Graduates by land surveyors;
- (c) prescribe the fee for registration and for the issue of any certificate and the amount of any annual or other fee to be paid by persons registered under this Act.,
- (d) prescribe any matter or thing relating to the establishment and maintenance of survey marks and boundary beacon/monuments;
- (e) prescribe any matter or thing relating to the accuracy of land surveys;
- (f) fix the unit of measure to be used on general plans and diagrams;
- (g) prescribe the form, system, maintenance and use of the Register of Surveys;
- (h) provide for the collection and recording of any information in respect of land;
- (i) prescribe any form for the purposes of this Act;
- (j) prescribe penalties not exceeding two thousand dollars for contravention of, or failure to comply with any regulation.

65. The Land Surveyors Ordinance is repealed.

Repeal No. 19 of 1952

Passed in the House of Representatives this 7th day of August, 1996.

J. SAMPSON
Clerk of the House

Passed in the Senate this 1st day of October, 1996.

N. COX
Clerk of the Senate

Senate amendments agreed to by the House of Representatives this
18th day of October, 1996.

J. SAMPSON
Clerk of the House

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