

CHAPTER 228B

LAND BOUNDARIES

ARRANGEMENT OF SECTIONS

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THE LAWS OF BARBADOS

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CHAPTER 228B

LAND BOUNDARIES

An Act respecting the demarcation of land boundaries and related matters. 1980--2.

[1st July, 1980] Commence-
ment.
S.I. 1980
No. 87.
Short title.

1. This Act may be cited as the *Land Boundaries Act*.

2. For the purposes of this Act,

Definitions.

“applicant” means an owner of land or other person,

(a) who applies for a review of survey; or

(b) on whose behalf a land surveyor applies for a warrant for land survey;

“boundary mark” includes a triangulation station, traverse station, bench mark, fence, hedgestone, pillar, peg, pin, tube-wall or other mark, approved by the Chief Surveyor, for the demarcation of land boundaries;

“Chief Surveyor” means the Chief Surveyor, Lands and Surveys Department;

“court” means the High Court;

“Department” means the Lands and Surveys Department;

“land surveyor” means a land surveyor licensed under the *Land Surveyors Act*; Cap. 370.

“owner of land” or “owner” includes a proprietor;

“plan” or “survey plan” means a demarcation plan prepared by the Chief Surveyor for the purposes of the *Land (Adjudication of Rights and Interests)* Act, and includes a plan prepared by a land surveyor in the manner prescribed by the regulations. Cap. 228A.

Notice of
intended
survey.

3. (1) A land surveyor who is employed or appointed to survey or re-survey any land shall where it is necessary to enter upon the adjacent lands, give 7 days' notice of his intention to the owner or person in possession or occupation of the adjacent lands.

Schedule.

(2) A notice in the form set out in the Schedule shall be served upon each of the persons mentioned in subsection (1), either by delivering a copy thereof, or, by leaving a copy at his residence and if any person cannot be found, then the notice shall be posted up or affixed in some conspicuous place on the land.

(3) Nothing in this section prevents the parties interested in the lines about to be run from agreeing to commence at a different point from that stated in the notice or from agreeing to have the lines run and established without notice as required under subsection (1).

(4) An agreement referred to in subsection (3) shall be in writing and signed in duplicate by the parties interested in the survey and witnessed by a land surveyor.

(5) Notwithstanding anything contained in any other enactment, no stamp duty is payable on an agreement under subsection (4).

Power to
enter
upon land.

4. Where a land surveyor has given notice in the manner required under section 3, he and his assistants may enter upon any adjoining lands to make traverses for verifying his notes, or plan of intended survey, or for obtaining data for his survey, and shall not be liable to be sued in trespass by the owners of the adjoining lands.

Compensa-
tion.

5. Where in the exercise of his powers under section 4 a land surveyor or his assistant causes material damage to any tree, plant or shrub of economic value, the owner or person in possession or occupation thereof may claim compensation.

Warrant
for land
survey.

6. (1) Where,

(a) a dispute exists as to the boundaries of any land;

(b) an owner desires to have his land surveyed or his boundaries set out or re-established; or

- (c) 2 contiguous parcels of land have never been bounded, or the boundaries have disappeared or the fences or boundary marks have been wrongly placed,

then, if,

- (d) there is no consent from an adjoining owner; or
(e) there is no agreement between the owners,

as to the resolution of the matter, an application for a warrant may be made to a Judge in chambers by a land surveyor, on behalf of 1 of the owners concerned, for the purpose of carrying out a survey to determine or re-establish the boundaries or to verify or rectify the division line, as the case may be.

(2) Where application is made for a warrant under subsection (1), an objection may be made against the issue of any such warrant at any time before that application is heard.

(3) The Judge may, after considering all the circumstances of the case, issue a warrant to a land surveyor in the prescribed form and containing such directions as he determines.

(4) A land surveyor to whom a warrant is issued shall,

- (a) act in accordance with those directions; and
(b) serve notice on the owners concerned in the manner required under section 3.

(5) Subject to subsection (6), all expenses incurred in carrying out a survey under this section shall be borne by the owner of the land on whose behalf the application was made.

(6) An owner on whose behalf a land surveyor applies for a warrant shall deposit with the Accountant-General such sum as the Judge directs to defray the cost of the survey; and, no such survey may be carried out unless that sum is so deposited.

(7) The sum deposited in accordance with subsection (6), shall, on the conclusion of the survey, be applied by the Accountant-General, as the Judge directs, to the payment of the land surveyor to whom the warrant was issued.

(8) Any sum, exceeding the sum deposited under subsection (6), that remains due on the cost of the survey,

- (a) is payable by the applicant;
- (b) may be sued for by the land surveyor to whom the warrant was issued; and
- (c) is a charge on the land surveyed.

Cap. 229. (9) A charge referred to in paragraph (c) of subsection (8) is registrable under the *Land Registration Act*.

Special
require-
ments and
legal effect
of certain
plans.

7. (1) The Chief Surveyor shall cause the recording of a plan prepared for the purposes of section 6 to be notified in the *Official Gazette*.

(2) A plan referred to in subsection (1) that is not contested within 3 months after such notification in the *Official Gazette* is binding on all parties concerned.

(3) When by the decision of a Judge under section 14 the boundaries as shown in the plan of survey under review are altered, he shall order a new plan, and a copy thereof to be made in accordance with the alterations; and the written judgment of the Judge with the new plan attached thereto shall be lodged with the Registrar of the Supreme Court or the Registrar of Titles, as the case may be.

(4) The Registrar of the Supreme Court or the Registrar of Titles, as the case may be, shall cause a certified copy of the judgment and plan referred to in subsection (3) to be lodged in the Department within such time as the Judge determines.

Land sur-
veyor may
requisition
documents.

8. (1) Subject to subsection (2), where a land surveyor is employed or appointed to make a survey or to re-survey existing boundaries, he may, in writing, requisition any plan or other document relating to the land to be surveyed.

(2) A land surveyor may not requisition any document prepared from any notes relating to the land to be surveyed that may have been prepared by another land surveyor for the purposes of the survey.

(3) Any plan or other document requisitioned under this section shall be submitted to the land surveyor within 3 months of

the date of the requisition or such longer period as the court permits.

9. A land surveyor employed or appointed to make a survey shall place boundary marks in the manner prescribed by the regulations. Boundary marks.

10. All survey plans shall be prepared by land surveyors in the manner prescribed by the regulations. Survey plans.

11. (1) Every plan prepared by a land surveyor and not less than 1 copy thereof shall be submitted to the Chief Surveyor for recording within 1 month after the conclusion of the survey. Survey plans to be recorded.

(2) Where a plan and copies thereof are submitted to the Chief Surveyor in accordance with subsection (1), he shall affix the appropriate stamp on all copies of the plan and acknowledge on the original that a copy thereof was duly lodged in the Department for recording.

(3) The Chief Surveyor shall, after complying with the requirements of subsection (2), retain a copy of that plan in the Department and return the original and any remaining copies to the land surveyor by whom they were submitted.

12. A land surveyor employed or appointed to make a survey shall furnish the owner of the land concerned with the original copy of the plan duly stamped by the Chief Surveyor in the manner specified in section 11. Land Surveyor to furnish owner with plan.

13. (1) The original of any plan, report or field notes of any survey or operation in a survey or any copy thereof, is inadmissible in evidence in any court unless it is proved to the satisfaction of the court that a copy of any such document has been lodged in the Department. Evidence.

(2) Nothing in subsection (1) affects the admissibility into evidence of any plan, report or field notes of any survey, drawn or prepared prior to 1st July, 1980.

14. (1) Any person who is aggrieved by any plan or report of survey made by a land surveyor, may, within 3 months after Application for review of survey.

receipt of a plan furnished by a land surveyor under section 12. make application to the court for a review of that plan or survey.

(2) The application must be in the prescribed form and must state the objections to the plan or survey.

(3) On receipt of an application, the Judge

(a) shall name the day for the hearing of the application;

(b) shall give directions regarding the persons to whom notice of the hearing is to be given;

(c) may order the production of all plans and documents relating to land that are in the possession of any person; and

(d) may order subpoenas to issue for the attendance of witnesses.

(4) An application under this section may be heard in open court or in chambers, as the Judge determines.

(5) Notwithstanding subsection (1), the period specified therein may be extended by the Judge if he is satisfied that good cause is shown for such extension.

(6) All expenses incurred in a review under this section shall be borne by the applicant.

Additional
powers of
Judge re-
garding
applica-
tions for
review of
survey.

15. (1) Subject to subsection (2), at the hearing of an application, the Judge may order a review of the survey or make such other order as the case requires.

(2) Where a review is granted under this section and the objections to the plan or survey are of a technical nature the Judge may refer the matter to the Chief Surveyor for arbitration.

(3) The powers of a Judge for compelling the attendance of witnesses, enforcing obedience to orders and generally with respect to the conduct of proceedings under this Act, shall be those possessed by a High Court Judge in other cases.

Offences
and penalty.

16. (1) Any person who,

(a) without the written permission of the Chief Surveyor, removes any boundary mark;

- (b) alters, erases or cancels any word, letter, figure, mark, line, colouring or thing expressed on any register, plan, traverse sheet, report or field notes in the Department;
- (c) refuses to produce any plan or document in his possession to any land surveyor within the time specified in section 8(3);
- (d) refuses to submit a plan to the Chief Surveyor in accordance with section 11 within the time specified therein; or
- (e) obstructs or causes to be obstructed any lawful survey, whether by force or threats,

is guilty of an offence and liable on summary conviction to a fine of \$1 000 or imprisonment for 12 months or both.

(2) Where a person is convicted of an offence under subsection (1), and the offence continues after such conviction, he is liable to a further fine of \$100 for every day or part thereof on which the offence continues.

17. No person is liable to be prosecuted under this Act, unless the complaint respecting the alleged offence is made within 12 months from the date on which the alleged offence is committed. Limitation of complaint.

18. The Chief Surveyor may, with the approval of the Land Surveyors Board, make regulations for any of the following purposes, Regulations.

- (a) the technical requirements for the carrying out of surveys on land boundaries and for the presentation of plans and other survey data to be lodged with the Department for recording;
- (b) the means and procedure whereby survey plans and data can be requisitioned from land surveyors and the procedures whereby such plans and data can be made available to land surveyors for use in carrying out surveys;
- (c) the procedures whereby survey plans and other survey data can be requisitioned from land surveyors for checking or effecting amendments thereto;
- (d) prescribing anything that is by this Act required to be prescribed.

Appeals
regarding
regula-
tions.

19. If a land surveyor is aggrieved by the effects of the application of any regulation made under section 18, he may appeal against such application by stating his grievance to the Minister in writing and signed by not less than 4 other land surveyors.

SCHEDULE

s.3(2).

LAND BOUNDARIES ACT CAP. 228B

LAND SURVEYOR'S NOTICE OF INTENDED SURVEY

TO: (a) take notice
that:

1. I, the undersigned, being duly authorised by.....
.....of.....
to survey a parcel of land situated at.....
.....in the parish of.....
which adjoins lands in your possession or occupation.
2. I shall commence to survey the said parcel of land on the
.....day of.....19.....between
the hours of.....and.....commencing at
(b).....at which time and place you
or your agent are requested to attend.
3. From the time specified herein, I shall make such traverses as
I may deem requisite.
4. You or your agent should bring at the time and place specified
in paragraph 2, all diagrams, plans and other documents relat-
ing to your land in order to protect your interest therein.

Given under my hand at

.....

this.....day of 19

.....
Land Surveyor.

EXPLANATORY NOTES

- (a) Name of owner or proprietor; if no such person can be ascertained insert:

“To all persons interested in the land herein described the boundaries whereof are to be surveyed”.

- (b) Give starting point of survey.

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