

# **CHAPTER 299 THE SURVEY ACT**

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# **CHAPTER 299 - THE SURVEY ACT**

**Commencement: 31st December, 1961**

An Act of Parliament to make provision in relation to surveys and geographical names and the licensing of land surveyors, and for connected purposes

## **PART I-PRELIMINARY**

1. This Act may be cited as the Survey Act.

2. In this Act, unless the context otherwise requires:

"Board" means the Land Surveyors' Board established under section 7;

"Director" means the Director of Surveys appointed under section 3;

"Government surveyor" means any officer of the Survey Department of the Government who is authorized by the Director to perform any survey duty under this Act;

"grant" means any conveyance, lease or licence of unalienated Government land for a period exceeding one year made on behalf of the Government under the Government Lands Act;

"grantee" means the recipient of any grant;

"licensed surveyor" means a surveyor duly licensed as a surveyor under or by virtue of the provisions of this Act but shall not include a Government surveyor;

"plan" includes a map, diagram or aerial photograph approved by the Director as suitable for survey purposes; "survey mark" means any trigonometrical station, fundamental benchmark, benchmark, boundary beacon, peg, picket, mark or pole, whether above or below the surface of the ground, which is fixed, placed or set up by, or under the direction of, a surveyor for the purpose of any survey under this Act;

"surveyor" means a Government surveyor or a licensed surveyor.

## **PART II - ADMINISTRATION**

3. (1) There shall be appointed a Director of Surveys and such other officers as may be deemed to be necessary for the purposes of this Act.

(2) The Director may delegate, in writing all or any of his powers, duties or functions under the provisions of this Act, or of any regulations made thereunder, either generally or specially to any officer appointed under subsection (1), and may at any time revoke or vary any such delegation:

Provided that no such delegation shall be deemed to divest the Director of all or any of his powers, duties or functions, and he may, if he thinks fit, exercise and perform such powers, duties and functions notwithstanding the fact that he has so delegated them.

4. The principal office of the Director (in this Act referred to as the Survey Office) shall be at Nairobi, but there may be established such places as the Director may from time to time determine.

5. (1) The Director shall have and use a seal of office bearing the impression of the badge of the Survey Department and having inscribed thereon "Survey of Kenya", and the imprint of such seal shall be valid whether impressed or made in wax, ink or any other substance.

(2) The seal of the Survey of Kenya shall not be used or affixed except by the Director or by some person authorized by the Director in writing in that behalf.

6. Neither the Director nor any officer appointed by virtue of subsection (1) of section 3 shall be personally liable to any action or other proceeding for or in respect of any act or matter done or omitted without negligence in good faith in the exercise or performance, or the purported exercise or performance, of any powers, duties or functions conferred by this Act or by any regulations made thereunder.

## **PART III - THE LAND SURVEYORS' BOARD**

7. (1) There shall be a Board, to be known as the Land Surveyors' Board, which shall consist of-

(a) the Director, who shall be chairman of the Board:

(b) seven surveyors employed in the public service being licensed surveyors or holders of an East African Land Survey Certificate and who are full members of the Institution of Surveyors of Kenya (Chapter of Land Surveyors) appointed from time to time by the Minister as follows

(i) two of them on the advice of the Permanent Secretary to the Ministry for the time being responsible for matters relating to land survey;

- (ii) four of them on the advice of each of the Permanent Secretaries of the Ministries for the time being responsible for transport, local government, forestry and housing; and
- (iii) one of them on the advice of the Vice-Chancellor of the University of Nairobi;
- (c) four licensed surveyors in private practice elected by licensed members of the Institution of Surveyors of Kenya (Chapter of Land Surveyors) who shall hold office for two years and shall be eligible for reelection:

Provided that of the four surveyors so elected two shall retire at the end of one year from *the* date one which they were elected and the order of retirement shall in default of agreement with them, be determined by lot.

(2) The Board may, from time to time, elect one of its members to be deputy chairman, who shall, in the absence or inability to act of the chairman, perform the duties of the chairman.

(3) Subject to this Act, and to any special or general directions by the Minister, the Board shall regulate its own procedure.

8. The Board may, from time to time, appoint a secretary and such examiners and other officers 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.

9. The duties of the Board shall be

- (a) to conduct the examination of candidates for admission as licensed surveyors in accordance with the provisions of this Act;
- (b) to grant licences in accordance with the provisions of this Act;
- (c) to keep a register of all licensed surveyors;
- (d) to take disciplinary proceedings against licensed surveyors in accordance with the provisions of this Act;
- (e) to hear and determine any dispute between any licensed surveyor and his client as to the fees charged by the licensed surveyor;
- (f) to hear and determine any dispute between the Director and a licensed surveyor as to the application of any regulations in which provision is made for reference to the Board;
- (g) to advise the Director on all matters relating to cadastral surveys in connexion with the registration of land or of title to land under any written law for the time being in force relating to the registration of land or of title to land.

#### **PART IV-THE LICENSING OF SURVEYORS AND DISCIPLINARY PROCEEDINGS AGAINST LICENSED SURVEYORS**

10. No person shall be licensed under this Act unless he is qualified as hereinafter provided; and every person who is so qualified shall be entitled, on payment of the prescribed fee, to be granted a licence by the Board in the prescribed form

11. No person shall be examined for a licence to practise as a surveyor unless-

- (a) he has previously practised land surveying regularly and faithfully for such period as the Board may require, in the Survey of Kenya or with a licensed surveyor in Kenya or in one of the countries approved for the purposes of paragraph (d) of subsection (1) of section 12 of this Act, and he produces either a statutory declaration from the Director or from such licensed surveyor, as the case may be, in such form as may be prescribed, or such other evidence as may satisfy the Board, that he has so served for the period required by the Board; or
- (b) he satisfies the Board that he has pursued suitable courses, of study in land surveying and mathematics and he has had practical experience in land surveying.

12- (1) Any person who -

- (a) was duly registered as a licensed surveyor in accordance with the provisions of any written law relating to the registration of surveyors in force at any time before the commencement of this Act; or
- (b) is the holder of an East African Land Survey Certificate; or

- (c) has taken a degree in land surveying from a university recognized by the Board, passed the Kenya land law examination and has had not less than two years practical experience with the survey of Kenya or with a licensed surveyor to the satisfaction of the Board; or
- (d) is the holder of a licence to practice as a surveyor in any country which the Minister may, by notice in the Gazette, approve; or
- (e) is the holder of the qualification of Fellow or Professional Associate of the Royal Institute of Chartered Surveyors in subdivision V (Land Surveying); or
- (f) has complied with the provisions of paragraph (b) of section 11 of this Act.

shall, upon the production of such evidence thereof as may be prescribed including evidence of full membership of the Institution of Surveyors of Kenya (Chapter of Land Surveyors), and subject to subsection (2) be exempted from the whole examination or from examination in any subject, in accordance with the directions of the Board.

(2) A person holding any of the qualifications mentioned in paragraph (d) or (e) of subsection (1), shall not be exempted from examination unless

- (a) he satisfies the Board that he has had field experience in land surveying; and
- (b) he carries out to the satisfaction of the Board, a trial survey; and
- (c) he satisfies the Board that he is capable of conducting land surveys in accordance with the provisions of this Act and of any regulations made thereunder.

13. (1) An application for examination shall be made to the secretary of the Board in writing at least one month prior to the date on which such examination is to take place, and such application shall be in the prescribed form and shall be accompanied by the prescribed fee, which fee shall be refunded if the candidate is not allowed to be examined.

(2) All fees paid under this section shall be paid into the Consolidated Fund.

14- The Board may require the attendance of any person who applies for examination for admission as a licensed surveyor, and may examine or question such person upon oath, affirmation or otherwise as to his actual practice in the field and other matters relevant thereto, and for such purpose any member of the Board may administer an oath or affirmation.

15. Except as otherwise provided in this Act, no person shall receive a licence from the Board authorizing him to practise as a licensed surveyor unless-

- (a) he has attained the age of twenty-one years; and
- (b) he has passed the prescribed examination to the satisfaction of the Board or has been exempted therefrom; and
- (c) he has complied with the provisions of this Act.

16. 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 which may be prescribed.

17. (1) Where, after due inquiry by the Board, a licensed surveyor has been found to have been guilty of professional misconduct, or, having *been* convicted of a criminal offence, is found by the Board to be unfit to practise, the Board may

- (a) cancel the licence granted to such licensed surveyor; or
- (b) suspend the licence for a period not exceeding three years; or
- (c) impose a fine not exceeding one thousand shillings on such licensed surveyor; or
- (d) reprimand such licensed surveyor.

(2) Upon any inquiry held by the Board under subsection (1), 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 provision 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 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 and liable to a fine not exceeding two hundred shillings.

18. Any person aggrieved by a decision of the Board under section 17, or under subsection (4) of section 31, may, within one month after 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 the costs of the appeal, and no appeal shall lie from an order of the High Court under this section.

19. Where an order has been made for the revocation of the licence granted to any person or for suspending such a licence, the Board may either of its own motion or on the application of the person concerned, and in either case after holding such inquiry as the Board thinks fit, grant a new licence and cause the name of that person to be restored to the register, or, as the case may be, terminate the suspension of the existing licence and registration, either without fee or on payment of such fee, not exceeding the licence fee, as the Board may determine.

20. Notice of the grant, revocation or suspension of any licence, or of the termination of the suspension thereof, under this Part shall be published in the Gazette.

## **PART V - THE CONDUCT OF SURVEYS**

21. (1) Every surveyor shall carry out every survey undertaken by him in such 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 for the correctness and completeness of every survey carried out by him or under his supervision;

Provided that the Director may, in his discretion in the case of any particular survey, by notice in writing to the surveyor, direct that the standards of accuracy prescribed by such regulations shall be relaxed in such manner, to such extent and subject to such conditions as he shall 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 or work has been authenticated in accordance with the requirements and provisions of this Act or accepted for registration under any written law for the time being in force relating to the registration of transactions in or of title to land.

22. Any survey of land for the purposes of any written law for the time being in force relating to the registration of transactions in or of title to land (other than the first registration of the title to any land made in accordance with the provisions of the Land Consolidation Act or the Land Adjudication Act) shall be carried out under and in accordance with Cap.284. the directions of the Director.

23. (1) The Director or any surveyor, or any person authorized in writing by the Director in that behalf either generally or specially, may enter upon any land, with such assistants as may be necessary, for the purpose of-

(a) making or supervising any survey or resurvey; or

(b) affixing or setting up thereon or therein any survey mark; or

(c) inspecting any survey mark; or

(d) altering, repairing, moving or removing any survey mark; or

(e) doing anything necessary for carrying out any of the aforesaid purposes; or

(f) examining or inspecting the conduct of any Survey. (2) Before so entering upon any land, the Director or other surveyor or person duly authorized shall, whenever practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon, and

shall, on so entering, produce written evidence of his authority to any person reasonably requiring the same.

(3) Compensation shall be paid to the owner of any trees or crops cut or damaged in the exercise of any the powers conferred by this section, and such compensation shall be calculated and paid in the prescribed manner.

## **PART VI - THE PRESERVATION OF SURVEY MARKS**

24. Every trigonometrical station, fundamental benchmark and boundary beacon erected or placed for the purpose of defining the boundaries of any holding or land shall be shown on the plan (if any) 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 such holding or land, being a document or instrument which is required to be registered, or is ineffectual until registered, under any written law for the time being in force relating to the registration of transactions in or of title to land.

25. Every trigonometrical station or fundamental benchmark shall be deemed, for the purposes of this Act and of any regulations made thereunder, to comprise the land within twenty feet of the centre-mark of such station or within twenty feet of the centre of the pillar or of such fundamental benchmark, as the case may be, together with a right-of-way to and from the same.

26- (1) No person shall carry out rock-blasting operations within the area of the land reserved for any fundamental benchmark.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding six months or to both.

27. (1) It shall be the duty of every grantee to ascertain, within sixty days after he has received his grant, that the survey marks shown on any plan attached to his grant or referred to therein are in place as shown on the plan.

(2) If a grantee notifies the Director in writing that he is unable to find the survey marks shown on the plan attached thereto and referred to therein, and deposits with the Director a sum which, in the estimation of the Director, is sufficient to cover the cost of the inquiry, the Director shall inquire into the matter.

(3) If as a result of any such inquiry the Director finds that the survey marks are not in place as shown on the plan, he shall cause survey marks to be erected or placed in accordance with the plan, and, in such case, the sum deposited shall be refunded to the grantee.

(4) If as a result of such inquiry the Director finds that the survey marks are in place as shown on the plan, the sum deposited, or such portion thereof as shall be sufficient to cover the cost of such inquiry, shall be forfeited and paid into the Consolidated Fund.

28. (1) Every owner and occupier of land shall take all reasonable measures to protect every survey mark erected or placed on the land owned or occupied by him.

(2) The owner and occupier of land shall pay to the Director the cost of restoring any survey mark erected or placed on the land owned or occupied by him (including the cost of any survey made for that purpose) which has been removed, destroyed, displaced, defaced, mutilated, obliterated or broken, or the position of which has been altered, unless any other person has been convicted of an offence under section 29 in respect of that survey mark; and such cost shall be a civil debt recoverable summarily-

(3) Where a survey mark is common to the land of two or more owners and occupiers, the cost of restoring any such survey mark, as provided by subsection (2), shall be divided equally between them-

29. Any person, not being duly authorized so to do, who takes away, is found in possession of, removes, destroys or displaces, or alters the position of, any survey mark, or wilfully

defaces, mutilates, obliterates or breaks any survey mark, shall be guilty of an offence and liable

(a) if such act was done with intent to defraud, to imprisonment for a term not exceeding three years; or

(b) in any other case, to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding six months or to both.

and, in addition to or instead of any such penalty, the court convicting a person of any such offence may order that person to pay to the Director the cost of restoring such survey mark (including the cost of any survey made for that purpose).

## **PART VII - SURVEY PLANS AND RECORDS**

30. (1) Every surveyor who executes any survey in accordance with the provisions of this Act and of any 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 Office and shall become the property of the Government.

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

31. (1) The Director, or a Government surveyor authorized in writing by the Director in that behalf, 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, or a Government surveyor duly authorized to authenticate a plan under section 32 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 the survey represented by the plan submitted for authentication

Provided that such notice shall not be sent more than twelve months after the date on which the plan was sent to the Director under section 30.

(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) 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 order within one month after the date of the order the Board may, subject to section 18, suspend the licence of the licensed surveyor until the cost of correction has been paid, or for a period not exceeding three years, whichever he thinks fit.

32. No land shall be deemed to have been surveyed or resurveyed until the plan thereof has been authenticated by the signature of the Director or of a Government surveyor authorized in writing by the Director in that behalf, or by the affixing of the seal of the Survey of Kenya.

33. (1) Where, before a document or instrument to which an authenticated plan is attached, or in which reference to such a plan is made, is registered-

(a) the plan is found to be inaccurate by reason of any error or omission in the survey; or

(b) the plan does not conform with the terms and conditions subject to which permission to subdivide the land to which the plan relates has been given, the Director may cancel the authentication of such plan and may recall any copies which may have been issued, and in every case the provisions of section 31 shall apply.

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

- (a) the registered owner of the land to which such plan relates or, in the case of Government land, the Commissioner of Lands; and
  - (b) the surveyor by whom the survey was executed; and
  - (c) the registrar.
- (3) For the purposes of this section, "the registrar" means
- (a) in the case of land registered under the Government Cap. 280. Lands Act, the Principal Registrar of Government Lands;
  - (b) in the case of land registered under the Land Titles Act, the Principal Registrar;
  - (c) in the case of land registered under the Registration of Titles Act, the Principal Registrar of Titles;
  - (d) in the case of land registered under the Registered Land Act, the Chief Land Registrar;
  - (e) (*Deleted by L.N. 303/1964.*); and
  - (f) in the case of any document registered under the Registration of Documents Act, the Principal, Registrar of Documents.

## **PART VIII - THE STANDING COMMITTEE ON GEOGRAPHICAL NAMES**

34. (1) There shall be a Standing Committee on Geographical Names (hereinafter referred to as the Committee) which shall consist of-
- (a) the Director, who shall be chairman of the Committee; and
  - (b) ten other members appointed by the Minister for such period as he may direct.
- (2) The chairman shall appoint a public officer to be secretary of the Committee.
35. (1) It shall be the duty of the Committee to advise the Minister as to the spelling of all names on maps of Kenya, and in so doing the Committee shall have due regard to historical, orthographical and ethnic considerations.
- (2) There shall be published in such manner, and as often as the Minister may direct, lists or maps containing the approved spelling of all such names.

## **PART IX - OFFENCES**

36. (1) No person, other than a surveyor, shall
- (a) survey any holding or land for the purpose of preparing any plan which is attached to, or is 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 written law for the time being in force relating to the registration of transactions in or of title to land; or
  - (b) perform any survey which affects or may affect the delimitation of the boundaries, or the location of survey marks, of any holding or land registered or to be registered under any written law for the time being in force relating to the registration of land or of title to land.
- (2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding six months or to both.
37. Any person who
- (a) fraudulently procures or attempts to procure himself or any other person to be granted a licence by the Board under this Act; or
  - (b) not being a licensed surveyor, falsely pretends to be such, or falsely takes or uses any title or description implying, whether in itself or in the circumstances in which it is taken or used, that such person is a licensed surveyor or is qualified to practise as such; or

(c) being a licensed surveyor, allows an unlicensed person to perform any survey to which section 22 applies, shall be guilty of an offence and liable to a fine not exceeding *three* thousand shillings or to imprisonment for a term not exceeding six months or to both.

38. Any person who wilfully obstructs or hinders any surveyor, or any assistant or servant of such surveyor, in the performance of any duty or the exercise of any power under this Act shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding two months or to both.

## **PART X - MISCELLANEOUS PROVISIONS**

39. Where the provisions of any written law require that for the purposes of any written law a notice shall be published in the Gazette or otherwise specifying the boundaries of any land or area, or the situation and extent of any land or area or particulars necessary to identify any land or area, or defining or designating the boundaries or limits of any land or area, shall be sufficient if such land or area is described by reference in such notice to a plan of such land or area authenticated, identified and deposited in the Survey Office in accordance with the provisions of section 41.

40. The authority giving a notice which refers to a plan authenticated, identified and deposited in the Survey Office may direct that so many photographically produced (or, if a larger number are required, lithographically produced) copies of such plan as he may require shall be made and distributed to the District Commissioner of the district in which the land or area to which such plan refers is situated, to the Commissioner of Lands and to such other public officer or officers as he shall specify.

41. (1) A plan shall be deemed to be authenticated and identified for the purposes of sections 39 and 40 if-

(a) it is authenticated, by the signature of the Director or of a Government surveyor authorized in writing by the Director in that behalf and by the signature of the authority by whom the notice is given, to be the land or area to which the notice refers; and

(b) it is identified by a reference number.

(2) Every such authenticated and identified plan shall be deposited in the Survey Office.

42. (1) Any person who intends to carry out any aerial photography for use in mapping or similar purpose shall, before carrying out the same, give to the Director in writing not less than one month's notice of his intention so to do.

(2) Any person who has carried out any aerial photography for use in mapping or similar purpose shall, if the Director so requires in writing

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

(b) supply to the Director, at the Director's cost, such copies 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 than the owner of such copyright.

(3) Any person who fails to comply with the provisions of subsection (1) or subsection (2) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

43. (1) All plans authenticated under this Act, purporting to be signed by the Director, or by a Government surveyor authorized by the Director in that behalf, or to be sealed with the seal of the Survey of Kenya, shall be presumed, until the contrary is proved, to have been signed by the Director, or by a Government surveyor authorized as aforesaid, or to have been sealed with the seal of the Survey of Kenya, as the case may be.

(2) The provisions of subsection (1) shall extend to plans approved before the commencement of this Act under section 37 of the Survey Ordinance, 1951 (now repealed).

44. Any person may, at such times as may be notified by the Director, inspect any boundary plan, referred to in any notice in the Gazette, which is in the possession of the Survey Department.

45. (1) Subject to subsection (2), the Minister may make regulations prescribing

(a) the manner in which surveys shall be carried out and the manner and form in which the records of surveys shall be prepared and furnished to the Director

(b) the standard of accuracy which shall, subject to any direction given under the proviso to subsection (1) of section 21 be achieved, and the limit of error which shall, subject as aforesaid, be allowed, in surveys and resurveys of land;

(c) the nature, form and dimensions of survey marks, the manner of marking the same for identification and the manner of their construction, erection, protection, maintenance and repair;

(d) the testing of surveying instruments and of measuring tapes to be used in the survey of land;

(e) the unit of measurement which shall be used on plans; (f) the charges to be made for the making of any survey by the Survey Department;

(g) the charges to be made for the authentication under this Act of plans submitted by a licensed surveyor;

(h) the fees or charges to be paid in respect of any plan or document issued, or any act or matter required or permitted to be performed or dealt with, in the Survey Office;

(i) the circumstances in which any person may inspect any unpublished plan in the possession of the Survey Department;

(j) the manner of keeping the register of licensed surveyors and prescribing the particulars which shall be recorded therein;

(k) the evidence which shall be produced and the conditions which shall be fulfilled by any person applying for a licence under this Act;

(l) the method of examination of persons desirous of qualifying for a licence, and the syllabus of subjects therefor; the fees payable for examination; and the nature and period of previous service or training required;

(m) what certificates of examination, diplomas, degrees, licences or titles, other than those prescribed by this Act, shall be recognized by the Board for the purpose of exempting a person from passing the whole or any part of any examination of the Board;

(n) the procedure for granting licences under this Act;

(o) the procedure which shall be followed by the Board in hearing and determining any dispute between a licensed surveyor and his client as to the fees charged by the licensed surveyor;

(oa) the procedure which shall be followed by the Board in hearing and determining any dispute between the Director and a licensed surveyor as to the application of any regulation in which provision is made for reference to the Board;

(p) the procedure which shall be followed by the Board in any inquiry held under section 17 or section 19; (pa) the fees or charges to be paid in respect of the hearing of any dispute by the Board;

(q) the manner in which the attendance of witnesses and the production of books and documents at such an inquiry shall be obtained and enforced;

(r) matters relating to the direction and guidance of licensed surveyors;

(s) a power for the Director, after consultation with the Board, to require calculations to be submitted in such manner as he may direct;

(t) the fees to be charged by a licensed surveyor in respect of work done;

(u) anything which under this Act may be prescribed,

and generally as to any matter appertaining to the surveying of land, and for carrying out the intent and purpose of this Act-

(2) Regulations prescribing any of the matters specified in paragraphs (j) to (t) (inclusive) of subsection (1) shall be made only after consultation with the Board.

46. All officers, offices, appointments, records, plans, approvals, licences, registers, registrations and generally all acts of authority which originated under the Survey Ordinance, 1951 (now repealed) and were subsisting or in force immediately before the commencement of this Act shall enure for the purposes of this Act according to the tenor thereof as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated; and, for the purposes of any written law, any approval given by the Director in accordance with any provision of the Survey Ordinance, 1951 (now repealed) shall be deemed to be an authentication made in accordance with the provisions of this Act-

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## **SUBSIDIARY LEGISLATION**

### **Regulations under section 45**

#### **THE SURVEY REGULATIONS**

##### **PART I - PRELIMINARY**

1. These Regulations may be cited as the Survey Regulations.

2. In these Regulations, unless the context otherwise requires-

"forest area" means any area of land declared under section 4 of the Forests Act to be a forest area;

"survey" means any survey made under the Act;

"unqualified assistant" means any person other than a licensed surveyor who assists a licensed surveyor in the execution of field surveys, but does not include skilled and semi-skilled chainmen and labourers.

##### **PART II - THE LAND SURVEYORS BOARD**

3. (1) The quorum for a meeting of the Board shall be three members, of whom the chairman, or deputy chairman, shall be one.

(2) At every meeting of the Board each member shall have the right to one vote on any matter under discussion:

Provided that in the event of the voting for and against being equal the chairman shall have a casting vote.

4. (1) The Board shall normally meet in the Survey Office in Nairobi, and the secretary shall keep minutes of all meetings of the Board in a minute book kept for that purpose, which shall be preserved in the Survey Office when not in use.

(2) The secretary shall notify every member of the Board of every meeting not less than ten days before the date fixed for the meeting.

5. (1) Members may claim traveling and subsistence expenses for attendance at meetings, in accordance with these Regulations and at the rates for the time being in force in respect of such allowances to Government officers.

(2) All such claims shall be made in such form as the Director may determine, and shall be sent to the secretary.

6. There shall be a register of all surveyors registered under the Act which shall be deposited for safe keeping in the Survey Office, and the register shall contain the following particulars of the surveyors so registered

- (a) name and permanent address;
- (b) a short statement of all professional examinations passed, together with relevant numbers of certificates of examination, diplomas, degrees, licences and titles;
- (c) the date of passing examinations of the Board; and
- (d) a record of any offence committed by the surveyor under the Act, with, in every case, the Board's order and the number of any notification in the Gazette in connexion therewith.

### **PART III - THE STANDING COMMITTEE ON GEOGRAPHICAL NAMES**

7. (1) The chairman shall preside at meetings, but if he is unable to attend any meeting he may nominate any other member of the Committee or an officer of the Survey Department to be chairman at such a meeting.

(2) The quorum for a meeting of the Committee shall be three members.

8. (1) The secretary shall give at least fifteen days' notice of all meetings.

(2) The frequency of meetings shall not be fixed, but shall be determined by the amount of business to be disposed of.

9. From time to time the Committee shall send to the Minister to be sent to a list of names which are recommended for approval by him.

10. (1) Members may claim traveling and subsistence expenses for attendance at meetings in accordance with these Regulations and at the rates for the time being in force in respect of such allowances to Government officers.

(2) All such claims shall be in such form as the Director may determine, and shall be sent to the secretary.

### **PART IV - EXAMINATIONS AND ISSUE OF LICENCES**

11. Examinations of candidates for licences will be held each year at such time and such place as the Board may decide, which shall be notified in advance in the Kenya Gazette.

12. (1) The Board shall appoint a moderator and at least two examiners.

(2) All papers shall be marked independently by at least two of the examiners.

(3) The moderator shall report in writing to the Board full particulars of the marks given to each candidate in each subject, and this written statement shall be signed by every examiner.

(4) The results of the examinations shall be determined by the Board, and shall be conveyed in writing by the secretary to the candidates.

(5) Examiners may claim certain traveling and subsistence expenses incurred in their duties, and all such claims, in such form as the Director may determine, shall be sent to the secretary, who shall also inform examiners for the time being the scale of payment 8 approved by the Treasury.

13. No person **shall be** entitled to be examined for a licence unless he is eligible in accordance with section 11 of the Act, and produces the declaration or other evidence mentioned therein, which declaration shall be in Form A in the Third Schedule.

14. The qualifications set out in the First Schedule shall be recognized 'by the Board and shall entitle candidates who apply for exemption to be granted exemption from examination in the respective subjects set out in that Schedule:

Provided that every applicant for exemption shall forward declarations in Forms A and B in the Third Schedule.

15. The Board may accept the examinations for the East African declarations in Forms A and B in the Third Schedule.

Services Organization Legal Notice No. 40 published on 30th October, 1967, and any subsequent amendments thereto in lieu of setting any similar examinations, with the exception of a trial survey and a written paper on Kenya land law.

16. The syllabus for the trial survey and law examinations for Syllabus. candidates for the Kenya Land Surveyors Licence shall be as set out in the Second Schedule.
17. (1) The pass-mark in the law examination shall be 50 per cent.  
 (2) Marks will not be allocated for a trial survey, but a candidate shall be adjudged as having either passed or failed.
18. (1) A candidate must have had at least three years approved training and experience in land surveying before taking the examination.  
 (2) The trial survey shall be so designed that a competent candidate can complete it in eight weeks.  
 (3) Candidates shall sit the law examination at a time to be decided by the Board.
19. Fees for the examination shall be as follows  
 (a) for candidates who have paid the full fee for sitting the whole of the Final East African Survey Certificate Examination and  
 (i) have not sat for Part II thereof, Nil;  
 (ii) have sat for Part II thereof, Sh. 40 per paper;  
 (b) for other candidates, Sh. 100;  
 (c) for re-examination, per paper, Sh. 40.
20. (1) The Board shall appoint one or more invigilators to be in attendance for any written examination.  
 (2) The moderator shall submit for the approval of the Board the particulars of the trial survey and law examinations.
21. A certificate in Form C in the Third Schedule shall be furnished by the candidate when submitting the results of his trial survey.

## **PART V - REGULATIONS AFFECTING ALL SURVEYS MADE UNDER SECTION 22 OF THE ACT**

22. If a dispute arises between a licensed surveyor and the Director over the application of the regulations, either party may refer the matter to the Board; and the Board shall hear and determine such dispute, and its decision shall be final.
23. (1) All distances shown on plans shall be in international metres and decimals of a metre.  
 (2) All angular measurements shall be in degrees, minutes and seconds of arc.  
 (3) For purposes of conversion from English feet to international metres, the relationship to be used shall be one international metre = 3.280 840 English feet, or one English foot = 0.3048 metres.
24. (1) The figure of the earth and projection to be used in the computations of co-ordinates of any survey shall be one of the following, as the Director may specify, that is, either-  
 (a) the Universal Transverse Mercator Projection zones 36 or 37 using the Clarke 1880 (modified) figure having elements; semi-diameter-major 6,378.249 international metres ellipticity 1/293.465; *or*  
 (b) the Cassini-Soldner Projection calculated from origins at the intersections of odd-numbered-degree meridians with the equator and extending over successive zones of two degrees of longitude, using the Clarke 1858 figure having elements- semi-diameter-major . . . . . 20,926,348 English feet, (6,378,351 metres); ellipticity . . . . . 1/294.26.
- (2) All co-ordinates required by regulations 85, 92 and 93 shall be listed in the same units as the datum points.
25. (1) Every licensed surveyor shall maintain his theodolite, measuring bands and all other equipment in good order, and the Director may refuse to authenticate any survey which has been made with defective equipment.

(2) Every measuring band, tape, thermometer and spring balance shall be submitted to the Director before use and thereafter not less often than once in every twelve months for comparison with the official standard in the custody of the Director.

(3) Every surveyor shall record in his field notes the manufacturer's name and number of the model of the theodolite used for each survey.

(4) The Director shall assign a unique official number to every measuring band submitted to him for comparison with the official standard of length, and shall keep a record of all particulars of every measuring band so submitted.

(5) Whenever any measuring band is broken, the breakage shall be recorded in the field notes.

(6) Every surveyor shall record in his field notes the official number of the measuring band used for each survey.

(7) The Director may require any licensed surveyor to submit any measuring equipment for his inspection, and he may refuse to authenticate any survey which has been made with measuring equipment which is thereby found to be defective.

26.(1) Every licensed, surveyor shall be personally responsible for the accuracy, fidelity, and completeness of every survey presented by him for the approval of the Director.

(2) It shall be the duty of every surveyor making any survey under these Regulations to record all the relevant information that may aid in securing the accuracy and completeness of every such survey.

(3) Every surveyor shall perform sufficient work to enable him to apply a thorough check to every part of his survey.

(4) Every surveyor shall present his plan, computations and connected documents of every survey in such a manner as the Director, after consultation with the Board, may require, and if any surveyor forwards to the Director any plan, computation or connected document which does not conform substantially with the appropriate requirements, the Director may, at his discretion, return the plan, computations and connected documents to the surveyor and may refuse to authenticate any such plan, computation or connected document until it has been made to conform with the appropriate requirements.

(5) Maps returned to a surveyor shall be resubmitted to the Director without undue delay.

27. All measurements must be made in accordance with regulations 56, 57 and 60, and the Director may refuse to authenticate any survey which contains errors in excess of those that can be expected

from measurements properly carried out in the manner specified.

28. The Director may at any time debate any surveyor to check of in the field any survey made under the Act by any other surveyor, and such check may include the verification of any information recorded in connexion with such survey and may also include the inspection of any survey mark established under the Act or any regulations made thereunder.

29. (1) Before carrying out any survey, every licensed surveyor shall be provided, or shall provide himself, with all available information in respect of any previous survey of the plot of land to be surveyed and of any adjoining plot.

(2) Applications to the Director for this information shall be in writing, and shall state whether the land is freehold or leasehold, and shall, whenever applicable, make reference to the approval for subdivision, or other transaction.

(3) The Director shall make available to any licensed surveyor all technical information in his possession and where the licensed surveyor extracts the information himself by personal search no fee will be payable, but where the information is extracted on his behalf by the Director, the fee prescribed in the Seventh Schedule shall be paid.

30. (1) Before submitting any survey to the Director, a licensed surveyor shall ensure that approval has been obtained for a subdivision or other transaction of any plot of land in any case where

such approval is required by any Act and that the survey submitted conforms with such approval.

(2) The competent authority responsible for giving approval under each respective Act is shown in the Fourth Schedule.

31. (1) In pursuance of section 23 of the Act, the Director shall furnish to every surveyor an official letter of authority in Form D in the Third Schedule and every such letter of authority shall bear the official seal.

(2) Every surveyor shall present his letter of authority to any owner or occupier of land who demands proof that such surveyor is duly authorized to enter upon his land.

(3) Every surveyor so authorized shall, whenever practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon.

(4) Whenever any tree or crops are cut or damaged by any surveyor in the exercise of any of the powers conferred by section 23 of the Act, compensation shall be calculated and paid in accordance with the following provisions

(a) the surveyor and the owner or occupier of the land shall agree upon a fair compensation for the damage done by the surveyor, and a statement of the damage done and of the compensation which is agreed upon shall be duly signed by both the owner or occupier of the land and the surveyor; or

(b) where the surveyor and the owner or occupier of the land are unable to agree upon the amount of compensation payable, the surveyor shall apply to an officer of the Forest Department or of the Agricultural Department to inspect the damage done to the tree or crops, as the case may be, and to assess the amount of compensation which shall be paid; if the owner or occupier of the land thereupon agrees with the amount of compensation proposed, then both the owner or occupier and the officer of the Forest Department or the Agricultural Department, as the case may be, shall sign a statement of the amount of compensation duly agreed upon; or

(c) where the owner or occupier of the land and the officer of the Forest Department or of the Agricultural Department, as the case may be, are unable to agree upon the amount of compensation payable, a statement to this effect shall be forwarded to the Director, and the Director shall apply to the Attorney-General for the case in dispute to be referred to arbitration under the Arbitration Act.

(5) When the amount of compensation has been determined in accordance with paragraph (4), the agreed amount shall be paid by the Government, in the case of damage done by a Government surveyor, or by the licensed surveyor himself when he has caused the damage in question to the owner or occupier of the land;

Provided that compensation shall not be paid for damage to trees or crops within any reservation for a trigonometrical station or fundamental benchmark which is made in accordance with section 25 of the Act.

32. If any person refuses to allow a surveyor or person authorized in accordance with section 23 of the Act to enter upon any land, the surveyor or authorized person shall in no circumstances use force to gain entry upon the land, but the surveyor or authorized person shall immediately report all relevant details of the obstruction to the Director.

33. (1) No licensed surveyor shall employ an unqualified assistant without the written approval of the Board:

Provided that the Director may give provisional approval pending decision by the Board.

(2) When such approval is given, it shall be for a period of not more than two years in the first instance, and, may thereafter be renewed for further periods at the discretion of the Board.

(3) Such approval shall normally be limited to such number of assistants as the Board may determine in each case.

(4) The work done by any such assistant shall be under the direct personal control of the licensed surveyor, who shall himself carry out a sufficient check to ensure that the work done by

such assistant is correct and the licensed surveyor shall accept full personal responsibility for all work performed by his unqualified assistant.

(5) The unqualified assistant shall certify all field notes and computations made by him, and those field notes and computations shall be signed by the unqualified assistant and countersigned by the licensed surveyor.

(6) The surveyor shall supply a certificate which shall be drawn up in the form in the Ninth Schedule.

(7) If the Director finds that an unqualified assistant has performed any work which has not been supervised and checked by the licensed surveyor he may suspend approval for the employment of the unqualified assistant, and the case shall be referred to the Board whose decision on the matter shall be final.

34. (1) The Director shall -charge fees for all surveys carried out by the Survey Department in accordance with the charges prescribed in the Fifth and Sixth Schedules.

(2) The Director shall charge fees in accordance with the charges prescribed in the Sixth Schedule for the authentication under section 32 of the Act. of a plan submitted by a licensed surveyor.

(3) The Director shall charge fees in respect of all documents issued or services rendered by the Survey Department in accordance with the charges prescribed in the Seventh Schedule.

35. (1) The fees prescribed in the Eighth Schedule shall be charged by a licensed surveyor in respect of work done by him.

(2) Any, licensed surveyor who charges or attempts to charge or offers to do work at, or holds himself out as being prepared to do work at, a survey fee other than that which is prescribed in the scale of fees in the Eighth Schedule shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months, or to both; and a licensed surveyor who is a partner in a firm which, or who is associated with a person who charges, or attempts to charge or offers to do work at, or holds himself out as being prepared to do work at a survey fee other than which is prescribed in the scale of fees in the Eighth Schedule shall be guilty of an offence punishable as aforesaid, unless he proves that he took all reasonable steps to prevent any such breach of this regulation.

36. Every person who applies to the Director to have a plan prepared from existing survey records in respect of his land shall indemnify the Government and the Director in Form E in the Third Schedule against any subsequent claims arising out of the absence of, or damage to, the original beacons.

## **PART VI - SURVEY MARKS, BOUNDARY BEACONS AND BOUNDARIES**

37. (1) The design of survey marks shall be as specified by the Director, except in special circumstances which must be set out in the report on the survey.

(2) When an original grant is being resurveyed or subdivided, any beacon which does not constitute a permanent and fine mark shall be replaced by new beacon or be referenced to a nearby witness mark.

(3). Every new triangulation or trilateration station other than a purely auxiliary station shall be permanently marked.

(4) In third order traverses as defined in regulation 60, all traverse stations shall whenever possible be permanent points.

(5) Where conditions do not permit the establishment of permanent traverse stations, the surveyor shall provide an alternative form referencing and the reason shall be stated in the surveyor's report.

38. (1) Boundary beacons shall be of such type as the Director may require, and shall normally be surmounted by a cairn of stones or a mound of earth.

(2) The primary consideration in placing all survey beacons is their durability, having regard to the fineness of the mark required for the purpose.

39. (1) All boundary beacons for which no adequate reference mark already exists, the coordinates of which are required by regulation 92 to be tabulated on a plan, shall, except as provided below, be referenced by the establishment, with adequate check, of a permanent underground mark in the vicinity of the beacon and in a position where it is least likely to be disturbed; such underground mark may be a permanent control station established under regulation 37:

Provided that two existing nearby beacons may be used instead of one underground mark.

(2) The guiding principle in the placing of reference marks is the necessity to provide a ready and accurate means of re-establishing the beacons of the property as well as to provide the basis for any future survey, and the surveyor shall ensure that this requirement is met in a reasonable manner.

(3) With a view to facilitating the location of isolated boundary beacons, such beacons shall in addition be referenced to any nearby telephone pole, suitable tree or other prominent physical feature.

(4) In order to maintain a record of reference marks, the surveyor shall verify the position of any previously placed reference marks at beacons involved in his survey, and shall record the appropriate measurements in the field notes.

40. (1) Where a rectilinear boundary intersects a curvilinear boundary, and a beacon cannot be placed at the intersection, a beacon shall be placed on the rectilinear boundary as near as is practicable

to the intersection and such beacon shall be known as a line beacon.

(2) Where the rectilinear boundary continues on both sides of the curvilinear boundary, a line beacon shall be placed on both sections of the rectilinear boundary.

(3) Where the curvilinear boundary falls within a river or swamp, the line beacon shall be placed above flood level and shall be known as a river beacon.

(4) Distances from line or river beacons shall be measured to the precision required by regulation 88 (3).

(5) All subdivisions of a property (including any remainder) which are situated across a road or railway reserve shall be fully beacons as self-contained units.

(6) When a curvilinear feature is adopted as a subdivisional boundary the several subdivisions and any remainder shall be fully beacons as self-contained units.

41. (1) Where a beacon is placed on a boundary line, it shall be proved to be on line by establishing either directly or indirectly its relationship with the terminal beacons of the line.

(2) Where no rectilinear boundary of a subdivision coincides in whole or in part with any perimeter boundary of the land being subdivided, the relationship of the subdivisional beacons to at least two of the perimeter beacons shall be directly or indirectly established.

42. Where a beacon is placed from computed data, its position shall be proved by an independent field check and calculation.

43. (1) Where any area of land which shares a common boundary with an area of Trust land is surveyed, that common boundary shall be defined by intervisible beacons.

(2) Where any land adjoining any boundary of a forest area is surveyed, the common boundary shall be surveyed and defined by beacons placed thereon at reasonable intervals, so that the boundary can be easily identified.

(3) Where the common boundary surveyed as aforesaid has been cut through forest, beacons need not be intervisible, but they shall be intervisible when the boundary passes through glades or scattered bush.

44. (1) When the corner of a plot of land coincides with the corner of a permanent building, such corner shall be surveyed and it may be adopted as the beacon.

(2) Where the corner of a plot of land does not coincide with the corner of a permanent building but is in such close proximity to it that a standard boundary beacon cannot be established, such corner of the building shall be surveyed and its position relative to the plot corner established.

(3) When the corner of a plot of land falls within inaccessible ground, where a beacon cannot be placed, the position of such corner shall be permanently referenced by at least one indicatory beacon placed on a boundary line as near as possible to the corner.

(4) In all the above situations details shall be indicated on the plan.

(5) When the corner of a plot of land is occupied by a permanent and easily recognized mark, such as a substantial fence-post and fencing or a tree, such corner shall be referenced by at least one permanent underground mark.

45. Where an old beacon of the plot of land under survey is found to be damaged, the surveyor shall repair or renew the beacon, and shall make a record of the repairs in his field notes.

46. (1) Every surveyor engaged on Government work who discovers any trigonometrical station to be damaged and in need of repair shall carry out such repair as may be necessary.

(2) A licensed surveyor not engaged on Government work is not required to repair any damaged trigonometrical station, but he shall report in writing to the Director the name, number and position of such station and the nature of the damage which he has observed.

47. Missing beacons shall be noted in the surveyor's report (regulation 85 (a)), and in order to demonstrate that he has searched in the right place the surveyor shall furnish such measurements and observations, as maybe needed.

48. (1) If a surveyor is required to re-establish a missing beacon he shall submit his field notes, computations, and report, to the Director.

(2) Normally such survey shall be carried out in conformity with the provisions of these Regulations covering the determination of new beacons, having regard to all other evidence, but in special cases

such as within the areas of the compass surveys in the Coast Province, the Director may authorize alternative methods and make alternative requirements.

49. Where the existence of a visible redundant beacon is likely to lead to confusion, it shall be removed or replaced by an underground witness mark.

50. (1) In every survey of land, where the position of an existing beacon is found to differ materially from that indicated by the relevant previous survey, the surveyor shall exercise the greatest care

(a) in establishing that the discrepancy actually does exist; and

(b) in collecting all evidence which may have a bearing on the eventual action to be taken.

(2) A careful search shall be made in the position indicated by the previous survey to ascertain whether or not any evidence of an old beacon or its reference marks still exists, and the position of any buildings or other development shall be recorded.

(3) Where the situation allows, the surveyor, before taking further action, shall provide the Director with a full report, and shall request instructions.

## **PART VII - SURVEYS PERFORMED BY TRIANGULATION, TRILATERATION, TRAVERSE AND AIR SURVEY**

51. All licensed surveyors shall assist, as far as is consonant with efficient and economical survey, in the establishment and increase of permanent control marks of all types throughout Kenya.

### **TRIANGULATION AND TRILATERATION**

52. All geodetic and secondary triangulation shall be carried out under the control of the Director, and shall normally be performed by Government surveyors.

53. (1) All new triangulation and trilateration of a lower order than geodetic or secondary required to provide general control for cadastral surveys shall be brought into harmony with existing control by methods conforming with current survey practice.

(2) When issuing survey data for such work to a licensed surveyor, the Director may recommend either a particular sequence in the computation of new work or any special computations which

the circumstances may require, and it shall be the duty of a licensed surveyor so informed not to depart from the Director's recommendation without reasonable cause.

54. For the purpose of regulations 55 and 56, tertiary triangulation means triangulation established to an accuracy which makes it suitable for use as a basis of further triangulation; minor triangulation means triangulation established to a lower accuracy and suitable only as a basis for fixing local traverses and beacons.

55. (1) A micrometer theodolite of an approved pattern reading directly to one second of arc, or better, shall be used for geodetic, secondary, or tertiary triangulation.

(2) A micrometer theodolite of an approved pattern reading directly to twenty seconds of arc or better shall be used for minor triangulation.

(3) Electronic distance measuring equipment of an approved pattern shall be used for trilateration distance measurement.

56. (1) The minimum requirement for tertiary and minor triangulation shall be two arcs observed on different zeros:

Provided that two rounds observed on different faces and different zeros may be sufficient for observations to points situated less than two kilometres distant.

(2) An arc of angular observations for triangulation shall consist of two rounds observed in opposite directions on the same zero, one round being on face left and the other on face right.

(3) For each arc a suitable reference station shall be selected and both rounds of the arc shall be closed on to it, and the misclosure of each round shall be appropriate to the class of theodolite used.

(4) The difference between measurements of any angle on different arcs shall be appropriate to the class of theodolite used.

(5) Where electronic distance measuring equipment is used, sufficient observations shall be taken to eliminate any ambiguities, and achieve the accuracy required by regulation 27.

57. (1) Triangulation, trilateration, or a combination of these techniques for determining the position of beacons, shall be carried out in accordance with the procedure laid down in regulations 53 to 56 and the method of computation shall conform with current standard survey practice.

(2) Beacons may also be fixed by

(a) intersection, provided at least three suitable rays are observed on to the point to be fixed;

(b) resection, provided at least four points in favourable positions for such fixing are observed;

(c) any other method which is capable of fixing a point with no less accuracy than that of the methods of intersection and resection

Provided that no point fixed by any of the methods specified in subparagraphs (a), (b) and (c) of this paragraph shall be used to form the basis of further triangulation.

58. (1) In areas where no triangulation exists, the datum shall consist of an astronomically determined position and azimuth, but in special circumstances the Director may give written approval for the adoption of local origin and bearings based on a magnetic orientation.

(2) (a) Such isolated surveys shall, wherever possible, be made by triangulation, and a base-line shall be measured to provide the length of the first side.

(b) Generally, the base-line shall be in length not less than one fourth of the greatest distance across the area to be surveyed.

(c) When a measuring band is used, such base-line shall be measured at least twice, and in two or more sections not necessarily in one straight line and the several sections shall be compared with one another through subsidiary triangles.

(d) If, after all appropriate corrections have been made, the difference between any two measurements exceeds one part in 12,000 of the measured distance, the base shall again be measured until the resultant difference between any two measurements does not exceed this limit.

(e) When electronic distance measuring equipment is used, the measurements shall conform with the requirements of regulation 56 (5).

## **TRAVERSE SURVEYS**

59. All geodetic and secondary traverses shall be carried out under the control of the Director and shall normally be performed by Government surveyors.

60. (1) (a) All main control traverses in built-up areas shall be observed to third order standard.

(b) All such lines shall be double-chained, and field operations shall be appropriate to a standard of accuracy of not less than 1 : 20,000.

(2) (a) All other control traverses shall be observed to fourth order standard.

(b) Field operations for such surveys shall be appropriate to a standard of accuracy of 1: 10,000, but computational misclosures shall be allowed to the same degree of accuracy as the datum supplied by the Director.

(c) A surveyor shall not use a loop traverse closing on his starting point if it is practicable to traverse between two previously fixed stations.

(d) When a surveyor is unable to close his work within the limits prescribed by the Director, the Director may at his discretion authorize or instruct the surveyor to accept a lower order of misclosure, otherwise he shall close his new work by a loop traverse, orientation being confirmed in a satisfactory manner.

(3) (a) The survey of curvilinear boundaries such as roads, railways, rivers, high-water marks, etc., shall be made by subsidiary traverse or by air-survey methods

Provided that this regulation shall not preclude any more accurate method.

(b) Such surveys of curvilinear boundaries shall be carried out to a standard of accuracy appropriate to the plotting scale of the plan of the survey.

(4) Where traverses are extremely short, a reasonable misclosure shall be allowed irrespective of the minimum requirements under these Regulations.

61. (1) A theodolite permitted by regulation 55 (2) shall be used for all traverses other than subsidiary traverses.

(2) Angular measurements for subsidiary traverses may be made either with a theodolite or a compass of approved pattern, subject to the necessity to achieve the standard of accuracy required by regulation 60 (3) (h) and if a compass is used, both forward and back observations must be observed at each station.

(3) At every traverse station in other than subsidiary traverses, not less than two rounds on different faces and different zeros shall be observed but it is not necessary to close the rounds on to a reference station.

(4) The first round at each station shall be set, when possible to the general orientation which is to be used throughout the survey.

62. (1) All linear measurements of third and fourth order traverses shall be measured using equipment and methods appropriate to the standards of accuracy specified in regulation 60.

(2) Slopes shall be determined by a theodolite, with a degree of precisions appropriate to the standards specified in regulation 60, and where the slope is in excess of 10° the theodolite shall be read on both faces.

(3) All measurements shall be reduced to the horizontal at mean sea level and corrected for temperature and sag.

63. (1) In survey of curvilinear boundaries by the tachometric method, distances determined by staff readings shall normally not exceed 200 metres and all three stadia readings on the staff shall be recorded.

(2) Offsets substantially exceeding 75 metres in surveys of plots over 10 hectares in area, and exceeding 50 metres in surveys of smaller plots, shall be set out instrumentally and the method recorded in the field notes.

(3) If a surveyor wishes to adopt an existing survey of a curvilinear boundary for a subdivisional survey, he shall first obtain the consent of the Director.

64. (1) A road or railway reserve boundary shall be taken as a line parallel to the centre line of the road or railway at such distance from it as may be specified.

(2) When an area fronts on to a railway reserve, and the approved scheme of subdivision or grant demands that the boundary between the property and the railway reserve be demarcated by straight lines, this boundary shall be defined by one or more straight lines, not exceeding 30 metres each in length, beacons being placed at the specified distance from the centre line:

Provided that the Director may relax this requirement where he considers that such relaxation will not materially affect the definition of the reserve.

65. Swinging or hanging traverses unsupported by independent checks shall not be used.

66. Where the means exist, every point of departure of a new traverse and every terminating point shall be identified and verified by observations and measurements, and these observations and measurements shall be recorded in the field notes.

67. Where a traverse station is converted for use as a boundary beacon, or where a previously co-ordinated traverse station is used to place a boundary beacon, the surveyor shall verify the station by observations and measurements, and shall record them in his field notes.

## **AIR SURVEY**

68. Air survey methods may be employed in special cases with the prior written approval of the Director.

## **PART VIII - FIELD NOTES**

69. (1) Field notes and field note cover pages shall be made on such forms as the Director may require.

(2) Licensed surveyors shall pay to the Director the cost price of any blank forms supplied to them by the Director.

70. (1) At each triangulation station every surveyor shall, when taking observations, record in his field notes the date, the time, the weather conditions and the degree of visibility.

(2) When it is necessary, for any reason, for a surveyor to divide his observations, at any station into two sets, the second set shall incorporate at least two stations which have been observed in the first set.

71. (1) All traverse observations and measurements shall be recorded in the field notes, in the sequence in which they are observed or measured.

(2) A full description of every beacon and other mark used in the course of survey, whether placed, found and used, or adopted, shall be recorded in the field notes.

## **TOPOGRAPHICAL FEATURES**

72. (1) Sketched topographical features shall be recorded where possible, and with special care in the vicinity of a beacon to facilitate its location.
- (2) All developments on any plot, such as buildings, wells and boreholes, and any other development, such as pipelines which in the surveyor's opinion may involve a question of easement, right-of-way or any prescriptive rights, shall be surveyed.
73. (1) All observations and measurements made in the field shall be recorded clearly and legibly in hard pencil, and shall be in such manner as the Director may require.
- (2) All entries in field notes, which are not made in the field shall be written in blue or blue-black ink.
- (3) All entries in field notes shall be indexed and referenced in such a way that any competent person may be able to prepare a true plan therefrom, and they shall be in such form that they have only one reasonable and correct interpretation.
74. (1) In no circumstances shall any erasure be made in field notes.
- (2) Corrections shall be made by drawing a thin line through the erroneous entry, so as to leave the original entry still legible; the correct entry shall be written outside the erroneous entry and not across it.
- (3) Corrections to field notes, shall be made in the field, and shall be a true record of actual re-measurements or re-observation, and shall be initialed by the surveyor.
75. (1) The letters, names, or numerals, by which any beacon or survey mark is identified in field notes shall be in plain roman or italic script.
- (2) In choosing suitable descriptions, surveyors shall take care to avoid nomenclature which is likely to lead to confusion, and the letters, I, O, S, and Z, shall not be used.
76. (1) The cover page of field notes shall be completed with such information as the Director may require.
- (2) This information shall include the standard temperature and tension for the measuring band used in the survey and, where measurements have been made in catenary, the weight per 100 feet (or other standard length) of the measuring band.
- (3) The pages of field notes shall be numbered, and an index in alphabetical and numerical order of all observations and measurements in the field notes shall be given on the reverse of the cover page.
77. When any surveyor is compelled to use unorthodox methods of survey owing to obstructions or difficulties in the field, he shall give explanatory notes and, where necessary, diagrams in his field notes, to explain clearly the method which he has used and recorded.

## **PART IX - COMPUTATIONS**

78. (1) Computations shall be made on such forms as the Director may require.
- (2) Licensed surveyors shall pay to the Director the cost price of any blank forms supplied to them by the Director.
79. Computations shall be clearly and legibly set out in ink, and the entry of numbers or words to indicate checks on the computations shall be made in pencil or in a different coloured ink; provided that red ink shall be reserved for the use of the Director.
80. Surveys carried out by triangulation and trilateration shall normally be set out and computed by the Direction Method, or in conformity with any other current standard survey method.
81. (1) In surveys carried out by traverse methods, each separate traverse shall normally be set out in suitable form so as to demonstrate the initial datum bearing or bearings, the bearing misclosure and the consequent adjustment of bearing.
- (2) The linear error of closure, its distribution through the traverse, and the *final* adjusted values of all traverse points, shall be demonstrated in conformity with current standard survey practice.

82. Before any surveyor forwards any computations to the Director for authentication he shall make an independent and complete check of all his calculations, and such checks shall accompany the computations and be clearly demonstrated.

83. (1) Rectilinear areas shall be computed mathematically.

(2) When a portion of the boundary of a property is a curvilinear boundary, the area of the property shall be determined partly by computing from co-ordinates and partly by planimeter determination from a large scale drawing of the curvilinear boundary, in conformity with regulation 88.

(3) If necessary, the co-ordinates of accurately scaled points on the drawing of the curvilinear boundary shall be used in the computation, in order to reduce to a minimum the effect of plotting and other errors on the area determined by the planimeter,

84. Areas shall normally be calculated to the degree of accuracy specified in the following table

	Hectares
Plots not exceeding 1 hectare . . . . .	0.0001
Plots over 1 hectare and up to 10 hectares . .	0.001
Plots over 10 hectares and up to 100 hectares	0.01
Plots over 100 hectares .. . . .	0.1

85. The computations of every survey submitted shall be preceded by

(a) a report; and

(b) a general index to the computations; and

(c) a complete list of final co-ordinates of every point adopted or calculated in the survey; this list shall be arranged in groups comprising datum points, new triangulation, trilateration, and traverse stations, other old or re-established boundary beacons and new boundary beacons, arranged in either alphabetical or numerical order; and on this coordinate list a description of every point shall be given, and reference shall be made to the source of co-ordinates including datum plans or pages of computations.

## **PART X – PLANS**

86. (1) All plans shall be drawn in waterproof inks on such plan forms as the Director may require.

(2) Licensed surveyors shall pay to the Director the cost price of any plan forms supplied to them by the Director.

87. (1) Plans shall be plotted at one of the standard scales tabulated in regulation 89.

(2) The scale shall be selected so that all essential detail is clearly shown, and the plan area of any parcel shall not be less than 5 square centimetres

Provided that, in a survey comprising both large and small parcels, enlargements of the small parcel(s) may be shown in inset(s) at a larger scale than that of the main plan.

88. (1) Curvilinear boundaries of any property not exceeding 1,000 hectares in extent, being boundaries which have been fully surveyed, shall be plotted accurately on a scale not smaller than 1 in 5,000; for larger areas the Director shall specify the scale to be used.

(2) Where the consent of the Director has been obtained to the adoption of an existing survey of a curvilinear boundary, the surveyor shall

(a) make an accurate reduction of the larger scale plan for use at a smaller scale; or

(b) make an accurate transfer for use at the same scale; or

(c) replot from the original field notes and computations for use at a larger scale.

(3) Where a rectilinear boundary intersects a curvilinear boundary and the provisions of regulation 40 (1) and (2) are applicable, the distance from each line or river beacon to the intersection shall be shown to the nearest metre, but the distances between successive beacons along the rectilinear boundary shall be shown to the degree of precision required by regulation 92 (3).

(4) A curvilinear boundary shall be distinctively described.

89. (1) All plans shall be plotted by rectangular co-ordinates.

(2) A plotting grid of squares covering the surveyed area shall be drawn in blue such that grid line values shall be multiples of the metric intervals shown in the following table

Provided that where regulation 24 (2) requires co-ordinates to be expressed in feet, the line values shall be multiples of the foot intervals in the table

INTERVAL

<i>Scale</i>	<i>Metres</i>	<i>Feet</i>
1: 250 .. ..	25	100
1: 500 .. ..	50	200
1: 1,000 .. ..	100	500
1: 2,500 .. ..	250	1,000
1: 5,000 .. ..	500	2,000
1: 10,000 .. ..	1,000	5,000
1:25,000 .. .	2,500	10,000
1: 50,000 .. ..	5,000	20,000
1: 100,000 .. ..	10,000	50,000
1 : 250,000 .. ..	25,000	100,000

(3) Every plan shall contain at least one complete grid square, and no square shall have sides exceeding 20 cm in length.

90. (1) Every detail shown on a plan shall be distinct, and the cramping of figures shall be avoided.

(2) The north point on every plan shall be upwards, and parallel to the sides of the plan form.

91. (1) All boundaries abutting on any property which has been surveyed shall be shown on the plan.

(2) Where the plot or plots adjoin a surveyed road or railway reserve, and when the scale of plotting permits, the boundaries abutting on to the opposite side of the reserve shall be shown.

92. (1) In every survey the co-ordinates of block corners of regular shaped figures, of permanent control stations, and of all beacons of irregular-shaped figures shall be shown on the plan.

(2) The length and bearing of every boundary shall, when possible, be inscribed along the lines to which they refer, and such lengths and bearings shall be deduced from the final co-ordinates as tabulated on the plan.

(3) In surveys of all properties the lengths and co-ordinates shall be shown to two decimal places of a metre.

(4) (a) The area of every plot shall be inscribed where possible within the figure to which it refers to the degree of accuracy prescribed for the net area by regulation 84 of these Regulations.

(b) Areas shall be shown as follows

(i) area . . . . . ha. (approx.)

(iii) when reserves are to be deducted

total area ....., ha. (approx.)

less .. reserve ..... ha. (approx.)

net area ..... ha. (approx.).

(c) Sufficient space shall be left for the plot number and the deed plan number to be inserted by the Director.

(d) No plot number shall be inserted by any surveyor.

(5) All data of any uncoordinated connexions as prescribed in regulation 39 of these Regulations and of terminal and perimeter connexions as prescribed in regulation 41 of these Regulations, and of connexions to building corners as prescribed in regulation 44 (2), and any other data which serve to clarify or to complete any survey plan, shall be shown on the plan.

93. When surveys have been made by triangulation or trilateration or a combination of these techniques, a chart drawn on a separate plan form shall be made showing all rays observed and/or measured. Such charts shall show a tabulated list of final co-ordinates of all permanent control points

Provided that it shall not be necessary to draw a separate plan where the control points have been surveyed by methods permitted by regulation 57 (2).

94. Every survey plan shall be drawn in accordance with the requirements of the Director, in respect of colours, style of printing, and other details.

95. (1) All topographical features which have been accurately fixed by survey, or have been sketched with reasonable precision, in accordance with regulation 72, shall be shown in their correct plotted positions of the plan.

(2) When roads have not been surveyed with the same accuracy as other features, they shall be marked "approximate only".

(3) When formlines add nothing of significant value to the plan, they shall not be shown.

(4) Topographical information may be taken from any official map published by the Director, or any authority approved by the Director with due caution in regard to the limitations enjoined by the scale of the map.

(5) Where topographical information is taken from aerial photographs, the source shall be quoted on the plan.

96. (1) No erasures shall be made after a plan has been drawn in ink.

(2) Necessary corrections shall be made by scoring through the incorrect word, letter, or numeral, in ink, and every such correction shall be initialed by the surveyor.

97. The certificate on every plan form shall be signed and dated by the surveyor who has made the survey.

98. The Director may refuse to authenticate any plan submitted by a licensed surveyor which, in his opinion, has been drawn carelessly and untidily, or is received by him in a dilapidated or damaged condition.

## **PART XI - DEED PLANS**

99. (1) Deed plans shall be drawn in waterproof ink on such forms as the Director may require, and shall be used by every surveyor.

(2) Licensed surveyors shall pay to the Director the cost price of any forms supplied to them by the Director.

(3) Deed plans for initial grants of Government land shall normally be prepared by the Director.

(4) Printed deed plans may be used in such circumstances as the Director may decide.

(5) Except where the contrary is expressly stated in the documents of the case issuing from the Commissioner of Lands, deed plans for the purpose of surrender, regrant, change of user, or consolidation, may be prepared by a licensed surveyor.

(6) Regulations 44 (4), 87, 88 (3), 90 (1), and 98 shall apply to deed plans

100. All deed plans shall be drawn in accordance with the requirements of the Director.

101. The Director shall specify the nature and precision of the numerical data to be shown on the deed plan.

102. Topographical features and details of development, except as prescribed by regulations 44 (4) and 88 (3) shall not be shown on deed plans.

103. Abutting boundaries shall be shown in the manner laid down in regulation 91 of these Regulations.

104. (1) Areas shall be shown in the manner specified in regulation 92 (4).

(2) When two or more properties are combined in one Certificate of Title, the total shall be given as in regulation 92 (4) (a) and (b), and beneath such total each area must be tabulated separately as follows

L.R. No. .... area ..... ha. (approx.)

L.R. No. .... area ..... ha. (approx.)

L.R. No. .... area ..... ha. (approx.)

Total area ..... ha. (approx.)

(3) All the areas shall be quoted to the precision for the total area by regulation 84.

105. (1) No erasures shall be made on a deed plan.

(2) Corrections shall not exceed three in number on any one deed plan, and shall be effected by scoring through the incorrect letter, word, or numeral.

(3) Such corrections shall be initialed by or on behalf of the Director and not the surveyor.

106. The general locality of any plot of land shall be given by reference to the nearest urban area or railway station and to the standard topographical sheet index number.

107. Deed plans prepared by or on behalf of a licensed surveyor shall have his name printed on the bottom left-hand corner of each copy.

108. (1) Deed plans shall be prepared in duplicate.

(2) One copy shall be authenticated by bearing thereon the signature of the Director or of a person authorized by him, together with the date of signature and the other copy shall bear the printed name of the person who signed the authenticated copy, together with the date of signature and the imprint of the official seal.

(3) The signed copy of every deed plan shall be deposited with the Director, and shall be the official copy, and the evidence contained in his official copy, read with the authenticated survey plan upon which it has been based, shall prevail in every case.

(4) The Director may at his discretion prepare and issue a duplicate copy of a deed plan that has been mislaid or lost. Such copy shall bear the signature of the Director or of a person authorized by him, together with the date of signature and the imprint of the official seal and the words "Certified True Copy".

109. (1) In accordance with section 33 of the Act, any deed plan which is withdrawn by the Director shall be cancelled by him, and the evidence of the cancellation shall be the word "Cancelled" inscribed on the deposited copy supported by the signature of the Director, or of a person authorized by him.

(2) The duplicate and triplicate copies of a cancelled deed plan shall, whenever available, be withdrawn from the person in whose custody they are kept, and shall be destroyed.

## **PART XII - GOVERNMENT LAND SURVEYS**

110. (1) Where unalienated Government land fronting on the sea coast is being surveyed for alienation, a strip of land not less than 60 metres in width shall normally be reserved above high-water mark for Government purposes:

Provided that, if the interests of development require, the Minister may direct that the width of this reservation shall be less than 60 metres in special cases.

(2) High-water mark in all cases in these Regulations means the Mean High Water Mark of Spring Tides.

111. On all tidal rivers a reservation of not less than 30 metres in width above high-water mark shall be made for Government purposes

Provided that, if the interests of development require, the Minister may direct that the width of this reservation shall be less than 30 metres in special cases.

112. For boundaries fronting on lakes, a reservation of not less than 30 metres in width from the water edge at ordinary high water shall be made for Government purposes:

Provided that, if the interests of development require, the Minister may direct that the width of this reservation shall be less than 30 metres in special cases.

113. When surveying the reservations referred to in regulations 110, 111 and 1112, a surveyor may make each boundary a straight line or a series of straight lines at a distance approximating closely to the specified distance from the feature for which a reservation is needed.

114. (1) Where an area fronts on a swamp, a give-and-take straight line boundary shall be adopted wherever possible.

(2) Indefinite median lines, which cannot be re-established by survey, shall be avoided.

(3) Swamps of an average width of 150 metres or more shall be excluded from farms, and a straight line boundary along the edge of the swamp shall be surveyed and beacons.

## **PART X1111 - MISCELLANEOUS PROVISIONS**

115. The evidence of the matters specified in subsection (1) of section 12 of the Act required by that subsection to be produced, shall be such written evidence as satisfies the Board as to those matters.

116. (1) Any person shall have access, free of charge, to every published map and plan in the possession of the Director: Provided that the Director or his representative may refuse access as he may deem necessary in the public interest.

(2) A search fee of five shillings per plan shall be paid in advance by any person who is not a licensed surveyor or not on Government duty, for access to any unpublished plan and the fee may be credited against the price of any print of the plans purchased at the time of the search.

117. (1) The Government copyright of all maps published by the Director and of all plans deposited in the Survey Office in accordance with the provisions of section 30 of the Act, is vested in the Director.

(2) No person shall publish or cause to be published a copy of any map or plan of which the copyright is vested in the Director without payment of such royalty as the Director may determine in each case.

## **INDEX TO SCHEDULES**

<b><i>Schedule</i></b>	<b><i>Subject</i></b>
First	Qualifications giving exemption from examination in prescribed subjects in the trial survey and law examinations for the Kenya Land Surveyors Licence.
Second	Examinations for admission as a Licensed Surveyor.
Third	Prescribed forms.
Fourth	Competent authorities for the subdivision of land.
Fifth	Fees payable for surveys executed by the Survey of Kenya.

- Sixth Fees payable for the checking of plans submitted to the Director for authentication.
- Seventh Fees chargeable for documents issued and other services rendered by the Survey of Kenya.
- Eighth Fees chargeable by a licensed surveyor.
- Ninth Certificate for unqualified assistants.

**FIRST SCHEDULE**

(r. 14)

**QUALIFICATIONS GIVING EXEMPTION FROM EXAMINATION IN PRESCRIBED SUBJECTS IN THE TRIAL SURVEY AND LAW EXAMINATIONS FOR THE KENYA LAND SURVEYORS LICENCE.**

Qualifications	Subject in which exemption may be. granted
Land Surveyors Licence valid in or South Africa, Australia, Canada, New Zealand	Field Astronomy
Other Licences, Degrees or Professional Qualifications	At the discretion of the Board.

**SECOND SCHEDULE**

(r. 16)

**EXAMINATIONS FOR ADMISSION AS A LICENSED SURVEYOR**

*Syllabus for the Trial Survey and Law Examinations*

(a) Trial survey.

Viva voce examination in land surveying and surveys under the Act.

Field determination of local time, latitude, longitude and azimuth. Measurement of a base and its extension by triangulation to cover a rural area, the subject of further survey. Survey of rural area referred to, including the traverse of a curvilinear boundary, and the re-establishment of a lost beacon. The curvilinear boundary may be required to be determined from air photographs supplied.

Survey of a small township area with buildings thereon, which include restoration of an old survey.

Topographical and Contour Survey.

The original field notes, computations and plans must be submitted to the Board, together with a Certificate in the form prescribed in regulation 21.

(b) Law Examination.

A written examination on the text and application of such Acts as the Board may from time to time prescribe, and the rules, regulations and by-laws made thereunder, so far as they affect survey and the law relating to land control, land registration and title to land.

**THIRD SCHEDULE**

Form A (rr. 13, 14)

**PRESCRIBED FORMS**

*Declaration*

I, ....., solemnly and sincerely declare that ..... has served regularly and faithfully with the Survey Department/me\* as a student surveyor a period of ..... years and ..... months from ..... to ..... The nature of this employment during the period specified is as follows

*Summary of Employment*

Declared at ..... this ..... day of ....., 19  
.....  
.....Signature .....

\*Delete the words which are inapplicable.

Authority.

printed, for general information, on the back of this Letter of NOTE.-The relevant sections 23 and 38 of the Survey Act are

THIRD SCHEDULE-(Contd.)

Form B (r. 14)

DECLARATION

I, ....., of ..... solemnly and sincerely declare that I am a Graduate of the University of ..... and have taken a Degree in ..... and that I have pursued the courses of study and have had practical experience in land surveying as set out in the summary below. Summary

Course(s) of study at ..... from ..... to .....

Periods of practical experience at ..... from ..... to .....

Declared at .....

this ..... day of ....., 19....Signature.....

Form C:

(r. 21)

CERTIFICATES TO BE SUPPLIED IN PRACTICAL TESTS

I, ....., hereby certify that I have carried out this examination without technical advice or assistance since receipt of the instructions on .....

..... *Signature*

Form D (r, 31)

LETTER OF AUTHORITY IN EXERCISE of the powers conferred upon him by regulation 31 of the Survey Regulations, the Director of Surveys hereby authorizes ..... (name and designation of person authorized) to enter upon any land to perform any duty which he is required to perform under the Survey Act.

Impression of Seal of Office. Survey of Kenya. Nairobi.

Date ....., 19....

*Director of Surveys*

THIRD SCHEDULE-(Contd.)

Form E' (r. 36) REPUBLIC OF KENYA THE SURVEY ACT (Cap. 299, regulation 36)  
 CERTIFICATE OF INDEMNITY

I, ..... of ..... being

- (a) the owner
- (b) the accredited agent of the owner

of the land known as L.R. No. .... situated in the district of ..... and desiring to obtain deed plans of the said land, hereby certify that to the best of my knowledge and belief, the beacons defining the corners of the property are in existence and undamaged and in the positions in which they were placed by the surveyor(s) who made the survey(s) of the original property and/or the subdivisions thereof.

2. I undertake to indemnify the Government of Kenya and the Director of Surveys against any claims which may, upon any dealing by me in respect of the said land, arise out of, or be in any way attributable to, the absence of or damage to such beacons or any of them.

Witness .....

Signed ..... Date ..... *STAMP DUTY ACT*

(*Cap. 480*)

Under the provisions of section 117 (1) (a) of the Act, this instrument is not chargeable to duty.

**FOURTH SCHEDULE**

**(r. 30)**

**COMPETENT AUTHORITIES FOR THE SUBDIVISION OF LAND**

The following list shows the competent authority, on the commencement of these Regulations, responsible for giving approval for the subdivision of land under various legislation

Land Category	Legislation	Authority
Leasehold grants (All)	Government Lands Act Commissioner of (Cap. 280) and Trust Lands. Land Act (Cap. 288).	Commissioner of Lands
Urban*	Town Planning Act (Cap. Commissioner of 134 of 1948), sections 23 and 24.	Commissioner of Lands
Agricultural (All)	Land Control Act (Cap 302)	The authority prescribed by the legislation
Agricultural (Plots under 8 hectares only).	Land Planning Act (Cap. 303) and Land Control Act (Cap 302)	The authority prescribed by the legislation

FOURTH SCHEDULE-(Contd.)

"Within the area covered by the 1926 Mombasa Town Planning Scheme the Municipal Council of Mombasa is the Approving Authority.

Information regarding any subsequent relevant legislation may be obtained on application to the Director.

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## FIFTH SCHEDULE

### FEES PAYABLE FOR SURVEYS EXECUTED BY THE SURVEY OF KENYA

1. *Land registered or to be registered under the Government Land Act, or the Registration of Titles Act:*

(a) For surveys and beaconing for alienation and first registration of any Government Land or any Trust Land which has been set apart, fees shall be assessed in accordance with the following formula

(i) For each plot of land ... Sh. 1,000H (where "H" is the square root of the area, in hectares, of the plot), or

(ii) In accordance with the Eighth Schedule, whichever is less: Provided that the fees shall be computed to the nearest Sh. 10 and the minimum fee shall be Sh. 900: Provided further that fees may be reduced at the discretion of the Director to Sh. 300 per plot for Government or Local Government housing schemes.

(b) For mutation surveys fees shall be assessed in accordance with the Eight Schedule.

2. *Land registered or to be registered under the Registered Land Act.*

(a) For surveys for the first registration of any land except land to which the Land Adjudication Act or the Land Consolidation Act has been applied, fees shall be assessed as follows:(i) For Surveys executed in accordance with section 22 (3) of the Act

For each plot of land ... Sh. 1,000H (where "H" is the square root of the area, in hectares of the plot):

Provided that the fee shall be computed to the nearest Sh. 10 and *the minimum* fees shall be Sh. 900,

(ii) For other Surveys

For each plot of land ... Sh. 150H (where "H" is the square root of the area, in hectares of the plot).

Provided that the fees *shall* be computed to the nearest Sh. 10 and the minimum fee shall be Sh. 300.

(b) For mutation, surveys, fees shall be assessed as follows

(i) *where the registered owner* has demarcated the mutation on the ground-

For each parcel of land to be transferred Sh. 250H (where "H" is the square root of the area, in hectares, of the parcel):

Provided that the fees shall be computed to the nearest Sh. 10 and the minimum fees shall be Sh. 300.

(ii) where the registered owner requires a specific area to be surveyed for transfer

For each parcel of land to be transferred Sh. 500H (where "H" is the square root of the area, in hectares, of the parcel):

Provided that the fees shall be computed to the nearest Sh. 10 and the minimum fee shall be Sh. 600.

(c) For fixing boundaries under section 22 of the Registered Land Act, the fees shall be assessed in accordance with the Eighth Schedule.

4. In any other case, the Survey fees shall be assessed by the Director.

5. The Director may, in his discretion, remit part or all of any payable under this Schedule.

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## SIXTH SCHEDULE

## **FEES PAYABLE FOR THE AUTHENTICATION OF PLANS SUBMITTED TO THE DIRECTOR FOR APPROVAL**

The following fees will be charged for the authentication of every plan submitted to the Director for approval

For each plot of land shown on the plan ... Sh. 25H (where "H" is the square root of the area of the plot in hectares) Provided that

(i) fees shall be calculated to the nearest Sh. 5 with a minimum of Sh. 70 and a maximum of Sh. 750; (k) the fee for each easement shall be Sh. 70;

(iii) one-half of the above fees shall be charged for authenticating compiled plans;

(iv) the Director may in his absolute discretion remit part or all of any fee;

(iv) the Director may reduce the fees for Government or Local Government housing schemes by 50 per cent; (vi) no fee shall be charged for the authenticating of any triangulation chart, any standard traverse chart, any additional plan which may be rendered necessary by regulation 88 (enlarged drawings of irregular boundaries) or any survey made for the re-establishment of beacons.

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## **SEVENTH SCHEDULE**

### **FEES CHARGEABLE FOR DOCUMENTS AND MATERIALS ISSUED AND OTHER SERVICES RENDERED BY THE SURVEY OF KENYA**

The fees chargeable for documents and materials issued and other services rendered by the Surveys of Kenya shall be assessed by the Director and the charges displayed under the Seal of the Survey in all Survey of Kenya offices.

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## **EIGHTH SCHEDULE**

**(r. 35)**

### **SCALE OF FEES CHARGEABLE BY A LICENSED *St.RVEYOR* FOR SURVEYS MADE BY HIM**

1. In this Schedule unless the context otherwise requires "basic charge" means a charge designed to cover the cost of investigation of survey records, the collection of survey data, and the clarification of the position in regard to title and survey;

"hilly", in relation to land, means that the average slope is between 5 degrees and 15 degrees;

"rough", in relation to land, means that the average slope exceeds 15 degrees;

"topographical charge" means a charge designed to cover the additional cost of surveys carried out in rough country or hilly country;

"unhealthy area" means any area classified as unhealthy in the Code of Regulations published by the Government for the purposes of the computation of leave to be taken by Government officers.

2. (1) (a) The charges prescribed in this Schedule shall be payable as to 75 per cent of the cost on completion of the survey and the plan being deposited with the Director of Surveys, and the remaining 25 per cent shall be payable when the survey has been approved by the Director of Surveys:

Provided that when accepting a survey commission a surveyor may require the payment of a deposit against eventual charges to be raised in connexion with the survey.

(b) In cases where no plan is necessary the full charge shall be payable on completion of the field survey.

(2) In large surveys, the surveyor shall be entitled to progress payment at monthly intervals throughout the period of the survey, and such payment shall be at the rate of 75 per cent of the value of the work done, and shall be computed in accordance with the appropriate scale prescribed in this Schedule.

(3) When a surveyor is unable, owing to his client's instructions, to complete either the survey or the plan, he shall be entitled to payment of the full value of the work :completed.

3. Except where otherwise stated, the charges prescribed in this Schedule include the charges for

(a) the plan of the survey, together with the field notes, computations, and other information required by these Regulations, but do not include any plan referred to in paragraph 4 of this Schedule, and do not include any triangulation and/or trilateration charges referred to in paragraph 8 of this Schedule; and

(b) the cost of all labour and materials, but do not include the cost of boundary marks and survey marks, which shall be charged for as prescribed in paragraph 7 of this Schedule.

4. The charge for Deed Plans -shall be Sh. 143.75 for each set. 5. (1) The surveyor shall be entitled to recover transport and travelling charges at the rate of Sh. 3.05 per kilometre for necessary journeys incurred in the survey when travelling in his own transport, plus a time rate of Sh. 1.85 per kilometre travelled to cover the surveyor's professional time.

(2) When a journey is made by rail, the transport and travelling charge shall be the cost of rail fares, plus a time rate of 1.85 per kilometre travelled.

(3) The surveyor shall be entitled to reasonable subsistence allowance and hotel, camp, or other accommodation expenses.

6. (1) On hourly rates the surveyor's charge shall be Sh. 200 per hour, or Sh. 200 per hour in unhealthy areas.

(2) The cost of labour, materials, and travelling charges, and subsistence and accommodation allowances, shall be added to the fee prescribed in subparagraph (1).

(3) Hourly rates are to be charged only when the conditions are such that the other rates set out herein are inapplicable; and without prejudice to the foregoing they may be charged in the following cases

(a) the preparation of plans from existing records, where no field work is required;

(b) interviews with officials of Government Departments or local authorities;

(c) the preparation of additional plans or tracings, or the investigation of data required for title surveys, and not covered by any other provision in this Schedule;

(d) work involved when the client changes his scheme or layout after the survey has commenced;

(e) the location and verification of control points and beacons, and surveys to re-establish beacons, such surveys not amounting to complete resurvey;

(f) surveys within built-up commercial areas.

7. The following fees shall be' charged for surveys of areas surveyed as plots of less than 10 hectares

(a) the basic charge shall be as prescribed in paragraph 9;

(b) the traversing charge for all traverse lines which are surveyed in accordance with regulation 60 for the establishment of the exterior boundaries of the land which is being surveyed, including the necessary connexions to trigonometrical stations, standard traverses or other marks, and including such traverses as are required to establish new internal boundaries, shall be charged at the following rates

(i) third order traverses, for every 100 metres surveyed Shs.171.50

(ii) fourth order traverses, for every,100 metres surveyed Shs.134.75

(iii) fourth order traverses, requiring tachymetric connexions or offsets to a curvilinear boundary, for every 100 metres surveyed Shs.269.50

(iv) all subsidiary traverses - half the rate for fourth order traverses

(c) the station charge for every station necessarily occupied for the observation of horizontal angles shall be Shs. 73.50: Provided that the charge shall be made once only for every such station;

(d) the lot charges charged for the survey of each lot shall be as follows-

(i) note exceeding 1/4 hectare up to 10 lots Shs.183.75

in excess of 10 lots Shs.147.00

(ii) exceeding 1/4 hectare but not exceeding one hectare up to 10 lots Shs.294.00

in excess of 10 lots Shs.220.50

(iii) exceeding 1 hectare but not exceeding 5 hectares up to 10 lots Shs.392. 00

in excess of 10 lots Shs.294.00

(iv) exceeding 5 hectares but not exceeding 110 hectares up to 10 lots Shs. 490.00

in excess of 10 lots Shs.367 50

(v) exceeding 10 hectares up to 10 lots Shs.563 50

in excess of 10 lots Shs.392 00

(e)-where a topographical charge is payable, the traversing charge, the station charge, and the lot charge shall be increased by the following percentages

(i) where the lot is hilly, 20 per cent;

(ii) where the lot is rough, 33} per cent;

(f) (i) where it is necessary for the surveyor using his own labour to cut or clear, then to the fees set out above shall be added the following charges for every 100 metres or part thereof, of necessary cutting and clearing

for light bush or long grass ... .. 73 50

for medium scrub ... .. 220 50

for heavy dense bush ... .. 441 00

(ii) where, by prior arrangement, the landowner supplies the labour for cutting and clearing, no additional charge shall be made if such cutting and clearing is carried out to the satisfaction of the surveyor, who shall be entitled to charge for the delay to survey operations at the hourly rates set out in paragraph 6, when he necessarily exercises personal supervision of the operations hereinbefore described;

(iii) where the landowner, having agreed to undertake cutting and clearing, fails to do so, the surveyor may at his discretion charge under both of sections (i) and (ii) of this subparagraph;

(g) the corner charge for every beacon, the co-ordinates of which are necessary to establish the consistency and areas of the figures surveyed, shall be *Sh. 73.50* for each beacon;

(h) the beacon placing/ fixing charge shall be

(i) For each beacon fixed or placed in such manner that its check is necessarily incorporated in the course of other measurement or observations required for subsequent survey Shs.73.50

(ii) For each beacon fixed or placed in such manner that its check necessitates additional measurements or observations not required for any subsequent survey Shs.134 75

(i) the beaconing charge shall be, in addition to the fees set out hereinbefore in this paragraph, payable at the following rates

(i) for every angle-iron set in concrete Shs.85 75

(ii) for every iron pin set in concrete underground Shs.73 50

(iii) for every pin, set in concrete Shs.49.00

(iv) for every iron pin not set in concrete Shs.24 50

Provided, that, where excavation of coral or other rock is made for the proper erection of any of the items specified in paragraphs (i), (ii), and (ii), an additional charge of Shs. 73.50 per beacon, may be made;

(j) the unhealthy areas charge shall be an increase of 25 per cent added to the charges prescribed by this paragraph.

8. (1) The following fees shall be charged for surveys in areas subdivided into plots each exceeding ten hectares.

(2) The basic charge shall be as prescribed in paragraph 9.

(3) The traversing charge for

(a) all fourth order traverse lines surveyed in accordance with these Regulations shall bear the following rates

(i) in easy country, for every 100 metres Shs.73.50

(ii) in hilly country, for every 100 metres Shs.98.00

(iii) in rough country, for every 100 metres Shs.134.75

(b) all subsidiary traverses shall be at half the rates for fourth order traverses;

(c) all traverses requiring the measurements of offsets or tachymetric connexions to curvilinear boundaries shall be at double the charges for fourth order or subsidiary traverses, as the case may be.

(4) The station charge for every station occupied for the observation of horizontal angles shall be Sh. 49

Provided that the charge shall be made once only for each station. (5) The triangulation and trilateration charges, where the survey or a proportion of the survey is carried out by these methods, shall be calculated, on a time basis on rates as prescribed in paragraph 6, plus a charge for the minimum necessary signals based on actual costs. (6) (a) Traverse connexions shall be charged at the rate prescribed in subparagraph (3).

(b) Measurement of base lines shall be charged for at the rate prescribed in paragraph 7 (b) (i).

(7) The cutting and clearing charges, the corner charges, the beacon placing/fixing charge, the beaconing charge, and the unhealthy areas charge, shall be as prescribed in paragraph 7.

9. The basic charge shall be 50 per cent of the charges prescribed in paragraphs 7 and 8 of this Schedule, and shall also include any charges made under paragraph 8 of the Seventh Schedule:

Provided that the maximum basic charge shall not exceed Sh. 980.

10. Notwithstanding any provision to the contrary in this Schedule, a licensed surveyor may, with the prior written agreement and approval of the Director, depart from the prescribed charges in cases where peculiar or special circumstances appear to warrant such a departure.

11. Any charges levied by the Government under Schedule 6 shall be added to the total of the other charges.

**NINTH SCHEDULE  
UNQUALIFIED ASSISTANTS**

**(r. 33) CERTIFICATE FOR**

I certify that all the work performed in the field and in the office by my assistant, Mr. .... has been carried out under my personal direction, and I take full responsibility for all work so performed.

Signed .....

