

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

PRYS + 1c AVB 20c PRICE + 1c GST
· BUITELANDS 30c · ABROAD
· POSVRY · POST FREE

Vol. 189]

KAAPSTAD, 4 MAART 1981

[No. 7455

CAPE TOWN, 4 MARCH 1981

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 429.

4 Maart 1981.

No. 429.

4 March 1981.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 26 van 1981: Opmetingswysigingswet, 1981.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 26 of 1981: Land Survey Amendment Act, 1981.

Act No. 26, 1981

LAND SURVEY AMENDMENT ACT, 1981

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Land Survey Act, 1927, so as to further define the circumstances in which a land surveyor shall be guilty of improper conduct; to regulate the situation in regard to the signing of the relevant agreement by the holder of a real right at the original survey of land or at the removal of uncertainty in the description of a curvilinear boundary; to make provision in relation to the re-erection and resurvey of reference marks in a new township or in an extension of an existing township; to provide for the delegation by a local authority of its power to agree to the alteration, amendment or cancellation of a general plan; to provide for the publication of certain findings if the address of certain persons cannot be ascertained; to empower a Surveyor-General to prevent the further registration of land in certain circumstances; to redefine "Minister"; and to substitute certain official titles; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 16 February 1981.)

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

Substitution of section 1 of Act 9 of 1927, as substituted by section 1 of Act 71 of 1972.

1. The following section is hereby substituted for section 1 of the Land Survey Act, 1927 (hereinafter referred to as the principal Act):

"Appointment, powers and functions of the Chief Director. **1.** (1) Subject to the provisions of any law governing the public service, the Minister shall appoint an officer to be styled the **[Director-General of Surveys]** Chief Director of Surveys and Mapping, who shall be a land surveyor.

(2) The **[Director-General]** Chief Director shall, subject to the directions of the Minister, exercise the powers and perform the functions conferred upon or assigned to him by this Act."

Substitution of section 2 of Act 9 of 1927, as substituted by section 2 of Act 71 of 1972.

2. The following section is hereby substituted for section 2 of 15 the principal Act:

"Duties of the Chief Director. **2.** (1) The **[Director-General]** Chief Director shall be in charge of such geodetic, topographical and cadastral surveying in the Republic as the Minister may direct, and subject to the provisions of this Act, 20 shall—
(a) promote and control all matters affecting such surveys;

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- (b) supervise and control the survey and charting of land for purposes of registration in a deeds registry;
- (c) conduct such trigonometrical, topographical, geodetic and other relevant survey operations as may be required; 5
- (d) prepare, compile and amend from time to time, as the circumstances necessitate, such maps and other documents as may be required;
- (e) regulate the procedure in each regional office and determine the manner in which the provisions of this Act and of the regulations shall be carried out;
- (f) take charge of and preserve the records (which do not form part of the records of an office of a Surveyor-General) of all surveys and operations carried out before the commencement of the Land Survey Amendment Act, 1972, or under this section.

(2) Any officer employed in the office of the 20 **[Director-General] Chief Director** and who is a land surveyor may, if delegated thereto by the **[Director-General] Chief Director**, do any specified act or thing which may lawfully be done under this Act or the regulations or any other law by the **[Director-General] Chief Director**.” 25

Amendment of section 14 of Act 9 of 1927, as amended by section 7 of Act 52 of 1962.

3. Section 14 of the principal Act is hereby amended—

- (a) by the substitution for the words preceding paragraph (a) of the following words: 30

“**[If a] A land surveyor shall be guilty of improper conduct if he—**”;
- (b) by the substitution for paragraph (f) and the words following thereon of the following paragraphs and words: 35

“(f) is guilty of **[such improper] conduct** as, in the opinion of the **[Director-General] Chief Director**, renders him unfit to practise as a land surveyor; or

(g) **contravenes a provision of this Act or the regulations made thereunder or fails to comply with such a provision,** 40
and the Minister may apply to the Court by way of motion for the suspension or cancellation of the right of such land surveyor to practise as such, and the Court may thereupon suspend or cancel such right or make such other order as it thinks fit, or the Minister may 45 refer any complaint, charge or allegation of improper conduct to the Central Council of Land Surveyors for enquiry in terms of section 12 of the Land Surveyors' Registration Act, 1950 (Act No. 14 of 1950).”.

Amendment of section 16 of Act 9 of 1927, as amended by section 4 of Act 14 of 1941, section 8 of Act 52 of 1962 and section 5 of Act 23 of 1977.

4. Section 16 of the principal Act is hereby amended— 50

- (a) by the substitution for subparagraph (ii) of paragraph (b) of subsection (2) of the following subparagraph: 55

“(ii) in respect of such contiguous land, or any right to minerals in respect of the land being surveyed, which is held by two or more owners or holders in undivided shares, it shall be sufficient if the agreement is signed by the owners or holders of not less than a three-fourths share in such land or such right to minerals, as the case may be ;”;
- (b) by the addition of the following subsection: 60

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“(10) The provisions of subsections (4), (5), (6) and (7) relating to a contiguous owner shall *mutatis mutandis* apply to the holder of a right to minerals in respect of the land being surveyed or the holder of any other real right whom the Surveyor-General has required to sign the agreement in terms of paragraph (iv) of the proviso to subsection (2) (b).”

Substitution of section 26bis of Act 9 of 1927, as inserted by section 8 of Act 14 of 1941, substituted by section 16 of Act 52 of 1962 and amended by section 11 of Act 71 of 1972.

5. The following section is hereby substituted for section 26bis of the principal Act:

“Reference marks. 26bis. (1) (a) In the survey of new townships or 10

extensions of townships or the subdivision of an erf, reference marks shall be erected and surveyed as prescribed, so that the positions of the corner points of all pieces of land shown on the general plan can be accurately determined. 15

(b) The Surveyor-General shall not approve such general plan without a certificate by a land surveyor in which the land surveyor confirms that he has made arrangements with the owner of the land and accepts responsibility for the verification and, if necessary, the re-erection and resurvey at the cost of such owner of any prescribed reference mark as soon as the services have been installed to such extent that the disturbance of any such mark should no longer occur: Provided that the Surveyor-General shall not insist on such a certificate if, in his opinion, suitable arrangements have been made to safeguard the reference marks. 20 25

(c) As soon as the installation of services has progressed to the extent mentioned in paragraph (b), but within a period of two years or such further period as the Surveyor-General may allow after the approval of the general plan, the land surveyor in question shall verify every reference mark and shall if necessary rebuild and determine by survey in the prescribed manner every such mark, and submit the necessary survey records to the Surveyor-General, as proof of the position of each mark in relation to the block corners indicated on the general plan. 30 35 40

(d) If the Surveyor-General is satisfied that the survey conforms to the requirements as prescribed, he shall provide the local authority with a plan on which each reference mark is indicated, and thereupon he shall cause a notice to be published in one issue of the *Official Gazette* of the province concerned, stating that reference marks have been officially established in terms of this subsection. 45 50

[(1)] (2) (a) If the [Director-General] Chief Director is satisfied that reference marks should be established in any township, or in any defined portion thereof, to enable the positions of the corner points of all pieces of land therein to be accurately determined, [it] he may order the erection and establishment by survey of such reference marks as provided in this subsection. 55 60

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[(2)] (b) The erection and establishment of such reference marks shall for all purposes be deemed to be part of and in continuation of the trigonometrical survey operations referred to in section 2: Provided that a local authority may at its own cost erect such reference marks in positions approved by the [Director-General] Chief Director.

[(3)] (c) When [the] such reference marks have been erected and surveyed, the [Director-General] Chief Director shall give notice of this fact to the Surveyor-General and the local authority concerned, and furnish each of them with a plan showing the positions and official co-ordinates of such reference marks, whereupon the Surveyor-General shall cause a notice to be published in one issue of the *Official Gazette* of the province, stating that reference marks have been officially erected in terms of this subsection and that as from a specified date, which shall not be earlier than a date one month after the date of publication of the notice, a land surveyor shall, in surveying or subdividing land or in replacing a beacon in the township, or in a defined portion thereof, in respect of which such reference marks have been erected, [connect] base his survey [to] on such reference marks as prescribed. [: Provided that, when the official co-ordinate values of such reference marks become available, his survey shall be based on such values.]

[(4)] (3) The owner of any property damaged by the placing of a reference mark shall be entitled to compensation for such damage.

[(5)] (4) (a) Every local authority within whose area of jurisdiction reference marks are in terms of this section erected officially, shall be responsible for the maintenance of such reference marks to the satisfaction of the [Director-General] Chief Director: Provided that should the local authority fail to maintain any such reference mark the [Director-General] Chief Director may undertake any necessary work at the expense of such local authority.

(b) Whenever a local authority is established after the commencement of this section, such local authority shall *ipso facto* be responsible for the maintenance of the reference marks which were erected within its area of jurisdiction before its establishment."

Amendment of section 30 of Act 9 of 1927, as substituted by section 12 of Act 71 of 1972.

6. Section 30 of the principal Act is hereby amended by the substitution for the second proviso to subsection (2) of the following proviso:

"Provided further that the Administrator may in respect of any alteration, amendment or partial or total cancellation of a general plan, delegate his powers to an officer in the service of the provincial administration or to a local authority, and such local authority may, with the consent of

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the Administrator, further delegate any such delegated powers to an officer in the service of that local authority.”.

Amendment of section 31bis of Act 9 of 1927, as inserted by section 14 of Act 14 of 1941 and substituted by section 7 of Act 23 of 1977.

7. Section 31bis of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (5) of the following paragraph: 5

“(a) If any contiguous owner, or the holder of any real right who in the opinion of the Surveyor-General shall also sign the agreement in question, has failed to sign [the] such agreement and has within the period mentioned in any such notice as is referred to in section 16 (4) lodged with the Surveyor-General an objection to the terms of the agreement, the matter shall be laid before a commission constituted in terms of paragraph (b) of this subsection for a description of the boundary in question: Provided that if the State is an objector or affected by such objection, the matter shall be settled by arbitration, and the provisions of section 16 (7) and (8) shall apply *mutatis mutandis* in respect of the agreement.”; 20

(b) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

“(b) The commission referred to in paragraph (a) shall consist of [the Secretary for Agricultural Credit and Land Tenure, or a person] an officer of the Department of Community Development and State Auxiliary Services appointed in writing by [him] the Director-General of that department, the Surveyor-General of the region in which the land is situate, who shall be chairman, and the Registrar of Deeds at Cape Town if the land is situate in the Province of the Cape of Good Hope, or the Registrar of Deeds appointed for the province in which the land is situate if such land is situate in any other province.”; and 35

(c) by the substitution for paragraph (d) of subsection (5) of the following paragraph:

“(d) The owners or the holders of any real right affected by the agreement shall be notified by registered letter of the finding of the commission, and, if within a period of thirty days after the date of posting of such registered letter (or in the case of an owner not at that time in South Africa, sixty days), any such owner or holder of a real right fails to lodge formal written objection against such finding, and thereafter within a further period of thirty days to take steps to institute an action to determine the matter, such owner or holder of a real right shall be deemed to have consented to the description decided upon by the commission: Provided that if the address of a contiguous owner, or of a holder of a real right, is not readily ascertainable by the Surveyor-General, the publication of the finding of the commission by notice in two consecutive issues of the *Gazette* and once a week during two consecutive weeks in a newspaper (to be approved by the Surveyor-General) circulating in the district in which the property in question is situated, shall 55

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for the purposes of this subparagraph be sufficient notice to such owner or such holder of a real right. Thereafter such description shall not be capable of being disputed in any court of law, and no diagram shall be approved which is not in accordance with it.” 5

Amendment of section 34 of Act 9 of 1927.

8. Section 34 of the principal Act is hereby amended by the addition of the following subsection:

“(5) If the Surveyor-General, having served a notice under subsection (2) on the owner of land, is satisfied that any person who acquires an interest in such land may suffer damage or loss as a result of the removal or disturbance of a beacon, he shall convey such fact to the registrar concerned and to the owner of such land, and thereafter no further registration of such land or of any portion thereof or an undivided share therein shall be effected in a deeds registry until the Surveyor-General has notified the registrar concerned that the beacon or mark has been restored or re-erected by a land surveyor.” 10 15

Amendment of section 49 of Act 9 of 1927, as amended by section 19 of Act 14 of 1941, section 21 of Act 14 of 1950, section 29 of Act 52 of 1962, section 9 of Act 64 of 1970, section 15 of Act 71 of 1972 and section 11 of Act 23 of 1977.

9. Section 49 of the principal Act is hereby amended— 20

(a) by the insertion after the definition of “approve” of the following definition:

“‘Chief Director’ means the Chief Director of Surveys and Mapping appointed in terms of section 1;”;

(b) by the substitution for the definition of “Minister” of the following definition:

“‘Minister’ means the Minister of [Agriculture] Community Development and State Auxiliary Services, or any other Minister to whom the State President may from time to time assign ministerial responsibility for the administration of this Act;”;

(c) by the deletion of the definition of “Director-General”.

Substitution of expressions “Director-General” and “Director-General of Surveys” in Act 9 of 1927.

10. The principal Act is hereby amended by the substitution for the expressions “Director-General” and “Director-General of Surveys”, wherever they occur, of the expressions “Chief Director” and “Chief Director of Surveys and Mapping”, respectively. 35

Construction of certain references.

11. (1) Any reference in any other law to the Director-General of Surveys shall be construed as a reference to the Chief Director of Surveys and Mapping. 40

(2) Anything done by or on behalf of the Director-General of Surveys before the commencement of this Act in the administration of any law, shall be deemed to have been done by or on behalf of the Chief Director of Surveys and Mapping. 45

Short title.

12. This Act shall be called the Land Survey Amendment Act, 1981.