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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

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DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1038.

14th June, 1972.

No. 1038.

14 Junie 1972.

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

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

No. 71 of 1972: Land Survey Amendment Act, 1972.

No. 71 van 1972: Opmetingswysigingswet, 1972.

## LAND SURVEY AMENDMENT ACT, 1972.

Act No. 71, 1972

**ACT**

To amend the provisions of the Land Survey Act, 1927, with reference to the appointment, powers and functions of the Director-General of Surveys and of Surveyors-General; to provide for the establishment of surveyors-general's offices for regions defined by the Minister of Agriculture; to provide for the establishment of a survey regulations board; to empower a Surveyor-General to amend or cancel a general plan; to amend the Deeds Registries Act, 1937, with reference to the constitution of the deeds registries regulations board; to amend the Land Surveyor's Registration Act, 1950, with reference to the constitution of the Central Council of Land Surveyors and to empower the said council to collect an annual registration fee from a land surveyor in the full-time employment of the State; to amend the Universities Act, 1955, with reference to the constitution of the Board for the Recognition of Land Surveyors' Examinations; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)*  
*(Assented to 8th June, 1972.)*

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

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 Director-General. 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, who shall be a land surveyor.

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

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

“Duties of the Director-General. 2. (1) The Director-General 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, shall—

- (a) promote and control all matters affecting such surveys;
- (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;
- (d) prepare, compile and amend from time to time, as the circumstances necessitate, such maps and other documents as may be required;

Substitution of section 1 of Act 9 of 1927.

Substitution of section 2 of Act 9 of 1927.

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- (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 Director-General and who is a land surveyor may, if delegated thereto by the Director-General, 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."

3. The following section is hereby substituted for section 3 of the principal Act: Substitution of section 3 of Act 9 of 1927.

"Establishment of surveyor-general's offices for regions defined by the Minister.

3. (1) Subject to the provisions of any law governing the public service, the Minister may, by notice in the *Gazette*—

- (a) create regions, define the local limits of each region, declare the name by which any region shall be known and establish a surveyor-general's office for every region;
- (b) detach a portion of a region or portions of two or more adjoining regions to form a detached region, declare the name by which such detached region shall be known and establish a surveyor-general's office for such detached region;
- (c) annex any region referred to in paragraph (a) or (b) or any portion of such region, to another region and abolish the surveyor-general's office of a region which as a whole has been annexed to another region.

(2) Any surveyor-general's office which existed immediately before the commencement of the Land Survey Amendment Act, 1972, and the province for which it was established, shall respectively be deemed to be a surveyor-general's office and a region established under subsection (1) (a)."

4. The following section is hereby substituted for section 4 of the principal Act: Substitution of section 4 of Act 9 of 1927.

"Appointment of Surveyor-General.

4. (1) Subject to the provisions of any law governing the public service, the Minister shall appoint in respect of each surveyor-general's office referred to in section 3, an officer, to be styled the Surveyor-General, who shall be a land surveyor, and who shall, subject to the directions of the Director-General, exercise the powers and perform the functions conferred upon or assigned to him by this Act.

(2) Every person who at the commencement of the Land Survey Amendment Act, 1972, holds office as a Surveyor-General, shall be deemed to have been appointed as Surveyor-General in terms of this section."

5. The following section is hereby substituted for section 5 of the principal Act: Substitution of section 5 of Act 9 of 1927.

"Powers and duties of a Surveyor-General.

5. (1) A Surveyor-General shall be in charge of the office in respect of which he has been appointed, and in the region for which he has been appointed he shall, subject to the provisions of this Act and the regulations—

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- (a) take charge of and preserve all records appertaining to surveys of land which were, prior to the commencement of the Land Survey Amendment Act, 1972, preserved as records in a surveyor-general's office, or which may become, after such commencement, records of the surveyor-general's office in respect of which he has been appointed;
- (b) before any registration is effected in a deeds registry, examine and approve all general plans and diagrams which have been prepared in accordance with the regulations, and, when applicable, in accordance with any statutory approval in so far as the layout is concerned;
- (c) on the diagram of any piece of land—
  - (i) define the geometrical figure representing any portion of such land the transfer whereof has been registered in a deeds registry, and deduct the numerical extent of such portion;
  - (ii) define the geometrical figure representing any portion thereof for which a certificate of township title or registered title has been issued under the provisions of any law relating to the registration of deeds, and deduct the numerical extent of such portion;
  - (iii) define the geometrical figure and make the necessary endorsements in respect of any servitude or lease over or on such land and which has been surveyed in terms of this Act and registered in a deeds registry;
- (d) cancel or amend in accordance with the provisions of any law any general plan or diagram;
- (e) prepare, certify and issue, at the request of any person and on payment by such person of such fees as may be prescribed, copies of diagrams and other documents filed in his office and available to the public, and copies of general plans and diagrams registered in a deeds registry in such region;
- (f) compile and amend from time to time, as the circumstances necessitate, such maps as may be required;
- (g) conduct such geodetic, trigonometrical, topographical, cadastral, level and tide surveys and such other operations as the Director-General may direct,

and generally exercise all such powers and perform all such duties as are by any law conferred or imposed upon a Surveyor-General, and perform such other duties as the Director-General may from time to time assign to him.

(2) Any officer employed in a surveyor-general's office and who is a land surveyor may, if delegated thereto by the Surveyor-General appointed in respect of such office, do any act or thing which may lawfully be done under this Act or the regulations or any other law by such Surveyor-General."

6. The following section is hereby substituted for section 6 of the principal Act: Substitution of section 6 of Act 9 of 1927.

"Survey regulations board.

6. (1) There shall be established a survey regulations board (in this section referred to as "the board"), with power to make regulations in regard to the subjects mentioned in section 7.

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(2) The board shall consist of the following members, namely—

- (a) the Director-General;
- (b) two land surveyors appointed by the Minister who shall be officers in the service of the State;
- (c) all the Surveyors-General;
- (d) one member of the deeds registries regulations board established in terms of section 9 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), to be nominated by the Minister of Justice; and
- (e) six land surveyors of whom—
  - (i) two (one of whom shall normally practise and reside within the area of jurisdiction of the Eastern Cape division of the Supreme Court of South Africa and the other of whom shall normally practise and reside in the remaining area of the Province of the Cape of Good Hope) shall be appointed by the Institute of Government Land Surveyors of the Colony of the Cape of Good Hope, established by the Institute of Government Land Surveyors Incorporation Act, 1904 (Act No. 22 of 1904), of the Cape of Good Hope;
  - (ii) one shall be appointed by the Institute of Land Surveyors of Natal, established by Act No. 28 of 1905, as amended by Act No. 24 of 1908, of Natal;
  - (iii) one shall be appointed by the Institute of Land Surveyors of the Transvaal, established by the Institute of Land Surveyors Incorporation Ordinance, 1904 (Ordinance (Private) No. 11 of 1904), of the Transvaal;
  - (iv) one shall be appointed by the Institute of Land Surveyors of the Orange Free State; and
  - (v) one shall be appointed by the Institute of South-West Africa Land Surveyors, established by the Land Surveyors Ordinance, 1963 (Ordinance No. 10 of 1963), of the territory of South-West Africa:

Provided that if any such institute ceases to exist or fails to appoint a delegate to be a member of the board, the Minister may appoint any land surveyor to take the place of any such delegate.

(3) Whenever the Minister considers it necessary the board shall hold a meeting at a time and place to be appointed by the Minister. The Director-General or, in his absence, the officer acting in his stead, shall be chairman of the board: Provided that with the Minister's approval the board may make regulations without holding a meeting if at least three-quarters of the total number of members of the board agree in writing to such regulations.

(4) Ten members of the board shall form a quorum at its meetings, and a decision of the majority of the members present at any meeting shall be a decision of the board: Provided that in the event of an equality of votes at any meeting the chairman shall have a casting vote in addition to his deliberative vote.

(5) The board shall have power to alter or rescind any regulation made by it.

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(6) All regulations made by the board shall be subject to the approval of the State President.

(7) No such regulation or any alteration or rescission thereof shall come into operation before at least one month after it has been published in the *Gazette* has elapsed.

(8) Every such regulation and every alteration or rescission thereof shall be laid on the table of the Senate and of the House of Assembly within fourteen days after it has taken effect if Parliament is in ordinary session or if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

(9) A member of the board who is not in the full-time service of the State, shall receive in respect of his services such allowances as the Minister in consultation with the Minister of Finance may from time to time determine.”.

7. The following section is hereby substituted for section 7 of the principal Act:

“Regulations.

Substitution of section 7 of Act 9 of 1927.

7.(1) The survey regulations board may make regulations not inconsistent with this Act, prescribing—

- (a) the fees to be paid by an owner of land for any survey of such land, including any records relating to such survey, the manner in which and the person by whom such fees may be taxed, the costs of such taxation and by whom they shall be borne;
- (b) the manner in which surveys shall be performed, and the manner and form in which the records of such surveys shall be prepared and lodged with the Surveyor-General;
- (c) the degree of accuracy to be obtained and the limit of error to be allowed in surveys and re-surveys of land and for surveys to establish reference and other permanent marks;
- (d) the diagrams and general plans required in connection with the registration of any land in a deeds registry, the manner of preparing such diagrams and general plans, the information to be recorded thereon, and the number of such diagrams and general plans to be supplied;
- (e) the form and dimensions of beacons, reference marks, bench marks and trigonometrical stations, the manner of marking the same for identification, and the manner of their construction, erection, protection, maintenance and repair;
- (f) the procedure to be followed in arbitration proceedings under this Act and the powers and duties of arbitrators appointed under this Act;
- (g) the manner and circumstances in which cadastral and other surveys shall be based upon or connected to trigonometrical stations and reference marks;
- (h) the manner of re-surveying any block of land for the purpose of readjusting the boundaries establishing the beacons thereof, and the manner of recovering the cost of such re-surveys;
- (i) the steps to be taken by a Surveyor-General to test the accuracy or correctness of surveys of

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which the results are recorded on diagrams which have been, or are intended to be, registered in a deeds registry, and in the event of such surveys being inaccurate or incorrect, to cause correct diagrams to be framed and the relative title deeds to be amended;

- (j) the testing of surveying instruments and of measuring tapes to be used in the survey of land;
- (k) the unit of measure to be used in surveys or on general plans and diagrams;
- (l) the nature, form and period (not exceeding two years) of training in practical survey work to be undergone by any person before such person shall be entitled to present himself for the performance of a trial survey referred to in section 12 (1) (d) and the examination referred to in section 12 (1) (e);
- (m) the fee to be paid for the certificate referred to in section 12 (2);

and generally as to any matter appertaining to the surveying and charting of land, and for carrying out the objects and purposes of this Act, and the circumstances in which the Director-General or a Surveyor-General may authorize a departure from a regulation framed in terms of paragraphs (b), (c), (d), (g), (i) and (l) when compliance with any such regulation is found to be impossible or impracticable.

(2) Different regulations may be made for different provinces or other portions of the Republic, and any regulation made under paragraph (b) of subsection (1) may prescribe dates for its application and contain provisions in respect of persons who, prior to the commencement of this Act, obtained the right to practise as land surveyors in a province of the Republic that are different from the dates for its application and from the provisions in respect of persons who obtained such right after such commencement.

(3) Penalties not exceeding a fine of fifty rand may be prescribed in respect of any contravention of, or non-compliance with, any regulation."

8. The following section is hereby substituted for section 8 of the principal Act:

"Minister may make regulations.

8. The Minister may make regulations in regard to any matter referred to in section 7 (1), and all the provisions of sections 6 (7) and (8) and 7 (2) shall *mutatis mutandis* apply in regard to any regulation made by the Minister: Provided that a regulation made by the Minister shall not repeal or be inconsistent with any regulation made by the survey regulations board and approved by the State President in terms of section 6 (6)."

Substitution of section 8 of Act 9 of 1927.

9. The following section is hereby substituted for section 9 of the principal Act:

"Minister may prescribe fees of office.

9. (1) Notwithstanding anything to the contrary contained in any other law, the Minister may, by notice in the *Gazette*, prescribe the fees to be charged in respect of any act or matter required or permitted to be performed or dealt with in or in connection with the offices of the Director-General and the Surveyors-General.

Substitution of section 9 of Act 9 of 1927.

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(2) The provisions of section 6 (8) shall *mutatis mutandis* apply in regard to any such notice.”.

10. Section 10 of the principal Act is hereby repealed.

Repeal of section 10 of Act 9 of 1927.

11. Section 26*bis* of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 26*bis* of Act 9 of 1927, as inserted by section 8 of Act 14 of 1941 and substituted by section 16 of Act 52 of 1962.

“(2) The erection and establishment of 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.”.

12. The following section is hereby substituted for section 30 of the principal Act:

Substitution of section 30 of Act 9 of 1927.

“Alteration or cancellation of general plan.

30. (1) Any general plan which is filed in a surveyor-general's office or is registered in a deeds registry, may be altered or amended by the Surveyor-General for the purposes of rectifying errors.

(2) Any such general plan which represents the subdivision of land in accordance with the requirements of or under authority of any other law, or which represents a township established prior to the existence of any laws relating to the establishment of townships, may, with the consent of the Administrator concerned, or by an order of court, and subject to such conditions as the Administrator or the court may deem necessary, be altered, amended or partially or totally cancelled by the Surveyor-General: Provided that where such alteration, amendment or partial or total cancellation affects any public place, the Surveyor-General has, prior to such alteration, amendment or partial or total cancellation, been advised by the Administrator that the provisions of the law relating to the permanent closing of any public place or portion thereof have been complied with: 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.

(3) Whenever such a general plan is altered, amended or partially or totally cancelled in terms of this section the Surveyor-General shall inform the registrar concerned who shall make such alterations, amendments or endorsements to or on the relative title deeds and registers in his deeds registry as may be necessary.”.

13. Section 31*bis* of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (5) of the following paragraph:

Amendment of section 31*bis* of Act 9 of 1927, as inserted by section 14 of Act 14 of 1941.

“(b) The commission referred to in paragraph (a) shall consist of the Secretary for Agricultural Credit and Land Tenure or a person appointed in writing by him, 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.”.



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14. Section 48 of the principal Act is hereby repealed. Repeal of section 48 of Act 9 of 1927, as amended by section 17 of Act 14 of 1941.
15. Section 49 of the principal Act is hereby amended—  
 (a) by the insertion after the definition of “diagram” of the following definition:  
 “‘Director-General’ means the Director-General of Surveys appointed in terms of section 1;” and  
 (b) by the substitution for the definition of “Surveyor-General” of the following definition:  
 “‘Surveyor-General’ in relation to any land, or any general plan or diagram thereof, or in relation to any matter whatsoever in connection with any land, means the Surveyor-General of the region wherein such land is situate or such general plan or diagram is registered or registrable;”  
 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 and section 9 of Act 64 of 1970.
16. The principal Act is hereby amended by the substitution for the words “survey board” and “Director of Trigonometrical Survey”, wherever they occur therein, of the word “Director-General”. Substitution in Act 9 of 1927 for the words “survey board” and “Director of Trigonometrical Survey” of the word “Director-General”.
17. Section 9 of the Deeds Registries Act, 1937, is hereby amended by the substitution in subsection (2) for the words “subsection (1) of section 8” of the words “section 6 (1)”. Amendment of section 9 of Act 47 of 1937.
18. Section 1 of the Land Surveyors’ Registration Act, 1950, (hereafter referred to as the Registration Act), is hereby amended by the deletion of the definition of “survey board”. Amendment of section 1 of Act 14 of 1950, as amended by section 1 of Act 36 of 1963 and section 1 of Act 65 of 1970.
19. Section 3 of the Registration Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:  
 “(a) two members shall be appointed by the Minister;”. Amendment of section 3 of Act 14 of 1950, as amended by section 2 of Act 36 of 1963, and section 2 of Act 65 of 1970.
20. Section 6 of the Registration Act is hereby amended by the substitution for paragraph (d) of the following paragraph:  
 “(d) being a member appointed in terms of section 3 (1) (a), has served his period of office or if his membership is terminated by the Minister; or”. Amendment of section 6 of Act 14 of 1950.
21. Section 10 of the Registration Act is hereby amended by the substitution for subsection (5) of the following subsection:  
 “(5) The council may levy upon and collect from any land surveyor registered under this Act an annual registration fee, in addition to the fees referred to in subsection (4), the amount whereof shall be determined by the council with the approval of the Minister, and may with the approval of all its members exempt any land surveyor from the payment of the whole or any part of such registration fee for such period as it may determine.”. Amendment of section 10 of Act 14 of 1950, as amended by section 5 of Act 36 of 1963 and section 4 of Act 65 of 1970.

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22. The following section is hereby substituted for section 11 of the Registration Act:

"Registrar to give information to Director-General of Surveys.

11. The registrar shall from time to time furnish the Director-General of Surveys appointed in terms of section 1 of the Land Survey Act, 1927 (Act No. 9 of 1927), in writing with the name, address, qualifications and date of registration of every person—

- (a) who is a registered land surveyor under this Act;
- (b) whose name has been removed from the register in terms of section 10 (6) or (7), together with the date of such removal;
- (c) upon whom any penalty referred to in section 13 has been imposed, together with the date and nature of the penalty;
- (d) whose suspension under section 13 (1) (b) has been terminated in terms of section 15 before the expiry of the specified period;
- (e) whose penalty under section 13 has been set aside or varied by the court in terms of section 14 (2)."

Substitution of section 11 of Act 14 of 1950.

23. Section 18 of the Registration Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The council may, subject to the approval of the Minister, by notice in the *Gazette*, make rules as to—

- (a) the manner in which complaints or charges brought against a land surveyor registered under this Act shall be lodged;
- (b) the method of summoning an accused person and the penalties for failure or refusal on the part of any such person to attend when summoned or for refusing to give evidence or for obstructing or interrupting the proceedings;
- (c) any other matter incidental to the holding of an enquiry under section 13;
- (d) the procedure to be followed at the meetings of the council;
- (e) the method in which members of the council shall be appointed in terms of section 3;
- (f) the acts or omissions of which the council may take cognizance under section 12;
- (g) generally all matters relating to the conduct of land surveyors;
- (h) the form of the contract of training between a land surveyor and a person who wishes to undergo practical training with such a land surveyor, before qualifying for registration as a land surveyor and the manner in which such a contract shall be registered."

Amendment of section 18 of Act 14 of 1950, as amended by section 9 of Act 36 of 1963.

24. Section 16bis of the Universities Act, 1955, is hereby amended—

- (a) by the substitution for paragraph (d) of subsection (2) of the following paragraph:

"(d) the Director-General of Surveys appointed in terms of section 1 of the Land Survey Act, 1927 (Act No. 9 of 1927); and"

- (b) by the substitution for paragraph (e) of the said subsection of the following paragraph:

"(e) a land surveyor in the service of the State to be appointed by the Minister of Agriculture."

Amendment of section 16bis of Act 61 of 1955, as inserted by section 4 of Act 82 of 1959 and amended by section 4 of Act 43 of 1965.

25. (1) This Act shall be called the Land Survey Amendment Act, 1972, and shall, subject to the provisions of subsection (2), come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

Short title and commencement.