

GUYANA
BILL NO. OF 2010
LAND SURVEYORS BILL 2010

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A BILL

Intituled

AN ACT to enact a new Land Surveyors Act and to repeal the existing Act, to repeal the Surveys (Special Provisions) Act and to consolidate and reform the law governing the practice of land surveying, including aerial surveys, the preparation of plans, the maintenance of records of land surveys and for related matters.

A.D. 2010

Enacted by the Parliament of Guyana:-

PART I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be cited as the Land Surveys Act 2010 and shall come into operation on a date as the Minister may, by order appoint.

Interpretation.

2. (1) In this Act –

(a) “Commission” means the Guyana Lands and Surveys

Commission established by section 3 of the Guyana

No. 15
of 1999

Lands and Surveys Commission Act 1999;

(b) “Commissioner” means the Commissioner of Lands and

Surveys appointed under section 9 of the Guyana

Lands and Surveys Commission Act 1999;

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97:01

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of 2010

- (c) “contiguous land” means any parcel of land having a common corner point or boundary with another parcel of land;
- (d) “former Act” means the Land Surveyors Act;
- (e) “Global Positioning System (GPS)” means the system of locating the position of points on the earth’s surface based on observations of electromagnetic signals broadcast from satellites;
- (f) “land” includes land covered by water and the seabed under Guyana’s jurisdiction;
- (g) “land surveyor” means a person who has taken the oath of land surveyor and holds a certificate of Land Surveyor registered and issued under section 13 of the Land Surveyors (Profession) Act 2010;
- (h) “land surveys” includes hydrographic surveys in which the topography of a river, lake, ocean, creek, conservancy or canal bed is determined;
- (i) “parcel” in relation to land means any separate lot or other area into which land is divided or subdivided;
- (j) “plan” means a document containing geometrical, numerical and verbal representations of a line, feature, piece or area of land, forming the basis for legally recording an immovable property right;
- (k) “prescribed datum” means the relevant datum prescribed by

regulations;

(l) “survey records” includes such electronic data, documents, written text, drawings and computations as may be prescribed by the regulations;

(m) “trigonometrical station” means any survey station erected by the Commission, or by the Lands and Surveys Department prior to the establishment of the Commission, for which official co-ordinate values have been assigned.

(2) Where the Commissioner is not a land surveyor, references in this Act to the Commissioner shall be construed as references to a land surveyor designated by the Commissioner.

PART II

POWER AND DUTIES OF THE COMMISSION

Surveying and mapping programme.

3. The Commission shall develop a surveying and mapping programme, based on national survey and mapping goals and priorities, for the systematic development and revision of maps and charts of Guyana.

Geodetic controls for surveys.

4. (1) The Commission shall establish on the ground and maintain permanent reference marks, including –

- (a) trigonometrical stations, whose geodetic positions have been adjusted on the prescribed datum, governing or providing subsidiary controls for land surveys, and shall ensure the integration of surveys within the national control system; and
- (b) bench marks, whose elevation has been fixed relative to the prescribed datum.

(2) The Commission may establish, in addition to or in substitution for the reference marks referred to in subsection (1)(a), a network of GPS base stations providing controls for mobile GPS receiver stations.

Protection of
trigonometrical
stations.

5. (1) Except with the permission of the Commission, a person shall not place any fence post, utility pole or anchor for any post or pole, or other erection, or make any excavation within five metres of any trigonometrical station.

(2) The Commission may acquire a piece of land in favour of the State, protecting a trigonometrical station and ensuring an unobstructed view to and from any other trigonometrical station, from the owner of any land on or near which any trigonometrical station is situate, and cause that piece of land to be registered against the title to that land.

(3) The owner of that piece of land acquired by the State under this section is entitled to reasonable compensation.

Survey records.

6. (1) The Commission shall take charge of and preserve all records pertaining to land surveys, including those records pertaining to land surveys which were, prior to the commencement of this Act, preserved as records of the Lands and Surveys Department of the Ministry of Agriculture, and which, upon the establishment of the Commission, became records of the Commission.

(2) The Commission shall establish and maintain a system for filing and recording all survey records lodged with and checked and approved by the Commission under this Act.

(3) The Commission shall maintain an index to the survey records system in which all the records incorporated into the system shall be noted.

(4) Any land surveyor shall have access to the index and to the survey records lodged with the Commission, for the purpose of taking extracts from it or making copies of it, under conditions prescribed by regulations.

National land information system.

7. (1) The Commission may operate an electronic storage facility for the

survey records it preserves, files and records, under section 6, and for any other land information as the Commission sees fit to preserve.

(2) Where the Commission stores land information electronically, it shall –

- (a) standardize the format, symbols and technical attributes for plans and maps and other data to be contributed to the national land information system, so that archival information can be assimilated, manipulated, accessed, exchanged and compared efficiently and accurately;
- (b) maintain, in addition to or in substitution for the index provided for under section 6(3), an electronic directory to the national information system; and
- (c) provide a system of access for land surveyors and other users to the survey records, maps and other data in the national land information system.

(3) The Commission may impose user fees for access to the national land information system.

(4) The Commission may prescribe by regulations, that a land surveyor may store survey records electronically as digital data in accordance with any

specification prescribed in the regulations.

Admissibility of
copies of survey
records.

8.(1) Any copy or extract from the survey records deposited with the Commission and any hard-copy of a survey record stored electronically in the national land information system, when authenticated by the seal of the Commission and the signature of the Commissioner shall be evidence in all cases in which the original would be evidence.

(2) The Commission may charge fees as prescribed by regulations for the authentication of documents under this section.

Control of aerial
surveys.

9. (1) A person who intends to carry out an aerial survey within the air space of Guyana by means of aerial photography or other remote sensing procedures for use in mapping or similar purposes, shall give to the Commission or any other appropriate authority not less than one month's notice in writing of the intended date of the survey and shall not proceed to carry it out until permission in writing has been granted by the Commission or the appropriate authority.

(2) The notice given to the Commission under subsection (1) shall include specifications for the intended aerial survey and a work programme outlining the use to which the person giving notice intends to put the photographs or images or data obtained from the aerial survey.

(3) Any permission granted by the Commission under this section may be granted subject to any conditions, restrictions or limitations as the Commission deems fit, in respect of the manner, area and time in which the survey shall be carried out and on the use of the photographs or images or data obtained from the aerial survey.

(4) Any person who has carried out an aerial survey shall, if the Commission so requires –

- (a) permit the Commissioner or his designee to inspect all records of the aerial survey; and
- (b) supply to the Commission any copies or records of the photographs or images or data obtained from the aerial survey as may be required at no cost to the Commission.

(5) The supply of any information or material to the Commission under this section shall not be construed as a breach of the confidentiality of a client's information nor as an infringement of any copyright in the information.

PART III

POWERS AND DUTIES OF LAND SURVEYORS

Duties of land
surveyor.

10. (1) A land surveyor shall –

- (a) carry out every survey in accordance with the provisions of this Act and any regulations, in a manner that will ensure accurate results;
- (b) carry out every survey in accordance with all relevant laws pertaining to land;
- (c) make and preserve clear and exact records of all surveys, in accordance with any regulations;
- (d) lodge the requisite number of signed copies of every plan together with the survey records with the Commission within sixty days of completion of the survey, for the purpose of being examined and permanently filed and recorded; and
- (e) shall correct, without delay, any mistake made by the land surveyor in any survey or any other related work, as required by the Commission.

(2) The Commissioner may, on an application in writing made by the land surveyor giving the reason why the plan and survey records cannot be lodged within the time prescribed under subsection (1)(d), extend the time limit.

Disposition records of deceased surveyor.

11. (1) Where no arrangements have been made, within six months after a land surveyor has died, to place any survey records relating to an

incomplete survey which was partially completed by the deceased land surveyor, such survey records may be delivered by the personal representative of the deceased land surveyor to the Commission, which shall hold them for the benefit of the estate for a period not exceeding three years.

(2) Upon expiration of the period of three years referred to in subsection (1), the survey records of the deceased land surveyor shall become the property of the State and may be disposed of by the Commission in any manner it sees fit.

(3) The survey records of a deceased land surveyor in the possession of the Commission are included in the survey records under section 6(1) which land surveyors in practice are entitled to inspect and take copies of, on payment of the prescribed fee.

Power of entry upon land.

12. (1) Where it is necessary to carry out a survey, a land surveyor, shall

—

- (a) enter upon and pass and re-pass over the lands of others, together with such assistants, vehicles, equipment and instruments as may be required, at any time between six o'clock in the morning and six o'clock in the evening, without being liable to arrest or to a civil action for trespass by reason of the entry;

- (b) place or erect any temporary flag, signal or working point upon that land; and
- (c) cut any vegetation growing wild in the vicinity of any trigonometrical station or working point which is necessary for the purpose of enabling observations to be made to or from the trigonometrical station or working point.

(2) A land surveyor shall, before exercising any power conferred by subsection (1) –

- (a) give reasonable notice to the owner or occupier of the land concerned; and
- (b) produce to the owner or occupier of the land concerned, upon request, the land surveyor's –
 - (i) National Identification Card; and
 - (ii) current annual licence to practise land surveying.

(3) In the exercise of any of the powers conferred under subsection (1), a land surveyor, or any agent or employee acting under the authority of the land surveyor, shall cause as little damage or inconvenience as possible.

(4) The owner or occupier of the land is entitled to compensation for any unreasonable damage caused.

Power and duties concerning intended survey.

13. (1) A land surveyor who intends to survey or to resurvey land in dispute, or to define boundaries, shall give at least fifteen days notice in writing of that intention to the owner or occupier of each contiguous land and to the owner or occupier of the land to be surveyed.

Schedule

(2) A notice given under subsection (1) shall be in accordance with Form 1A and Form 1B, respectively, in the Schedule and shall be served upon the owner or occupier of each contiguous land, and the owner or occupier of the land to be surveyed, personally, or by registered mail, acknowledgement receipts to be obtained in either case.

(3) Where a notice is to be served under subsection (1), and the address of the owner of a contiguous land is unknown or the occupier of a contiguous land cannot be found, the notice shall be affixed on some conspicuous place on the contiguous land not less than fifteen days prior to the commencement of the survey.

(4) Where a contiguous land is Public Land, the notice shall be served upon the Commissioner at the office of the Commission.

(5) A land surveyor shall not begin the survey from another point than that specified in the notices or extend the time to complete the survey from that specified in the notice unless the surveyor gives reasonable notice

of the change to the owner or occupier of each contiguous lands and the owner or occupier of the land to be surveyed.

(6) A land surveyor who has given the requisite notices and is unable to attend on the appointed day, shall notify the parties concerned and, before proceeding with the survey, issue fresh notices, but is not entitled to charge the client for any fresh notice.

(7) The parties interested in the demarcation of the boundaries may agree to commence from another point than that specified in the notice, or may agree to commence on a day other than that specified in the notice or to dispense with fresh notice, or to complete the survey within a period other than that specified in the notice.

(8) Where a land surveyor is unable to complete a survey within the period specified in the notice, or the extended period, he shall notify the owner or occupier of each contiguous land and the land to be surveyed that the survey is temporarily discontinued, and shall, before resuming work, give notice in writing of the intention to resume work, stating when and from what point the survey will proceed and when the survey will be completed the survey; that notice will not be necessary if the parties agree to dispense with it.

(9) A land surveyor may, before the time specified for the commencement of the survey, by a notice served in accordance with subsection (1), enter upon any contiguous land and the land to be surveyed and make measurements on the land, under the general powers conferred by section 12, but shall not demarcate any boundary lines by planting paals which may affect the rights of any party to ownership of the land before the date specified for the commencement of the survey.

Survey of land adjacent to high water mark.

14. If the high water mark of the territorial sea or of a navigable river or creek or a line parallel to the territorial sea, river or creek forms the boundary of any land which is to be surveyed, notice in writing of the intended survey shall be served on the Commissioner.

PART IV

BOUNDARIES

Land surveyors to use existing information.

15. Prior to executing any land survey a land surveyor shall enquire and search for any existing survey and title records and other information concerning previous surveys of the parcel of land to be surveyed and any contiguous land.

Presumption of regularity of previous surveys.

16. (1) Subject to subsection (2), where any land that has previously been surveyed is to be re-surveyed, a land surveyor shall presume that a boundary

established as a result of the previous survey is the true boundary, even if the boundary marks or paals are not in the exact positions indicated by the measurements on the plan of the previous survey.

(2) If it is shown conclusively, by reference to the plan of the previous survey and the measurements made on the re-survey, that any discrepancy is the result of a paal having not been placed in the exact position intended by the original land surveyor, the land surveyor shall set a paal in the correct position.

(3) When the re-survey has been completed, the land surveyor shall show all encroachments on the plan lodged with the Commission and shall describe the discrepancy found and the steps taken to remedy that discrepancy in the survey report.

Accuracy of surveys.

17. (1) In carrying out a survey, a land surveyor shall determine the positions of the corners and other boundary points of any parcel of land, and any survey stations, within the limits of accuracy prescribed by regulations.

(2) A land surveyor shall check every part of a survey in the manner specified by regulations.

Connection to national control system.

18. (1) Every boundary survey shall be tied to the national control system

in the manner prescribed by regulations.

(2) Where it is not necessary that a particular boundary survey be tied to the national control system, the Commissioner may waive the requirement prescribed under subsection (1), subject to any conditions as appear to be fit.

Placing of
boundary marks.

19. (1) When making a survey of land for the purpose of defining boundaries, a land surveyor shall place boundary marks or paals of a permanent nature at the corner points and at the prescribed distances along the boundary lines.

(2) Where a parcel of land is bounded by a river, creek, canal, road or other well-defined limits, or if the boundary is otherwise well marked, the Commissioner may waive in writing the requirement that the boundary be defined by paals placed in accordance with the requirements of subsection (1) and any regulations.

(3) Where a survey is being made for the purpose of consolidating two or more parcels of land or parts of a parcel of land, into one title, a land surveyor shall place paals at the corner points of the individual parcels or parts of the individual parcels, so that the aggregates can clearly be shown which make up the entire consolidated parcel and also, the residue of any individual parcel, if any, can be clearly shown.

(4) Boundary marks or paals shall consist of the materials and be constructed and laid out in accordance with the specifications that are prescribed by regulations.

Maintenance and re-establishment of boundary marks.

20. (1) A person shall not remove, deface or destroy a boundary mark or paal which has lawfully been established by a land surveyor.

(2) Where a boundary mark or paal has been disturbed or destroyed, it shall not be replaced unless the corner or boundary point that it was placed to demarcate is re-established by a resurvey of the land.

Surveys by aerial photography.

21. A plan prepared from a survey carried out to the satisfaction of the Commission by means of low altitude aerial photography, either in conjunction with or without the other procedures prescribed by this Part, which demonstrates the situation, boundaries and relevant position of the land, shall have the same effect for any legal purpose as if it had been prepared as the result of a ground boundary survey.

Determining particular boundaries and reserves.

22. (1) If a river or creek constitutes a boundary of any parcel of land, the position of the boundary shall be determined in the manner prescribed by regulations.

(2) Any parcel of land which is bounded by –

(a) the frontier of Guyana;

- (b) the foreshore or a navigable river or creek; or
- (c) a public road or right of way,

shall be subject to the reservation of a servitude or easement parallel to that boundary of such width as may be prescribed by regulations.

PART V

PLANS

Manner of
preparing plans.

23. (1) Every plan lodged for recording with the Commission shall be prepared as prescribed and signed by the land surveyor who carried out the survey.

(2) A plan shall demonstrate the situation and relative position of the land and show the true bearing and horizontal distances of the boundary lines, the boundary marks or paals, the area of the land, the name of the party at whose instance the survey was made and any other particulars required by regulations.

(3) The format and technical attributes of a plan shall be in accordance with the specifications prescribed by regulations.

Units of
measurement on
plans.

24. (1) All linear and area measurements on plans may be expressed using the metric system, but the measurements may also be expressed in the

equivalent English measure, provided that any non metric measurement is stated in parenthesis after the metric measurement.

(2) All angular measurements and directions on plans shall be shown in degrees, minutes and seconds according to the system of sexagesimal.

Checking of plans. 25. (1) The Commission shall carry out office checks, as it sees fit, on plans and survey records lodged with the Commission under section 10(1)(d).

(2) Without limiting the generality of subsection (1), the Commission shall, when applicable, check that plans for the subdivision of land are in accordance with any statutory requirement in so far as the layout is concerned.

(3) The Commission shall complete any checks on a plan within three weeks after the date on which the plan was lodged with the Commission.

(4) The fees charged by the Commission for checking plans under this section shall not exceed the estimated costs of carrying out such checks.

Rectification of plans. 26. (1) Subject to subsection (2), the Commission shall by notice in writing require a land surveyor to correct, within a time specified in the

notice, any mistake made in the survey or on the plan lodged with the Commission for recording.

(2) Where, in the opinion of the Commission, the number of corrections to a plan is excessive, the Commission may reject that plan and require the land surveyor to withdraw the plan and lodge a fresh plan.

(3) Where, in compliance with the requirements of the Commission, a land surveyor corrects a plan, the Commission shall record the corrected plan within two weeks after the date on which it is re-lodged with the Commission for recording.

Record of plans.

27. (1) A plan of any piece or parcel of land shall not be accepted by the Registrar of Deeds for the issuance of any transport or mortgage to that land, or by the Registrar of Lands for the issuance of any certificate of title or any document of title to that land, unless that plan has been –

- (a) recorded by the Commission; and
- (b) signed and sealed by the land surveyor.

(2) The Commission's certificate of record on a plan shall be authenticated by the signature of the Commissioner or his designee.

Plans vest in control and custody of the

28. All plans and survey records relating to the plans, deposited with the

Commissioner. Commission by land surveyors, and recorded by the Commission, shall vest in the control and the custody of the Commissioner, and no alteration or amendment shall be made to any of the plans and records without the approval of the Commissioner or his designee.

Limitation of State liability from recorded plans. 29. The State, the Commission or any officer or employee of the Commission, shall not be liable for any damage suffered by any person in consequence of any defective survey performed by a land surveyor, or any work pertaining to the survey, although any plan relating to that survey has been checked, certified and recorded by the Commission in accordance with this Part.

PART VI

OFFENCES AND PENALTIES

Contravention of Act. 30. Unless a different or other penalty or punishment is specifically prescribed, a person who commits an offence under this Act is liable on summary conviction to the fine of fifty thousand dollars and to imprisonment for three months.

Non-compliance with notification requirements. 31. A land surveyor who begins a survey on a parcel of land without giving the prescribed notice to the owner or occupier of a contiguous land commits an offence and is liable on summary conviction to a fine of fifty

thousand dollars.

Obstructing
survey.

32. A person who, whether by force or threat or any other manner, obstructs any lawful land survey or causes any lawful land survey to be obstructed commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for not less than seven days nor more than three months.

Assault or
molestation of
land surveyor.

33. (1) A person who assaults or molests a land surveyor or a land surveyor's assistant engaged in the lawful execution of a land survey commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for not less than one month nor more than six months.

(2) Nothing in subsection (1) shall prevent anyone being prosecuted under any other law for an act which constitutes an offence under this section, or from being liable under that law to any higher punishment or penalty than is provided by subsection (1), but no one shall be punished twice for the same offence.

Interference with
survey marks.

34. A person who wilfully removes, destroys or defaces any trigonometrical station, reference mark, boundary mark or paal lawfully placed on land commits an offence and is liable on summary conviction to a

fine of two hundred thousand dollars and to imprisonment for twelve months.

Land surveyor
making incorrect
survey.

35. (1) A land surveyor who, either personally or by the act of an assistant, through negligence, carelessness or culpable ignorance, makes an incorrect survey, or delivers an incorrect plan, or makes an untrue record of a survey, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

(2) Nothing in subsection (1) takes away or interfere with any other legal remedy anyone aggrieved by any of the land surveyor's direct or indirect act may have against the land surveyor, at common law or otherwise, or precludes any disciplinary action to which the land surveyor may be subject under the Land Surveyors (Profession) Act 2010.

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Falsification of
survey.

36. A land surveyor or a person employed to assist a land surveyor in making a survey who intentionally, wilfully and fraudulently makes any wrong measurement, moves any mark, or does any other act with intent to falsify a survey commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for six months.

Land surveyor
neglecting
boundary
demarcation.

37. A land surveyor who neglects to place boundary marks or paals in the manner prescribed commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

Offences with respect to aerial surveying.

38. Any person who contravenes section 9 or fails to comply with any conditions, restrictions or limitations imposed by the Commissioner under section 9, commits an offence and is liable on summary conviction to the fine of two hundred thousand dollars and to imprisonment for twelve months.

Power of officers to prosecute offences.

39. The Commissioner or any officer, or any other person authorised in writing by the Commissioner, may institute or conduct, any prosecution for offences relating to land surveys that are prescribed.

Limitation of action in respect of public survey.

40. (1) An action or other proceeding in respect of trespass or damage committed or caused in the course of a land survey shall not be brought against any land surveyor employed by the Commission or in the public service, any land surveyor engaged by the Commission or the Government under a contract for land surveying services, or any assistant to the land surveyor, unless the action or other proceeding is commenced within six months after the cause of action arose or occurred and notice in writing of the intention to bring the action or other proceeding is served on the Commission or at the office or registered address of the land surveyor at least one month before the commencement of the action or other proceeding.

(2) If on the trial of the action or other proceeding, the service of the requisite notice is not proved, the plaintiff shall be non-suited, without prejudice nevertheless to any further action or other proceedings for the same

cause commenced within one month after the non-suit.

Ceiling on awards of damage and costs.

41. (1) In any action or other proceeding brought against a land surveyor or a land surveyor's assistant, on account of any act done in the course of a land survey, damages may only be awarded for the amount of any actual loss or material damage sustained by the plaintiff, and, unless the damage was caused by wilful or malicious or negligent conduct on the part of the land surveyor or assistant, judgement shall be without costs.

(2) If, on the trial of the action or other proceeding, it is proved that the defendant, previous to the trial, tendered to the plaintiff or paid into court to the credit of the plaintiff, notice of that payment having been given to the plaintiff, sufficient compensation for the loss or damage sustained by the plaintiff, judgement shall be given only for the amount so tendered or paid into court and for the costs incurred by the plaintiff before the tender or payment of compensation, but subject to a deduction of the amount of any costs incurred by the defendant after the tender or payment.

PART VII

MISCELLANEOUS

Regulations.

42. (1) Subject to the approval of the Minister, the Commission may make regulations for carrying out the purposes of this Act and giving full

effect to its provisions.

(2) Without limiting the generality of subsection (1), the Commission may make regulations –

- (a) prescribing the manner in which surveys are to be made, including anything relating to the degree of accuracy to be obtained and the limit of error to be allowed in surveys;
- (b) prescribing the form and dimensions of reference marks and trigonometrical stations, and the manner in which survey marks are to be constructed, maintained and preserved;
- (c) prescribing the manner in which a particular boundary or reserve shall be determined;
- (d) prescribing the manner and circumstances in which land surveys shall be based upon or connected to trigonometrical stations and reference marks;
- (e) prescribing the survey records to be kept by land surveyors and the manner of keeping the records;
- (f) providing for the manner and form in which survey records are to be lodged and kept by the Commission;
- (g) fixing the units of measurement to be used on plans;
- (h) providing for the preparation of plans and the matters to

- be shown on the plans;
- (i) providing for the checking of surveys, including the payment of the expenses for such checking, and, in the event that those surveys are inaccurate, the correction of plans;
 - (j) providing for the checking of measuring instruments used by land surveyors;
 - (k) providing for the collection and recording of land information, including survey records, and the form, maintenance and use of the national land information system;
 - (l) providing for the inspection and taking copies of plans and land information records held by the Commission for judicial, informational or other purposes;
 - (m) prescribing any fees which may be charged under this Act;
 - (n) prescribing any other matters which the law requires or authorizes the Commission to prescribe.

Repeals.
Cap. 59:04
Cap. 97:01

43. The Surveys (Special Provisions) Act and the unrepealed provisions of the Land Surveyors Act are repealed.

SCHEDULE section 13

FORM - 1A

Notice of Intended Survey

The Land Surveyors Act 2010

To [name of owner or occupier of the contiguous land] of [address of the contiguous land]

I, [name of land surveyor], hereby give you notice that I am employed by [name of land surveyor's client] to survey [description of land to be surveyed] situate in the county of [name of county] and known by the name of [identification of land to be surveyed] which is contiguous with lands said to belong to you or to be in your possession (as the case may be); that I shall commence to survey the same on the [date] day of [month], [year], at [time] o'clock in the [morning or afternoon] of that day, beginning at [point of commencement], at which time and place you are requested to attend, by yourself or your agent as you think fit, and in the meantime I may make such traverses as I deem necessary, and that I plan to complete the said survey within [number of days] consecutive days after the date of commencement.

Dated this [date] day of [month], [year].

(Signed) _____

Land Surveyor

Certificate of Registration No.: _____

FORM - 1B

Notice of Intended Survey

The Land Surveyors Act 2010

To [name of owner or occupier of the land to be surveyed] of [address of the land to be surveyed].

I, [name of land surveyor], pursuant to contract to execute land surveying services, hereby give you notice that I shall survey [description of land] situate in the county of [name of county] and known by the name of [identification of land to be surveyed] and I shall commence to survey the same on the [date] day of [month], [year], at [time] o'clock in the [morning or afternoon] of that day, beginning at [point of commencement], at which time and place you are requested to attend, by yourself or your agent as you think fit, and in the meantime I may make such traverses as I deem necessary, and that I plan to complete the said survey within [number of days] consecutive days after the date of commencement.

Dated this [date] day of [month], [year].

(Signed) _____

Land Surveyor

Certificate of Registration No.: _____

EXPLANATORY MEMORANDUM

Part I (Preliminary) of the Bill contains the short title, commencement and interpretation provisions. Among the definitions in clause 2, there is reference to the satellite-based GPS technology, provision for the use of which in land surveying in Guyana is made by this legislation for the first time.

Part II (Powers and Duties of the Commission) of the Bill contains provisions which are essential to give the Commission its jurisdiction over surveys. Clause 3 makes explicit the duty of the Commission to conduct a national surveying and mapping programme. Clause 4 provides for the Commission to establish the reference marks essential for tying individual surveys to the National Control System. In addition, it also empowers the Commission to develop the facilities required to enable GPS technology to be used for the purposes of land surveying in Guyana. Clause 5 makes provision for the protection of trigonometrical stations and for measures to keep the line of sight, to and from them, open. Clause 6 deals with the related duties of the Commission to act as the custodian of the land surveying records of Guyana and to provide access to the survey records to land surveyors. Clause 7 makes provision for the computerization of the land records of the Commission and the development of a National Land Information System, to which wider access can be afforded than has been customary or is appropriate in regard to the original records of land surveys. Clause 8 provides for the authentication by the Commission of documents to be put into evidence. Clause 9 introduces, for the first

time, legal control on the carrying out of aerial photography and other remote sensing procedures in Guyana. Provision is made for copies of all photographs or other images or data obtained from the use of such techniques to be supplied to the Commission for the benefit of the nation.

Part III (Powers and Duties of Land Surveyors) of the Bill imposes upon land surveyors statutory duties concerning the execution of surveys and the compilation of survey records and confers upon land surveyors statutory powers essential to the carrying out of land surveys. Clause 10 sets out the duties of land surveyors in relation to the accuracy of surveys, the keeping of survey records, the lodging of plans with the Commission and the correction of work as required by the Commission. Clause 11 provides for the delivery to the Commission of any records relating to an incomplete survey which was being carried out before death by a deceased land surveyor. Where these records have not been disposed of for the benefit of the former land surveyor's estate within 3 years after death, they shall become the property of the State. Clause 12 confers upon land surveyors, a general power to enter upon public and private lands for the purposes of land surveys. This measure has been adopted because it is sometimes necessary for a land surveyor to commence work from a point which is neither on the land to be surveyed nor on adjacent land owned or occupied by persons who would have received notice in writing of the survey pursuant to clause 13. However, provision has been made for the land surveyor to give reasonable notice to the landowner, and to produce proof of identity and a valid land surveyor's licence before entering upon any

such land. In the case of boundary surveys, provision is made by clause 13 for the service of Notice of Intended Survey not only on the owners or occupiers of contiguous lands but also on owners or occupiers of the land to be surveyed. Clause 14 makes clear that the State, as the owner of the foreshore, is to be served in respect of the survey of lands contiguous to the foreshore.

Part IV (Boundaries) Clause 15 provides that land surveyors shall make use of existing information. Clause 16, which deals with the weight to be attached to previous surveys, provides that these must be regarded as reliable unless proved otherwise and stipulates the measures to be taken where the position of a reference mark must be corrected. Clause 17 introduces the standards of accuracy to be prescribed in regulations. Clause 18 prescribes that, in general, surveys shall be tied to the National Control System, which has never been the practice. Clause 19 reiterates the longstanding requirement that boundary marks are to be placed at all corner points and at intervals along boundary lines, but the Commissioner may dispense with this requirement where the parcel of land has natural boundaries or other well defined limits. Clause 20 protects boundary marks from damage or destruction and provides for a procedure for the re-establishment of marks which have been disturbed or destroyed. Clause 21 authorizes the use of low altitude aerial surveys to prepare plans intended to be used for legal purposes. Under clause 22, where the land surveyed is bounded by rivers or creeks, the frontiers of Guyana, the foreshore or public roads or rights of way shall be subject to the reservation of a servitude or easement parallel to that boundary.

Part V (Plans) Clause 23 provides that all plans lodged with the Commission shall conform to the requirements that are set out in this Part, and specifies the matters which are essential to show on a plan. Clause 24 sets out the system of measurement to be used on plans and reflects the decision of Guyana to convert to the metric system. Clause 25 provides the foundation for the checking of plans by the Commission. Clause 26 empowers the Commission to require land surveyors to correct erroneous plans to its satisfaction. Clause 27 provides that no plan shall be accepted by the Registrar of Deeds or the Registrar of Lands for conveyance purposes unless it has been recorded by the Commission and signed and sealed by the land surveyor. Clause 28 provides for all plans and survey records relating to plans to vest in the control and custody of the Commissioner and no alteration or amendment of any plans or records shall be made without the approval of the Commissioner. Clause 29 limits the liability of the State, the Commission or any officer or employee of the Commission for a defective plan by a land surveyor which was recorded by the Commission.

Part VI (Offences and Penalties) This part draws together all the offences which can be committed with respect to land surveys, survey marks, etc., some of which appeared in various sections of Cap. 97:01 and some of which, such as the offence relating to aerial surveys, are new. Additionally, provision is made for the prosecution of these offences.

Part VII (Miscellaneous) Clause 42 confers on the Commission the power to make regulations, with the approval of the Minister, for a wide range of matters. Clause 43

repeals the Surveys (Special Provisions) Act, Cap. 59:04 and the former Act, the Land Surveyors Act, Cap. 97:01.

Minister of Agriculture