

THE REPUBLIC OF UGANDA



Private Sector Foundation Uganda

SECOND PRIVATE SECTOR COMPETITIVENESS PROJECT (PSCP II)

CREDIT NUMBER: 3975 UG

Review of the Legal Framework for Land Administration

Final Draft Issues Paper SURVEYORS REGISTRATION ACT

By

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August 2010

Final Draft Issues Paper

SURVEYORS REGISTRATION ACT

TABLE OF CONTENTS

	Page
1 INTRODUCTION	1
1.1 Brief overview	1
1.2 Introducing the Surveyors Registration Act	2
1.3 Basis of this Draft Final Issues Paper	2
2 CONTEXTUALISING AND CONCEPTUALISING THE REVIEW	3
2.1 The Medium Term Competitiveness Strategy (MTCS)	3
2.2 The Second Private Sector Competitiveness Strategy	4
2.3 The Land Component of PSCP II	4
2.4 The Centrality of the Land information System	6
3 OUTLINE OF THE EXISTING LEGAL FRAMEWORK	7
3.1 Definition of Surveyor	7
3.2 Constitution of the Board	7
3.3 Registration of Surveyors	7
3.4 Qualifications of Surveyors	8
3.5 Disciplinary powers of the Board	9
3.6 Regulations and Schedule to the Act	10
4 REVIEW AND RECOMMENDATIONS	10
4.1 Separate survey regimes	10
4.2 Constitution of the Board	11
4.3 Tenure of Board Members	14
4.4 Office of the Vice Chairperson	15
4.5 Meetings of the Board	15
4.6 Qualifications for Registration	17
4.7 Acts or omissions constituting professional misconduct	22
5 LIST OF RECOMMENDATIONS	23
6 CONSULTANT'S RESPONSES TO LRWG'S COMMENTS	28

1 INTRODUCTION

1.1 Brief overview

The Government of Uganda has received funds (under Credit Number: 3975 UG) from the International Development Association (IDA) towards the cost of the Second Private Sector Competitiveness Project (PSCP II). It has applied part of the proceeds of this Credit to a Land Registry sub-component/Improvements in the Land Registry. This sub-component aims to improve the business environment by a number of means, including:

- strengthening the capacity of the Land Registry to process land titles;
- updating land records, and establishing a land information system;
- extending the formal system of land registration;
- sensitizing groups of individuals who have not had access to land tenure security; and
- building the capacity of the Land Registry staff.

Under PSCP II, and in particular under the above sub-component, Private Sector Foundation Uganda (PSFU) has procured the services of the Consultant (Kalenge, Bwanika, Kimuli & Co. Advocates, in association with several sub-consultants) to provide consultancy services for the review of the legal framework for land administration. This assignment, in summary entails:

- a comprehensive review of land-based laws;
- recommending revisions and harmonization where appropriate; and
- drafting new laws in certain areas.

1.2 Introducing the Surveyors Registration Act

The Surveyors Registration Act was originally enacted as Decree No. 9 of 1973. It came into force on 13th June, 1974. It is now Chapter 275 of the Laws of Uganda (2000 Revision).

The Act establishes a Surveyors Registration Board to regulate and control the profession of surveyors and the activities of registered surveyors within Uganda, and to advise the Government in relation to those functions. The Board regulates land surveyors, quantity surveyors, building surveyors, mining surveyors, hydrological surveyors and valuation surveyors.

1.3 Basis of this Draft Final Issues Paper

This Paper is based on:

- The Consultant's understanding of the task, gained from the Terms of Reference and discussions with officials from the Ministry of Lands, Housing and Urban Development.
- The objectives of the PSCP II.
- A review of the existing legal framework.
- A comparative review of the legal frameworks of other jurisdictions on surveyors registration.
- A review of the legal framework for the registration of other professionals in Uganda.
- A synthesis of discussions between the Institution of Surveyors of Uganda and the Surveyors Registration Board.

- Our own local knowledge and understanding of the practice of land surveying in Uganda.

This Draft Final Issues Paper builds on our earlier comments on the Surveyors Registration Act and the Survey Act, expressed in (amongst other places) our Inception Report and Issues Paper.

Importantly, those earlier comments were considered by the Law Reform Working Group (LRWG) at its retreat on 24 January to 27 January 2010. The LRWG accepted almost all of our earlier recommendations. The few recommendations it did not accept we have (except in one instance) amended accordingly in this Draft Final Issues Paper.

For convenience, the Attachment at the end of Section 5 of this Paper tabulates the LRWG's comments and our responses to them.

2 CONTEXTUALISING AND CONCEPTUALISING THE REVIEW

2.1 The Medium Term Competitiveness Strategy (MTCS)

The review of the legal framework for land administration, of which this review of the Surveyors Registration Act is part, has its genesis in the Medium–Term Competitiveness Strategy (2000-2005) (MTCS).

The Government of the Republic of Uganda adopted the MTCS as part of its drive to stimulate investment and market-led development and to move away from a state-controlled economy. One object was to facilitate the development of an efficient land market. A motivating concern was the perceived failings of the land registration system, which were seen as a significant barrier to investment.

Any review of the land market and the land registration system must include a review of the survey profession. The survey profession plays a major role in land information and land titling.

The rehabilitation, decentralization, and computerisation of the present dilapidated land records, and the eventual establishment of a Land Information System (LIS), will depend critically on the existence of an efficient and well-qualified survey profession.

2.2 The Second Private Sector Competitiveness Strategy

The Second Private Sector Competitiveness Project (PSCP II) is a collaborative endeavour by the Government of Uganda, the private sector under the umbrella of the Private Sector Foundation Uganda (PSFU), and development partners. The World Bank approved the PSCP II in September, 2004 and declared it effective in June, 2005.

The overall objective of PSCP II is to create and sustain an enabling business environment that will address and eliminate critical impediments on Uganda's international competitiveness. The goal is to reduce the cost of doing business in Uganda and thereby encourage investment. Increased investment will lead to economic growth and prosperity.

Among the critical areas for intervention is the land-sector. Uganda's economy is largely still land-based. Accordingly, a land component was built into PSCP II.

2.3 The Land Component of PSCP II¹

The land component of PSCP II was designed with the goal of creating an efficient and corruption-free land administration system. This included a parcel-based Land Information System, aimed at improving the speed and reliability of land transactions by facilitating

¹ See generally: Reford A. Ahene, *Measures to Improve Access To Land Resources and Related Benefits to Uganda*.

the generation of large quantities of high quality data, enhancing transparency, and increasing access to facilities.

The Land Component has three principal sub-components:

- a) Rehabilitation and modernization of existing Land Registry records and operations. This includes the following:
 - Constructing new purpose-built land offices and renovating existing offices, to deliver land services closer to local communities.
 - Rehabilitating and installing electronic document management systems, to secure existing records and to accelerate the computerization of workflow and operations.
 - Upgrading unsurveyed Mailo subdivision titles.
 - Re-establishing the national geodetic-referencing framework and helping rectify overlapping surveys.
 - Developing a Storage and Archival Centre for land records.

Most of these activities will require well trained, regulated and disciplined surveyors to undertake survey and related work.

- b) Development of a Land Information System (LIS) and making cadastral information available to all districts.
- c) Strengthening the capacity of the land sector, including the rehabilitation of a School of Surveying and Land Management. Capacity-strengthening activities include:

- A comprehensive revision of the legal framework for land administration, including the revision of existing laws.
- Enacting a new Registration of Titles Act, Survey Act, Estate Agents Act, Mortgage Act and Government Land Act.
- Developing and implementing an all-inclusive public information, education and communication strategy.
- Human development opportunities, such as training to acquire new skills, management studies, customer service techniques, workshops and study tours, all designed to eliminate capacity gaps in the land sector.

2.4 The Centrality of the Land information System

A critical component of PSCP II is the development of a land information system (LIS). This includes the following activities:

- Designing and developing a national LIS, and expanding LIS coverage to all parts of Uganda by linking cadastral information centres located in 21 strategically-selected districts.
- Refining a methodology for systematic adjudication, demarcation, surveying and first registration, and piloting a process to secure the land rights of customary land holders.
- Developing an inventory of all government land, along with processes of demarcation, surveying and registration, to secure that land from encroachment, and

to facilitate proper management, development and disposal by the Uganda Land Commission.

These activities all require input from surveyors. This makes it imperative that a well-trained, regulated and disciplined cadre of surveyors is available to handle the necessary work. The success of the PSCP II, and in particular the LIS component, will depend in large measure on the existence of an efficient and well-qualified group of survey professionals.

3 OUTLINE OF THE EXISTING LEGAL FRAMEWORK

3.1 Definition of Surveyor

Section 1 of the Surveyors Registration Act defines ‘Surveyor’ to include land surveyors, quantity surveyors, building surveyors, mining and hydrological surveyors, and valuation surveyors, as well as land agents and other professionals responsible for the management of land and buildings.

3.2 Constitution of the Board

The Act establishes a Surveyors Registration Board (ss. 2, 5). The Board has nine members, all of whom are appointed by the Minister (s. 6). The Board has a vice Chairperson (s. 7). Its meetings are regulated by the Act (ss. 8, 9).

3.2.1 There is no provision for representation on the Board of the different survey disciplines or the lay public. Nor is there any requirement for gender to be considered when making appointments to the Board. In this age of gender awareness and equality, a requirement for gender consideration in the Board’s composition would seem appropriate.

3.3 Registration of Surveyors

The Board is mandated to register surveyors. The Board is administered by a Registrar appointed by the Board under s. 11 of the Act. The Registrar keeps the register of surveyors, and is responsible for publication in the Gazette of the names of surveyors

(ss.11, 12 and 13). This publication serves as *prima facie* evidence of registration (s. 14).

3.4 Qualifications of Surveyors

3.4.1 Section 15 sets out the qualifications for registration of a person as a surveyor. The section is set out below:

- (1) Subject to this Act, a person shall be entitled, on making an application to the Board in the prescribed manner and on payment to the Board of the prescribed fee, to have his or her name entered in the register if:
 - a) he or she is a fellow of the Association of Surveyors of Uganda or a corporate member of any other institution of surveyors, by whatever name called, recognized for the time being by the Board as furnishing sufficient guarantee of academic knowledge of, and practical experience in surveying;
 - b) he or she is the holder of a degree, diploma or certificate awarded by a university or school of surveying or photogrammetry recognized for the time being by the Board and has had not less than three years' practical experience of such a manner as to satisfy the Board as to his or her competence to practise as a professionally qualified surveyor; or
 - c) In the case of land surveyors, he or she is the holder of:
 - i) a licence to practice land surveying issued by any licensing body approved by the Board; or
 - ii) the East African Land Survey Certificate; or
 - iii) a class A licence issued under the Survey Act.

- (2) Of the three years' practical experience required by subsection (1)(b), not less than two years of that period shall be after obtaining the degree, diploma or licence.
- (3) The Board may require an applicant for registration under this Act to satisfy the Board that his or her professional and general conduct is such as would, in the opinion of the Board, make him or her a fit and proper person to be registered, and if he or she fails to satisfy the Board, it may direct the Registrar to postpone the registration of the applicant until it is so satisfied.

3.4.2 Under s. 17 of the Act, a person is disqualified from registration in certain grounds, namely where the person:

- a) has not paid the prescribed fees;
- b) is adjudged by a court to be insolvent, or a bankrupt or of unsound mind; or
- c) has been convicted by a court whether in Uganda or elsewhere of any offence involving fraud or dishonesty.

3.4.3 The Board has the power to temporarily register persons not ordinarily resident in Uganda to practise for purposes of carrying out specific work for which that person has been engaged (s. 16).

3.4.4 The Board issues annual practising certificates to registered surveyors, and there are provisions for refusal to issue a certificate (ss.19 and 12).

3.5 Disciplinary powers of the Board

3.5.1 The Board may appoint a disciplinary committee to inquire into any act amounting to improper or disgraceful conduct in a professional respect (s. 21(1)). The constitution and procedures of the Board's disciplinary committee are set out in the First Schedule to the Act.

The Second Schedule lists acts or omissions that constitute professional misconduct.

- 3.5.2 The Board is empowered under s. 22 to impose a range of penalties in cases of professional misconduct. These include suspension from registration, and striking-off from the Register (s. 24). The Board may restore the surveyor's name on the Register upon application (s. 23). A surveyor aggrieved by the Board's decision to cancel or suspend his or her registration may appeal to the High Court.

3.6 Regulations and Schedule to the Act

- 3.6.1 Under s. 29 the Minister may make regulations for a range of matters specified in the section.
- 3.6.2 The Minister may, upon recommendation of the Board, by Statutory Instrument amend the Schedules to the Act.

4 REVIEW AND RECOMMENDATIONS

4.1 Separate survey regimes

In our view, a single Act should not attempt to regulate all types of surveyors. The survey discipline is too broad for regulation by one board alone. As presently constituted, the Surveyors Registration Board simply cannot comprehensively regulate and control all the distinct disciplines of surveyors. Also, the multiplicity compromises the effective representation of individual disciplines on the Board.

A review of similar statutes around the world shows them to be principally targeted at the discipline of land surveying. Examples are: The Land Survey Act of Zambia Chapter 188; The Land Survey Act 1997 (No. 8 of 1997) of South Africa; The Land Survey Act, 1993 (No. 33 of 1993) of Namibia.

Further investigation into Uganda's unique setting reveals that the original amalgamation of the surveying sub-disciplines under the

auspices of the Surveyors Registration Board was motivated by the small numbers of practicing surveyors at the time. Further, available information suggests that, since the enactment of the law in 1974, no professionals have been registered in the disciplines of building surveyors and mining and hydrological surveyors. But with Makerere and Kyambogo Universities currently producing land, valuation and quantity surveyors, a critical mass within each discipline has now been reached. Other surveying sub-disciplines could now be regulated by their own specific legislation. In particular, the valuation and quantity surveying disciplines could be better served by Acts tailored to their respective activities. Having separate Acts would enable more streamlined professional oversight. This would harmonise Uganda's Surveyors Registration Act with similar legislation both regionally and globally.

By way of comparison, architects who work closely with engineers are separately regulated under the Architects Registration Act, Cap. 270 and the Engineers Registration Act, Cap. 271.

Recommendation 1

- **Separate legislation should be drafted to regulate each of the separate surveying disciplines.**
- **The Surveyors Registration Act (and by extension, the Survey Act) should be amended to provide only for the registration of land surveyors (and the regulation of land surveys).**
- **In line with this recommendation, the Act should be renamed: *The Land Surveyors Registration Act.***

4.2 Constitution of the Board

The Surveyors Registration Board comprises members with relevant and credible professional experience who must themselves be registered members. They are appointed by the Minister under whose ambit the Act operates.

In our view, it would be helpful if input on Board membership were required to be sought from the formal umbrella body of surveyors – the Institution of Surveyors of Uganda (ISU). Otherwise, the appointing authority may not be fully conversant about who has the most appropriate skills to serve on the Board.

Furthermore, we understand that some land surveyors feel strongly that the Board has not been efficient in processing applications for registration, and that in many cases unnecessary delays occur. In our view, the registration body should be more responsive to the genuine needs of land surveyors.

One way of ensuring responsiveness would be to require that members of the Surveyors Registration Board (SRB) be drawn from the Institution of Surveyors of Uganda (ISU). Further, Board members should be keen to spearhead the profession of land surveying in Uganda. One way of achieving this would be to allow as Board members only those surveyors who have had some experience in the field, have a clean record, and have been involved in successfully training other surveyors up to registration.

Further, we consider that the current membership of 9 is too large and may impede prompt decision-making. A smaller number, less than 7, would suffice.

These views reflect similar regional legislation. Examples are:

- The Land Survey Act of Zambia Chapter 188 Part II (6), under which the Survey Control Board is constituted by members on recommendation by the representative body of Land Surveyors.
- The Land Survey Act, 1993 (No.33 of 1993) of Namibia, under which secondment to the Survey Regulations Board is dependent on nomination by the Namibian Council for Professional Land Surveyors, Technical Surveyors and Survey Technicians.

We would therefore recommend that the Minister appoint members to the SRB on recommendation by the ISU. However, to ensure that

the wider public interest is also protected, beyond the interests of ISU per se, surveyors in academic institutions responsible for training surveyors should also be represented on the Board.

The current Act states that appointees should be registered surveyors. However, we would recommend a minor amendment to require appointees to hold membership of ISU, since this is a prerequisite for registration.

In some countries, the Registration/Licensing Board includes the Surveyor-General, along with two or more other members recommended by the parent professional bodies. In line with the Surveyors Registration Board's role as overseer of the land surveying profession, we recommend that the SRB should include the Commissioner of Lands and Surveys, plus four members recommended by the ISU. The Commissioner is the highest ranking surveyor in Uganda, and approves all cadastral work done countrywide, and should have a role in validating the application of aspiring surveyors.

Recommendation 2

- a) S. 6 (1) of the Act be amended to stipulate that the Surveyor's Registration Board comprise 7 members as follows:**
- i) The Commissioner of Lands and Survey.**
 - ii) Four registered surveyors recommended by the Institution of Surveyors of Uganda and appointed by the Minister. The Institution of Surveyors of Uganda (ISU) would make its recommendation based on criteria which should include: a clean record of field practice; training of junior surveyors up to registration level; gender; and active participation in the ISU's professional activities.**
 - iii) One Surveyor appointed by the Minister without the requirement for recommendation from the ISU.**

- (iv) **One Surveyor who is a lecturer at a university in Uganda training surveyors, appointed by the Minister.**
- b) **The Chairperson of the SRB should be appointed by the Minister from among the Board's members.**
- c) **The Secretary to the SRB should be a surveyor, appointed by the Minister.**

4.3 Tenure of Board Members

S. 6(2) specifies a Board member's tenure of office, and the conditions under which membership of the Board may be revoked. We consider that members should not be allowed to serve perpetually. There should be a limit on how many times a person serves on the Board. This will ensure that as many professionals as possible have an opportunity to be actively involved in the affairs of the profession.

S. 6(3) provides that the Minister may revoke the appointment of a member of the Board, including the Chairperson, and may appoint a new Member or Chairperson, as the case may be, to fill a vacancy in the membership of the Board. In our view, the Minister's power to revoke appointments is too wide, and is potentially open to abuse. We propose that a person be removed only on the ground of specific misdemeanors.

Recommendation 3

- a) **S. 6(2) be amended to limit appointment to Board membership to two consecutive terms of three years each, with a maximum period of 6 years in total.**
- b) **S. 6(3) be amended to state that:**

A member ceases to hold office if he or she:

- i) resigns his or her office in writing to the Minister;**
- ii) is struck off the Register of surveyors;**
- iii) is unable to perform the functions of his or her office, due to infirmity of body or mind;**
- iv) has misconducted himself or herself professionally as stipulated under Schedule II of the Act;**

- v) is declared bankrupt by the High Court of Uganda;**
- vi) is convicted of a criminal offence involving moral turpitude or an offence punishable by imprisonment; or**
- vii) ceases to be a member of ISU and has failed to renew membership after two written reminders.**

4.4 Office of the Vice Chairperson

S. 7 deals with the office of vice chairperson. He or she is appointed by the Board members, has a 2-year term and is eligible for re-appointment.

We consider that if the Minister has the power to appoint the Chairperson, the Minister should also have the power to appoint the vice chairperson.

Recommendation 4

The Minister should appoint a vice chairperson from among the Board members.

4.5 Meetings of the Board

We do not make any recommendation for changes.

4.5.1 Chairing of Meetings

We do not make any recommendations for changes.

4.5.2 Frequency of Meetings

S. 8(2) requires Board meetings to be held at not less than 3-monthly intervals. Given the increasing number of surveying graduates, the prominence that land issues continue to play, and the possible increase in cases against practising surveyors, we propose that the **maximum** interval between successive meetings be 3 months.

Recommendation 5

S. 8(2) be amended to provide that meetings of the Board should be held at intervals of not more than three months, at such place and time as the Chairperson appoints.

4.5.3 Call for Special Meetings

S. 8(3) requires the Chairperson, if requested by notice in writing signed by not fewer than three members of the Board, to convene a special meeting of the Board within fourteen days. Assuming that the proposal for reduced Board size is approved, s. 8(3) will have to be amended to reflect this.

Recommendation 6

S. 8(3) be amended to provide that the Chairperson must, if requested by notice in writing signed by not less than two members of the Board, convene a special meeting of the Board within fourteen days of receiving the notice.

4.5.4 Quorum for Meetings

S. 8(5) stipulates that five members constitutes a quorum. We consider that we should borrow from the Land Survey Act of South Africa, s. 9(9) of which states that the quorum for Board meetings is the majority of Board members. We have recommended a total

Board membership seven. On that basis, a quorum should be 4 members.

Recommendation 7

S. 8(5) be amended to provide that, at any meeting of the Board, 4 members constitutes a quorum.

4.5.5 Committees of the Board

From time to time special committees may need to be constituted to address particular concerns. The Act provides only for disciplinary committees. However, the legislation should provide for other committees which may be required.

Remuneration of Board Members is a further issue. Remunerating members for the time spent doing Board work may be out of the Board's means. However, given the critical nature of the Board's work, provision should at least be made for sitting allowances.

Recommendation 8

- a) **Introduce a new s. 8(12) COMMITTEES OF THE BOARD: The Board may establish committees as may be required from amongst its members, and may co-opt to these committees any person(s) with appropriate knowledge, expertise and experience for the efficient discharge of its functions.**
- b) **Introduce a new s. 8(13) REMUNERATION OF MEMBERS OF THE BOARD: Members of the Board (or of appointed committees thereof) should be paid such allowances as the Minister may approve.**

4.6 Qualifications for Registration

Section 15 prescribes the terms and conditions under which a professional can be registered under this Act. Specifically s. 15 (1)(b) and s. 15(3) respectively provide that:

- Applicants must hold a degree, diploma or certificate awarded by a university or school of surveying or photogrammetry recognized by the Board, and have not less than three years' practical experience of such a nature as to satisfy the Board as to their competence to practise as a professionally qualified surveyor.
- The Board may require applicants for registration to satisfy the Board that their professional and general conduct is such as would make them a fit and proper person to be registered, and if they fail to satisfy the Board, the Board may direct the Registrar to postpone the applicant's registration until it is so satisfied.

Given the significance attached to registration we propose that the registration process be made more explicit and transparent than at present. The Act stipulates only that applicants need to satisfy the Board that their professional and general conduct is such as would, in the Board's opinion, make them a fit and proper person to be registered. This provision may be open to abuse. In other jurisdictions, the prerequisites for registration are more precisely stipulated. We would recommend setting an objective standard, e.g that an applicant land surveyor have completed 4 cadastral and 2 engineering surveys. The Royal Institute of Chartered Surveyors (RICS) in the United Kingdom, for instance, has clearly stipulated pathways to registration, detailing the RICS accredited courses, the required field experience, and through to the nature of professional assessment. The Land Survey Act of Zambia s. 9(2) also explicitly stipulates the prerequisites for registration.

A specific statement of criteria allows potential applicants to know what to target in order to attain registration. We would therefore

recommend that the Act charge the Board with the responsibility of annually gazetting the requirements against which aspiring professionals will be considered for registration.

S. 15(1)(a) stipulates one of the requirements for registration as being Fellowship of the Association of Surveyors. In Uganda the formal professional surveying body is the Institution of Surveyors of Uganda. It has three membership tiers: student, associate and fellow. Entrance level for professionals is at associate membership level. Fellowship level usually takes longer to attain.

We recommended that registration be pegged to professional membership of the Institution of Surveyors of Uganda, rather than to being a Fellow. Many of the currently registered surveyors are still associates of the Institution.

Recommendation 9

- a) S. 15 be amended to provide for the annual publication in the Gazette of a notice specifying the requirements for registration as a land surveyor.**
- b) S. 15 be also amended to require an applicant to be an Associate Member of the Institution of Surveyors of Uganda, or hold professional membership of another institution of surveyors recognized by the Board.**

We now turn to the required qualifications for registration as a surveyor. The current Act lists three levels: Degree, Diploma and Certificate. These qualifications were set when there were no Degree programmes for Surveyors in Uganda. However, as already mentioned, a number of universities are now offering Degree programmes. They include Makerere University, Kyambogo University and Ndejje University.

Technicians

Training at Diploma level is mainly for technicians, to appreciate various survey techniques and instruments. Technicians are not trained to cope with the quality or breadth of services expected of professionals.

We propose two options for aspiring technicians under the Act. The first is to allow them to enroll for Degree programmes if they wish to be registered as professionals. The second option is to allow them to work under the supervision of registered surveyors. Survey Technicians would not be permitted to undertake survey work independently.

Chainmen and survey assistants

In Uganda, there is a serious problem of chainmen or survey assistants carrying out substandard survey work. Chainmen are responsible for a high percentage of cadastral work in Kampala, mainly on Mailo land. The Act needs to limit what chainmen can and cannot do.

We propose a Certificate programme for chainmen at the Ministry's Institute of Surveying and Land Management. This could provide training for new or existing chainmen to be taught the basics of the profession through systematic study.

Holders of this certificate would be registered as Survey Assistants (Chainmen) after 1 year of field exposure and good conduct. Survey Assistants could only work under surveyors, and would not be permitted to undertake fieldwork without the presence of a surveyor or survey technician.

The duties of a Survey Assistant would be to:

- (i) Assist the technician/surveyor in checking the availability of survey equipment in working condition.
- (ii) Plant survey beacons, include pegging for engineering surveys;
- (iii) Take care of survey equipment while in the field.
- (iv) Assist the surveyor/technician to take measurements by holding target prisms, GPS receivers, survey tapes, and so on.
- (v) Assist the surveyor/technician to clear boundaries and lines of sight. This may be done by supervising and mobilizing porters, guides and other support staff on a survey project.

Recommendation 10

- **The minimum qualification for registration as a land surveyor should be a Degree in Surveying from a recognized Institution.**
- **The minimum field experience for registration as a land surveyor should be 3 years' clean record of field exposure under the guidance of a licensed surveyor, and participation in the activities of the Institution of Surveyors of Uganda.**
- **Diploma holders with relevant experience, and a clean record of field surveying, should be registered as Survey Technicians working under registered Surveyors.**
- **Holders of Certificates in Surveying should be registered as Survey Assistants or 'Chainmen'.**
- **A temporary licence to foreigners to practise land surveying in Uganda, should be issued by the Board where:**
 - **the applicant is already registered by a competent land Surveying Licensing Body in his/her home country; and**
 - **the home body's requirements for licensing are comparable and no less rigorous than the requirements in Uganda.**
- **A person who undertakes survey work without being registered and licensed commits an offence and should be dealt with as follows:**

- **A registered surveyor whose license has expired should be fined 50 currency points and have the licence suspended for one year.**
- **A qualified surveyor (graduate) or technician executing a survey without the supervision of a licensed surveyor should be liable to a fine of 50 currency points and put under surveillance/monitoring by the Board for a minimum of 1 year until the Board is satisfied that his/her professional conduct has improved. If during the period, the person commits the same offence, the Board should extend the punishment for a second year. On a third offence, the Board should bar the person from registration, or de-register the person, as the case may be.**
- **If a non-qualified person or chainman conducts a survey which fails to meet professional standards, the person should be fined up to 80 currency points or suffer imprisonment for up to 6 months, or both.**

4.7 Acts or omissions constituting professional misconduct

Schedule 2 of the Act deals with the acts or omissions constituting professional misconduct. Paragraph (b) lists as one of the misdemeanors “entering into partnership with any person other than a registered surveyor or securing, either through the services of a person not qualified to be a registered surveyor or by means which are not open to a registered surveyor, any professional business”.

We propose that this provision be overhauled. It restricts professional association to surveyors only. In the modern professional landscape, professionals interact across allied disciplines, and it is not unfeasible that they could form partnerships for professional purposes. In our opinion, there should be no legal prohibition against this.

Recommendation 11

Paragraph (b) of the Second Schedule should be amended to qualify the restriction on partnership, and allow partnership with a non-registered surveyor for other purposes, for example consultancy and research.

5 LIST OF RECOMMENDATIONS

For convenience, we collect our recommendations, below:

Recommendation 1

- Separate legislation should be drafted to regulate each of the separate surveying disciplines.
- The Surveyors Registration Act (and by extension, the Survey Act) should be amended to provide only for the registration of land surveyors (and the regulation of land surveys).
- In line with this recommendation, the Act should be renamed: *The Land Surveyors Registration Act*.

Recommendation 2

- a) S. 6 (1) of the Act be amended to stipulate that the Surveyor's Registration Board comprise 7 members as follows:
 - i) The Commissioner of Lands and Survey.
 - ii) Four registered surveyors recommended by the Institution of Surveyors of Uganda and appointed by the Minister. The Institution of Surveyors of Uganda (ISU) would make its recommendation based on criteria which should include: a clean record of field practice; training of junior surveyors up to registration level; gender; and active participation in the ISU's professional activities.
 - iv) One Surveyor appointed by the Minister without the requirement for recommendation from the ISU.
 - (iv) One Surveyor who is a lecturer at a university in Uganda training surveyors, appointed by the Minister.
- b) The Chairperson of the SRB should be appointed by the Minister from among the Board's members.

- c) The Secretary to the SRB should be a surveyor, appointed by the Minister.

Recommendation 3

- a) S. 6(2) be amended to limit appointment to Board membership to two consecutive terms of three years each, with a maximum period of 6 years in total.
- b) S. 6(3) be amended to state that:

A member ceases to hold office if he or she:

- viii) resigns his or her office in writing to the Minister;
- ix) is struck off the Register of surveyors;
- x) is unable to perform the functions of his or her office, due to infirmity of body or mind;
- xi) has misconducted himself or herself professionally as stipulated under Schedule II of the Act;
- xii) is declared bankrupt by the High Court of Uganda;
- xiii) is convicted of a criminal offence involving moral turpitude or an offence punishable by imprisonment; or
- xiv) ceases to be a member of ISU and has failed to renew membership after two written reminders.

Recommendation 4

The Minister should appoint a vice chairperson from among the Board members.

Recommendation 5

S. 8(2) be amended to provide that meetings of the Board should be held at intervals of not more than three months, at such place and time as the Chairperson appoints.

Recommendation 6

S. 8(3) be amended to provide that the Chairperson must, if requested by notice in writing signed by not less than two members of the Board, convene a special meeting of the Board within fourteen days of receiving the notice.

Recommendation 7

S. 8(5) be amended to provide that, at any meeting of the Board, 4 members constitutes a quorum.

Recommendation 8

- a) Introduce a new s. 8(12) COMMITTEES OF THE BOARD: The Board may establish committees as may be required from amongst its members, and may co-opt to these committees any person(s) with appropriate knowledge, expertise and experience for the efficient discharge of its functions.
- b) Introduce a new s. 8(13) REMUNERATION OF MEMBERS OF THE BOARD: Members of the Board (or of appointed committees thereof) should be paid such allowances as the Minister may approve.

Recommendation 9

- a) S. 15 be amended to provide for the annual publication in the Gazette of a notice specifying the requirements for registration as a land surveyor.
- b) S. 15 be also amended to require an applicant to be an Associate Member of the Institution of Surveyors of Uganda, or hold professional membership of another institution of surveyors recognized by the Board.

Recommendation 10

- The minimum qualification for registration as a land surveyor should be a Degree in Surveying from a recognized Institution.
- The minimum field experience for registration as a land surveyor should be 3 years' clean record of field exposure under the guidance

- of a licensed surveyor, and participation in the activities of the Institution of Surveyors of Uganda.
- Diploma holders with relevant experience, and a clean record of field surveying, should be registered as Survey Technicians working under registered Surveyors.
 - Holders of Certificates in Surveying should be registered as Survey Assistants or 'Chainmen'.
 - A temporary licence to foreigners to practise land surveying in Uganda, should be issued by the Board where:
 - the applicant is already registered by a competent land Surveying Licensing Body in his/her home country; and
 - the home body's requirements for licensing are comparable and no less rigorous than the requirements in Uganda.
 - A person who undertakes survey work without being registered and licensed commits an offence and should be dealt with as follows:
 - A registered surveyor whose license has expired should be fined 50 currency points and have the licence suspended for one year.
 - A qualified surveyor (graduate) or technician executing a survey without the supervision of a licensed surveyor should be liable to a fine of 50 currency points and put under surveillance/monitoring by the Board for a minimum of 1 year until the Board is satisfied that his/her professional conduct has improved. If during the period, the person commits the same offence, the Board should extend the punishment for a second year. On a third offence, the Board should bar the person from registration, or de-register the person, as the case may be.
 - If a non-qualified person or chainman conducts a survey which fails to meet professional standards, the person should be fined up to 80 currency points or suffer imprisonment for up to 6 months, or both.

Recommendation 11

Paragraph (b) of the Second Schedule should be amended to qualify the restriction on partnership, and allow partnership with a non-registered surveyor for other purposes, for example consultancy and research.

6 CONSULTANT'S RESPONSES TO LRWG'S COMMENTS

Subject	Consultants' Recommendation	Prior	LRWG's Comments	Consultant's Response
Interpretation	<p><i>The current Valuation Surveying and Quantity Surveying Chapters should propose legislation for their respective disciplines</i></p> <p><i>The Survey Registration Act (and by Extension Survey Act) continue as the operational legislation providing oversight for only the land surveying practice</i></p>		The Act should be amended as recommended to provide for only land surveying practice.	A new recommendation has been added to rename this Act to cater for land surveyors only
Composition of Board	<p><i>S.6(1) be amended to stipulate that appointment by the Minister to serve on SRB be on secondment from the ISU, and it be premised on one being both a Registered Surveyor and an ISU member</i></p> <p><i>It is further proposed that the Board consist of Three or Four persons chaired by the Commissioner of Lands and Surveys, and three other members appointed by the minister at the recommendation of ISU.</i></p>		We recommend that the Board should comprise at least seven persons.	The section has been amended to specify 7 members for the Board
Tenure of Board Members	<p><i>S.6(2) be amended to limit reappointment to board Membership to two consecutive terms, and in any case one should serve for no more than 6 years in total</i></p> <p><i>S.6(3) be amended to state that :</i> <i>-A member will therefore cease to hold office if:-</i></p> <p><i>-he or she resigns his or her office in writing under his or her hand to the Minister</i></p>		Amend the section as recommended.	Done; no further action required

	<p><i>-he or she is struck off the Register; or</i></p> <p><i>-he or she is unable to perform the functions of his or her office, due to infirmity of body or mind, or</i></p> <p><i>-he or she has misconducted himself or herself professionally as stipulated under schedule IV of this act.</i></p> <p><i>-he or she is declared bankrupt by the High Court of Uganda, or</i></p> <p><i>-he or she is convicted of a criminal offence involving moral turpitude or an offence in respect of which an imprisonment is imposed.</i></p> <p><i>-He or she seizes to be a member of ISU</i></p>		
Office of the Vice Chairperson	<i>S.7 be deleted</i>	Amend as recommended because the office of the Vice chairman is redundant.	<p>We do not consider that office to be redundant.</p> <p>No further action required</p>
Chairing of Meetings	<i>S.8(1) be amended to: Whenever the Commissioner (or his representative who shall meet the minimum requirements to be on the board) is absent from or unable to preside at any meeting, the members present shall elect one out of their number to preside at that meeting, and the person who is so elected shall for the purposes of that meeting have the same powers and duties as those of the Commissioner</i>	As recommended.	No further action required
Frequency of Meetings	<i>S.8(2) be amended as follows:</i> <ul style="list-style-type: none"> <i>• Meetings of the board shall</i> 		

	<i>be held at intervals of not more than three months at such place and time as the chairperson may, from time to time, appoint.</i>	As recommended	No further action required
Call for Special Meetings	<i>S.8(3) be amended to: The chairperson shall, if requested by notice in writing signed by the majority of members of the board, convene a special meeting of the board within fourteen days beginning with the date when he or she received that notice.</i>	As recommended.	No further action required
Quorum for Meetings	<i>S.8(5) be amended to: At any meeting of the board the majority of members of the board shall constitute a quorum</i>	At least 2/3 of the majority shall constitute a quorum.	We have recommended 4/7 since 2/3 is difficult to implement for 7 members.
Committees of the Board	<i>Introduce S.8(12) COMMITTEES OF THE BOARD: The Board may establish committees as may be required from the members and may co-opt any person (s) with appropriate knowledge, expertise and experience for the efficient discharge of its functions to any of these Committees</i> <i>Introduce S.8(13) REMUNERATION OF MEMBERS OF THE BOARD: Members of the Board (or appointed committees thereof) shall be paid such allowances as may be approved by the Minister.</i>	As recommended.	No further action required
Qualifications for Registration	<i>S.15 be amended to make provision for the annual documentation of the requirements by which Land Surveyors will be considered for registration.</i> <i>S.15(1)b be amended to... he or she should at least be an Associate</i>	As	No further action

	<i>Member of the Institution of Surveyors of Uganda or hold professional membership of any other institution of surveyors, by whatever name</i>	recommended.	required
Acts or omissions constituting professional misconduct	<i>Schedule 2.b be deleted</i>	As recommended.	No further action required

Comments.

The consultants should borrow a leaf on how people who hold out as advocates when they are not are punished.	Noted
How do you distinguish surveyors e.g according to qualifications	This has been catered for. We have identified graduate surveyors, technicians and survey assistants or chainmen
That qualification offer minimum requirement of registration.	We have included this.