

## **THE SURVEY BILL, 2013**

### **MEMORANDUM**

#### **1. Object of the Bill**

The object of this Bill is to reform, repeal and replace the Survey Act; to empower the Minister, Commissioner of lands and surveys or a district land surveyor to authorise surveys to be carried out in certain cases, to provide for the power of Government or a district land surveyor to enter land to carry out a survey; to provide for the clearing of lines and the compensation to be paid for clearing lines; to provide for the marking of boundaries and the duty to preserve survey and boundary marks; and for related matters.

#### **2. Defects in the Existing law**

The current law regulating the survey of land is contained in the Survey Act, Chapter 232 of the Laws of Uganda.

The Survey Act has not been amended since 1939 when it was enacted. The Act still assumes that surveys are conducted using observation and computation techniques that were available at the time yet these techniques of surveying have been overtaken by technology and other innovative techniques, yet the data generated by these techniques cannot be legally supported.

In addition, the Act does not provide for private surveys, yet under the Constitution most of the land is owned privately. Section 2 providing for surveys by the Commissioner was relevant when the bulk of land surveying was done by Government surveyors. Under the Constitution, Government has decentralised land management to the districts by creating District Land Boards and District Land Offices. It has also divested itself of some functions of surveying such as cadastral surveying and concentrated mainly on the provision of control and quality of surveys. Private surveyors are also licensed to carry out surveys under the Surveyors Registration Act (Cap 275). Yet the Act still largely caters for survey as a function of Government.

Decentralization of the land management functions has also led to some districts holding survey records (mainly mailo and freehold surveys) which the Commissioner does not have access to. This makes it difficult for the Commissioner to control the surveys and the resulting survey records.

#### **3. Remedies proposed to deal with the defects**

The Bill seeks to repeal and replace the Survey Act to make the law accord with the Constitution and to reform the law to take into account the innovative techniques and technology relating to survey.

The Bill proposes to streamline clearly, the surveys that may be authorised by the Minister, Commissioner for survey and a district land surveyor and to require the surveys to be carried out in accordance with the standards set by the Commissioner.

The Bill requires a district land surveyor to transmit records relating to any survey authorised or carried out at the district to the Commissioner responsible for surveys and mapping

*Minister of Lands, Housing and Urban Development*

**THE SURVEY BILL, 2013**  
**ARRANGEMENT OF CLAUSES**

*Clause*

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A Bill for an Act

Entitled

THE SURVEY ACT, 2013

**An Act to reform, repeal and replace the Survey Act; to empower the Minister, Commissioner of lands and surveys or a district land surveyor to authorise surveys to be carried out in certain cases, to provide for the power of Government or a district land surveyor to enter land to carry out a survey; to provide for the clearing of lines and the compensation to be paid for clearing lines; to provide for the marking of boundaries and the duty to preserve survey and boundary marks; and for related matters.**

**BE IT ENACTED** by Parliament as follows:

PART I - PRELIMINARY

**1. Interpretation.**

In this Act, unless the context otherwise requires –

“authorised officer” means a land surveyor authorised by the Commissioner or a district land surveyor to carry out a land survey; “currency point” has the value assigned to it in Schedule 1;

“Commissioner” means the Commissioner responsible for surveys and mapping;

“Government” means the central Government;

“government land surveyor” means a person employed as such by the Government and includes the Commissioner”

“registered land surveyor” means a person registered as a land surveyor under the Land Surveyors Registration Act, 2013;

“systematic demarcation area” means an area declared by the Minister by statutory instrument as a systematic demarcation areas for the purposes of this Act

PART II – SURVEYS AUTHORISED BY COMMISSIONER

**2. Commissioner to authorise carrying out of surveys**

(1) The Commissioner may, if satisfied that it is necessary, authorise a trigonometrical or topographical survey or any other survey to be carried out under this Act.

(2) Where the Commissioner authorises a survey under this section, the Commissioner shall, before the survey is undertaken, publish a notice of the survey, in at least two newspapers with wide coverage in the area where the survey is to be carried out.

(3) The notice under subsection (2) shall -

- (a) state the intention of the government land surveyor to carry out a survey on the date specified in the notice;
- (b) specify the local limits of the area affected by the survey;
- (c) the name of the government land surveyor authorised to carry out the survey.

### PART III - SURVEYS AUTHORISED BY DISTRICT LAND SURVEYOR

#### **3. District land surveyor to authorise carrying out of certain surveys**

(1) A district land surveyor may, after consulting the Commissioner, authorise the carrying out of cadastral surveys or lower order control-surveys.

(2) Where a district land surveyor authorises a survey under this section, the district land surveyor shall, before the survey is undertaken, publish a notice of the survey, in at least two newspapers with wide coverage in the area where the survey is to be conducted.

(3) The notice under subsection (2) shall—

- (a) state the intention of the district land surveyor to carry out a survey on the date specified in the notice;
- (b) specify the local limits of the area affected by the survey.

(4) Where a district land surveyor authorises the carrying out of a survey under subsection (1) the survey shall be carried out in accordance with the standards prescribed by the Commissioner.

#### **4. Records of surveys authorised by district land surveyor**

(1) Every district land surveyor shall keep in the prescribed form a record of all surveys authorised by the district land surveyor under this Act.

(2) A district land surveyor shall send a copy of the authorization for a survey and the notice relating to it to the Commissioner.

### PART IV – SPECIAL SURVEYS

#### **5. Power of Minister to order a special survey**

(1) The Minister may order a survey of a special nature, not provided for in section 2 or 3, in respect of any land.

(2) The survey in this section may be carried out by a Government land surveyor or a registered land surveyor.

(3) The order for the survey shall be published in the Gazette and in at least two newspapers with wide national coverage.

(4) The notice under subsection (3) shall specify the nature and purpose of the survey, the area within which the survey is to be carried out and the provisions of this Act that are applicable to the survey.

## PART V – GENERAL PROVISIONS ON SURVEYS

### **6. Surveys on private land**

A registered land surveyor may, at the request of an owner of privately owned land, carry out a survey on the private land.

### **7. Power of government land surveyor and district land surveyors to enter land**

(1) For the purpose of carrying out a survey under this Act, a Government land surveyor, district land surveyor, registered land surveyor or an authorised officer may enter upon land owned by the Government or a local government and make inquiries and do or cause to be done anything that may be necessary to carry out a survey.

(2) Where any survey under this Act involves entry upon privately owned land which is not owned by the person on whose behalf the survey is being carried out or who requests for the survey, the government land surveyor, district land surveyor, registered land surveyor or an authorised officer shall before entering upon that land, seek the consent of the owner.

### **8. Power of surveyor to issue notice requesting the attendance of any person**

(1) A Government land surveyor, district land surveyor, registered land surveyor or an authorised officer may serve a notice on any owner, occupier or a person who has any interest in the land where a survey is to be carried out or the adjacent land, requiring that person to attend, personally or by representative, before a person specified in the notice, at the place and at the time stated in the notice, for the purpose of—

- (a) identifying the boundaries of the land;
- (b) rendering assistance with the setting up or repairing of the boundary marks of the land; or
- (c) offering any assistance or information as may be necessary for the purposes of the survey.

(2) A person who is notified under sub section (1) but is not present when the survey is carried out shall be deemed to have agreed to the survey and the boundaries demarcated.

### **9. Clearing of lines**

(1) A government land surveyor, district land surveyor, registered land surveyor or an authorised officer shall serve or cause to be served, on any owner or occupier of any land, a notice –

- (a) informing him or her of the necessity to clear the boundaries of the land, by cutting down and removing any trees, bushes, fences or crops, for purposes of the survey; or
- (b) requesting for any assistance in the survey.

(2) Where a person for whom the survey is carried out is not the owner of the boundaries to be cleared, that person or the Commissioner or a district land surveyor, land surveyor or the authorised officer who carries out the survey shall pay for any costs incurred for clearing the boundaries and for any assistance rendered in the survey.

(3) Subsection (2) shall not apply where the land is located in an area that is declared a systematic demarcation area.

#### **10. Compensation for damage done by clearance**

(1) Where as a result of clearing a boundary, any damage is caused on any land which is not owned by the person for whom a survey is carried out or who requests for the survey, the government land surveyor, district land surveyor, registered land surveyor or authorised officer responsible for the survey and the owner or occupier of the land shall agree on the compensation to be paid for the damage.

(2) Where the land owner and the Government land surveyor, district land surveyor, registered land surveyor or an authorised officer, as the case may be, do not agree on the compensation, any one or more of them may refer the matter to a court of competent jurisdiction, which may then determine the compensation..

#### **11. Power to summon a person to give information**

(1) A government land surveyor, district land surveyor, registered land surveyor or an authorised officer may issue a notice calling upon any person, other than the persons specified in section 8, who it is believed has information regarding the boundaries of land to be surveyed to attend before him or her, on a date and at a place specified in the notice, to give the information required.

(2) A person to whom a notice is issued shall be paid an allowance, which shall be agreed upon by that person and the government land surveyor, district land surveyor, registered land surveyor or the authorised officer, as the case may be. If they cannot agree, any one or more of them may refer the matter to a court of competent jurisdiction, which may then determine the allowance.

#### **12. Marking out of boundaries**

(1) An owner or occupier of the land through which a boundary is to be marked shall be notified of the survey and the boundary shall be marked out in the presence of that owner or occupier.

(2) An owner or occupier who is notified of a survey to be carried out under sub section (1), who is not present when the survey is carried out shall be deemed to have agreed to the marking of the boundaries.

(3) This section shall not prevent a person who is aggrieved by the survey carried out from seeking legal remedy in respect of the boundary or establishing of any other boundary.

(4) The costs of identifying the boundaries of any land shall be borne by the person for whose benefit the survey is made.

### **13. Commissioner to approve boundary marks and materials**

The Commissioner shall approve boundary marks or any material used for marking boundaries.

### **14. Duty to preserve survey and boundary marks**

(1) The owner of any land shall maintain any survey or boundary mark lawfully erected on his or her land, or on the boundaries of the land, in good condition and repair, and shall at all times keep the mark clear of high grass and brushwood.

(2) Where the survey or boundary mark is injured, damaged or removed, the owner on whose land a survey or boundary mark was erected, shall report the injury, damage or removal to the Commissioner, the district land surveyor or an authorised officer.

(3) Where survey marks are erected on privately owned land, the owner of the land shall, before the erection of the survey marks, be compensated.

(4) Where the government land surveyor, district land surveyor, registered land surveyor or an authorised officer becomes aware that any survey or boundary mark is damaged, destroyed or removed, or requires repair or clearance, he or she shall cause the survey or boundary mark, as the case may be, to be re-erected, repaired or cleared.

(5) A person who maliciously or intentionally destructs a survey beacon commits an offence and is on conviction liable to a fine not exceeding seventy two currency points or imprisonment for three years or both.

### **15. Service and publication of notices**

(1) Subject to any other provision of this act, a notice, order, plan or other matter, required by this Act, or by regulations made under this Act, to be served—

- (a) may be served by registered post or delivery to the address where the person or his or her representative lives; or
- (b) where it is to be served on a group of people, may be served in the manner commonly used in the area.

(2) Subject to any other provision of this act, a notice, order, plan or other matter, required by this Act, or by regulations made under this Act, to be published—

- (a) must be published in at least two newspapers with national coverage; and
- (b) must be displayed for public inspection at the publishing party's administrative headquarters, with a copy displayed at locations prescribed in the regulations.

## **16. Survey camps**

(1) A government land surveyor, district land surveyor or an authorised officer may build and occupy a camp on any uncultivated land or un-built-on land and take from that land materials, wood or water for construction of a camp, beacons and survey marks.

(2) A person who wishes to set up a survey camp under this section, shall if required by the owner or occupier of the land, encamp in a place on the land selected by the owner or occupier.

(3) Where the land in subsection (1) is privately owned, the government land surveyor, district land surveyor or an authorised officer shall promptly pay adequate compensation to the land owner prior to building and occupying the land.

## **PART VI – OFFENCES AND PENALTIES**

### **16. Surveys contrary to this Act**

A government land surveyor, a district land surveyor, and authorised officer or a registered land surveyor who carries out a survey contrary to this Act commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding twenty four months or both.

### **17. Unauthorised surveys**

A person who carries out a survey not authorised under this Act commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or to imprisonment not exceeding twenty four months or both.

### **18. Obstructing a survey.**

A person who wilfully obstructs or hinders or resists a government land surveyor, a district land surveyor, or an authorised officer or a registered land surveyor in the execution of his or her duty in or about any survey or the ascertaining and marking out of boundaries of any land under this Act commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.

## **PART VI - MISCELLANEOUS**

### **19. Protection of persons performing functions under this Act**

A Government land surveyor, a district land surveyor or an authorised officer shall not be personally liable for any act or omission done or omitted to be done in good faith in the exercise of functions or powers under this Act.

## **20. Fees due to Government**

(1) Any fee, when it becomes due and payable under this Act, is a debt due to the Government of Uganda and is payable in the manner and at the place prescribed.

(2) A fee that has not been paid when it is due and payable may be sued for and recovered in any court of competent jurisdiction by the Commissioner subject to the general directions of the Attorney General.

## **21. Regulations**

(1) The Minister may, by statutory instrument make regulations for giving effect to this Act.

(2) Without prejudice to subsection (1), the Minister may make regulations-

- (a) prescribing the manner of service and publication of any notice, order, plan or other matter required by this Act to be served or published;
- (b) prescribing the survey standards to be applied to various types of surveys in different areas including the spatial references to be used for the national spatial datasets;
- (c) prescribing the information to be collected during surveys and how the information is to be shown on the plan of survey;
- (d) prescribing the manner of identification of land parcels;
- (e) prescribing the characteristics of the survey marks to be used;
- (f) prescribing procedures relating to marking out of boundaries;
- (g) prescribing the manner of capturing and maintaining of core cadastral dataset and the topographic map;
- (h) prescribing standards for development of core cadastral dataset and the topographic map;
- (i) the number and form of notices, plans and other documents under this Act;
- (j) exempting any person or an area from conforming to a survey standard;
- (k) prescribing the fees to be charged for the services rendered under this Act;
- (l) prescribing fees to be paid by Government for services rendered to it under this Act;
- (m) declaring certain areas systematic demarcation areas and guidelines to apply to such areas.

## **22. Amendment of Schedule**

The Minister may, by statutory instrument with the approval of Cabinet, amend the Schedule to this Act.

## **23. Repeal of Cap 232**

(1) The Survey Act is repealed.

(2) Notwithstanding subsection (1), any order, regulation, direction, notice or other administrative act made or given under the Survey Act shall continue in force and shall have effect as if made or given under this Act.

**SCHEDULE 1****CURRENCY POINT**

One currency point is equivalent to twenty thousand Uganda shillings.