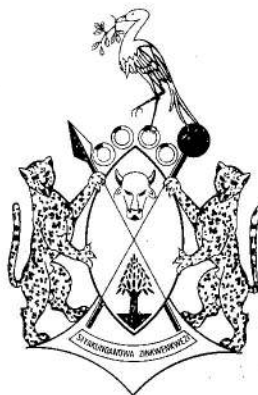


**IRIPHABLIKI
YECISKEI**

**REPUBLIC OF
CISKEI**

**IGAZETHI
YOBURHULUMENTE**



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**DEPARTMENT OF INTERNAL AFFAIRS AND
LAND TENURE**

GOVERNMENT NOTICE No. 76 OF 1988

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-**

LAND SURVEY ACT, 1988

ACT No. 22 OF 1988

LAND SURVEY ACT, 1988

ACT

To consolidate and amend the laws relating to the survey of land.

ARRANGEMENT OF ACT

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LAND SURVEY ACT, 1988

(English text signed by the President. Assented to on 2 August 1988).

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

CHAPTER 1

INTERPRETATION

1. Definitions. - (1) In this Act, unless the context otherwise indicates -

"approve", in relation to the Surveyor-General and to any general plan or diagram, means the signing of such general plan or diagram in order to signify that the requirements of this Act and the regulations have been complied with in regard to such general plan or diagram;

"Ciskei" means the Republic of Ciskei;

"deeds registry" means the deeds registry established by section 1 of the Deeds Registries Act, 1937 (Act 47 of 1937);

"Department" means the Department of the Minister;

"diagram" means a document, containing geometrical, numerical and verbal representations of a piece of land, line, feature or area forming the basis for registration of a real right, which has been signed by a person recognized under any law then in force as a land surveyor or which has been approved or certified by the Surveyor-General or other officer empowered under the law then applicable so to approve or certify a diagram and includes a diagram or copy thereof prepared in the office of the Surveyor-General and approved or certified as aforesaid or a document which has at any time prior to commencement of this Act been accepted as a diagram in the deeds registry or the office of the Surveyor-General;

"Director-General" means the Director-General of the Department;

"erf" means every piece of land registered as an erf, lot, plot or stand in the deeds registry and includes a stand or lot forming a portion of a piece of land laid out as, but not proclaimed, a township or a portion of such erf, stand or lot;

"general plan" means a plan which, representing the relative positions and dimensions of two or more pieces of land, has been signed by a person recognized under any law then in force as a land surveyor or which has been approved or certified as a general plan by the Surveyor-General or other officer empowered under any law so to approve or certify a general plan and includes a general plan or a copy thereof prepared in the office of the Surveyor-General and approved or certified, as aforesaid or a general plan which has at any time prior to the commencement of this Act been accepted for registration in the deeds registry or the office of the Surveyor-General;

"land surveyor" means a person recognized as such for the purposes of this Act and registered as a land surveyor as contemplated in section 4(1);

"local authority" includes a municipal council, town council and any like institution;

"Minister" means the Minister of Internal Affairs and Land Tenure;

"owner" in relation to land, means the person registered in the deeds registry as the owner of such land and includes -

(a) the liquidator of a company or the representative recognized by law of any owner who has died, become insolvent, is a minor or a mentally ill person, or is otherwise under disability, acting in his capacity and within the scope of his authority as such liquidator or representative;

(b) the person in whom the ownership of land is vested by statute and the allottee of land held under provisional title and in process of alienation by the State;

(c) the lessee of land, held under a lease for a period of ninety-nine years, registered in the deeds registry; and

(d) for the purposes of sections 7, 8, 9, 10, 13, 14, 25, 34, 36 and 37, the holder of a right to minerals in respect of such land;

"personal supervision" or "personally supervise" or words to that effect, when used in relation to a survey and the field operations, means the personal presence of and active participation by the land surveyor when existing beacons or other indications of corner points are inspected and when beacons are erected in predetermined positions or an assistant:

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Provided that the land surveyor shall not be obliged to be present or to participate when any such beacons, which were previously connected to or based upon reference marks or (except in a township) trigonometrical stations are inspected;

"prescribed" means prescribed by or under this Act or by regulation;

"public place" includes any street, road, thoroughfare, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in the deeds registry or the office of the Surveyor-General, and all land (other than erven shown on the general plan) the control whereof is vested, to the entire exclusion of the owner, in a local authority or to which the owners of erven in the township have a common right;

"reference mark" means a survey mark of permanent construction placed in a township to form one of a system of such marks for the purpose of basing the survey or resurvey of the pieces of land in such township thereon or connecting such survey or resurvey thereto;

"registrar" means the registrar of deeds appointed under section 2(1)(a) of the Deeds Registries Act, 1937;

"registration" in relation to land, means the registration of any real right in or to such land in accordance with the provisions of the Deeds Registries Act, 1937, and

"registered" has a corresponding meaning;

"regulation" means a regulation made or otherwise in force under this Act;

"settlement" means a group or pieces of land or of subdivisions of a piece of land, which are used or intended for use mainly for farming or horticulture, and includes a combination of such groups, which is suitable for inclusion in one property register;

"Surveyor-General" means the Surveyor-General appointed under section 2;

"Surveyors Registration Act" means the Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act 40 of 1984) of the Republic of South Africa;

"the Council" means the South African Council for Professional Land Surveyors and Technical Surveyors established by section 2 of the Surveyors' Registration Act;

"the court" means the general division of the Supreme Court or any judge thereof;

"township" means a group or pieces of land, or of subdivisions of a piece of land, which are combined with public places and are used mainly for residential, industrial, business or similar purposes, or are intended to be so used;

"Treasury" means the Minister of Finance, or any other officer in his department acting under his authority;

"trigonometrical station" means any survey station, excluding a reference mark, erected by or under the direction of the Surveyor-General and for which he shall have published, or intends publishing, official co-ordinate values, and includes such other stations as may be prescribed.

(2) Whenever in any law a reference is made to the lodging or submission of a diagram, such reference shall, notwithstanding anything in such law contained, be deemed to be a reference to a diagram defined by, and complying with the requirements of this Act.

CHAPTER 2

ADMINISTRATION

2. Appointment of Surveyor-General. - (1) Subject otherwise to the laws governing the public service the Minister shall appoint as Surveyor-General an officer of the Department who is a land surveyor.

(2) The Surveyor-General shall, in respect of Ciskei, exercise the powers and perform the functions conferred upon or assigned to him by this Act.

(3) The person who at the commencement of this Act holds office as Surveyor-General shall be deemed to have been appointed as such in terms of subsection (1).

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3. Powers and duties of Surveyor-General. - (1) The Surveyor-General shall be in charge of such geodetic, topographical and cadastral surveying in Ciskei as the Minister may direct and, subject to the provisions of this Act, shall -

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

and generally exercise all such powers and perform all such duties as are by law conferred or imposed upon the Surveyor-General.

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

CHAPTER 3

RECOGNITION AND DUTIES OF LAND SURVEYORS

4. Recognition as land surveyor. - (1) Until otherwise provided in an Act of the National Assembly and subject to the provisions of any agreement between the Government of Ciskei and the Government of South Africa concerning the registration of and control over land surveyors, any person registered in the Republic of South Africa as a professional land surveyor under the Surveyor's Registration Act, shall while he continues so to be registered, be recognized for the purposes of this Act and be entitled to practise in Ciskei as a land surveyor.

(2) For the purposes of the Surveyors' Registration Act -

- (a) any improper conduct (as defined in section 28 of that Act or section 6 of this Act) on the part of any such person shall, subject to the provisions of the said section 6, be justiciable by the Council;

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(b) any enquiry in respect of such improper conduct may be held at any place in Ciskei; and

(c) the Council shall, in relation to such improper conduct and the land surveyor concerned, be competent to exercise any of the powers vested in it by the Surveyors' Registration Act and to make such of the orders and impose such of the penalties prescribed thereunder as it may deem just;

Provided that, in the application of the provisions of section 32 of the Surveyors' Registration Act, a reference to a provincial or local division of the Supreme Court of South Africa shall be construed as a reference to the general division of the Supreme Court of Ciskei.

5. Duties of land surveyor and non-liability of State. - (1) A land surveyor shall -

(a) carry out every survey undertaken by him in accordance with the provisions of this Act and the regulations and in such a manner as will ensure accurate results.

(b) be responsible to the Surveyor-General for the correctness of every survey carried out by him or under his supervision, and of every general plan and diagram which bears his signature;

(c) deposit with the Surveyor-General for the purpose of being examined and permanently filed in the Surveyor-General's office such records as may be prescribed relative to every survey carried out by him after the commencement of this Act for the purpose of, or in connection with, any registration of land in the deeds registry, and relative to every general plan or diagram prepared as a result of any such survey, and relative to every survey carried out by him after such commencement for the replacement of a beacon; and

(d) when required by the Surveyor-General, without delay correct, in any survey carried out by such land surveyor after the commencement of this Act or in any work appertaining thereto, any error due to failure to comply with the provisions of this Act and the regulations and take such steps as may be necessary to ensure the amendment of any diagram, general plan and title-deed based on such incorrect survey and to adjust the position of any beacon which he has placed in accordance with such incorrect survey.

(2) Neither the State nor any officer thereof shall be liable for any defective survey or work appertaining thereto performed by a land surveyor, notwithstanding that a general plan or diagram relating to such survey or work has been approved by the Surveyor-General or accepted for registration in the deeds registry.

6. Suspension or cancellation of right to practise as a land surveyor. - A land surveyor shall be guilty of improper conduct if he -

(a) signs, except as provided in subsection (1) of section 35 or in such circumstances as may be prescribed, a general plan or a diagram of any piece of land in respect of which he has not carried out or personally supervised the whole of the survey and field operations and carefully examined, and satisfied himself of the corrections of, the entries in any field book, and of the calculations, working plans and other records in connection therewith, which may have been made by any other person; or

(b) signs a defective general plan or diagram knowing it to be defective; or

(c) repeatedly performs, through negligence or incompetence, defective survey or surveys to which adequate checks have not been applied; or

(d) makes any entry in a field book, copy of a field book or other document, which purports to have been derived from actual observation or measurement in the field when it was not in fact so derived; or

(e) supplies erroneous information in connection with any survey, boundaries or beacons such of land knowing it to be erroneous; or

(f) is guilty of such conduct as, in the opinion of the Surveyor-General renders him unfit to practise as a land surveyor; or

(g) contravenes a provision of this Act or the regulations made thereunder or fails to comply with such a provision,

and the Minister may apply to the court by way of motion for the suspension or cancellation of the right of such land surveyor to practise as such in Ciskei and the Court may thereupon suspend or cancel such right or make such other order as it thinks fit, or the Director-General or person authorized by him may refer any complaint, charge or allegation of improper conduct to the Council for inquiry in terms of section 29 of the Surveyors' Registration Act.

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CHAPTER 4

ORIGINAL SURVEYS AND RESURVEYS

7. Original survey of land. - (1) If a land surveyor carries out a survey of any piece of land to which a title deed has been issued but of which a diagram has not previously been registered, he shall deliver or transmit to the Surveyor-General for examination and filing of record in the Surveyor-General's office -

(a) his certificate that the corner points of such piece of land are defined by beacons complying with the regulations and a minute description of each such beacon as it existed at the commencement of such survey and, in case the land surveyor has rebuilt any such beacon or substituted another beacon for it, the reason therefor and a minute description of the beacon after such rebuilding or substitution;

(b) such original records or copies thereof as may be prescribed relative to such survey and such further proofs of the accuracy of such survey and of the correct identification of the original beacons of such piece of land or of their positions as the Surveyor-General may require, and any other information which such land surveyor may consider material and useful or which the Surveyor-General may require.

(2) No diagram of any such piece of land shall be approved unless -

(a) there has been lodged with the Surveyor-General a document (in this section referred to as the agreement) as far as practicable in form 1 set forth in Schedule 2, signed by the owner of such piece of land or by his duly authorized agent, by every owner of land contiguous thereto (in this section referred to as a contiguous owner) or by his duly authorized agent and by two competent witnesses to each signature, being persons of either sex above the age of fourteen years, one of whom may be the land surveyor performing the survey: Provided that -

- (i) in respect of any beacon or boundary which is under this Act or any other law deemed to have been lawfully established or in respect of any beacon or boundary common to such piece of land and to unalienated State land, or to land situate outside Ciskei, no such agreement shall be necessary;
- (ii) in respect of such contiguous land, or any right to minerals in respect of the land being surveyed, which is held by two or more owners or holders in undivided shares, it shall be sufficient if the agreement is signed by the owners or holders of not less than a three-fourths share in such land or such right to minerals, as the case may be;
- (iii) in respect of any beacon or boundary which is not also a beacon or boundary demarcating an area in respect of which a right to minerals is held, the agreement need not be signed by the holder of such right to minerals;
- (iv) the Surveyor-General may require the agreement to be signed by holders of real rights, other than a right to minerals, if in his opinion such rights would be adversely affected by the position of the beacons and boundaries adopted in the survey in question; and

(b) there has been lodged with the Surveyor-General by such land surveyor his certificate that, to the best of his knowledge and belief, the boundaries of such piece of land have not by agreement between the owner of such piece of land and a contiguous owner been so changed as to effect a transfer of any land otherwise than in accordance with law.

(3) The Surveyor-General may, unless otherwise directed by an order of the court, refuse to approve a diagram of any such piece of land if he has reasonable grounds for believing that any area not owned by the owner of that piece of land has been included within the boundaries thereof as defined in such diagram or that payment of any taxes or duties has been or will be evaded by any registration in the deeds registry based upon such diagram.

(4) If any contiguous owner fails to sign the agreement within a period of two weeks from the date upon which he or his duly authorized agent was called upon to sign the agreement, the owner of such piece of land or his duly authorized agent shall serve upon such

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contiguous owner or his duly authorized agent a notice in writing, informing him that if he fails, within a further period of one month from the date of service of such notice, to lodge with the Surveyor-General an objection to the boundaries or beacons of such piece of land as set forth in the agreement which he was called upon to sign, he will be deemed to have agreed to such boundaries and beacons: Provided that if such contiguous owner is the State, or is outside Ciskei when so called upon to sign such agreement and when so served with such notice, such periods of two weeks and one month shall be extended to two months and three months respectively: Provided further that if the address of any such contiguous owner cannot be ascertained by diligent enquiry, the publication of such notice in two consecutive issues of the *Gazette* and once every week during two consecutive weeks in a newspaper (to be approved of by the Surveyor-General), circulating in the district within which such piece of land is situate, shall be deemed to be a service of such notice for the purposes of this subsection.

(5) The service of the notice referred to in subsection (4) shall, subject to the second proviso to that subsection, be effected by personal delivery or by registered post, and in the case of service by registered post, the date of service shall be deemed to be the date upon which the letter containing such notice would in the ordinary course reach the post office from which it is to be delivered to the addressee thereof.

(6) Whenever -

- (a) a contiguous owner has failed to sign the agreement; and
 - (b) the Surveyor-General has been satisfied by such proof as he may deem necessary that the provisions of subsection (4) have been complied with; and
 - (c) no objections to any beacon or boundary adopted in the survey of such piece of land has been lodged with the Surveyor-General by such contiguous owner within the period mentioned in the notice served upon him in terms of subsection (4); and
 - (d) the other requirements of this Act and the regulations have been complied with in regard to the survey of such piece of land and the diagram thereof,
- the Surveyor-General shall approve such diagram.

(7) (a) If any contiguous owner has failed to sign the agreement and has, within the period mentioned in any such notice as is referred to in subsection (4), lodged with the Surveyor-General an objection to any beacon or boundary adopted in the survey of such piece of land or to the diagram thereof, the Surveyor-General may serve notice upon every owner affected by such objection, calling upon him to undertake in writing, in the prescribed manner, to accept the award of an arbitrator or arbitrators to be appointed by the Surveyor-General as final and conclusive upon all matters in dispute in connection with any such beacon or boundary and in regard to the costs of, or incidental to such arbitration, and he shall in such notice notify the objector of the provisions of subsection (8).

(b) If every owner of land affected by the objection, or in the case of joint ownership, the owner or owners of not less than a three-fourths share in such land, has so undertaken, the Surveyor-General shall appoint such arbitrator or arbitrators to determine such matters and costs, and the resulting award shall be final and conclusive.

(c) If the requirements of paragraph (b) to enable the Surveyor-General to appoint an arbitrator have not been complied with, the Surveyor-General shall serve a notice to that effect on the objector and he shall in such notice notify the objector that the provisions of subsection (8) will apply *mutatis mutandis* as from the date of service of such notice.

(d) The service of any notice in terms of this subsection shall *mutatis mutandis* be governed by the second proviso to subsection (4) and by subsection (5).

(8) If any owner affected by the objection referred to in subsection (7), irrespective of whether he himself has lodged any objection or not, or whether he has signed the agreement referred to in subsection (4) or not, fails so to undertake, the objector may, if he was in Ciskei upon the date upon which notice in terms of paragraph (c) of subsection (7) was served upon him, within one month and if he was not in Ciskei on such date, within three months after such date, institute an action in the court to determine any such matter, or if the State is one of the persons affected by such objection, proceed to arbitration in respect of any such matter under any other law relating to the settlement of disputes by arbitration, and if he fails within

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such period to institute such action or proceed to such arbitration, as the case may be, he shall be deemed to have agreed to such beacon, boundary and diagram.

(9) Upon approving the diagram the Surveyor-General shall -

(a) cause such endorsement as may be prescribed to be made on all relative diagrams of adjoining land to the effect that the beacons and boundaries have been acknowledged by the owners concerned; and

(b) inform the registrar of the approval and thereafter no registration of a deed of transfer of the land represented by that diagram, or of any portion thereof or undivided share therein, shall be effected in the deeds registry until a certificate of amended title in respect of the said land has been issued or an endorsement has been made on the title deed of that land in terms of the applicable provisions of the Deeds Registries Act, 1937.

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

8. Diagram of land surveyed under direction of Surveyor-General. - (1) The provisions of section 7, other than the provisions of subsections (7), (8) and (9)(a) thereof, shall not apply in regard to the survey under the direction of the Surveyor-General, of any piece of land to which no title deed has been issued and which is not represented on any diagram registered in the deeds registry or Surveyor-General's office, but before approving the diagram of any such land the Surveyor-General shall cause a notice to be published in two consecutive issues of the *Gazette* and once every week during two consecutive weeks in a newspaper circulating in the district in which such land is situate, stating that a diagram of such land is lying for inspection at the Surveyor-General's office and that if no objection by an owner of land contiguous to the land represented on such diagram is received within sixty days from the first publication of such notice, such diagram will be approved by the Surveyor-General: Provided that he may dispense with the publication of such notices if, in his opinion, the rights of a contiguous owner would not be adversely affected by doing so.

(2) If within such period any owner of land contiguous to the land represented by such diagram lodges with the Surveyor-General an objection to such diagram or to any beacon or boundary adopted in the survey of such last mentioned land, and any dispute arising from such objection cannot be settled by agreement of the parties thereto, the provisions of subsections (7) and (8) of section 7 shall *mutatis mutandis* apply.

9. Rectification of title deeds after determination of boundary dispute. - (1) Wherever a dispute in regard to any boundary or beacon of contiguous pieces of land has been finally determined by the judgment of the court or by the award of arbitrators, the owners of any land affected by such judgment or award, or such of them as may be specially directed thereby, shall take such steps as may be necessary, in accordance with the law relating to the registration of deeds, either to procure a certificate of amended title to such land, or to cause an endorsement to be made on the existing title deed thereof as the Surveyor-General may direct: Provided that such certificate or endorsement shall be based upon a diagram correctly representing the boundaries and beacons of such land as determined by such judgment or award.

(2) Any such judgment or award shall determine in what proportions the costs of any survey for the purpose of framing such diagram or otherwise giving effect to such judgment or award, and of such certificate or endorsement, shall be borne by the owners of any land affected by such judgment or award.

(3) The Surveyor-General shall furnish the registrar with a description of any land in respect of which an amended title or an endorsement on the existing title is required in terms of subsection (1) and thereafter no registration of such land or any portion thereof or undivided share therein shall be effected in the deeds registry until an amended title thereto has been issued or such endorsement has been made.

10. Endorsement of diagrams when correct position of beacon or boundary has been determined and agreed upon. - (1) Whenever doubt or dispute has arisen in regard to any beacon or boundary of a piece of land, the diagram of which is registered in the deeds registry,

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and the position of the beacon or boundary in question has been determined by survey and such position accepted by agreement between the owners concerned, the Surveyor-General shall cause an endorsement to be made on the relative diagrams to the effect that the position of the beacon or boundary has been consented to by all contiguous owners: Provided that the provisions of section 7 shall *mutatis mutandis* have been complied with in all respects in regard to such beacon or boundary.

(2) The provisions of subsection (1) apply also in the case of -

- (i) a beacon which is erected by a land surveyor to replace a beacon which has been destroyed or disturbed;
- (ii) a curvilinear boundary (other than such boundary as is referred to in section 25) where two or more opinions exist as to the correct position on the ground of such boundary; and
- (iii) a curvilinear boundary which is ill-defined or unsatisfactory, and in respect of which the owners concerned have agreed upon its substitution by a boundary of another character.

11. Rules for arbitrators. - In deciding what are the true and correct beacons or boundaries common to two contiguous pieces of land an arbitrator appointed under this Act shall take into consideration the particular circumstances of each particular case but shall generally be guided by the following principles: -

(a) The original beacons of a piece of land, as erected or adopted at the original survey thereof (if any), shall be deemed to define the true boundaries of such land as granted or transferred, notwithstanding that such beacons may not correspond with the original diagram or may not include the extent of land which the title deed of such land purports to convey.

(b) When well ascertained beacons have, for an uninterrupted period of not less than thirty years been recognised by the parties to the dispute or their predecessors in title as the true and correct beacons, such beacons shall be taken to be the original beacons: Provided that no land which is clearly not included, nor intended to be included, in the title-deed of a piece of land may be included in a new diagram of that piece of land, notwithstanding that it may have been used or occupied for the period of prescription by the owner of such piece of land or his predecessors in title to the exclusion of the others.

(c) If any land included within the original beacons and boundaries of a grant has afterwards been included within the beacons and boundaries of a later grant, the right to the overlap conferred by the older grant shall, subject to the provisions of paragraph (b), prevail.

12. Approval of diagram of portion of unsurveyed land. - No diagram of any portion of an unsurveyed piece of land registered in the deeds registry shall be approved by the Surveyor-General until a survey has been made of the whole of such piece of land and a new title deed has been registered or the old title endorsed on the basis of such survey.

13. Replacing existing diagram by new diagram after resurvey. - (1) Whenever it is alleged by the owner, or whenever it appears from a resurvey, that the diagram of any land registered in the deeds registry (hereinafter referred to as the existing diagram), does not correctly represent any beacon, boundary or the area of such land, the Surveyor-General may approve a new diagram prepared in accordance with a resurvey of such land: Provided that the Surveyor-General may, in the prescribed circumstances, assign to a beacon an official co-ordinate value derived from one or more surveys based on the trigonometrical system from which no departure shall be permitted in a subsequent survey or resurvey except in the prescribed circumstances and manner.

(2) The provisions of section 7 shall apply *mutatis mutandis* in regard to the survey, but it shall not be necessary to comply with such provisions in respect of any beacon or boundary if -

(a) the numerical data relating to such beacon or boundary, as derived from the resurvey, do not differ beyond the prescribed limits from the corresponding data recorded on the existing diagram and upon which registration has been based, and the Surveyor-General is satisfied that the resurvey has been not less accurately performed than the previous survey and that the position of such beacon or boundary adopted in both such surveys is substantially the same; or

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(b) notwithstanding any difference beyond such limits, documentary evidence is produced which, in the opinion of the Surveyor-General, is sufficient to prove that the position of such beacon or boundary is correct:

Provided that nothing contained in this subsection shall be construed as preventing an owner from complying with the provisions of section 7 in respect of any beacon or boundary which the owner may wish to have lawfully established in terms of section 24.

(3) Upon approving such new diagram, the Surveyor-General shall endorse the existing diagram as having been superseded by the new diagram, and shall inform the registrar and thereafter no registration of the land represented by such new diagram, or of any portion thereof or undivided share therein, shall be effected in the deeds registry until a certificate of amended title thereto has been issued or an endorsement has been made (on the relative title deeds) in accordance with the law relating to the registration of deeds.

(4) If it appears from such resurvey that an existing diagram is correct, the Surveyor-General shall endorse thereon a certificate that the land represented thereby has been resurveyed and that the existing diagram has been found to be correct, and thereupon the beacons and boundaries of such piece of land shall be deemed to have been lawfully established in accordance with section 24: Provided that the provisions of section 7 shall *mutatis mutandis* apply in the same manner as if such resurvey were a survey, and as if such endorsement were an approval of a diagram for the purpose of that section, and that such endorsement shall not be made unless those provisions have been complied with.

(5) The provisions of this section shall also apply to land represented on two or more existing diagrams and resurveyed for the purpose of obtaining a certificate of consolidated title to such land.

14. Resurvey of block of land other than township. - (1) Whenever -

(a) the owners of not less than one half of a section or block of land (other than land referred to in Chapter 6) consisting of more than one registered piece of land apply to the Minister for a resurvey of such section or block, and

(b) the Surveyor-General reports that the boundaries of the several pieces of land constituting such section or block are confused and need readjustment, the Minister may order that such section or block be resurveyed under the direction of the Surveyor-General.

(2) No beacons or boundaries which have become lawfully established in accordance with the provisions of section 24 shall be affected by any resurvey or any other act performed under this section.

(3) Whenever in the course of a resurvey ordered under this section a dispute arises as to the boundaries of any such pieces of land, the Surveyor-General may give notice in writing to every person who is a party to such dispute that he proposes to appoint an arbitrator for the purpose of determining such dispute and the provisions of subsection (5) of section 7 shall *mutatis mutandis* apply in regard to such notice.

(4) Any such person may, if he was in Ciskei upon the date when such notice was served upon him, within one month, and if he was not in Ciskei upon such date, within three months after such date, institute an action in the court to determine such dispute, or if the State is one of the parties to such dispute, proceed to arbitration in respect thereof under the law relating to the settlement of disputes by arbitration; and if none of such persons institutes any such action or arbitration proceedings within such periods the Surveyor-General may appoint an arbitrator to determine such dispute and the award of such arbitrator in regard to such dispute and in regard to all costs thereof or incidental thereto shall be final.

(5) The costs of and incidental to any resurvey ordered under this section shall in the first instance be defrayed from the Ciskeian Revenue Fund and the Minister may thereafter recover those costs in such manner as may be prescribed by regulation from each owner of any such piece of land in accordance with a schedule framed by the Surveyor-General, apportioning such costs among all such owners.

(6) Upon payment by the owner of any such piece of land, of all costs due by him in respect of a resurvey ordered under this section, the Surveyor-General shall cancel the existing diagram of such piece of land and shall issue to him a new diagram in place thereof.

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(7) The Surveyor-General shall not approve a general plan representing such pieces of land based upon a resurvey under this section until a copy thereof has been available for inspection during a period of six weeks at his office and at the office of the magistrate of the district within which such land is situate and until he has published, in three consecutive issues of the *Gazette* and once every week during three consecutive weeks in a newspaper circulating in such district, a notice stating his intention to approve such general plan and calling upon persons interested who object to such approval to lodge such objection with the Surveyor-General: Provided that the Surveyor-General may approve any such general plan without publishing such notice, if every owner of any land affected by such resurvey has agreed in writing to such general plan or to the beacons and boundaries adopted in such survey or if such general plan is in accordance with a judgment or award under subsection (4) in an action or arbitration proceedings to which every such owner was a party.

(8) If within four weeks from the date of the last publication of such notice no such objection has been so lodged by any person other than a person who was a party to an action or arbitration proceedings under subsection (4), the Surveyor-General may approve such general plan and upon such approval he shall, by notice in the *Gazette*, declare that such general plan has been approved.

(9) If within such period of four weeks any such objection has been so lodged, the provisions of subsections (7) and (8) of section 7 and the proviso to subsection (3) of section 21 shall *mutatis mutandis* apply.

CHAPTER 5

DIVISION SURVEYS

15. Division diagrams. - (1) Subject to the provisions of any other law regulating the subdivision of land, whenever the owner of a surveyed piece of land desires to divide the same and to effect separate registration of one or more portions of such land in the deeds registry, each of the portions to be so registered shall be surveyed and a diagram thereof shall be submitted for examination to the Surveyor-General, who shall approve every such diagram prepared in accordance with this Act and the regulations: Provided that if it is desired to effect a separate registration of the remaining extent of such piece of land it shall not be compulsory so to submit a diagram of such remaining extent:

Provided further that, if the diagrams of two or more portions comprising the whole of such piece of land have been approved, the Surveyor-General shall notify the registrar and thereafter no registration, relating in any way to the land comprising the remaining extent after the penultimate portion has been registered, shall take place unless the Surveyor-General has consented to and effected the cancellation of the diagram of the last portion or unless such diagram has been substituted for the existing diagram in accordance with the law relating to the registration of deeds.

(2) Upon separate registration of any such portion being effected the Surveyor-General shall define on the copy of the diagram of the land so divided, belonging to the owner of such remaining extent, and on the copy of such diagram registered in the deeds registry or on that filed in the office of the Surveyor-General the geometrical figure representing such portion and deduct its numerical extent: Provided that, in such cases as may be prescribed, such definition and deduction may be made on a general plan instead of on such diagram.

16. Procedure on division survey. - The provisions of subsections (1) and (2) of section 13 shall apply *mutatis mutandis* in regard to the beacons and boundaries of any portion of land surveyed in terms of section 15: Provided that every piece of land, a beacon or boundary whereof has a bearing in the prescribed manner on such portion, shall be deemed to be contiguous thereto for the purpose of paragraph (b) of subsection (2) of section 7.

17. Division of land bounded by the sea, etc. - Where the high water line of the sea or of a tidal river or a line parallel with it or the edge of a lake or vlei, the property of the State, forms a boundary of any surveyed land and the owner thereof intends to divide such land and to place any beacon along or near such boundary for the purpose of effecting such division, notice in writing of such intention shall be given to the Surveyor-General at least twenty days before the date of commencement of the survey for the purpose of such division.

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18. Diagram of exact fraction of land. - When a surveyed piece of land which is held in undivided shares is divided for the purpose of partition, the Surveyor-General may withhold his approval of a diagram purporting to represent an exact fraction of the total area of such surveyed piece of land until he is satisfied that such total area has been ascertained by a resurvey of the whole of such piece of land.

19. Reference marks. - (1)(a) In the survey of new townships or extension of townships or the subdivision of an erf, reference marks shall be erected and surveyed as prescribed, so that the positions of the corner points of all pieces of land shown on the general plan can be accurately determined.

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

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

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

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

(b) The erection and establishment of such reference marks shall for all purposes be deemed to be part of and in continuation of the trigonometrical survey operations referred to in section 3: Provided that a local authority may at its own cost erect such reference marks in positions approved by the Surveyor-General.

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

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

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

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

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CHAPTER 6

TOWNSHIPS

20. Resurvey of townships, etc. - (1) When the recognised boundaries of the pieces of land which compose a township, do not conform with the boundaries represented on their respective diagrams or the general plan, the Minister may cause such township or any defined portion thereof to be resurveyed and a new general plan thereof to be prepared in accordance with such resurvey: Provided that the resurvey of any township, or any portion thereof falling within the area of jurisdiction of a local authority shall be carried out only after written application for such resurvey has been made to the Minister by the said local authority.

(2) Before any local authority applies to the Minister for a resurvey of any township or portion thereof, falling within its jurisdiction, it shall, in consultation with the Surveyor-General, cause a notice of such intended application for resurvey to be published in three consecutive issues of the *Gazette* and once every week during three consecutive weeks in a newspaper circulating in the district in which such township is situate and to be posted outside the office of the local authority of such township. If no local authority has been established for such township, or if there is a local authority which is not by law empowered to incur expenditure for the purpose, the Surveyor-General shall, before any such resurvey is commenced, cause a notice of such intended resurvey to be published as aforesaid and have the notice posted outside the office of the magistrate of such district.

(3) Such resurvey shall be based on reference marks established in terms of section 19: Provided that any reference marks erected before the commencement of this Act and conforming with the requirements of that section shall be deemed to have been established in terms of that section.

(4) Such resurvey shall be carried out and such general plan shall be prepared under the direction of the Surveyor-General by a land surveyor, appointed by him: Provided that where such township falls within the area of jurisdiction of a local authority, such local authority may, subject to the concurrence of the Surveyor-General, appoint the land surveyor.

(5) No beacon or boundary which has become lawfully established in accordance with the provisions of section 24 shall be affected by any resurvey or any other act performed under this section.

(6) (a) (i) All costs of and incidental to such resurvey shall (except in respect of State land) be borne by the local authority of the resurveyed township and, notwithstanding anything contained in any other law, such local authority may levy a special rate payable by the registered owners of land within the resurveyed area, in proportion to the value of the land (including non-rateable land other than State land) held in ownership by each, to cover the costs of and incidental to the resurvey of any portion thereof. The Minister, after consultation with the local authority concerned, shall determine the costs which shall be payable by the Government in respect of State land.

(ii) In this paragraph "the value of the land" means the valuation of that land appearing in the valuation roll used for rating purposes by the local authority concerned or, in the absence of such valuation, a valuation approved by the Minister after consultation with the local authority.

(b) If no local authority has been established for such township, or if there is a local authority which is not by law empowered to incur expenditure for the purpose, the owners of land (including the State) in the resurveyed area shall bear the costs of and incidental to such resurvey in a proportion to be determined by the Minister. Before such resurvey is commenced the owners, other than the State shall deposit with the Minister an amount deemed by him to be sufficient to cover their proportionate amount of the costs. If their share of the actual costs is less than the amount deposited, the difference shall be refunded to them and, if such share is in excess of the amount deposited, the Minister may recover the difference from them by action in a competent court.

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21. Approval of new general plan. - (1) The Surveyor-General shall not approve a new general plan of a township or of a defined portion thereof resurveyed under the provisions of section 20 until a copy thereof has during a period of six weeks been available for inspection at his office and at the office of the local authority within whose jurisdiction the area resurveyed is situate or, if there is no local authority, at the office of the magistrate of the district in which such area is situate and until notice of his intention to approve the same has been published by the Surveyor-General in three consecutive issues of the *Gazette* and once every week during three consecutive weeks in a newspaper circulating in the district in which such area is situate, calling upon persons interested to lodge in writing at his office any objection they may have to the approval of the new general plan.

(2) If within four weeks from the date of the last publication of the said notice no such objection has been so lodged, the Surveyor-General may approve the new general plan and upon such approval he shall by notice in the *Gazette* declare that such general plan has been approved.

(3) If within such period of four weeks any objection to the new general plan has been so lodged, the provisions of subsections (7) and (8) of section 7 shall *mutatis mutandis* apply: Provided that the Surveyor-General may approve and make use of a general plan or general plans of such portions of the area resurveyed as are not affected by such objection, and generally may take any steps in regard to such portions if no such objections had been lodged.

(4) The approval of a new general plan of an area resurveyed under section 20 shall *ipso facto* cancel every preceding diagram or general plan, or portion of a diagram or general plan representing such area.

22. New general plan supersedes erroneous diagrams. - (1) Whenever a new general plan of a township or portion thereof has been approved under the provisions of section 21, the Surveyor-General shall furnish the registrar with a list of all pieces of land shown thereon and thereafter no transfer, endorsement or any other act affecting the registration of any such piece of land or any portion thereof or undivided share therein shall be effected in the *deeds registry* until a diagram, agreeing with such new general plan, has been lodged and the relative title deed endorsed in accordance with such diagram.

(2) (a) The owner of any piece of land may, on application to the Surveyor-General, obtain a new diagram representing such piece of land, on production of a certificate by the proper authority to the effect that any amount due by such owner in terms of paragraph (a) or (b) of subsection (6) of section 20 in respect of such piece of land has been paid by him.

(b) The Surveyor-General shall, on payment of the usual office fees, cause such new diagram to be prepared from the data recorded on such new general plan.

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

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

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

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CHAPTER 7

BEACONS AND BOUNDARIES

24. Beacons and boundaries lawfully established. - (1) Notwithstanding anything contained in any law, the position of any beacon or boundary deemed in terms of this section to be lawfully established shall be unimpeachable, that is to say, it shall not be capable of being brought into question in any court, and the Surveyor-General or the registrar shall not accept for filing or registration any document which shows any beacon or boundary inconsistent with such position.

(2) A beacon or boundary shall be deemed to be lawfully established -

(a) when its position is in agreement with the position adopted in any survey or resurvey performed in terms of this Act, provided that the provisions of section 7 have *mutatis mutandis* been complied with in respect of such beacon or boundary;

(b) when its position is in agreement with the position thereof adopted in a resurvey in terms of section 14 or section 20 and when a general plan based on such resurvey has been approved;

(c) when its position is in agreement with an order of the court;

(d) when its position is in agreement with the position thereof adopted in a resurvey under any repealed law and when an amended title based on such resurvey has been issued under the provisions of such law; or

(e) when its position is in agreement with the position of a beacon or boundary established and entitled to recognition as at 1 January 1929, pursuant to any law or usage concerning the establishment or recognition of beacons and boundaries in force prior to such date, notwithstanding that such law may have been repealed.

(3) Nothing in this section contained shall be deemed to prevent the acquisition by prescription of any right to or interest in land, which is capable of being acquired by prescription.

25. Removal of uncertainty in description of curvilinear boundary. - (1) When the particular part of a physical feature (excluding a river) constituting a curvilinear boundary of any piece of land is not described in writing and in unequivocal terms in the title deed or on the original diagram of such land and -

(a) the owner is desirous of having any uncertainty or ambiguity regarding the description of such boundary removed, or

(b) when a diagram representing the whole of such piece of land or any subdivision thereof which abuts on such physical feature has been submitted for approval and the Surveyor-General deems it necessary that the aforesaid uncertainty or ambiguity shall be removed prior to the approval of the diagram and has called upon the owner to take steps to that end,

such owner shall lodge with the Surveyor-General a document (in this section referred to as the agreement) as far as practicable in accordance with Form 1 of Schedule 2, setting out in clear terms, as prescribed, which part of such feature is acknowledged as being the boundary of such piece of land.

(2) The agreement shall be independent of any determination by survey of the position on the ground of such curvilinear boundary and shall be signed by the owner of such piece of land or by his duly authorized agent and, subject to the second proviso to paragraph (b) of subsection (2) of section 7, by every owner of land contiguous thereto and separated therefrom either wholly or in part by such physical feature (in this subsection and in subsection (5) referred to as a contiguous owner) or by his duly authorized agent, and by two competent witnesses to each signature: Provided that it shall not be necessary for a contiguous owner to sign the agreement if the Surveyor-General is satisfied that no prejudice will result to such owner from the acceptance of such agreement.

(3) The provisions of section 7 (4), (5) and (6) shall *mutatis mutandis* apply in respect of the agreement.

(4) When the agreement has been signed in accordance with the provisions of this

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section and has been accepted by the Surveyor-General, no diagram of such piece of land or subdivision thereof shall thereafter be approved which is not in accordance with such agreement.

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

(b) The commission referred to in paragraph (a) shall consist of an officer of the State appointed in writing by the Director-General, the Surveyor-General who shall be chairman, and the Registrar of Deeds.

(c) The commission shall enquire into the case and shall furnish a description of the boundary in question according to the finding arrived at by the majority of the members after due consideration of all the documentary evidence available from the Surveyor-General's and the deeds registry records and such other evidence, whether documentary or oral, as the commission may have deemed necessary.

(d) The owners or the holders of any real right affected by the agreement shall be notified by registered letter of the finding of the commission, and, if within a period of thirty days after the date of posting of such registered letter (or in the case of an owner not at that time in Ciskei, sixty days), any such owner or holder of a real right fails to lodge formal written objection against such finding, and thereafter within a further period of thirty days to take steps to institute an action to determine the matter, such owner or holder of a real right shall be deemed to have consented to the description decided upon by the commission: Provided that if the address of a contiguous owner, or of a holder of a real right, is not readily ascertainable by the Surveyor-General, the publication of the finding of the commission by notice in two consecutive issues of the *Gazette* and once a week during two consecutive weeks in a newspaper (to be approved by the Surveyor-General) circulating in the district in which the property in question is situated, shall for the purposes of this subparagraph be sufficient notice to such owner or such holder of a real right. Thereafter such description shall not be capable of being disputed in any court of law, and no diagram shall be approved which is not in accordance with it.

(e) On the agreement coming into force, the diagrams of each property affected filed in the office of the Surveyor-General and in the deeds registry, as well as the owner's copy thereof, when available, shall be endorsed accordingly.

(6) (a) When a river, other than tidal river as defined in section 1 of the Nature Conservation Act, 1987 (Act 10 of 1987), constitutes a boundary of any piece of land, such piece of land shall be deemed to extend to the middle of the river unless -

- (i) it is stated in clear and unequivocal terms in the title deed or on the original diagram of such land that a particular bank of the river constitutes such boundary; or
- (ii) it is stated in clear and unequivocal terms in the title deed or on the original diagram of land contiguous to such first-mentioned land and separated therefrom by the river, that the entire river bed forms part of such contiguous land; or
- (iii) the inclusion of any part of the river bed in the said land would cause the said boundary to fall beyond the territorial limits of the grantor as they existed at the time when the grant of the said land was made; or
- (iv) the Surveyor-General is in possession of information indicating that the inclusion of any part of the river bed in the said land would be invalid;

(b) On the written application of the owner of a piece of land of which the relevant boundary is deemed to be the middle of the river in terms of paragraph (a), the Surveyor-General shall endorse the diagram of such piece of land to the effect that the middle of the river is the boundary.

(c) When the Surveyor-General is satisfied that on the ground of the provisions

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of subparagraph (i), (ii), (iii) or (iv) of paragraph (a) any bank of a river constitutes the boundary of a piece of land, he may, on the written application of the owner of that piece of land, endorse the diagram of that piece of land to the effect that the said bank is the boundary.

(d) When a diagram representing a piece of land, or any subdivision thereof, in respect of which the presumption contemplated in paragraph (a) is applicable, is submitted for approval and the Surveyor-General deems it necessary that the said diagram be, prior to its approval, endorsed in terms of the provisions of paragraph (b), he shall call upon the owner of the said piece of land, or subdivision thereof, to submit a written application as contemplated in paragraph (b) and shall upon receipt of such application endorse the said diagram in terms of the provisions of that paragraph.

(7) (a) When the Surveyor-General is of the opinion that the river boundary of an existing subdivision of a piece of land coincides with a part or the whole of the river boundary of such piece of land as originally granted, he may, notwithstanding evidence to the contrary, give effect to the terms of an agreement lodged with him in terms of paragraph (b) in respect of that subdivision.

(b) The owner of a subdivision to which paragraph (a) relates, may lodge with the Surveyor-General an agreement as far as practicable in accordance with Form 1 of Schedule 2, setting out in clear terms, as prescribed, that the middle of the river is acknowledged as being the river boundary of that subdivision.

(c) The provisions of subsections (2), (3), (4) and (5) shall, *mutatis mutandis*, apply in respect of such agreement.

(8) For the purposes of subsections (6) and (7) -

(a) "contiguous owner" means any owner of land whose rights could, in the opinion of the Surveyor-General, be affected by the acceptance of an agreement referred to in subsection (7); and

(b) "river" includes a watercourse, stream, spruit, donga or similar natural feature, whether the flow of water in it is of a perennial nature or not, and which is indicated as a boundary of a piece of land on a diagram or general plan filed in the office of the Surveyor-General or in the deeds registry or which is described as a boundary of a piece of land in a title deed registered in the deeds registry.

26. Manner and cost of erecting beacons for survey purposes. - (1) All beacons erected for the purpose or in consequence of any survey or resurvey of land under this Act or any prior law shall be substantially and durably constructed under the supervision of, and in the position determined by, a land surveyor.

(2) The materials of which such beacons shall be composed and the manner in which they shall be erected shall be prescribed.

(3) Subject to the proviso to subsection (4) of section 28 the cost of erecting such beacons, including the costs of determining their positions by survey, when necessary, shall be borne by the owner of the land so surveyed or resurveyed, who shall be entitled to recover from the owner or owners of contiguous land a proportionate share of the cost of determining the position of and erecting any joint beacon.

27. No structure to be placed or excavation made near beacon. - Except with the consent of the Surveyor-General, it shall not be lawful for any person to place any fence-post or fence-anchor or any other erection or to make any excavation within one metre of any trigonometrical station.

28. Repair or re-erection of beacons. - (1) Every owner of land shall maintain in proper order and repair in accordance with regulation any beacon or mark defining a corner point of such land, whether such beacon or mark was erected for the purpose of or in connection with a survey or resurvey of such land under this Act or any prior law or for the purpose of or in connection with the survey or resurvey of any land contiguous thereto.

(2) If any such beacon or mark has not been maintained in proper order and repair or has been removed or obliterated, the Surveyor-General may, by delivery or by transmission in a registered letter through the post, serve upon the owner of every piece of land whereof such

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beacon or mark forms a corner, a notice in writing calling upon him to restore such beacon or mark to the prescribed condition or to re-erect it in the prescribed manner, as the case may be: Provided that the re-erection of any such removed or obliterated beacon or mark shall be carried out by a land surveyor.

(3) If such beacon or mark is not restored or re-erected within six weeks of the date upon which any such notice was so delivered or posted or within such longer period as the Surveyor-General may on application allow, the Surveyor-General may cause such beacon or mark to be so restored or re-erected by a land surveyor.

(4) The owners of all such pieces of land shall be liable in equal shares for the costs of the repair, restoration or re-erection of any such beacon or mark and the Surveyor-General may recover from every such owner his share of all costs incurred by the Surveyor-General under subsection (3): Provided that, if any such owner or the servant or agent of any such owner damaged, removed or obliterated any such beacon or mark, the entire cost of the repair, restoration or re-erection of such beacon or mark shall be borne by such owner.

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

29. Offences in relation to beacons etc. and provisions regarding compensation. -

(1) Any person who, without lawful excuse (the burden of proof whereof shall be upon him) -

(a) alters, moves, disturbs or wilfully damages or destroys any beacon, bench mark, reference mark, signal or trigonometrical station intended to be permanent and erected for the purpose of or in connection with any survey operations, whether such beacon, bench mark, reference mark, signal or trigonometrical station is upon his own land or not; or

(b) erects any beacon except under the supervision of a land surveyor, whether his intention is to alter the boundary line of any piece of land or to cause deception as to that boundary line or not,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or, in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and the removal or disturbance of any such beacon, mark or signal for the purpose of erecting another beacon, mark or signal in its place shall not constitute a lawful excuse under this section unless a land surveyor personally supervises such removal or disturbance and the erection of such other beacon, mark or signal.

(2) For the purpose of the award of compensation under the law relating to criminal procedure in respect of any damage caused by such offence, any beacon in connection with which any such offence was committed shall be deemed to be the property of any person upon whose land or upon a boundary of whose land such beacon was situate and any bench mark, reference mark or trigonometrical station in connection with which any such offence was committed shall be deemed to be the property of the Surveyor-General.

30. Authority to remove beacon. - Any person who, for the purposes of carrying out any work which he may lawfully perform, desires to remove or disturb any beacon or mark erected in connection with the survey of land, shall apply to the Surveyor-General for authority to effect such removal or disturbance and the Surveyor-General may thereupon, at the expense of such applicant, employ any land surveyor to effect or supervise personally the removal or disturbance and subsequent replacement, in accordance with regulation, of such beacon or mark or the erection or placing of any other mark to indicate the position of such removed or disturbed beacon or mark, in such manner as the Surveyor-General may direct.

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CHAPTER 8

GENERAL PLANS AND DIAGRAMS

31. Manner of preparing a diagram. - Every general plan or diagram submitted for the approval of the Surveyor-General shall be prepared in accordance with the regulations and the numerical and other data recorded thereon shall be within the prescribed limits of consistency.

32. No registration of land without approved diagram. - No general plan or diagram of any piece of land shall be accepted in the deeds registry in connection with any registration therein of such land unless such general plan or diagram has been approved by the Surveyor-General: Provided that, in the event of such approval being contingent upon any act being subsequently performed in the deeds registry, the Surveyor-General may approve such general plan or diagram provisionally and, upon the performance of that act in the deeds registry, the Surveyor-General shall finally approve such general plan or diagram when it is submitted to him.

33. Diagram must be signed by land surveyor. - No general plan or diagram shall be approved by the Surveyor-General unless it is prepared under the direction of and signed by a land surveyor: Provided that the Surveyor-General may approve a general plan or a diagram framed by his direction from general plans, diagrams or survey records filed in his office or registered in the *deeds registry*, without the signature thereon of the land surveyor who signed such general plans, diagrams or survey records if he is not available or unreasonably refuses to sign the general plan or diagram so framed.

34. Rectification of overlap of diagrams. - (1) Whenever the figure of the diagram of a piece of land (hereafter referred to as the overlapping diagram) overlaps the figure of the diagram of another piece of land and the Surveyor-General deems it necessary to rectify the anomaly, he shall give notice of the overlap to the registrar and to the owner of the land represented on the overlapping diagram and thereafter no further registration of such land or any portion thereof or undivided share therein shall be effected in the deeds registry until the Surveyor-General, after receipt of such data as he may require from the owner for the purpose, has rectified the overlapping diagram.

(2) The provisions of section 36 shall apply *mutatis mutandis* in regard to the service of the notice referred to in subsection (1).

(3) The provisions of section 37 shall apply *mutatis mutandis* in regard to the alteration of the title deed in respect of the overlapping diagram.

35. Diagram for consolidated title. - (1) The Surveyor-General may approve a diagram which has been compiled, without any resurvey, from two or more diagrams representing several pieces of land and which has been prepared for the purpose of obtaining a consolidated title thereto.

(2) The several diagrams forming the component parts of a new diagram which has been framed for the consolidation of title shall, upon the issue of the certificate of such consolidated title, be transmitted by the registrar to the Surveyor-General for cancellation.

36. Registrar and owner to be informed of incorrect diagram. - If the Surveyor-General is satisfied that the diagram of any piece of land entirely fails to represent such land or misrepresents it to such an extent that damage or loss might result to any person who is or may become interested therein, he may give notice of such fact to the registrar and to the owner of such piece of land and thereafter no further registration of such piece of land or of any portion thereof or undivided share therein shall be effected in the deeds registry until a new diagram thereof has been approved and a certificate of amended title thereto has been issued or the title deed thereof has been endorsed, in accordance with such new diagram under the law relating to the registration of deeds: Provided that, if the Surveyor-General is unaware of the address of the owner of such piece of land, a publication of such notice in two consecutive issues of the *Gazette* and once every week during two consecutive weeks in a newspaper circulating in the district within which such piece of land is situate, shall be deemed to be sufficient notice to such owner for the purposes of this section.

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37. Correction of registered diagrams. - The Surveyor-General may correct any error in the numerical data, figure or wording of a diagram registered in the deeds registry: Provided that, if such correction affects the extent or designation of the land represented by such diagram, the Surveyor-General shall notify the registrar of such correction, and the registrar shall thereupon amend the relative title deed and registers in his deeds registry in accordance with such corrected diagram and, before effecting any further registration of such land or any portion thereof or undivided share therein, shall likewise amend the relative duplicate title deed belonging to the owner of such land.

CHAPTER 9

MISCELLANEOUS

38. Powers of entry etc. upon land. - (1) The Surveyor-General, any person generally or specially deputed in writing by him or a land surveyor may, for the purpose of performing any duties imposed by or in pursuance of this Act or the regulations or any other law -

(a) enter upon any land with such assistants, animals, vehicles, appliances and instruments as are necessary for or incidental to the performance of those duties;

(b) place or erect any permanent beacon, bench mark, reference mark or trigonometrical station or any temporary flag, signal or other mark upon such land;

(c) make use of any natural material upon which no work has been expended and, except within a township, of any water, whether conserved or not, found upon or in such land;

(d) cut any vegetation growing wild in the vicinity of any such beacon, mark, trigonometrical station, flag or signal for the purpose of enabling observations to be made thereto or therefrom; and

(e) enter at all reasonable hours any building or enclosed place:

Provided that -

(i) reasonable notice of the intention to exercise any of the powers conferred by this section shall be given to the owner or occupier of such land except when such powers are exercised in carrying out any provision of section 20; and

(ii) as little damage and inconvenience as possible shall be caused by the exercise of any of the powers conferred by this section, and such owner or occupier shall be entitled to compensation for any damage caused to or in any building or enclosed place, and for any unreasonable damage caused to any other property belonging to such owner or occupier.

(2) Any person, who in any way whatsoever prevents, obstructs or impedes the exercise of any of the powers conferred by subsection (1), or who moves, obscures or destroys any flag, peg, signal or other mark of a temporary nature lawfully placed on such land in connection with any surveying operations before the completion of such operations, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or, in default of payment, to imprisonment for a period not exceeding one month.

(3) The Minister may require that a servitude in favour of the State protecting any permanent beacon, bench mark, reference mark or trigonometrical station, and ensuring an unobstructed view to and from any other such beacon, mark or station shall be granted by the owner of any land upon or near which any such beacon, mark or station is situate, and cause such servitude to be registered against the title of deed of such land: Provided that the costs of the registration of such servitude and reasonable compensation for any depreciation (if any) in the value of the servient tenement by reason of the establishment of such servitude shall be paid out of the Ciskeian Revenue Fund.

39. Act binding on the State. - Subject to the provisions of section 41, this Act shall be binding on the State, and, for the purposes of the agreement contemplated in Section 7(2), the Surveyor-General shall be deemed to be the owner of any State Land affected by such agreement.

40. Unauthorized practice as surveyor. - (1) After the commencement of this Act no person, except a land surveyor entitled to practise as such, shall -

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(a) perform any survey for the purpose of preparing any diagram or general plan to be filed or registered in the deeds registry or referred to in any manner whatsoever in any other document to be so filed or registered;

(b) perform any survey affecting the delimitation of the boundaries or the location of the beacons of any land registered or to be registered in the deeds registry; or

(c) hold himself out in any manner whatever as a land surveyor.

(2) Any person who contravenes any provision of this subsection shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or, in default of payment of such fine, to imprisonment for a period not exceeding six months.

41. Savings regarding certain surveys. - This Act shall not apply -

(a) to surveys for purposes of railway or harbour construction, or purposes incidental thereto, performed on behalf of the State, or

(b) to surveys performed by any officers in the employ of the State for the purposes of the Water Act, 1956 (Act 54 of 1956) or any other law relating to irrigation, provided any such survey is not used for the purposes of effecting the registration of any land in the deeds registry.

42. Notice to Surveyor-General of application to the court. - Before any application is made to the court for an order affecting the performance of any act in the Surveyor-General's office, the applicant shall give notice in writing to the Surveyor-General at least two months before the hearing of such application and the Surveyor-General may submit to the court such report thereon as he may deem desirable.

43. Regulations. - (1) The Minister may make regulations not inconsistent with the provisions of this Act prescribing -

(a) the fees which a land surveyor shall charge for the survey of land, of a subdivision thereof or of a real right therein, including any records required before such survey can be undertaken or otherwise relating to such survey, the manner in which and the person by whom such fees may be taxed, the costs of such taxation and by whom they shall be borne;

(b) the manner in which surveys shall be performed, and the manner and form in which the records of such surveys shall be prepared and lodged with the Surveyor-General;

(c) the degree of accuracy to be obtained and the limit of error to be allowed in surveys and re-surveys of land and for surveys to establish reference and other permanent marks;

(d) the diagrams and general plans required in connection with the registration of any land in the deeds registry, the manner of preparing such diagrams and general plans, the information to be recorded thereon and the number of such diagrams and general plans to be supplied;

(e) the form and dimension of beacons, reference marks, bench marks and trigonometrical stations, the manner of marking the same for identification and the manner of their construction, erection, protection, maintenance and repair;

(f) the procedure to be followed in arbitration proceedings under this Act and the powers and duties of arbitrators appointed under this Act;

(g) the manner and circumstances in which cadastral and other surveys shall be based upon or connected to trigonometrical stations and reference marks;

(h) the manner of re-surveying any block of land for the purpose of readjusting the boundaries establishing the beacons thereof and the manner of recovering the cost of such re-surveys;

(i) the steps to be taken by the Surveyor-General to test the accuracy or correctness of surveys of which the results are recorded on diagrams which have been, or are intended to be, registered in the deeds registry, and, in the event of such surveys being inaccurate or incorrect, to cause correct diagrams to be framed and the relative title deeds to be amended;

(j) the testing of surveying instruments and of measuring tapes to be used in the survey of land;

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(k) the unit of measure to be used in surveys or on general plans and diagrams;

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

(2) A regulation may prescribe a penalty for any contravention thereof or non-compliance therewith, not exceeding a fine of one hundred rand.

44. Minister may prescribe fees of office. - The Minister may by notice in the *Gazette* and with the concurrence of the Treasury -

(a) prescribe the fees to be charged in respect of any act or matter required or permitted to be performed or dealt with in or in connection with the office of the Surveyor-General, and

(b) grant exemption or partial exemption from payment of any or of all fees prescribed in terms of paragraph (a) to any body, specified in such notice, established by or under any law for the promotion of any matter which in the opinion of the Minister is in the public interest.

45. Repeal of laws and savings. - (1) The laws mentioned in Schedule 1 are hereby repealed.

(2) Anything done in terms of any provision of any law repealed by subsection (1) shall be deemed to have been done in terms of the corresponding provision (if any) of this Act.

(3) Until the Minister makes regulations in terms of section 43 after the commencement of this Act, the regulations in force under the laws repealed by subsection (1) (hereinafter referred to as the existing regulations) shall, notwithstanding such repeal and in so far as the existing regulations can be applied and are not inconsistent with the provisions of this Act, continue to apply and be deemed to have been made by the Minister in terms of subsection 43: Provided that whenever, after the commencement of this Act, the Minister makes regulations relating to any of the matters referred to in section 43, that part of the existing regulations relating to any matter dealt with in the regulations so made shall be deemed to have been repealed.

46. Short title. - This Act shall be called the Land Survey Act, 1988.

SCHEDULE 1

LAWS REPEALED

(Subject to the provisions of section 45)

Number and Year	Short Title
Act 9 of 1927	Land Survey Act, 1927
Act 14 of 1941	Land Survey Amendment Act, 1941
Act 14 of 1950	Land Surveyor's Registration Act, 1950
Act 52 of 1962	Land Survey Amendment Act, 1962
Act 64 of 1970	Land Survey Amendment Act, 1970
Act 52 of 1971	Land Survey Amendment Act, 1971
Act 71 of 1972	Land Survey Amendment Act, 1972
Act 23 of 1977	Land Survey Amendment Act, 1977
Act 26 of 1981	Land Survey Amendment Act, 1981

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SCHEDULE 2

FORM 1

Agreement to Beacons and Boundaries

We, the undersigned, (a)

1. owner of (b)
2. owner of (b)
3. owner of (b)
4. owner of (b)
5. owner of (b)
6. owner of (b)
7. owner of (b)
8. owner of (b)
9. owner of (b)
10. owner of (b)
11. owner of (b)
12. owner of (b)
13. owner of (b)
14. owner of (b)
15. owner of (b)

and owner of the piece of
land under survey called
certify that we have inspected the beacons and boundaries common to our
said properties as adopted in the survey of the last-named piece of land by
Mr. Surveyor

AND we declare that we agree and consent to the positions of the beacons and
boundaries as represented on the figure appearing on the opposite page, and
consent to a diagram being framed in accordance with such beacons and boundaries.

Date	Signature (c) and (d)	Beacons and Boundaries indicated on figure on opposite page and hereby agreed to. (e)	Witnesses to Signature (f)
.....	{ 1. 2.
.....	{ 1. 2.
.....	{ 1. 2.
.....	{ 1. 2.

ADJOINING OWNERS TO SIGN ON NEXT PAGE IN SAME ORDER AS ABOVE.

Explanatory Notes

- (a) Names in full (to be clearly written in capital letters).
- (b) Names of contiguous properties.
- (c) Only one signature to be written within each compartment and each signature to be dated.
- (d) Signatures on behalf of Estates, Companies, Municipalities or similar bodies must be duly authenticated by attachment of letters of administration, certified copies of resolutions of Boards or Councils or other similar documents. Signatures on powers of attorney must be accompanied by the actual powers or certified copies. Original documents will be returned after being noted hereon by the Surveyor-General.
- (e) Where a river forms the boundary, the left bank, right bank, or middle of the river (as the case may be) must be indicated and signed for.
- (f) Two witnesses are required to each signature.

If required more than one of these forms may be used provided that page two is completed on each form.

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(ACT No. 22 OF 1988)
