



**BERMUDA
1962 : 115**

SURVEY OF BERMUDA ACT 1962

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[27 July 1962]

[preamble and words of enactment omitted]

Interpretation and extent of application

1 (1) In this Act—

"authorised person" means any officer of the Department of Works and Engineering or any other person duly authorised by the Minister;

"the Chief Surveyor" means the Chief Surveyor for the Department of Works and Engineering;

"the Minister" means the Minister charged with responsibility for Works and Engineering;

"the survey" means the survey made pursuant to section 2;

"survey mark" means any trigonometrical station, beacon or other mark, whether of a permanent or temporary nature, used in connection with the survey.

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(2) [*Repealed*]

[Section 1 subsection (2) repealed by 2002:6 s.4 & Sch 3 effective 18 June 2002]

Authority for making survey

2 It shall be lawful for the Minister, in collaboration with the Directorate of Overseas Survey of the United Kingdom or otherwise, to make a survey of Bermuda.

Entry on land

3 (1) Any authorised person may enter upon any land for the purpose of erecting, repairing, inspecting, maintaining, removing or re-siting any survey mark or carrying out any other works in connection with the survey or preservation of survey marks.

(2) Any person who obstructs any authorised person in the exercise of the powers conferred upon him under this Act, commits an offence:

Punishment on summary conviction: a fine of \$1,440 or imprisonment for 6 months, or both such fine and imprisonment.

Survey marks; clearance of brush

4 For the purpose of making the survey, it shall be lawful for an authorised person—

- (a) to set in any place such survey marks as the Minister may think fit;
- (b) to erect in any place such apparatus as the Minister may consider necessary;
- (c) to clear any brush, scrub or trees on any land.

Offences

5 Any person who, without lawful authority, is found in possession of, removes, destroys, displaces, defaces, mutilates, obliterates or breaks any survey marks commits an offence—

- (a) Punishment if such act was done with intent to defraud, on conviction on indictment: imprisonment for 3 years; or
- (b) Punishment in any other case, on summary conviction: a fine of \$1,440 or imprisonment for a term of 6 months or both such fine and imprisonment;

and, in addition to or instead of any such penalty, the court convicting a person of any such offence may order that person to pay to the Minister

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the cost of restoring such survey mark including the cost of any survey made for that purpose.

Resiting of survey marks

6 (1) In any case where, after the conclusion of the survey, the owner or occupier of any land upon which a permanent survey mark has been erected or placed establishes to the satisfaction of the Director that the siting of the survey mark results in undue loss of amenity or damage, the Director may cause the survey mark to be resited in such a place as he may determine.

(2) Any person aggrieved by the decision of the Director under subsection (1) may, within fourteen days after the notification of such decision by the Director, appeal against such decision to a magistrate sitting in a court of summary jurisdiction on the grounds that the decision of the Director was unreasonable in the circumstances or that alternative siting offered by the owner or occupier as the case may be, for the resiting of the survey mark is equally effective for the purpose and causes less hardship or loss of amenity.

(3) On any appeal under subsection (2) the magistrate may make such order, including an order for costs against either party, as he may think fit.

(4) For the purposes of section 7 the resiting of a survey mark by the Director pursuant to the provisions of this section shall be deemed to be in exercise of the powers of the Minister:

Provided that the compensation, if any, paid or payable in respect of the resiting of a survey mark shall be reduced by the amount of compensation, if any, paid or assessed in respect of the original resiting of the survey mark.

Compensation

7 (1) Any person having an interest in land who suffers loss or damage as a result of the exercise of the powers of the Minister under this Act shall be entitled to be paid out of the Consolidated Fund compensation to be determined as hereinafter provided.

(2) It shall be lawful for the Minister to agree with all persons interested in the land on the amount of compensation payable under subsection (1).

(3) Where for any reason the Minister is unable to agree with such person as aforesaid on the amount of compensation payable, the Minister shall apply to the Secretary to the Cabinet for the appointment of official arbitrators who shall have the duty to assess and determine the amount of compensation payable to any person interested in the land for any loss or damage.

Arbitration

8 (1) Sections 10, 11, 12 and 13 of the Acquisition of Land Act 1970 [*title 19 item 2*], shall apply as near as may be to the appointment of arbitrators and arbitration proceedings under this Act.

(2) For the purpose of assessing and determining the amount of compensation payable, the arbitrators shall regulate their own proceedings.

Award of arbitrators

9 (1) In any arbitration proceedings under this Act, the arbitrators after determining the amount of compensation payable to the persons interested in the land shall embody their conclusions in a written award signed by the chairman, and in an appropriate case, shall set out the several amounts payable respectively to the persons interested in the land.

(2) Section 15(2) and (3), section 17 and section 21 of the Acquisition of Land Act 1970 [*title 19 item 2*], shall apply in respect of arbitrators appointed under this Act and to any assessment of compensation made by them.

Government ownership of survey marks

10 The ownership of any survey mark erected by or on behalf of the Minister on any land shall remain in the Government.

[Amended by

1968 231
1971 83
1988 19
2002 6]