

JAMAICA

No. 16 -2005

I assent,

[L.S.]

HANLAN FELIX COOKE
Governor-General

14th day of April, 2005

AN ACT to Amend the Land Surveyors Act.

[15th day of April, 2005]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the Authority of the same, as follows:—

1. This Act may be cited as the Land Surveyors (Amendment) Act, 2005, and shall be read and construed as one with the Land Surveyors Act (hereinafter referred to as the principal Act) and all amendments thereto. Short title
and
construction.
2. Section 2 of the principal Act is amended— Amendment
of section 2
of principal
Act.
 - (a) by deleting the definition of “apprentice” and substituting therefor the following—

“approved surveyor” means a surveyor who—

- (a) has been in full-time practice for a period of not less than five years from the date of his commission;
 - (b) possesses a valid practising certificate;
 - (c) has a diversified land surveying practice that includes cadastral, engineering and topographic surveys; and
 - (d) is not in the service of the Government (other than as an authorized officer) or any Local Authority;”;
- (b) by deleting from the definition of “authorized officer” the word “apprentices” and substituting therefor the word “trainees”;
- (c) by inserting next after the definition of “the certificate” the following—
- “Chief Executive Officer” means the Chief Executive Officer of the National Works Agency;”;
- (d) by inserting next after the definition of “plan” the following—
- “practice” in relation to the science of land surveying means the execution of cadastral surveys and of topographical surveys of registered lands;”;
- (e) by deleting the definition of “student surveyor” and substituting therefor the following—
- “student surveyor” means—
- (a) a trainee;
 - (b) a person who holds a diploma in land surveying from the University of Technology, Jamaica, and is studying

and practising the science of surveying as an assistant to a surveyor; or

- (c) a person who is acting as an assistant to a surveyor in accordance with a requirement pursuant to paragraph (i) of the proviso to section 3(1);

“survey technician” means a person who—

- (a) holds a certificate in land surveying from the University of Technology, Jamaica; or
- (b) possesses any other educational qualification or training approved by the Board,

and is practising the science of surveying as an assistant to a surveyor;” and

- (f) by inserting next after the definition of “surveyor” the following—

“trainee” means a person who—

- (a) holds a diploma in land surveying from the University of Technology, Jamaica; or
- (b) possesses any other qualification approved by the Board,

and is attached to an approved surveyor or an authorized officer, for a period determined by the Board, in order to acquire practical experience;”.

- 3. The heading to Part II of the principal Act is amended by deleting the word “apprentices” and substituting therefor the word “trainees”.

Amendment of heading to Part II of principal Act.

Amendment
of section 3
of principal
Act.

4. Subsection (1) of section 3 of the principal Act is amended—

- (a) by deleting from paragraph (a) the words “subdivision V (Land Survey)” and substituting therefor the words “the subdivision relating to Land Surveying, or its equivalent”;
- (b) by deleting from paragraph (b) the words “College of Arts, Science and Technology” and substituting therefor the words “University of Technology, Jamaica”;
- (c) by deleting from paragraph (c) the words “Minister on the recommendation of the”;
- (d) by deleting from paragraph (d)(i) the words “indenture” and “apprentice” and substituting therefor the words “attachment” and “trainee” respectively; and
- (e) by deleting from paragraph (i) of the proviso the words “has acted for six months as an assistant to a surveyor” and substituting therefor the words “has carried out cadastral surveys as an assistant to a surveyor for a minimum period of six months, and has gained the necessary practical experience”; and
- (f) by deleting paragraph (iii) of the proviso.

Amendment
of section 4
of principal
Act.

5. Section 4 of the principal Act is amended—

- (a) in the marginal note thereto, by deleting the word “seventeen” and substituting therefor the word “eighteen”;
- (b) by deleting the word “apprentice” and substituting therefor the word “trainee”; and
- (c) by deleting the word “seventeen” and substituting therefor the word “eighteen”.

Amendment
of section 5
of principal
Act.

6. Section 5 of the principal Act is amended—

- (a) by deleting from the marginal note thereto the words “two apprentices” and substituting therefor the words “three trainees”;

- (b) by deleting from subsection (1) the words “two apprentices” and substituting therefor the words “three trainees”; and
- (c) by deleting subsection (2) and substituting therefor the following—

“ (2) An authorized officer may have attached to him such number of trainees as the Board may approve.”.

7. Section 6 of the principal Act is amended by deleting from the marginal note and subsections (1)(a) and (b) and (2) the word “apprentice” wherever it appears and substituting therefor in each case the word “trainee”.

Amendment of section 6 of principal Act.

8. The principal Act is amended by repealing section 7 and substituting therefor the following—

Repeal and replacement of section 7 of principal Act.

“Stamping and recording of attachment.

7. Every attachment of a trainee shall—

- (a) be impressed with a stamp of a value of five hundred dollars, which sum shall be paid by the trainee;
- (b) within six months after its execution, be recorded in the office of the Director of Surveys; and
- (c) be open to inspection by any member of the public at all reasonable times.”.

9. Section 8 of the principal Act is amended—

Amendment of section 8 of principal Act.

- (a) by inserting immediately before the word “surveyor” the word “approved”;
- (b) by deleting the word “indentured” wherever it appears and substituting therefor in each case the word “attached”;
- (c) by deleting the word “apprentice” wherever it appears and substituting therefor in each case the word “trainee”; and

- (d) by deleting the word “indenture” wherever it appears and substituting therefor in each case the word “attachment”.

Amendment
of section 9
of principal
Act.

10. Section 9 of the principal Act is amended—

- (a) by deleting the words “indenture of an apprentice” and substituting therefor the words “attachment of a trainee”; and
- (b) by deleting the words “Director of Surveys” and substituting therefor the words “Chairman of the Board”.

Amendment
of section 10
of principal
Act.

11. Section 10 of the principal Act is amended—

- (a) by deleting subsection (1) and substituting therefor the following—

“ (1) For the purposes of this Act, the Land Surveyors Board shall consist of—

- (a) the Director of Surveys;
- (b) the Registrar of Titles;
- (c) three practising surveyors, to be appointed by the Land Surveyors Association of Jamaica;
- (d) a life member of the Land Surveyors Association of Jamaica, to be appointed by the Land Surveyors Association of Jamaica;
- (e) a representative of the Faculty of the Built Environment of the University of Technology, Jamaica; and
- (f) a member of the public appointed by the Minister from among persons who appear to the Minister to be qualified as having had experience of and shown capacity in matters relating to land surveying or such other matter as the Minister considers appropriate for appointment under this paragraph,

and five members thereof shall form a quorum.”;

- (b) in subsection (3), by inserting immediately after the word “duties” the words “, but not fewer than six times per annum”;
- (c) by inserting next after subsection (3) the following—
 - “ (4) The office of a member becomes vacant where that member—
 - (a) dies;
 - (b) resigns by written notice to the Board; or
 - (c) is removed by the Board on any of the following grounds—
 - (i) his inability to function because of physical or mental illness;
 - (ii) his absence from three consecutive meetings of the Board without the permission of the Chairman;
 - (iii) that he is found guilty by the Board of misconduct in respect of his duties;
 - (iv) that he is convicted of an indictable offence;
 - (v) that he is declared bankrupt in accordance with the laws of Jamaica or any other country;
 - (vi) that he is disqualified or suspended from practising his profession in Jamaica or in any other country by an order of any competent authority;
 - (vii) that he contravenes any provision of this Act.”.

Repeal and replacement of section 11 of principal Act.

12. Section 11 of the principal Act is repealed and the following substituted therefor—

"Functions of Board. First Schedule.

11.—(1) The Board shall—

- (a) issue a practising certificate, in the form set out in the First Schedule, to an applicant surveyor upon his satisfactory application and payment of the prescribed annual fee;
- (b) appoint an examiner to hold a final examination whenever necessary, but no more than two such examinations shall be held in any year;
- (c) ensure the maintenance of a proper standard of professional conduct for surveyors; and
- (d) appoint, on such terms and conditions as it thinks fit, any officer as it may think necessary for the proper carrying out of its functions.

(2) Subject to the provisions of this Act, the Board shall be responsible for the management and control of all examinations and professional education under this Act.”.

Amendment of section 12 of principal Act.

13. Section 12 of the principal Act is amended—

- (a) by deleting the word “apprentice” wherever it appears and substituting therefor in each case the word “trainee” ;
- (b) in paragraph (a), by deleting the word “seventeen” and substituting therefor the word “eighteen”; and
- (c) in paragraph (b), by deleting the words “indenture of apprenticeship” and substituting therefor the word “attachment”.

14. Section 13 of the principal Act is amended by deleting the word “apprentice” wherever it appears and substituting therefor in each case the word “trainee”.

Amendment of section 13 of principal Act.

15. Sections 14 and 15 of the principal Act are repealed and the following substituted therefor—

Repeal and replacement of sections 14 and 15 of principal Act.

“Issue of
commission.

14.—(1) The Commissioner of Inland Revenue shall, upon payment of the prescribed fee by a person qualified to receive a commission, affix on the Commission a stamp signifying payment of the fee.

(2) Upon presentation of the certificate to the Board, such person shall receive a commission as a land surveyor, which shall be issued by the Board and signed by the chairman of the Board and the Minister.

Registers.

15.—(1) There shall be kept in the office of the Board, in the prescribed form—

- (a) a register of all student surveyors and survey technicians; and
- (b) a register of all surveyors.

(2) Each register shall contain such particulars as may be prescribed and shall be open to inspection by any member of the public during office hours.

(3) A copy of each register shall be published annually in the *Gazette* by the secretary of the Board.”.

16. Section 16 of the principal Act is repealed.

Repeal of section 16 of principal Act.

- (i) by inserting immediately after the words “professional misconduct” wherever they appear in each case the word “, incompetence”;
 - (ii) by deleting the words “indenture (if he is an apprentice)” and substituting therefor the words “attachment (if he is a trainee)”;
- (b) by renumbering subsection (2) as subsection (4); and
- (c) by inserting the following as subsections (2) and (3)—

- “
- (2) The Committee shall—
- (a) carry out its functions in accordance with the procedures set out in the Second Schedule. Second Schedule;
 - (b) inform the Board in writing of any complaint received against a surveyor or student surveyor, within thirty days of receipt of such complaint; and
 - (c) submit to the Board, every three months, progress reports on any matter being investigated.

(3) The Committee may find a surveyor or student surveyor to be incompetent if, in its opinion, the surveyor or student surveyor is suffering from a physical or mental condition or disorder of a nature and extent making it desirable, in the interest of the public, that he should no longer be permitted to engage in the practice of professional land surveying.”

Amendment
of section 22
of principal
Act.

22. Subsection (1) of section 22 of the principal Act is amended—

- (a) by deleting the words “subsection (2)” and substituting therefor the words “subsection (4)”; and

- (b) by inserting immediately after the words “including the” the words “withdrawal of or refusal to issue, for a stated period, a practising certificate, to the surveyor, the”.

23. Section 24 of the principal Act is amended by deleting the words “counsel or a solicitor” and substituting therefor the words “an attorney-at-law”. Amendment of section of principal Act.

24. Section 25 of the principal Act is amended by inserting immediately after the words “suspending his commission,” the words “withdrawing or refusing to issue his practising certificate”. Amendment of section of principal Act.

25. Section 26 of the principal Act is amended— Amendment of section of principal Act.

- (a) by inserting immediately after the words “any surveyor” the words “upon production of a Certificate of Identity”;
- (b) by inserting immediately after the word “with” the words “or without”; and
- (c) by inserting immediately after the words “to survey” the words “or identify”.

26. Section 27 of the principal Act is amended by inserting next after subsection (2) the following— Amendment of section of principal Act.

“ (3) No surveyor shall execute a survey without first producing his Certificate of Identity to all interested parties present.”.

27. Subsection (1) of section 31 of the principal Act is amended— Amendment of section of principal Act.

- (a) by deleting the words “every surveyor or student surveyor (so however, that if he is an apprentice, he has completed not less than two years service as an apprentice)” and substituting therefor the words “ a surveyor and a student surveyor or survey technician, working under the supervision of that surveyor”; and
- (b) by deleting from the proviso thereto the words “or student surveyor” and substituting therefor the words “, student surveyor or survey technician”.

Amendment of section 32 of principal Act

28. Section 32 of the principal Act is amended by renumbering the section as subsection (1) and inserting next thereafter the following—

“ (2) Every cadastral map shall be made by a surveyor through the compilation of surveys carried out in accordance with the regulations made hereunder, together with the mapping of the legal boundaries of unsurveyed land parcels, done in accordance with guidelines for executing cadastral mapping, provided by the Director of Surveys.”.

Amendment of section 33 of principal Act.

29. Section 33 of the principal Act is amended by inserting next after subsection (7) the following—

“ (8) The Director of Surveys may record without checking, any plan of a survey, if so requested by the surveyor or any other person; so, however, that no title based on any such uncertified plan shall be registered without first being checked.

(9) Every cadastral map prepared for the purpose of registration or transfer of title under the Registration of Titles Act, shall, prior to such registration or transfer, be certified by a commissioned land surveyor and approved by the Director of Surveys.

(10) The Director of Surveys may make a copy of any such map.”.

Insertion of new sections 35A, 35B, 35C and 35D in principal Act

30. The principal Act is amended by inserting next after section 35 the following—

“Use of the designation “Commissioned Land Surveyor”. 35A.—(1) A corporation whose name includes the title “Commissioned Land Surveyor” or the initials “CLS” which ceases to hold a practising certificate shall remove the title “Commissioned Land Surveyor” or the initials “CLS” from the name of the corporation.

(2) A corporation referred to in subsection (1) may not carry on land surveying business in respect of which a commission is required.

(3) Subsection (1) shall not prevent a corporation from carrying on an activity necessary for the winding up of the corporation.

Duty as to
secrecy.

35B. Every person carrying out an investigation under section 21 shall regard as secret all information that comes to his knowledge in the course of such investigation and shall not communicate any such information to any other person except—

- (a) as may be required in connection with the administration of this Act or any regulations made hereunder, or any proceedings under this Act or the regulations;
- (b) his attorney-at-law; or
- (c) with the written consent of the person to whom the information relates.

Inspection of
distance
meters, etc.

35C.—(1) Every surveyor shall maintain in a good state of calibration any distance meter to be used by him in the practice of surveying by having the distance meter checked by the Director of Surveys against a standard base.

(2) Every surveyor shall submit any tape or any other measuring device for inspection upon the request of the Director of Surveys at such intervals as the Director may see fit.

(3) On first inspection, the Director of Surveys shall give to each distance meter, tape or other measuring device an identification number or record the serial number of each component part of the distance meter, tape or other measuring device as the case may be.

(4) Where any distance meter, tape or other measuring device is submitted pursuant to subsections (1) and (2), the Director of Surveys shall cause such distance meter, tape or other measuring device to be checked and where such distance meter, tape or other measuring device is found to be—

- (a) accurate, approve of the return of such distance meter, tape or other measuring device to the surveyor with a certificate of accuracy; or
- (b) inaccurate, condemn such distance meter, tape or other measuring device, by notice in writing to the surveyor.

(5) Any person who, having been notified under subsection (4)(b), uses in the practice of surveying, any distance meter, tape or other measuring device to which the notice relates commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding nine months.

Accuracy of
distance
meter, etc.

35D.—(1) A distance meter, used for the purpose of cadastral mapping, shall be considered inaccurate if, when compared against any line in the National Calibration Network, that distance meter is plus or minus 0.1 metre from that line.

(2) Any Electronic Distance Measuring equipment, used for the purpose of cadastral mapping shall be considered inaccurate, if the distance it has measured for a line in the National Calibration Network differs by more than plus or minus 0.1 metre from the listed distance on the Jamaica Datum 1969 (JAD 69) or World Geodetic

System 1984 (WGS 84), available in the records of the Surveys and Mapping Division, National Land Agency.

(3) Any Global Positioning System equipment used for the purpose of cadastral mapping, shall be considered inaccurate, if the position it has determined for a point in the National Calibration Network differs by more than plus or minus 0.5 metre from the listed position on the Jamaica Datum 1969 (JAD 69), Jamaica Datum 2001 (JAD 2001) or World Geodetic System 1984 (WGS 84) available in the records of the Surveys and Mapping Division, National Land Agency.”.

31. The principal Act is amended by repealing section 36 and substituting therefor the following—

Repeal and replacement of section 36 of principal Act.

“Falsely holding out to be surveyor, etc.

36.—(1) Every person who—

- (a) falsely describes himself to be, or holds himself out as, a surveyor;
- (b) falsely practises land surveying in Jamaica;
- (c) assumes, uses or advertises any title or designation tending to convey the impression that he is a surveyor;
- (d) buys, sells, or fraudulently obtains, any practising certificate or commission;
- (e) aids or abets the buying, selling or fraudulent obtaining of any practising certificate or commission; or
- (f) impersonates any surveyor,

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding six months.

(2) Every person who, not being a member of the Land Surveyors Association, uses the logo of the association or the initial “LSAJ” or the words “Land Surveyors Association of Jamaica” as an occupation designation commits an offence and shall be liable on conviction to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding sixty days.

(3) Every person who obstructs a person appointed to carry out an investigation under section 21 in the course of that person’s duties commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding thirty days.”.

Amendment
of section 37
of principal
Act.

32. Section 37 of the principal Act is amended by deleting the word “forty” and substituting therefor the words “fifty thousand”.

Amendment
of section 38
of principal
Act.

33. Section 38 of the principal Act is amended—

- (a) by deleting the words “or student surveyor” wherever they appear and substituting therefor in each case the words “, student surveyor or survey technician”;
- (b) by deleting the word “forty” and substituting therefor the words “one hundred thousand”;
- (c) by deleting the words “any term not exceeding three months” and substituting therefor the words “a term not exceeding nine months”; and
- (d) by deleting the words “period not exceeding three months” and substituting therefor the words “term not exceeding six months”.

Amendment
of section 39
of principal
Act.

34. Section 39 of the principal Act is amended—

- (a) by deleting the words “or student surveyor” and substituting therefor the words “, student surveyor or survey technician”; and

- (b) by deleting the word “forty” and substituting therefor the words “fifty thousand”.

35. Section 40 of the principal Act is amended by deleting the words “one hundred” and substituting therefor the words “one hundred thousand”. Amendment of section 40 of principal Act.

36. Section 41 of the principal Act is amended by deleting the word “forty” and substituting therefor the words “seventy-five thousand”. Amendment of section 41 of principal Act.

37. Section 43 of the principal Act is amended— Amendment of section 43 of principal Act.

- (a) in paragraph (a), by deleting the words “preliminary examination” and substituting therefor the words “examinations held by the Board”;

- (b) by re-lettering paragraph (i) as paragraph (j); and

- (c) by inserting next after paragraph (h) the following—

“ (i) procedures of the Disciplinary Committee;” .

38. Section 44 of the principal Act is amended— Amendment of section 44 of principal Act.

- (a) by deleting the words “Chief Technical Director” and substituting therefor in each case the words “Chief Executive Officer”; and

- (b) by deleting the word “servants” and substituting therefor the word “assistants”.

39. Section 45 of the principal Act is amended— Amendment of section 45 of principal Act.

- (a) by deleting the words “Chief Technical Director” wherever they appear and substituting therefor in each case the words “Chief Executive Officer”;

- (b) in subsection (1), by deleting the word “servants” and substituting therefor the word “assistants”; and

- (c) in subsection (3), by inserting immediately after the word “day-time” the words “or as otherwise agreed”.

Amendment of sections 46 and 47 of principal Act.

40. Sections 46 and 47 of the principal Act are amended by deleting the words “Chief Technical Director” wherever they appear and substituting therefor in each case the words “Chief Executive Officer”.

Amendment of section 48 of principal Act.

41. Section 48 of the principal Act is amended—
- (a) by deleting the words “Chief Technical Director” and substituting therefor the words “Chief Executive Officer”; and
 - (b) by deleting the word “forty” and substituting therefor the words “fifty thousand”.

Insertion of new First and Second Schedules in principal Act.

42. The principal Act is amended by inserting next after section 48 the following—

“ FIRST SCHEDULE (Section 11)

THE LAND SURVEYORS ACT

Practising Certificate

I hereby certify that:

(Name and Address) _____

whose name is registered in the register of all surveyors at the Office of the Land Surveyors Board is entitled to practise as a land surveyor in the year ending 31st day of December, 20 _____

Dated this _____ day _____ 20 ____.

Chairman
Land Surveyors Board

SECOND SCHEDULE

(Section 21)

*Procedures of the Disciplinary
Committee*

1.—(1) The chairman shall preside at meetings of the Committee or, in his absence, a member having no less than ten years experience in the practice of land surveying shall assume the chairmanship.

(2) Each member of the Committee shall be entitled to one vote on a matter arising for determination and in addition to an original vote the chairman or member who has assumed the chairmanship in accordance with paragraph (1) at a meeting shall have a casting vote in any case in which the vote is equal.

(3) A decision carried by a majority of the members of the Committee shall be a decision of the Committee.

2. No member of the Committee shall be personally liable in any action or proceeding for or in respect of any act or matter done or permitted to be done in good faith in the exercise or purported exercise of the powers or the discharge or purported discharge of any duty under this Act.

3. For the purposes of the Act, the following conduct is deemed unprofessional and unbecoming of a surveyor—

- (a) acting as a professional agent of a person not qualified to practise as a surveyor and using or permitting his name to be used in any such agency;
- (b) doing any act that is calculated to make or makes a person believe that a person who is not a surveyor is entitled, by law to practise land surveying, and charge fees accordingly;
- (c) falsely certifying as to the service and practical experience of a trainee;
- (d) failing or neglecting to—
 - (i) instruct a trainee in the practice of land surveying;
 - (ii) supervise the work of a trainee; or
 - (iii) ensure that a trainee obtains practical experience in land surveying in the manner prescribed;
- (e) failing to answer promptly correspondence received from the Board or from the Committee; or
- (f) doing any other act which under this Act is considered to be unbecoming and unprofessional conduct.

4. Meetings of the Committee shall be held in private.

5. The Committee shall hear all charges made against a surveyor or student surveyor.

6.—(1) The Committee shall give not less than thirty days notice to a surveyor or student surveyor against whom a hearing is to be held, and any person or persons making the complaint against the surveyor or student surveyor stating the time and place at which the hearing will be held.

(2) The notice shall be served by registered post, bailiff or any recognized delivery service and shall contain a copy of the charge and any other relevant documents that form the subject of the hearing.

7.—(1) A person to whom a notice has been served in accordance with paragraph 6(2) may be represented by an attorney-at-law at the hearing and shall be afforded reasonable opportunity to call or give evidence, to examine or cross examine witnesses, and to make submissions to the Committee.

(2) If a person to whom notice has been served does not attend the hearing, the Committee may hold the hearing in his absence.

8.—(1) For the purpose of the hearing, the Committee may—

- (a) by summons signed on behalf of the Committee, by a member of the Committee, require—
 - (i) the attendance of any person whom the Committee thinks fit to appear before it;
 - (ii) any person to produce any books, papers or other documents which may assist the Committee in its investigation;
- (b) inspect any books, papers or other documents produced before it, and retain them for such reasonable period, and make such copies as it thinks fit;
- (c) require any person appearing before the Committee to answer any relevant questions put to him by any member of the Committee or by any other person appearing before the Committee.

9.—(1) Any person who—

- (a) having been served with a summons to attend a hearing of the Committee, neglects or fails to so attend;

- (b) having been served with a summons to produce any books, papers or other documents neglects or fails to comply with the summons;
- (c) refuses to answer any relevant question put to him by any member of the Committee or by any other person appearing before the Committee; or
- (d) willfully insults the Committee or any member thereof or interrupts the proceedings of the Committee, or in any other way misconducts himself before the Committee,

commits an offence, and shall be liable on summary conviction to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding one month.

(2) Where the person committing the acts referred to in paragraph (1) is a surveyor or student surveyor, that person shall be deemed to be guilty of professional misconduct.”.