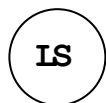


COLONY OF NORTH BORNEO



I assent,

W. A. C. GOODE,
Governor.

11th OCTOBER, 1960

No. 22 of 1960

An Ordinance to provide for the registration, licensing and control of land surveyors and for matters connected therewith.

[To be notified] Date of
commencement

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ENACTED by the Legislature of North Borneo as follows:-

Short title and
Commencement

1. This Ordinance may be cited as the Surveyors Ordinance, 1960, and shall come into operation on such date as the Governor may, by notification in the *Gazette*, appoint.

Interpretation

2. In this Ordinance, unless the context otherwise requires:-

“Board” means the Surveyors Board established under section 3;

“boundary mark” means any mark authorised by law for the purpose of marking boundaries;

“Director” means the Director of Lands and Surveys of North Borneo;

“Government Surveyor” means any public officer of the North Borneo who is authorised for the time being by the Director to undertake any title survey;

“licence to practise” means a licence to practise as a registered surveyor issued under the provisions of section 10;

“member” means a member of the Board;

“reciprocating territory” means any country or territory within the Commonwealth with which arrangements may have been made by

the Board with the approval of the Governor for the recognition of the status of surveyors;

“Register” means the register of registered surveyors kept in accordance with section 8;

“registered surveyor” means a person whose name has been placed upon the Register and to whom a licence to practise has been issued by the Board;

“Secretary” means the person appointed as such under section 7;

“survey plan” means a plan signed by a registered surveyor recording the work carried out by him on a title survey, or a plan signed by an officer authorised by the Director to do so and recording the work of a Government surveyor;

“title survey” means any survey which by any written law is required for the purpose of or in connection with the registration of any title to land or of any assurance or instrument affecting or purporting to affect title to land, and includes in connection therewith:-

- (a) the delimitation of the boundaries of any land whether privately owned or not;
- (b) the emplacement, replacement and removal of boundary marks;
- (c) surveys required for the correct interrelation of boundaries or of boundary marks;
- (d) the making and recording of all measurements and calculations relevant thereto and the drawing and reproduction of plans therefrom.

3. (1) There shall be established a board to be called the Surveyors Board which shall have an office in North Borneo.

Establishment of the Board

(2) The Board shall be a body corporate with perpetual succession and shall have a common seal.

4. (1) The Board shall consist of :-

Constitution of the Board

- (a) the Director;
- (b) two Government surveyors appointed by the Director;
- (c) not more than two registered surveyors appointed by the Director resident and practising in North Borneo:

Provided that all members appointed shall be persons entitled to be registered as registered surveyors under paragraph (b) of subsection (1) of section 9.

(2) The members appointed under the provisions of paragraph (b) and (c) of subsection (1) shall hold office for three years or for such shorter period as the Director may specify and shall be eligible for reappointment.

Chairman and
Deputy Chairman
of the Board.

5. (1) The Director shall be Chairman of the Board.

(2) The Chairman shall preside at meetings of the Board. In the absence of the Chairman the members present at the meeting of the Board shall elect one of the members appointed under paragraph (b) of subsection (1) of section 4 to act as Chairman of the meeting.

Meetings of the
Board and
quorum.

6. (1) The Board shall meet at such times and such places as the Chairman may appoint.

(2) The quorum at all meetings of the Board shall be three members present.

(3) The member presiding at any meeting of the Board shall have an original vote and also, if upon any question the votes shall be evenly divided, a casting vote.

(4) The Board may make rules for the conduct of its business.

Power to appoint
Secretary,
examiners and
other officers.

7. (1) The Board may appoint a Secretary, examiners and such other officers as from time to time shall appear to be necessary for the discharge of the functions of the Board.

(2) The Secretary shall not be a member of the Board and shall not have any vote in its deliberations.

Register

8. (1) The Board shall cause a Register to be kept which shall contain the names, addresses and qualifications of all registered surveyors, and all such other matters as may be prescribed. In the event of the cancellation or suspension of any licence to practise, the Board shall cause an entry thereof to be made in the Register.

(2) The Register shall be maintained and kept by the Secretary at the office of the Board and shall be open to inspection by any person on payment of the prescribed fee.

(3) The Board shall, as soon as conveniently may be after the 31st day of January in each year, publish in the *Gazette* a list of the names of all registered surveyors and shall within six weeks of the issue, cancellation or suspension of any licence to practise publish a notice thereof in the *Gazette*.

(4) A copy of any entry in the Register purporting to be certified by the Chairman or Secretary as a true copy, shall in all proceedings whatsoever be *prima facie* evidence that the person named therein is a registered surveyor and possesses the qualifications mentioned therein or that his licence has been cancelled or suspended.

(5) The Board shall remove or amend any entry in the Register which is proved to its satisfaction to have been fraudulently procured or made, or to be incorrect.

(6) The Secretary shall remove from the Register the name of any person, not being a Government Surveyor, whose licence to practise has not been renewed before the first day of February in any year.

(7) The Board may, if it thinks fit, restore to the Register any name removed therefrom with or without the payment of any prescribed fees.

9. (1) Subject to the provisions of this Ordinance every person shall be entitled to have his name placed upon the Register upon making application to the Board and proving to the satisfaction of the Board that:-

Person entitled to be registered.

(a) he has attained the age of twenty-one years and is of good character; and

(b) (i) is the holder of any degree, diploma, licence or certificate prescribed by the Board; or

(ii) he has obtained the prescribed certificate of competency issued by the Board after passing the prescribed examinations; or

(iii) he has passed a professional examination recognised by the Board as carrying exemption from the Board's examinations and has passed such further examination and has completed such further period of training in the Colony as the Board may prescribe; and

(c) he has made a declaration in the form and manner prescribed in the Schedule; and

(d) he has paid the prescribed registration fee; and

(e) he has not had his name struck off the Register and is not under suspension from practice under the provisions of section 15 or 16 or under similar provisions of the law of any other country where he may have been licensed or registered.

(2) The name of any Government surveyor who is otherwise eligible for registration under this section may be placed upon the Register by the Board without payment of the prescribed registration fee.

Licence to practise.

10. (1) The Board shall issue to each person, other than a Government surveyor, registered in accordance with the provisions of section 9 upon application by such person in the prescribed form and on payment of the prescribed fee a licence to practise in the prescribed form, valid for the year of registration.

(2) Every such person intending to continue to practise as a registered surveyor thereafter shall apply annually, in the prescribed manner for a licence to practise and shall pay the prescribed fee for such licence.

(3) The licence to practise shall be issued by the Secretary and shall be in force from the date of issue to the end of the year. Any licence to practise taken out during the month of January shall be deemed to have been in force from the first day of that month.

(4) The licence to practise shall remain the property of the Board and shall be returned to the Board when so required by the Board.

Arrangements with
reciprocating territories.

11. (1) The Board may enter into arrangements with the Surveyors Board or other competent authority of a reciprocating territory for the recognition of the status of any person authorised by such Board or other authority to practise as a registered surveyor in such reciprocating territory and may prescribe what additional evidence of character and competency must be produced before such person may be licensed under this Ordinance.

(2) The Board may enter into arrangements with the Surveyors Board or other competent authority in a reciprocating territory for the setting and acceptance of joint papers in professional subjects under the examination rules prescribed by the Board.

12. (1) Subject to the provisions of this Ordinance a registered surveyor whose name appears on the Register and who has paid the annual licence fee in respect of the current year, shall be entitled to practise his profession as a land surveyor and shall be authorised to undertake title surveys.

Powers of a licensed land surveyor.

(2) Nothing in this Ordinance shall affect the right of the Director to employ Government surveyors, whether registered surveyors or not, on any type of title survey whatsoever.

(3) Nothing in this Ordinance shall affect the right of any person, not being a registered surveyor to undertake surveys other than title surveys.

(4) A registered surveyor and his assistants may, for purpose of carrying out a title survey, at any reasonable time during the hours of daylight enter upon all lands which he is employed to survey, and upon any neighbouring lands and any buildings on such lands and may emplace any boundary mark in or upon such lands and may dig up any ground for the purpose of emplacing such boundary mark and may cut down and remove any timber or other growth which may obstruct any survey line or any boundary causing as little damage as possible thereby:

Provided that nothing in this section shall exempt such registered surveyor or his assistant from liability for any damage which he may cause in the exercise of the powers conferred by this subsection.

(5) For the purpose of obtaining data for a title survey, of which the survey plan is to be lodged with the Director, a registered surveyor may at all reasonable times be permitted to inspect relevant Survey Department maps and plans and to take copies of such information therefrom as he may require without payment of search fees, but he may not remove any such maps and plans from departmental custody and he will be held pecuniarily liable for any damage which he may cause to them while they are under his control.

13. On completion of a title survey, of which the survey plan is to be lodged with the Director, the registered surveyor who signs the survey plan thereof shall deposit such plan together with the relevant field books, calculation sheets and survey data with the Director and all such documents shall, if such plan is approved by the Director or other Officer appointed by him to approve the same on his behalf,

Deposit of plans.

become the property of Government and shall be filed as permanent survey records.

Approval of title surveys.

14. No title survey or survey plan thereof shall be accepted or adopted for the purpose of any written law unless it has been approved by the Director or other officer appointed by him to approve survey plans on his behalf.

Correction of errors.

15. (1) The Director or any Government surveyor so authorised by him may at any time undertake such field or office checks on the title survey work of a registered surveyor as he thinks fit.

(2) The Director or other person authorised by him to approve survey plans, may by notice in writing, instruct any registered surveyor to correct at his own expense within a time specified in such notice any error made by him:

Provided that such notice is sent not more than twelve months after the date on which the relevant survey plan was deposited with the Director as provided in section 13.

(3) In the event of such registered surveyor refusing or neglecting within the time specified to correct such error it shall be lawful for the Director to undertake such correction departmentally and to recover the whole cost of such correction from the registered surveyor concerned.

(4) If such registered surveyor refuses or neglects to refund the cost of the correction survey referred to in subsection (3) within fourteen days of the receipt of the statement of cost the Director may report the facts to the Board for disciplinary action, and after due enquiry the Board may order such registered surveyor to pay the cost of correction of his work or to pay his client such sum by way of compensation as the Board thinks fit; and if such registered surveyor refuses or neglects to comply with such order within one month of the date of such decision the Board may, subject to the provisions of section 17, suspend such registered surveyor from practice as a registered surveyor until the cost of such correction survey has been paid, or for a period not exceeding three years.

Disciplinary powers of the Board.

16. Where, after due enquiry by the Board, a registered surveyor has been found to have been guilty of professional misconduct or, having been convicted of a criminal offence,

is found by the Board to be unfit to practise, the Board may :-

- (a) strike off the name of such registered surveyor from the Register; or
- (b) suspend such registered surveyor from practice as a registered surveyor for a period not exceeding three years; or
- (c) impose a fine on such registered surveyor not exceeding five hundred dollars; or
- (d) reprimand such registered surveyor.

17. Any person aggrieved by a decision of the Board under subsection (4) of section 15 or under section 16 may, within one month of the date of such decision, appeal to the High Court against such decision and, on any such appeal, the High Court may give directions in the matter as it thinks proper, including any directions as to the costs of the appeal and no appeal shall lie from an order of the High Court under this section.

Appeal to the High Court.

18. Any person who, not being a registered surveyor, willfully and falsely pretends, or takes or uses any name or title implying, that he is a registered surveyor, or not being a registered surveyor or a Government surveyor, certifies to the accuracy of any title survey or signs or initials any survey plan or, not being a person acting under the immediate personal direction and supervision of a registered surveyor, carries out or undertakes to carry out any work in connection with a title survey shall be guilty of an offence against this Ordinance and shall be liable to a fine not exceeding five hundred dollars for each offence and to a further penalty of fifty dollars for each day during the continuance of such offence.

Illegal practice.

19. (1) Subject to the provisions of this Ordinance the Board may, with the approval of the Chief Secretary, make regulations to prescribe anything which under this Ordinance is required to be prescribed and generally to carry out the objects and purposes of this Ordinance.

Regulations.

(2) In particular and without prejudice to the generality of the foregoing, such regulations may:-

- (a) prescribe the conditions under which persons desirous of becoming registered surveyors under this Ordinance may so qualify ;

- (b) regulate the practice and conduct of registered surveyors;
- (c) prescribe fees for registration, annual licences, examinations and other purposes under this Ordinance;
- (d) regulate the disciplinary proceedings of the Board;
- (e) prescribe forms of application and of the annual licence; and
- (f) prescribe the form of the Register and the particulars to be entered therein.

THE SCHEDULE

(Section 9 (1) (c))

I, A. B., do hereby solemnly and sincerely declare that I will to the best of my ability, without partiality or favour, correctly survey and delineate the boundaries of any lands I may be instructed to survey, in strict compliance with the regulations and instructions, for the time being in force, of the Board constituted by the Surveyors Ordinance, 1960.

A. B.

Passed this 28th day of September, 1960.

R.A.LIND,
Clerk of Legislative Council.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed the Legislative Council and found by me to be a true and correct copy of the said Bill.

R.A.LIND,
Clerk of Legislative Council.