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[ASSENTED TO 5 APRIL 1997]

[DATE OF COMMENCEMENT: 11 APRIL 1997]

(see s. 51 of this Act)

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*(Afrikaans text signed by the President)***published in**

GG 17915 of 11 April 1997

as amended

| by | with effect from | refer to |
|---|-------------------------|--|
| Land Affairs General Amendment Act 61 of 1998 | 28 September 1998 | s. 31 of Act 61 of 1998; GN 1214 in GG 19291 of 28 September 1998 |
| Mineral and Petroleum Resources Development Act 28 of 2002 | 1 May 2004 | s. 111 of Act 28 of 2002; Proc R25 in GG 26264 of 23 April 2004 |
| Rural Development and Land Reform General Amendment Act 4 of 2011 | 16 May 2011 | s. 43 of Act 4 of 2011 |
| Geomatics Profession Act 19 of 2013 | 1 August 2015 | s. 40 of Act 19 of 2013; Proc 29 in GG 39052 of 4 August 2015 |

also amended

| by | with effect from | refer to |
|-------------------------------------|---------------------------------------|-------------------------|
| Communal Land Rights Act 11 of 2004 | a date to be proclaimed - see PENDLEX | s. 47 of Act 11 of 2004 |

Regulations under this Act**ACT****To regulate the survey of land in the Republic; and to provide for matters connected therewith.**

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

¹ This Act has been updated to include all available historical commencement details**1 Definitions**

In this Act, unless the context indicates otherwise-

'approve', in relation to the Surveyor-General and to any general plan or diagram, means the signing of a general plan or diagram in order to signify that the requirements of this Act have been complied with in regard to that general plan or diagram;**'Chief Director'** means the Chief Director: Surveys and Mapping, appointed in terms of section 2A;

[Definition of 'Chief Director' inserted by s. 8 (a) of Act 61 of 1998 (wef 28 September 1998).]

'Chief Surveyor-General' means the Chief Surveyor-General appointed in terms of section 2;**'contiguous'**, in relation to any land represented in a diagram or being subdivided, includes any land having a common beacon or boundary with that land, or land having a beacon being a common terminal point of a straight boundary line of such land, and with reference to any river boundary of such land, includes any land which may be affected by the acceptance of an agreement referred to in section 33 (2) (b);**'deeds registry'** means a deeds registry as defined in the Deeds Registries Act, 1937 (Act 47 of 1937), and when used in relation to any mining title includes the Mining Titles Office;**'Department'** means the Department of Rural Development and Land Reform;

[Definition of 'Department' substituted by s. 34 of Act 4 of 2011 (wef 16 May 2011).]

'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 and which has been signed by a person recognised under any law then in force as a land surveyor, or which has been approved or certified by a Surveyor-General and includes a diagram or copy thereof prepared in a Surveyor-General's office and approved or certified as such, or a document which has at any time, prior to the commencement of this Act, been accepted as a diagram in a deeds registry or Surveyor-General's office in the Republic or in any such office situated in any area which became part of the Republic at the commencement of the Constitution, 1993;

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

'erf' means any piece of land registered as an erf, lot, plot or stand in a deeds registry, and includes a stand or lot forming part 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 recognised under any law then in force as a land surveyor, or which has been approved or certified as a general plan by a Surveyor-General and includes a general plan or a copy thereof prepared in a Surveyor-General's office and approved or certified as such or a general plan which has, prior to the commencement of this Act, been lodged for registration in a deeds registry or Surveyor-General's office in the Republic or any area which became part of the Republic at the commencement of the Constitution, 1993;

[NB: The definition of **'general plan'** has been substituted by s. 46 (1) of the Communal Land Rights Act 11 of 2004, a provision which will be put into operation by proclamation. See PENDLEX.]

'land surveyor' means a person registered as a professional land surveyor in terms of the Geomatics Profession Act, 2013;

[Definition of 'land surveyor' substituted by s. 38 (2) of Act 19 of 2013 (wef 1 August 2015).]

'local authority' means a local government body referred to in section 1 of the Local Government Transition Act, 1993 (Act 209 of 1993);

'Minister'² means the Minister of Rural Development and Land Reform;

[Definition of 'Minister' substituted by s. 34 of Act 4 of 2011 (wef 16 May 2011).]

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

- (a) the liquidator of a company or close corporation or the representative recognised by law of any owner who has died, become insolvent, assigned his or her estate, is a minor or of unsound mind or is otherwise under disability, provided that such liquidator or representative acts within the power conferred on him or her by law;
- (b) the person in whom the ownership of the 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 99 years registered in a deeds registry, and in the Province of KwaZulu-Natal a lease of land from the State for a period of 99 years; or
- (d)

[Para. (d) deleted by s. 110 of Act 28 of 2002 (wef 1 May 2004).]

'prescribed' means prescribed under this Act;

'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 any deeds registry or Surveyor-General's office, 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, and for purposes of this definition **'settlement'** means a group of 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;

'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 the township thereon or connecting such survey or resurvey thereto;

'Registrar' means a registrar of deeds appointed under the Deeds Registries Act, 1937 (Act 47 of 1937), and, when used in relation to-

- (a) any deeds registry means the registrar in charge of that deeds registry;
- (b) a document means the registrar in charge of the deeds registry wherein that document is registered or registrable or intended to be used or filed;

'registration' means the registration of any real right in or to land in terms of the Deeds Registries Act, 1937 (Act 47 of 1937), and

'registered' shall have a corresponding meaning;

'regulation' means any regulation made under this Act;

'share', in relation to land, means an undivided share;

[Definition of 'share' substituted by s. 110 of Act 28 of 2002 (wef 1 May 2004).]

'supervise' or **'supervision'** when used in relation to a survey and the field operations by any person registered as a professional surveyor, geomatics technologist or geomatics technician in terms of the Geomatics Profession Act, 2013, (in this definition referred to as 'an assistant'), means-

- (a) the personal presence of the land surveyor when existing beacons, corner points or other objects which must be surveyed are inspected and pointed out to an assistant, with such participation by the land surveyor during the reconnaissance as to ensure the sound determination of the beacons, corner points or other objects: Provided that the land surveyor shall not be compelled to be present or to participate when any such beacons, corner points or other objects which were previously connected to or based upon reference marks or trigonometrical stations are inspected by an assistant; and
- (b) adequate control by the land surveyor when beacons are placed and surveyed by an assistant;

[Definition of 'supervise' or 'supervision' amended by s. 38 (2) of Act 19 of 2013 (wef 1 August 2015).]

'Surveyor-General', in relation to any land or any general plan or diagram thereof, or in relation to any matter in connection with any land, means the Surveyor-General of the Surveyor-General's office established in terms of section 4 of the province in which that land is situate or such general plan or diagram is registered or registrable;

'the court' means the provincial or local division of the Supreme Court having jurisdiction or any judge thereof;

'this Act' includes the regulations made under this Act;

'township' means a group of 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;

'trigonometrical station' means any survey station, including a town survey mark, erected by or under direction of the Chief Director as part of the national control survey system and for which he or she has published, or intends to publish, official co-ordinate values, and includes such other stations as may be prescribed.

[Definition of 'trigonometrical station' substituted by s. 8 (b) of Act 61 of 1998 (wef 28 September 1998).]

² Administration, powers and functions transferred to the Minister of Agriculture, Land Reform and Rural Development (Proc 49 in GG 42657 of 23 August 2019)

2 Appointment, powers and functions of Chief Surveyor-General

(1) The Minister shall, subject to section 50 and the Public Service Act, 1994 (Proclamation 103 of 1994), appoint an officer, who shall be a land surveyor, to be styled the Chief Surveyor-General.

(2) The Chief Surveyor-General shall, subject to the directions of the Minister, exercise the powers and perform the duties conferred upon or assigned to the Chief Surveyor-General by this Act or any other law.

2A Appointment, powers and functions of Chief Director

(1) The Minister shall, subject to section 50 and the Public Service Act, 1994 (Proclamation 103 of 1994), appoint an officer, who shall be a person registered in terms of section 13 of the Geomatics Profession Act, 2013, as a geomatics professional, to be styled the Chief Director: Surveys and Mapping.

(2) The Chief Director shall, subject to the directions of the Minister, exercise the powers and perform the duties conferred upon or assigned to the Chief Director by this Act or any other law.

[S. 2A inserted by s. 10 of Act 61 of 1998 (wef 28 September 1998).]

3 Duties of Chief Surveyor-General

(1) The Chief Surveyor-General shall be in charge of such cadastral surveying and land information services in the Republic as the Minister may direct and, subject to this Act, shall-

- (a) promote and control all matters connected with those surveys and services;
- (b) conduct such cadastral survey related research as may be required;
[Para. (b) substituted by s. 11 (b) of Act 61 of 1998 (wef 28 September 1998).]
- (c) take charge of and preserve the records of all surveys and operations which do not form part of the records of an office of a Surveyor-General and which were carried out before the commencement of this Act or under this section;
- (d) prepare, compile and amend such maps and other documents as may be required;
- (e) supervise and control the survey and diagrammatic representation of land for purposes of registration in a deeds registry; and
- (f) regulate the procedure in each Surveyor-General's office and determine the manner in which this Act shall be carried out.
[Sub-s. (1) amended by s. 11 (a) of Act 61 of 1998 (wef 28 September 1998).]

(2) Any land surveyor employed in the office of the Chief Surveyor-General may, if authorised thereto by the Chief Surveyor-General, perform any specified act or task which may be performed in terms of this Act or any other law by the Chief Surveyor-General.

3A Duties of Chief Director

(1) The Chief Director shall be in charge of such geodetic and topographical surveying and geospatial information services in the Republic as the Minister may direct and, subject to this Act, shall-

- (a) promote and control all matters connected with those surveys and services;
- (b) conduct such geodetic, topographical and other relevant survey operations as may be required;
- (c) acquire such aerial photography or other remotely sensed imagery as may be required;
- (d) establish and maintain a national control survey system;
- (e) prepare, compile and amend such maps and other cartographic representations of geospatial information as may be required; and
- (f) take charge of and preserve the records of all geodetic and topographical surveys, maps and aerial photography or other remotely sensed imagery.

(2) Any person employed in the office of the Chief Director may, if authorised thereto by the Chief Director, perform any specified act or task which may be performed by the Chief Director in terms of this Act or any other law.

[Sub-s. (3A) inserted by s. 12 of Act 61 of 1998 (wef 28 September 1998).]

4 Establishment of offices of Surveyors-General for provinces

(1) The Minister may, by notice in the *Gazette*, establish a Surveyor-General's office for any province or any provinces jointly, give a name to that office, and determine the seat thereof.

(2) The Minister may, in the execution of subsection (1), abolish any Surveyor-General's office or incorporate it with any other such office, and may for this purpose make any administrative or other arrangements as he or she may deem necessary.

(3) The Minister may, by notice in the *Gazette*, amend or withdraw a notice referred to in subsection (1).

5 Appointment of Surveyor-General

In respect of each Surveyor-General's office referred to in section 4, the Minister shall, after consultation with the Chief Surveyor-General, and subject to section 50 and the Public Service Act, 1994 (Proclamation 103 of 1994), appoint an officer who shall be a land surveyor, who shall be styled the Surveyor-General and who shall, subject to the directions of the Chief Surveyor-General, exercise the powers and perform the duties conferred upon or assigned to him or her by this Act.

6 Powers and duties of Surveyor-General

(1) A Surveyor-General shall be in charge of the office in respect of which he or she has been appointed and shall, subject to this Act-

- (a) take charge of and preserve all records pertaining to surveys of land which were, prior to the commencement of this Act, preserved as records in that Surveyor-General's office and which, after the commencement, become records of that office;
- (b) before any registration is effected in a deeds registry, examine and approve or provisionally approve all general plans and diagrams which have been prepared in accordance with this Act and, when applicable, are in accordance with any statutory consent in so far as the layout is concerned;
- (c) on the diagram of any piece of land-
 - (i) define the geometrical figure representing any portion of that land, the transfer of which has been registered in a deeds registry, and deduct the numerical extent of that 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 Deeds Registries Act, 1937 (Act 47 of 1937), and deduct the numerical extent of that portion; and
 - (iii) define the geometrical figure and make the necessary endorsements in respect of any servitude or lease over or on that land which has been surveyed in terms of this Act and registered in a deeds registry;
- (d) cancel or amend in accordance with the provisions of any law any general plan or diagram;
- (e) prepare, certify and issue, at the request of any person and on payment by that person of the prescribed fees, copies of diagrams, general plans and other documents filed in his or her office and available to the public, and copies of general plans and diagrams registered in a deeds registry in the province concerned;
- (f) compile and amend such cadastral plans as may be required,

and generally exercise all such powers and perform all such duties as are by any law conferred or imposed upon a Surveyor-General, and perform such other functions as the Chief Surveyor-General may assign to him or her.

(2) Any land surveyor employed in a Surveyor-General's office may, if delegated thereto by the Surveyor-General concerned, perform any function which may be performed in terms of this Act or any other law by that Surveyor-General, and a Surveyor-General may delegate any power referred to in subsection (1) (c), (d), (e) and (f) to any person employed in his or her office.

[Sub-s. (2) substituted by s. 13 of Act 61 of 1998 (wef 28 September 1998).]

7 Delegation of powers

The Minister may delegate or assign any power or duty conferred or imposed upon him or her by or under this Act, except the powers referred to in sections 2, 4 and 5, and the proviso to section 33 (1) (a) to any officer of the Department.

8 Fees of office

(1) The Director-General may, by notice in the *Gazette*, 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 offices of the Chief Surveyor-General, the Chief Director and the Surveyors-General.

[Sub-s. (1) substituted by s. 14 of Act 61 of 1998 (wef 28 September 1998).]

(2) Any notice referred to in subsection (1), or any amendment or rescission thereof, shall come into effect 30 days after it has been published in the *Gazette*, or at such later date as the Director-General may determine.

9 Survey regulations board

(1) A survey regulations board (in this section and in section 10 referred to as 'the board') is hereby established consisting of-

- (a) the Chief Surveyor-General, who shall be the chairperson of the board;
- (b) three land surveyors appointed by the Minister, who shall be officers in the service of the State; and
- (c) three land surveyors nominated by the South African Geomatics Council established by section 3 of the Geomatics Profession Act, 2013.

[Para. (c) substituted by s. 38 (2) of Act 19 of 2013 (wef 1 August 2015).]

(2) For every member of the board appointed in terms of subsection (1) (b) or nominated in terms of subsection (1) (c), there shall be an alternate member appointed or nominated, as the case may be, in the same manner as the member referred to, and any alternate member so appointed or nominated shall act in the place of the member in respect of whom he or she has been appointed or nominated as alternate member, during the absence of that member or during his or her inability to act as a member of the board.

(3) If the South African Geomatics Council fails to nominate-

- (a) a member for the purposes of subsection (1) (c); or
- (b) an alternate member referred to in subsection (2),

the Minister shall appoint a land surveyor as a member or alternate member, and any member or alternate member so appointed shall be deemed to have been nominated in terms of subsection (1) (c) or (2), as the case may be.

[Sub-s. (3) amended by s. 38 (2) of Act 19 of 2013 (wef 1 August 2015).]

(4) (a) A member of the board referred to in subsection (1) (b) shall hold office for the term determined by the Minister, but the Minister may at any time remove that member from office on grounds of misbehaviour, incapacity or incompetence.

(b) A member of the board referred to in subsection (1) (c) shall hold office for a term determined by the South African Geomatics Council but not exceeding two years, but that Council may, at any time remove that member from office on grounds of misbehaviour, incapacity or incompetence.

[Para. (b) substituted by s. 38 (2) of Act 19 of 2013 (wef 1 August 2015).]

(c) A member of the board whose term of office has expired, may be reappointed.

(5) Should a member of the board die or vacate office before the expiration of his or her term of office, the Minister or the South African Geomatics Council, as the case may be, may appoint a person to fill the vacancy for the unexpired part of the term for which the member was appointed or nominated

[Sub-s. (5) substituted by s. 38 (2) of Act 19 of 2013 (wef 1 August 2015).]

(6) The first meeting of the board shall be convened by the Director-General.

(7) The board shall meet not less than once in every two years at such times and places as the Chief Surveyor-General may determine.

(8) Whenever the Chief Surveyor-General is absent from or unable to preside at any meeting, the members present shall elect one out of their number to preside at that meeting, and the person who is so elected shall for the purposes of that meeting have the same powers and duties as those of the Chief Surveyor-General.

(9) The quorum for a meeting of the board shall be the majority of its members.

(10) The decision of the majority of the members present at any meeting shall constitute a decision of the board, and in the event of an equality of votes the chairperson shall have a casting vote in addition to his or her deliberative vote.

(11) A member of the board who is not in the full-time service of the State shall receive in respect of his or her services such allowances as the Minister with the concurrence of the Minister of Finance may determine.

10 Regulations

(1) The board established by section 9 may make regulations regarding-

- (a) the manner in which surveys shall be performed, and the manner and form in which the records of those surveys shall be prepared and lodged with the Surveyor-General;
 - (b) the degree of accuracy to be obtained and the limit of error to be allowed in surveys and resurveys of land and for surveys of reference and other permanent marks;
 - (c) the diagrams and general plans required in connection with the registration of any land in a deeds registry, the manner of preparing those diagrams and general plans, the information to be recorded thereon, and the number of the diagrams and general plans to be supplied;
 - (d) the form and dimensions of beacons and reference marks, the manner of marking them for identification, and the manner of their construction, erection, protection, maintenance and repair;
- [Para. (d) substituted by s. 15 of Act 61 of 1998 (wef 28 September 1998).]
- (e) the procedure to be followed in obtaining agreement regarding beacons and boundaries and in arbitration proceedings under this Act and the powers and duties of arbitrators appointed under this Act;
 - (f) the manner and circumstances in which cadastral surveys of land shall be based upon or connected to trigonometrical stations and reference marks;
 - (g) the manner of resurveying any block of land for the purpose of readjusting the boundaries and establishing the beacons thereof, and the manner of recovering the costs of those resurveys;
 - (h) the steps to be taken by a Surveyor-General to test the accuracy or correctness of surveys of which the results are recorded on diagrams or general plans which have been, or are intended to be, registered in a deeds registry, and in the event of those surveys being inaccurate or incorrect, to cause correct diagrams and general plans to be framed and the relevant title deeds to be amended;
 - (i) the steps to be taken by a land surveyor, a Surveyor-General and a Registrar in order to rectify an incorrect diagram or general plan;
 - (j) the testing of measuring instruments to be used in the survey of land;
 - (k) the unit of measure to be used in surveys or on general plans and diagrams;
 - (l) the conditions on which copies of plans and other documents may be issued by the Surveyor-General for judicial, informational or other purposes;
 - (m) the manner in which any notice contemplated in this Act shall be served or published,

and in general, any matter relating to the surveying and mapping of land and the rendering of land information services, and for achieving the objects of this Act.

(2) The board may by regulation prescribe the circumstances in which the Chief Surveyor-General or a Surveyor-General may authorise a departure from a regulation made in terms of subsection (1) (a), (b), (c), (f) and (h) when compliance with any such regulation is found to be impossible or impracticable.

(3) The board may amend or rescind any regulation made by it.

(4) (a) If the need occurs to make, amend or rescind a regulation and it is not expedient to call a meeting of the board, the Chief Surveyor-General may, with the concurrence of not less than 80% of the members of the board, make, amend or rescind the regulation.

(b) A regulation contemplated in paragraph (a)-

(i) shall be submitted to the board at its next meeting for ratification, and if ratified shall be deemed to be a regulation of the board; and

(ii) ceases to exist if not so ratified, but everything purported to have been done in terms of that regulation shall be deemed to have been done as if the regulation had been ratified.

(5) No regulation or any amendment or rescission thereof shall come into operation until one month after it has been published in the *Gazette*.

11 Duties of land surveyor

A land surveyor shall-

- (a) carry out every survey undertaken by him or her in accordance with this Act, and in a manner that will ensure accurate results;
- (b) be responsible to the Surveyor-General for the correctness of every survey carried out by him or her or under his or her supervision, and of every general plan or diagram which bears his or her signature;
- (c) deposit with the Surveyor-General for the purpose of being examined and permanently filed in that Surveyor-General's office such records as may be prescribed in respect of any survey carried out by him or her for the purpose of, or in connection with, any registration of land in a deeds registry, and in respect of any general plan or diagram prepared as a result of that survey, and in respect of any survey carried out by him or her for the replacement of a beacon; and
- (d) correct without delay, when required by the Surveyor-General, any error in any survey carried out by that land surveyor or in respect of any work related thereto due to failure to comply with this Act and take such steps as may be necessary to ensure the correction of any diagram, general plan and title deed based on the incorrect survey and to adjust the position of any beacon which he or she has placed in accordance with the incorrect survey.

12 Improper conduct of land surveyor

(1) A land surveyor shall be guilty of improper conduct if he or she-

- (a) signs, except as provided in section 16 or in the prescribed circumstances, a general plan or diagram of any piece of land in respect of which he or she has not carried out or supervised the whole of the survey and field operations, and carefully examined and satisfied himself or herself of the correctness of any entries which may have been made by any other person in any field book, and of the calculations, working plans or other records in connection therewith;
- (b) signs a defective general plan or diagram knowing it to be defective;
- (c) performs, through negligence or incompetence, defective surveys or surveys to which adequate checks have not been applied;
- (d) makes any entry in a field book or other document, which purports to have been derived from actual observation or measurements in the field when it was not so derived;
- (e) supplies erroneous information to the Surveyor-General in connection with any survey, boundaries or beacons of land, knowing it to be erroneous; or
- (f) contravenes any provision of this Act or fails to comply therewith.

(2) The Chief Surveyor-General may, in respect of any land surveyor referred to in subsection (1)-

- (a) refer any complaint or allegation of improper conduct to the South African Geomatics Council established by section 3 of the Geomatics Profession Act, 2013, for investigation in terms of section 19 of that Act; or
[Para. (a) substituted by s. 38 (2) of Act 19 of 2013 (wef 1 August 2015).]
- (b) apply to the court by way of motion for the suspension or cancellation of the right of that land surveyor to practise as such, and the court may thereupon suspend or cancel that right or make such other order as it deems fit.

13 Limitation of liability

The State, a Surveyor-General or an official who is employed in an office of a Surveyor-General shall not be liable for any damages suffered by any person in consequence of an act or omission by a Surveyor-General or such official in the course of the application of this Act: Provided that if a court finds that such act or omission was due to negligence or bad faith the State shall be liable for such damages.

14 No registration of land without approved diagram or general plan

No general plan or diagram of any piece of land shall be accepted in any deeds registry in connection with any registration therein of that land, unless the general plan or diagram has been approved by the Surveyor-General: Provided that, in the event of a general plan having been prepared in terms of any law which regulates the establishment of townships, the Surveyor-General may, at the request of the land surveyor who has signed the general plan, approve it provisionally, and that provisionally approved general plan may be accepted in a deeds registry for the registration of registrable acts in respect of erven indicated thereon, if a certificate has been submitted to the Registrar in which the responsible land surveyor declares that the beacons of the erf or erven to be registered have been placed in positions that correspond with the data appearing on the provisionally approved general plan, and that he or she will submit the final general plan to the Surveyor-General for approval within the prescribed period: Provided further that the land surveyor shall, simultaneously with the submission of the certificate to the Registrar, submit a copy thereof to the Surveyor-General.

15 Manner of preparing diagram and general plan

Every general plan or diagram lodged for the approval of the Surveyor-General shall be prepared in accordance with this Act, and the numerical and other data recorded thereon shall be within the prescribed limits of consistency: Provided that the Surveyor-General may approve a diagram or general plan prepared before the commencement of this Act in accordance with any law or usage in force at the time of preparation.

16 Diagram and general plan 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 in exceptional circumstances the Surveyor-General may approve a general plan or diagram framed at his or her direction from general plans, diagrams or survey records filed in his or her office or registered in a deeds registry, without the signature thereon of the land surveyor who signed those general plans, diagrams or survey records.

17 No approval of diagram of portion of unsurveyed land

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

18 Original survey of land to which title has been issued

(1) Any land surveyor carrying 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, shall lodge with the Surveyor-General for examination and filing of record in the Surveyor-General's office the prescribed diagram and survey records and shall cause the beacons and boundaries to be accepted by agreement as contemplated in section 29.

(2) Subject to subsection (4), when the Surveyor-General is satisfied as to the correctness of the diagram and the survey records and the agreement to beacons and boundaries he or she shall approve the diagram.

(3) Upon approving the diagram the Surveyor-General shall 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 share therein, shall be effected in a deeds registry until an endorsement has been made on the title deed of that land in terms of the applicable provisions of the Deeds Registries Act, 1937 (Act 47 of 1937).

(4) The Surveyor-General may, unless otherwise directed by a court order, refuse to approve a diagram of any piece of land referred to in subsection (1) if he or she 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 that diagram or that payment of any rates or taxes has been or will be evaded by any registration in a deeds registry based upon that diagram.

19 Original survey of land to which no title has been issued

(1) Whenever a land surveyor carries out a 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 a deeds registry or filed in a Surveyor-General's office, the Surveyor-General shall, before approving a diagram of the land, publish a notice in the prescribed manner stating that copies of the diagram of that land are available for inspection at the office of the magistrate of the district in which the land is situate and at the Surveyor-General's office.

(2) The notice referred to in subsection (1) shall also state that if no objection by an owner of land contiguous to the land represented on the diagram is received within 60 days from the first publication of the notice, that diagram will be approved by the Surveyor-General.

(3) The Surveyor-General may dispense with the publication of the notice referred to in subsection (1) if no contiguous owner's rights would be adversely affected.

(4) If within the period referred to in subsection (2) any owner of land contiguous to the land represented by that diagram lodges with the Surveyor-General an objection to the diagram or to any beacon or boundary adopted in the survey of that land, and any dispute arising from the objection cannot be settled by agreement of the parties thereto, section 29 (5) and (8) shall with the necessary changes apply.

20 Division surveys

(1) Whenever the owner of a surveyed piece of land desires to subdivide that land and to effect separate registration of one or more portions of the land in a 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 if it has been prepared in accordance with this Act: Provided that-

- (a) if it is desired to effect separate registration of the remaining extent of such piece of land it shall not be compulsory to so submit a diagram of the remaining extent; and
- (b) 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 that diagram has been substituted for the existing diagram in accordance with the Deeds Registries Act, 1937 (Act 47 of 1937).

(2) Upon separate registration of any portion referred to in subsection (1) being effected, the Surveyor-General shall define on the copy of the diagram of the land so divided filed in his or her office, and may define on the copy of the diagram filed in the deeds registry and on the copy belonging to the owner of the remaining extent, the geometrical figure representing that portion and deduct its numerical extent: Provided that, where prescribed, the definition and deduction may be made on a general plan instead of on a diagram.

(3) Section 24 (1) and (2) shall with the necessary changes apply in respect of the beacons and boundaries of any portion of land surveyed in terms of this section.

21 Diagram of exact fraction of land

Whenever a surveyed piece of land which is held in shares is subdivided for the purpose of dividing it between the owners, the Surveyor-General may withhold his or her approval of a diagram purporting to represent an exact fraction of the total area of that piece of land until he or she is satisfied that the total area has been ascertained by a resurvey of the whole of the piece of land.

22 Land represented by incorrect diagram

The Surveyor-General may, if the diagram of any piece of land entirely fails to represent that land or misrepresents it to such an extent that damage or loss might result to any person who acquires or may acquire any interest therein, give notice of that fact to the Registrar and to the owner thereof, after which no further registration of that piece of land or of any portion thereof or of any share therein may be effected in a deeds registry until a new diagram thereof has been approved, and the title deed thereof has been endorsed in accordance with the new diagram as prescribed by the Deeds Registries Act, 1937 (Act 47 of 1937), and if the Surveyor-General is unaware of the address of the owner of the piece of land, a publication of a notice in the prescribed manner shall be deemed to be sufficient notice to the owner for the purpose of this section.

23 Rectification of overlap of diagrams

(1) If the figure of the diagram of a piece of land (in this section 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 or she shall give notice of the overlap to the Registrar and in the prescribed manner to the owner of the land represented on the overlapping diagram and thereafter no further registration of that land or any portion thereof or share therein may be effected in a deeds registry until the Surveyor-General, after receipt of such data as he or she may require from the owner for the purpose, has rectified the overlapping diagram.

(2) The Surveyor-General shall publish the notice referred to in subsection (1) in the prescribed manner, if the address of the owner is unknown.

(3) Section 36 shall with the necessary changes apply in regard to the alteration of the title deed in respect of the overlapping diagram.

24 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 a deeds registry (in this section referred to as the 'existing diagram') does not correctly represent any beacon, boundary or the area of that land, the Surveyor-General may approve a new diagram prepared in accordance with a resurvey of that land.

(2) Section 29 shall with the necessary changes apply in regard to any resurvey, but it shall not be necessary to comply therewith in respect of any beacon or boundary if-

- (a) the numerical data relating to that 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 any registration has been based, and the Surveyor-General is satisfied that the resurvey has not been less accurately performed than the previous survey and that the position of the beacon or boundary adopted in both surveys is substantially the same; or
- (b) notwithstanding any difference beyond the prescribed limits, documentary evidence is produced which is sufficient to prove that the position of the beacon or boundary is correct:

Provided that nothing contained in this subsection shall be construed as preventing an owner from complying with section 29 in respect of any beacon or boundary which he or she may wish to have lawfully established in terms of section 35.

(3) Upon approving the new diagram the Surveyor-General shall endorse the existing diagram as having been replaced by the new diagram and shall inform the Registrar, and thereafter no registration of the land represented by the new diagram, or of any portion thereof or of any share therein, shall be effected in a deeds registry until an endorsement has been made on the relevant title deed in accordance with the Deeds Registries Act, 1937 (Act 47 of 1937).

(4) If it appears from the resurvey that an existing diagram is correct, the Surveyor-General shall endorse thereon a certificate that the land represented by that diagram has been resurveyed and that the existing diagram has been found to be correct, and thereupon the beacons and boundaries of that piece of land shall be deemed to have been lawfully established in accordance with section 35.

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

25 Resurvey of block of land other than township

(1) The Minister may order that a section or block of land (excluding land referred to in sections 26, 27, 28 and 37) be resurveyed under the direction of the Surveyor-General whenever-

- (a) the owners of not less than one half of the section or block of land, consisting of more than one registered piece of land, apply to the Minister for a resurvey of that section or block; and
- (b) the Surveyor-General reports that the boundaries of the several pieces of land constituting that section or block are confusing and need readjustment.

(2) No beacons or boundaries which have become lawfully established in accordance with section 35 shall be affected by any resurvey or any other act performed under this section.

(3) If in the course of a resurvey ordered under this section a dispute arises as to the boundaries of any piece of land, the Surveyor-General may in the prescribed manner give written notice to every party to that dispute that he or she proposes to appoint an arbitrator for the purposes of settling the dispute.

(4) Any party referred to in subsection (3) may, if he or she was in South Africa on the date when the notice was served upon him or her, within 30 days, or if he or she was not in South Africa upon that date, within 60 days after that date, institute an action in the court to settle that dispute or, if the State is one of the parties to the dispute, proceed to arbitration in respect thereof: Provided that should no person institute any such action or arbitration proceedings within those periods the Surveyor-General may appoint an arbitrator to settle the dispute.

(5) The costs of any resurvey ordered under this section shall be defrayed from the National Revenue Fund, established by section 213 of the Constitution, but the Minister may thereafter recover those costs from the owner of each piece of land in accordance with a schedule framed by the Surveyor-General, apportioning the costs among all the owners.

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

(7) The Surveyor-General shall not approve a general plan representing 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 or her office and at the office of the magistrate of the district within which that land is situate and until the Surveyor-General has published, in the prescribed manner, a notice stating his or her intention to approve that general plan and calling upon persons interested who object to the approval, to lodge an objection with the Surveyor-General: Provided that the Surveyor-General may approve any such general plan without the notice if each owner of any land affected by the resurvey has agreed in writing to the general plan or to the beacons and boundaries adopted in the resurvey, or if the resurvey is in accordance with a judgment or award under subsection (4).

(8) If within four weeks from the date of the last publication of the notice no objection under subsection (7) has been 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 the general plan and upon approval he or she shall, by notice in the relevant *Provincial Gazette*, declare that the general plan has been approved.

(9) If within the period of four weeks any objection under subsection (7) has been lodged, the proviso to section 27 (3), and section 29 (5), shall with the necessary changes apply.

26 Resurvey of townships

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

(2) Before any local authority applies to the Minister for a resurvey of any township or part thereof falling within its jurisdiction it shall, in consultation with the Surveyor-General, publish a notice in the prescribed manner of the intended application, and also post the notice outside its office: Provided that should no local authority have been established for the township, or if there is a local authority which is not by law empowered to incur expenditure for that purpose, the Surveyor-General shall, before any resurvey is commenced, cause a notice of the intended resurvey to be published as aforesaid, and have the notice posted outside the office of the magistrate of the district in which the township is situate.

(3) A resurvey under this section shall be based on reference marks erected in terms of section 40: 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 erected in terms of that section.

(4) A resurvey under this section shall be carried out and the superseding general plan shall be prepared under the direction of the Surveyor-General by a land surveyor appointed by the Surveyor-General: Provided that where the township falls within the area of jurisdiction of a local authority, that 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 section 35 shall be affected by any resurvey or other

act performed under this section.

(6) (a)(i) All costs of and incidental to the 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, that 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-ratable land other than State land) held in ownership by each in order to cover the costs of and incidental to the resurvey of any portion thereof.

(ii) The costs of and incidental to the resurvey which shall be payable by the State in respect of State land shall be determined by the Minister, after consultation with the local authority concerned.

(iii) For purposes of paragraph (a) (i) **'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 the township, or if a local authority 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 the resurvey in accordance with a schedule prepared by the Surveyor-General, apportioning the costs among all the owners.

(c) Before the resurvey is commenced the owners, other than the State, shall deposit with the Minister an amount sufficient to cover their proportionate share of the costs, and if their share of the actual costs is less than the amount deposited, the difference shall be refunded to them, and if that share is in excess of the amount deposited, the Minister may recover the difference from them by action in the court.

27 Approval of superseding general plan

(1) The Surveyor-General may not approve a superseding general plan of a township, or of a defined portion thereof resurveyed under section 26, until-

- (a) notice of the Surveyor-General's intention to approve the superseding general plan has been published in the prescribed manner calling upon persons interested to lodge in writing at his or her office any objection they may have to the approval thereof; and
- (b) copies of the superseding general plan have been made available for inspection during a period of six weeks at the Surveyor-General's 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 that area is situate.

(2) The Surveyor-General may approve the superseding general plan if within four weeks from the date of the last publication of the said notice no objection has been lodged, and upon approval shall by notice in the relevant *Provincial Gazette* declare that the plan has been approved.

(3) Section 29 shall with the necessary changes apply if within the period of four weeks any objection to the superseding general plan has been lodged: Provided that the Surveyor-General may approve and make use of any superseding general plan of such portions of the area resurveyed as are not affected by the objection, and generally may take any steps in regard to those portions as if no objection had been lodged.

(4) The approval of a superseding general plan of an area resurveyed under section 26 shall thereby cancel every preceding general plan or part thereof or any diagram representing that area and the Surveyor-General shall thereupon endorse the preceding general plans or diagrams accordingly.

28 Registration of pieces of land on superseding general plan

Upon approving a superseding general plan under section 27, the Surveyor-General shall furnish the Registrar with a list of all pieces of land shown on the superseding general plan, and thereafter no registration or any other act affecting the registration of any such piece of land or portion thereof or share therein, shall be effected until the Registrar has made those alterations, amendments or endorsements to or on the relevant title deeds and registers in his or her deeds registry as may be necessary.

29 Resolution of boundary disputes

(1) Whenever doubt or dispute has arisen in regard to any beacon or boundary of a piece of land, the diagram or general plan of which is registered in a deeds registry, and the position of the beacon or boundary has been determined by survey, any owner may, or the Surveyor-General may under the prescribed circumstances, in writing request that the position of the beacon or boundary be accepted by agreement between the owners concerned, and that request shall be accompanied by a notice setting out in full the provisions of this section.

(2) For the purpose of an acceptance contemplated in subsection (1), there shall be lodged with the Surveyor-General for approval a document, as far as practicable in accordance with the form contained in Schedule I to this Act (in this section referred to as the 'agreement') specifying the beacons and boundaries concerned, and signed by-

- (a) the owner of such land or his or her duly authorised agent;
- (b) every owner of land contiguous thereto or his or her duly authorized agent;
- (c) holders of real rights in the piece of land or in land contiguous thereto whose rights would be adversely affected by the position of the beacons or boundaries adopted; and
[Para. (c) substituted by s. 110 of Act 28 of 2002 (wef 1 May 2004).]
- (d) two competent witnesses to each signature being persons above the age of 14 years, one of whom may be the land surveyor performing the survey:

Provided that-

- (i) in respect of any beacon or boundary which is only common to that piece of land and to land outside the Republic, no agreement is necessary;
- (ii) in respect of that piece of land, or any contiguous land, or any other real rights which are held by two or more owners or holders in shares, it shall be sufficient if the agreement is signed by the owners or holders of not less than three-fourths of the shares in the piece of land or the rights, as the case may be;
[Para. (ii) substituted by s. 110 of Act 28 of 2002 (wef 1 May 2004).]

(iii)

[Para. (iii) deleted by s. 110 of Act 28 of 2002 (wef 1 May 2004).]

- (iv) 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 that owner from the acceptance of the agreement.

(3) Should any person referred to in subsection (2) (b) and (c) fail to sign the agreement within a period of two weeks from the date upon which he or she was requested to sign the agreement, the owner or the Surveyor-General, as the case may be, shall serve upon that person a notice in writing informing that person that if he or she fails, within a further period of one month from the date of service of that notice, to lodge with the Surveyor-General an objection to the boundaries or beacons of that piece of land as set out in the agreement, he or she shall be deemed to have agreed to the boundaries and beacons.

(4) Subject to subsection (8), the Surveyor-General shall approve the agreement if it complies with the requirements of this Act and no objection to any beacon or boundary adopted in the survey or resurvey of such land has been lodged by any of the persons referred to in subsection (2) (b) and (c) within the prescribed period.

(5) (a) If any person requested to sign the agreement in terms of subsection (2) (b) and (c) has failed to sign the agreement, and has,

within the prescribed period, lodged with the Surveyor-General, an objection to any beacon or boundary specified in the agreement, the Surveyor-General may in the prescribed manner serve a notice on every person affected by the objection to undertake, in the prescribed manner, to accept the award of an arbitrator or arbitrators as binding upon all matters in dispute in connection with that beacon or boundary and in regard to the costs of and incidental to the arbitration.

(b) If every person affected by the objection (in the case of joint owners or holders contemplated in subsection (2) (ii), the owners or holders of not less than three-fourths of the shares in that land) have so undertaken, the Surveyor-General shall after consultation with those persons appoint one or more impartial arbitrators to determine the matter and costs in the prescribed manner.

(c) If any person affected by the objection fails so to undertake, the Surveyor-General shall in the prescribed manner serve a notice on the objector informing him or her that within the prescribed period from the date of the objection he or she may-

- (i) institute an action in the court to determine the matter; or
- (ii) if the State is one of the parties affected by the objection, proceed to arbitration in terms of the Arbitration Act, 1965 (Act 2 of 1965),

and should he or she fail to institute such action or proceed to such arbitration, he or she shall be deemed to have agreed to the beacons or boundaries specified in the agreement.

(6) Subsections (1) to (5) apply also in the case of-

- (a) a beacon which is erected to replace a beacon which has been destroyed or disturbed;
- (b) a curvilinear boundary which is ill-defined or unsatisfactory and in respect of which the owners have agreed upon its substitution by a boundary of another character; and
- (c) a curvilinear boundary where different opinions arise as to the correct position on the ground and the position of such boundary has been determined by survey.

(7) The Surveyor-General shall cause appropriate endorsements to be made on all affected diagrams and general plans upon the approval of the agreement.

(8) The Surveyor-General may, unless otherwise directed by a court, refuse to approve an agreement contemplated in this section if he or she has reasonable grounds for believing that any area which is not the property of the owner of a piece of land has been included within the boundaries as specified in the agreement or that payment of any rates or taxes has been or will be evaded by any registration in a deeds registry based upon the agreement.

30 Rules for arbitrators

In deciding which are the correct beacons or boundaries common to two or more contiguous pieces of land an arbitrator appointed under this Act shall take into consideration the particular circumstances of each specific case, but shall generally be guided by the following principles, namely-

- (a) that the original beacons of a piece of land, as erected or adopted at the original survey thereof (if surveyed) shall be deemed to define the true boundaries of that land as granted or transferred, notwithstanding that those beacons do not correspond to the original diagram or general plan or may not include the extent of land which the title deed of that piece of land purports to convey;
- (b) that if well-ascertained beacons have, for an uninterrupted period of not less than 30 years, been recognised by the parties to the dispute or their predecessors in title as the correct beacons, those beacons shall be taken to be the original beacons: Provided that land which is clearly not included, nor intended to be included, in the title deed of a piece of land may not 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 that piece of land or his or her predecessors in title to the exclusion of others;
- (c) that, if any land included within the original beacons and boundaries of a grant of a piece of land has afterwards been included within the beacons and boundaries of a later grant of a piece of land, the rights to the overlap conferred by the older grant shall, subject to paragraph (b), prevail; and
- (d) that, if any land has an imaginary curvilinear boundary at a stated distance from an ambulatory physical feature, that boundary shall not be subject to any positional change after registration of that land has taken place.

31 Rectification of title deeds after resolution of boundary dispute

(1) Whenever a dispute in regard to any boundary or beacon of contiguous pieces of land has been determined by the judgment of the court or by the award of arbitrators, the owners of any land affected by the judgment or award, or those of them as may be specially directed thereby, shall take such steps as may be necessary, in accordance with the Deeds Registries Act, 1937 (Act 47 of 1937), to cause such endorsements to be made on the existing title deeds thereof as the Surveyor-General may direct: Provided that those endorsements shall be based upon a diagram correctly representing the boundaries and beacons of that land as determined by that judgment or award.

(2) Any judgment or award referred to in subsection (1) shall determine in what proportion the costs of any survey for the purpose of framing that diagram, or causing that endorsement, or otherwise giving effect to the judgment or award, shall be borne by the owners of any land affected thereby.

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

32 Survey of water feature or line parallel thereto defining boundary of State land

If the high-water mark of the sea or a line parallel to it, or the bank of a tidal river, or the edge of a lake or vlei, which is the property of the State, forms the boundary of any land which is to be surveyed for the replacement thereof with a boundary of another character in terms of this Act or in terms of any other law, or for the purpose of the division of that land, notice in writing of the intended survey shall be given to the Surveyor-General at least 20 days before the date of commencement of the survey.

33 Removal of uncertainty in description of river boundary

(1) (a) If a river, other than a tidal river as defined in section 1 of the Sea-shore Act, 1935 (Act 21 of 1935), constitutes a boundary of any piece of land, that 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 or general plan of that land that a particular bank of the river constitutes that boundary;
- (ii) it is stated in clear and unequivocal terms in the title deed or on the original diagram or general plan of land contiguous to the first-mentioned land and separated therefrom by the river, that the entire river bed forms part of the contiguous land;
- (iii) the inclusion of any part of the river bed in that land would cause that boundary to fall beyond the territorial limits of the grantor as they existed at the time when the grant of that 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 that land would be invalid:

Provided that in the case of the Orange and Vaal Rivers the middle of the river shall not be deemed to be the boundary until the Surveyor-General, in consultation with the Chief Surveyor-General and the Minister, has certified that no evidence has been adduced whereby any

presumption that that piece of land extends to the middle of the river may be rebutted.

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

(c) If the Surveyor-General is satisfied that on the grounds of paragraph (a) (i), (ii), (iii) or (iv) any bank of a river constitutes the boundary of a piece of land, he or she may, on the written application of the owner of that piece of land, endorse the diagram or general plan of that piece of land to the effect that that bank is the boundary.

(d) If a diagram representing a piece of land or any subdivision thereof, in respect of which the presumption contained 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 paragraph (b), he or she shall call upon the owner of that piece of land, or subdivision thereof, to submit a written application as contemplated in paragraph (b) and shall upon receipt of the application endorse that diagram in terms of that paragraph.

(2) (a) If 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 that piece of land as originally granted, he or she may, notwithstanding evidence to the contrary, give effect to the terms of an agreement lodged with him or her 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 the Form set out in Schedule I to this Act setting out in clear terms, as prescribed, that the middle of the river is acknowledged as being the river boundary of that subdivision.

(c) Section 34 (2), (3), (4), (5) and (6) shall with the necessary changes apply in respect of the agreement contemplated in paragraph (a).

(3) For the purpose of this section '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 the boundary of a piece of land in a title deed registered in the deeds registry.

34 Removal of uncertainty in description of curvilinear boundary other than a river boundary

(1) Whenever 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 or general plan of that land, and-

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

the owner shall lodge with the Surveyor-General a document as far as practicable in accordance with the Form set out in Schedule I to this Act, in this section referred to as the 'agreement', setting out in clear terms, as prescribed, which part of that feature is acknowledged as being the boundary of that piece of land.

(2) The agreement shall be independent of any determination by survey of the position on the ground of that curvilinear boundary and shall be signed by-

- (a) the owner of the land or his or her duly authorised agent;
- (b) every owner of land contiguous thereto and separated therefrom either wholly or in part by that physical feature or his or her duly authorised agent: Provided that in respect of that contiguous land, or any other real rights which are held by two or more owners or holders in shares, it shall be sufficient if the agreement is signed by the owners or holders of not less than 75% share in that piece of land or those rights, as the case may be; and
[Para. (b) amended by s. 110 of Act 28 of 2002 (wef 1 May 2004).]
- (c) two competent witnesses to each signature being persons above the age of fourteen years, one of whom may be the land surveyor performing the survey:

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 that owner from the acceptance of the agreement.

(3) Section 29 (1) to (5) shall apply with the necessary changes to the agreement under this section.

(4) When the agreement has been signed in terms of this section and has been accepted by the Surveyor-General, no diagram nor general plan of that piece of land or subdivision thereof shall thereafter be approved if it is not in accordance with the agreement.

(5) (a) If any contiguous owner, or the holder of any real right who has been required by the Surveyor-General to sign the agreement, has failed to sign the agreement and has, within the period mentioned in any notice referred to in section 29 (5), 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) for a description of the boundary in question: Provided that if the State is an objector or affected by the objection, the matter shall be settled by arbitration in terms of the Arbitration Act, 1965 (Act 2 of 1965).

(b) The commission referred to in paragraph (a) shall consist of an officer of the Department appointed in writing by the Director-General, the Surveyor-General (who shall be chairperson and who shall have a deliberative vote and, in the event of an equality of votes, also a casting vote), the Registrar of the deeds registry in which the land is registered, and one other member appointed by the Surveyor-General after consultation with the objector.

(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 30 days after the posting of that letter (or in the case of an owner not at that time in South Africa, 60 days), any such owner or holder of a real right fails to lodge a formal written objection against the finding, and thereafter within a further period of 30 days to take steps to institute an action to determine the matter, that 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 Surveyor-General cannot readily ascertain the address of a contiguous owner or holder of a real right, the publication of the finding of the commission by notice in the prescribed manner shall for the purposes of this paragraph be sufficient notice to that owner or holder of a real right. Thereafter no diagram or general plan shall be approved which is not in accordance with the description.

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

35 Beacons and boundaries lawfully established

(1) A beacon or boundary other than an ambulatory curvilinear boundary shall be deemed to be lawfully established when its position is-

- (a) in agreement with the position adopted in any survey or resurvey performed in terms of this Act, provided that section 29 has, with the necessary changes, been complied with;
- (b) in agreement with the position thereof adopted in a resurvey in terms of section 25 or 26, and when a general plan based on that resurvey has been approved;

- (c) determined by way of arbitration;
- (d) in agreement with an order of the court;
- (e) in agreement with the position thereof adopted in a resurvey and when an amended title based on that resurvey was issued under the Land Beacons Amendment and Extension Act, 1879, of the Cape of Good Hope; or
- (f) in agreement with the position of a beacon or boundary established and entitled to recognition at the commencement of this Act pursuant to any law or usage concerning the establishment or recognition of beacons and boundaries in force prior to that commencement, notwithstanding that that law may be repealed by this Act.

(2) The Surveyor-General or Registrar shall not accept for filing or registration any document which shows any beacon or boundary inconsistent with such lawfully established position.

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

36 Correction of registered diagram

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

37 Alteration or cancellation of general plan

(1) (a) Any general plan which is filed in a Surveyor-General's office or is registered in a deeds registry may be altered or amended by the Surveyor-General for the purposes of rectifying errors in the numerical data, figure or wording: Provided that if the correction affects the extent or designation of erven, the Surveyor-General and the Registrar shall act in the prescribed manner.

(b) The Surveyor-General may, in order to make a correction contemplated in paragraph (a), require that a land surveyor submit in the prescribed manner a correction sheet of the whole or part of the general plan for examination and approval.

(2) Any general plan referred to in subsection (1) which represents the subdivision of land in accordance with or under 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 Premier concerned, or by an order of the court, and subject to such conditions as the Premier or the court may deem necessary, be altered, amended or partially or totally cancelled by the Surveyor-General: Provided that where the alteration, amendment or partial or total cancellation affects a public place, the Surveyor-General, prior to such alteration, amendment or partial or total cancellation, shall be advised by the Premier that the provisions of the laws relating to the permanent closing of any public place or part thereof have been complied with.

(3) The Premier may, in respect of any alteration, amendment or partial or total cancellation of a general plan, contemplated in subsection (2), delegate his or her powers to an officer in the service of the provincial administration or to a local authority, and the local authority may, with the concurrence of the Premier, further delegate the delegated powers to an officer in the service of that local authority.

(4) When 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 the necessary alterations, amendments or endorsements to or on the relevant title deeds and registers in his or her deeds registry.

38 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 Registrar shall notify the Surveyor-General of the issue of a certificate of consolidated title whereupon the Surveyor-General-

- (a) shall cancel the copies of the various diagrams concerned which are filed in his or her office and the deeds registry and which form the component parts comprised in the said certificate; and
- (b) if requested by the owner, may cancel any copy belonging to that owner.

39 Manner of erecting beacons for survey purposes

(1) Any beacon erected for the purpose or in consequence of any survey or resurvey of land in terms of this Act or any repealed 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 beacons shall be comprised and the manner in which they shall be erected shall be as prescribed.

40 Reference marks

(1) In the survey of new townships or extensions 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 may be determined accurately.

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

41 Maintenance and re-erection of beacons

(1) Every owner of land shall maintain in proper order and repair in accordance with the regulations any beacon defining a corner point of that land, whether the beacon was erected for the purpose of or in connection with a survey or resurvey of that land in terms of this Act or any repealed law, or for the purpose of or in connection with the survey or resurvey of any land contiguous thereto.

(2) Any person who, for the purpose of carrying out any work which he or she may lawfully perform, desires to remove or disturb any beacon erected in connection with the survey of land, shall appoint a land surveyor personally to effect or supervise the removal or disturbance and subsequent replacement of that beacon in accordance with the regulations.

(3) If any beacon as contemplated in subsection (1) has not been maintained properly or has been removed or obliterated, the Surveyor-General may serve a notice as prescribed upon the owner of every piece of land of which that beacon forms a corner, calling upon the owner to restore the beacon 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 shall be carried out by a land surveyor: Provided further that this subsection shall not apply to beacons which were moved prior to the commencement of the Land Survey Act, 1927 (Act 9 of 1927).

(4) If any beacon is not restored or re-erected within six weeks of the date upon which any notice referred to in subsection (3) was so served, the Surveyor-General may cause that beacon to be so restored or re-erected by a land surveyor, but the Surveyor-General may, at the request of an owner, extend the period of six weeks.

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

(6) If the Surveyor-General, having served a notice under subsection (3) on the owner of land, is satisfied that any person who acquires an interest in that land may suffer damage or loss as a result of the removal or disturbance of a beacon, he or she shall convey that fact to the

Registrar and to the owner of that land, and thereafter no further registration of that land or of any portion thereof or a share therein shall be effected in a deeds registry until the Surveyor-General has notified the Registrar that the beacon has been restored or re-erected by a land surveyor.

42 Town survey marks

(1) If the Chief Director is satisfied that town survey marks should be officially erected in any area or part of an area under the jurisdiction of a local authority, to enable the positions of the corner points of all pieces of land therein to be accurately determined, he or she may order the erection and survey of such town survey marks as provided in this section.

[Sub-s. (1) amended by s. 19 of Act 61 of 1998 (wef 28 September 1998).]

(2) The erection and survey of the town survey marks shall for all purposes be deemed to be part of and in continuation of the national control survey system referred to in section 3A: Provided that a local authority may at its own cost erect the town survey marks in positions approved by the Chief Director.

[Sub-s. (2) substituted by s. 16 of Act 61 of 1998 (wef 28 September 1998).]

(3) When the town survey marks have been erected and surveyed the Chief Director shall give notice of this fact to the Surveyor-General and the local authority concerned, and shall furnish each of them with the official co-ordinates and a plan showing the positions of those town survey marks, and shall cause a notice to be published in one issue of the *Gazette* stating that town survey marks have been officially erected in terms of this section and that as from a specified date, which shall not be earlier than a date one month after the date of the publication of the notice, a land surveyor, in surveying or subdividing land or in replacing a beacon in the vicinity, shall base the survey on town survey marks as prescribed.

[Sub-s. (3) amended by s. 19 of Act 61 of 1998 (wef 28 September 1998).]

(4) (a) A local authority shall within its area of jurisdiction be responsible for the maintenance to the satisfaction of the Chief Director, of any town survey marks erected in terms of this section, and should the local authority fail to maintain any town survey mark the Chief Director may undertake any necessary work at the expense of that local authority.

[Para. (a) amended by s. 19 of Act 61 of 1998 (wef 28 September 1998).]

(b) A local authority established after the commencement of this Act shall by the mere fact be responsible for the maintenance of the town survey marks which were erected within its area of jurisdiction before its establishment.

43 Protection of trigonometrical stations

(1) Except with the consent of the Chief Director, no person shall place any fence-post, fence-anchor or any other erection or make any excavation within one metre of any trigonometrical station, excluding a town survey mark.

[Sub-s. (1) amended by s. 19 of Act 61 of 1997.]

(2) The Minister may require that a servitude in favour of the State protecting a trigonometrical station, and ensuring an unobstructed view to and from any other trigonometrical station, be granted by the owner of any land upon or near which any trigonometrical station is situate, and cause that servitude to be registered against the title deed of that land: Provided that the costs of the registration of that servitude and any reasonable compensation for any depreciation in the value of the servient tenement by reason of the creation of the servitude shall be paid out of the National Revenue Fund established by section 213 of the Constitution.

44 Offences and compensation for damages sustained thereby

(1) Any person who-

- (a) alters, moves, disturbs or wilfully damages or destroys any beacon, bench-mark, reference mark or trigonometrical station intended to be permanent and erected for the purpose of or in connection with any survey operations, whether such beacon, mark or trigonometrical station is upon his or her land or not;
- (b) erects any beacon except under the supervision of a land surveyor, whether his or her 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 or to imprisonment for a period not exceeding six months, or to both the fine and imprisonment.

(2) The removal or disturbance of any beacon, mark or trigonometrical station referred to in subsection (1) for the purpose of erecting another beacon, mark or trigonometrical station in its place shall not constitute a lawful excuse under this section unless a land surveyor personally supervises that removal or disturbance and the erection of that other beacon, mark or trigonometrical station.

(3) For the purpose of awarding compensation in respect of any damage caused by an offence, any beacon in connection with which the offence was committed shall be deemed to be the property of the person upon whose land or upon a boundary of whose land that beacon was situate, and any bench-mark, reference mark or trigonometrical station in connection with which the offence was committed shall be deemed to be the property of the Chief Director.

[Sub-s. (3) amended by s. 19 of Act 61 of 1998 (wef 28 September 1998).]

45 Power of entry upon land

(1) The Chief Surveyor-General, the Chief Director, a Surveyor-General, any person generally or specially deputed in writing by such officer, or a land surveyor may, for the purpose of performing any functions in terms of this Act or any other law-

- (a) enter upon any land with such assistants, personnel, vehicles, equipment 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 working point upon that 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 that land;
- (d) cut any vegetation growing wild in the vicinity of any beacon, mark, trigonometrical station or working point for the purpose of enabling observations to be made thereto or therefrom;
- (e) with the permission of the owner or occupier, enter at all reasonable hours any building or enclosed place.

[Sub-s. (1) amended by s. 17 (a) of Act 61 of 1998 (wef 28 September 1998).]

(2) The Chief Surveyor-General, the Chief Director, a Surveyor-General, any person authorised by such officer, or a land surveyor shall, before exercising any power referred to in subsection (1), give reasonable notice to the owner or occupier of the land concerned of the intention to exercise the power, except when that power is exercised in carrying out any provision of section 26.

[Sub-s. (2) substituted by s. 17 (b) of Act 61 of 1998 (wef 28 September 1998).]

(3) As little damage and inconvenience as possible shall be caused by the exercise of any of the powers referred to in subsection (1), and the owner or occupier concerned 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 that owner or occupier.

(4) Any person who prevents, obstructs or impedes the exercise of any of the powers referred to in subsection (1), or who moves, obscures or destroys any temporary flag, signal or other working point placed on land in connection with any surveying operations before the completion of those operations, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months.

| | | and hereby agreed to [See note (e)] | |
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CERTIFICATE OF LAND SURVEYOR

1. I hereby certify that the beacons mentioned in this Agreement comply with the Land Survey Act, 1997, and the regulations issued thereunder, and are as described above.

2. I further certify that, to the best of my knowledge, the boundaries have not by agreement between the parties concerned been changed so as to effect a transfer of any land otherwise than in accordance with law. [See sections 18 (4) and 29 (8) of the Land Survey Act, 1996.]

Dated at on this the day of 19....

.....
 Name of land surveyor Signature of land surveyor

Notes:-

- (a) Names in full (these should be clearly written in capital letters).
- (b) Names of contiguous properties.
- (c) Only one signature to be written in each compartment.
- (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) The land surveyor may provide explanatory information by means of insets to the figure to assist signatories.
- (f) Two witnesses are required to each signature.

The page containing the figure referred to in the Agreement must be headed:

Figure representing land under survey and common beacons and boundaries of contiguous properties

and at the foot the following note must be made:

Note: This page must be signed by the land surveyor performing the survey, and the beacons and boundaries must be designated on the figure so as to correspond with the beacons and boundaries agreed to on page of this Agreement.

Schedule II

(Section 48 (1) (a))

| No. and year of law | Short title |
|---------------------|----------------------------|
| TRANSKEI | |
| Act 19 of 1978 | Land Survey Act, 1978 |
| BOPHUTHATSWANA | |
| Act 9 of 1927 | Land Survey Act, 1927 |
| Act 20 of 1978 | Surveyor-General Act, 1978 |
| VENDA | |
| Act 9 of 1927 | Land Survey Act, 1927 |
| CISKEI | |
| Act 22 of 1988 | Land Survey Act, 1988 |

| | |
|----------------|---------------------------------|
| GAZANKULU | |
| Act 9 of 1927 | Land Survey Act, 1927 |
| KANGWANE | |
| Act 9 of 1927 | Land Survey Act, 1927 |
| KWANDEBELE | |
| Act 9 of 1927 | Land Survey Act, 1927 |
| Act 11 of 1988 | Land Survey Amendment Act, 1988 |
| Act 4 of 1992 | Land Survey Amendment Act, 1992 |
| KWAZULU | |
| Act 9 of 1927 | Land Survey Act, 1927 |
| Act 17 of 1989 | Land Survey Amendment Act, 1989 |
| LEBOWA | |
| Act 9 of 1927 | Land Survey Act, 1927 |
| QWAQWA | |
| Act 9 of 1927 | Land Survey Act, 1927 |
| Act 9 of 1988 | Land Survey Amendment Act, 1988 |

Schedule III
AMENDMENT OF ACT 40 OF 1984

(Section 49 (1))

1

Amends section 1 of the Professional and Technical Surveyors' Act 40 of 1984, as follows: paragraph (a) substitutes the definition of 'professional land surveyor'; and paragraph (b) substitutes the definition of 'professional surveyor'.

2

Amends section 20 of the Professional and Technical Surveyors' Act 40 of 1984 by adding subsection (6).

Schedule IV

(Section 50 (1))

| No. and year of law | Short title | Extent of repeal |
|---------------------|--|--|
| Act 9 of 1927 | Land Survey Act, 1927 | The whole |
| Act 14 of 1941 | Land Survey Amendment Act, 1941 | The whole |
| Act 82 of 1959 | Universities Amendment Act, 1959 | Section 10 |
| Act 52 of 1962 | Land Survey Amendment Act, 1962 | The whole |
| Act 64 of 1970 | Land Survey Amendment Act, 1970 | The whole |
| Act 52 of 1971 | Land Survey Amendment Act, 1971 | The whole |
| Act 71 of 1972 | Land Survey Amendment Act, 1972 | The whole, except section 17 |
| Act 23 of 1977 | Land Survey Amendment Act, 1977 | The whole |
| Act 26 of 1981 | Land Survey Amendment Act, 1981 | The whole, except section 11 |
| Act 40 of 1984 | Professional and Technical Surveyors' Act, 1984 | The Schedule in so far as it relates to the Land Survey Act, 1927 (Act 9 of 1927) |
| Act 97 of 1986 | Transfer of Powers and Duties of the State President Act, 1986 | Section 4, and Schedule 1 in so far as it relates to the Land Survey Act, 1927 (Act 9 of 1927) |
| Act 76 of 1990 | Land Survey Amendment Act, 1990 | The whole |
| Act 113 of 1991 | Less Formal Township Establishment Act, 1991 | The Schedule in so far as it relates to the Land Survey Act, 1927 (Act 9 of 1927) |

| | | |
|-----------------|--|---------------------|
| Act 89 of 1993 | Regional and Land Affairs General Amendment Act, 1993 | Sections 1, 2 and 3 |
| Act 170 of 1993 | Regional and Land Affairs Second General Amendment Act, 1993 | Section 1 |

PENDLEX: Land Survey Act 8 of 1997 **after amendment by the Communal Land Rights Act 11 of 2004**

Section 1 - definition

'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 recognised under any law then in force as a land surveyor, or which has been approved or certified as a general plan by a Surveyor-General and includes a general plan or a copy thereof prepared in a Surveyor-General's office and approved or certified as such or a general plan which has, prior to the commencement of this Act, been lodged for registration in a deeds registry or Surveyor-General's office in the Republic or any area which became part of the Republic at the commencement of the Constitution, 1993 and, for the purposes of the Communal Land Rights Act, 2004, includes a communal general plan contemplated in that Act;