

# CHAPTER 36

## BOUNDARIES SETTLEMENT ACT

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• Act • Subsidiary Legislation •

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### ACT

#### Amended by

Act No. 13 of 1963

Act No. 10 of 1990

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### CHAPTER 36

#### BOUNDARIES SETTLEMENT ACT

#### **An Act to provide for the survey of boundaries of land.**

[Amended by Act No. 13 of 1963, Act No. 10 of 1990.]

[13th April, 1892.]

## **1. Short title**

This Act may be cited as the Boundaries Settlement Act.

## **2. Interpretation**

In this Act "Director of Surveys" means the Chief Technical Officer (Works), or the officer who for the time being is the head of the Public Works Department.

## **3. Surveyor to make survey on order of a Judge, etc.**

(1) A surveyor shall, on the order of a Judge of the High Court, make any survey required for the purposes of justice at the cost of the parties to the action or proceeding for which the survey is required.

(2) On the completion of the survey the surveyor shall report it to the Registrar of the Supreme Court and shall send in a plan of the survey.

(3) Before the survey is commenced the estimated cost of it shall be paid into the hands of the Registrar in equal portions by the parties to the action or proceeding.

## **4. Powers of surveyor employed by the Government**

(1) It shall be lawful for the Director of Surveys or any surveyor when specially employed by the Government, together with any necessary assistants, at any time between 6 a.m. and 6 p.m. of any day except Sunday, to enter upon any private land (having given at least fifteen days' notice in writing to the occupier of the land), for the purpose of ascertaining whether Crown Lands have been encroached upon.

(2) Every person who molests or obstructs either the Director of Surveys or any surveyor so specially employed or his or her assistants in the performance of any such duty, shall be liable on summary conviction to a fine of five hundred dollars.

## **5. Notice of survey**

(1) When any surveyor intends to survey or to re-survey land under a court order or by the appointment of any person, he shall give at least fifteen days' notice of his or her intention in writing in accordance with the Form contained in the First Schedule to the owner or person in possession of the adjacent lands, and the notice shall be served through the Registrar's office upon each of such persons by delivering a true copy thereof, certified by the surveyor, to such person, or by leaving it at his or her residence, and if the person cannot be found, then the notice shall be posted up or affixed in some conspicuous place on the premises.

(2) If the surveyor begins the survey from a point or corner, or proceeds on a course, other than those specified in the notice, he or she shall be liable to a fine of one thousand dollars; but nothing herein contained shall prevent the surveyor, after going on the land to make the survey under the notice served through the Registrar's office, if he or she desires to begin the survey at another point or to proceed on another course than that mentioned in the notice, from doing so, upon giving twenty-four hours notice thereof in writing to the owner or person in possession of the adjacent lands, and the last-mentioned notice may be served by any person.

(3) Nothing in this section shall prevent the parties interested in the lines about to be run from agreeing to commence at a different point from that stated in the notice, or from agreeing to have the lines run and established without notice as aforesaid.

## **6. When surveyor cannot attend must give fresh notice**

When a surveyor, after having given notice of survey as aforesaid, is unable to attend on the day appointed, he or she shall give notice thereof to the parties concerned, and shall, before proceeding with the survey, issue fresh notices.

## **7. When surveyor unable to complete survey further notice to be given**

If any surveyor, after having commenced any such survey as aforesaid, is unable to complete it, he or she shall, before again proceeding with it, give notice in writing of his or she intention to resume the survey, stating when and from what point he or she will proceed:

Provided that such notice shall be unnecessary where the parties interested agree to dispense with it.

#### **8. Surveyors may enter adjoining land and make traverses**

A surveyor, or any person who has served under him for two years, may, after due service of notice, enter upon any land adjoining that about to be surveyed and laid out by him, and may make traverses for the purpose of gaining information, but shall not run or mark any boundary lines; and such survey shall not affect the rights of any parties to the ownership of the land.

#### **9. Surveyors to place boundary marks**

(1) Every surveyor, when making a survey of lands or of boundaries shall place boundary marks of stone pillars, or of posts or trees, at the corners and at convenient distances along the lines; and the cost of placing such boundary marks shall be borne equally by the owners of the contiguous lands.

(2) Any surveyor who neglects to place such boundary marks shall be liable to a fine of one thousand dollars.

#### **10. Penalty for obstructing surveyors**

Every person who obstructs or causes to be obstructed any lawful survey, whether by force or by threats, shall be liable, for each day on which he or she so obstructs or causes obstruction, to a fine of five hundred dollars.

#### **11. Penalty for removal of lines or landmarks**

Any surveyor, or any other person, who wilfully defaces, destroys or removes any line upon earth, or any landmark, or marked tree, post, stone or pillar, which has been placed or marked under the authority of this Act shall be liable to a fine of one thousand dollars.

#### **12. Plans and reports**

(1) Every plan or diagram made under the authority of this Act by a surveyor of land surveyed by him or his apprentice shall bear the signature of the surveyor who is responsible for the survey, and shall be accompanied by a report or memorandum containing the following particulars, that is to say—

- (a) the name of the party at whose instance the survey was made;
- (b) the days on which it was commenced and completed;
- (c) the names of the parties, if any, interested in the survey who were served with notices;
- (d) the names of those who appeared either personally or by their representatives;
- (e) the grounds of objection, if any, to the survey;
- (f) the grounds of the surveyor's decision;
- (g) the true bearing and horizontal distances of the several lines;
- (h) the corner trees, if any, and marks;
- (i) the area and contents of the land.

(2) A copy of every such plan or diagram and report or memorandum shall, within thirty days after the completion of the same, be lodged by the surveyor in the office of the Director of Surveys, or such other place as may from time to time be prescribed by the Minister.

(3) Any surveyor who neglects to comply with any of the provisions of this section shall be liable to a fine of five hundred dollars.

### **13. Liability for making incorrect survey or plan**

Any surveyor who, whether by himself or by his apprentice, intentionally or through culpable negligence, carelessness or ignorance, makes an incorrect survey, or delivers an incorrect plan of any land, shall be liable, on the petition to a Judge of the High Court of any person aggrieved thereby, to have his or she certificate as a land surveyor cancelled by order of the Judge, or to be temporarily suspended from the exercise of his office as a certificated land surveyor during such time as may be fixed by the Judge, and shall also be liable to a fine of one thousand dollars. He or she shall further be required to repay any fees which he may have received from any person in consideration of the survey or plan, if it is so ordered by the Judge, and shall also be liable in damages to the person aggrieved.

### **14. Fees**

(1) Surveyors shall be entitled to demand and receive fees according to the tariff set forth in the Second Schedule.

(2) The Minister may from time to time amend or revoke the tariff, and every such amended tariff, and notice of the revocation of any tariff, shall be published in the *Gazette*:

Provided that nothing herein contained shall prevent any person from making any special agreement with any surveyor for work performed or to be performed.

### **15. Penalty on assistants doing any act to falsify survey**

Any person employed to assist any surveyor in making a survey who wilfully and fraudulently makes any wrong measurement, moves any mark, or does any other act, with intent to falsify the survey, shall be liable on summary conviction to a fine of one thousand dollars.

### **16. Applicants for survey to deposit sum sufficient to defray costs**

(1) Any private person, company or corporation applying to the Director of Surveys to order a survey, shall deposit in the Treasury a sum sufficient, in the opinion of the Minister, according to the tariff of fees in force under this Act, to defray the costs of the survey; and no survey at the instance of a private person, company or corporation shall take place unless such sum has been so deposited; and the sum so deposited shall, on the completion of the survey, be applied by the Permanent Secretary (Finance) to the payment of the surveyor employed, and of the other expenses of the survey.

(2) Any balance which may remain due on the survey (over and above the sum deposited as aforesaid) shall be payable by the person, company or corporation at whose instance the survey was ordered by the Minister, and may be sued for as hereinafter provided.

### **17. Cost of survey of Crown lands paid out of the Consolidated Fund**

When any survey ordered by the Director of Surveys is of lands belonging to the Crown, the surveyor employed shall, on the completion of the survey, be paid out of the Consolidated Fund according to the tariff of fees in force under this Act:

Provided that, in any such case, the Director of Surveys may make a special agreement with any surveyor with regard to his remuneration for the survey; but the remuneration shall in no case exceed the amount allowed by the tariff.

**18. Surveyors to place boundary marks when owners of contiguous lands agree, etc.**

(1) Where in any survey ordered by the Director of Surveys the owners of contiguous lands agree as to the boundaries of the said lands, but no boundary marks exist, the surveyor shall place boundary marks between them in the manner hereinbefore provided, and shall furnish a plan thereof to the Director of Surveys.

(2) Where the owners of contiguous lands do not agree as to the boundaries of the said lands, the Director of Surveys may direct the surveyor to survey the said lands and to determine the boundaries between them, in the same manner as if the survey had been ordered by a Judge of the High Court; and the cost of the survey and determination of boundaries, and the placing of boundary marks, in case of non-contestation, shall be borne by the parties in proportion to the extent of their lands surveyed.

(3) Where in any survey ordered by the Director of Surveys it is found that the owner of any contiguous land has his or her boundary well defined and his or her boundary marks correctly laid, such owner shall not be required to pay any portion of the costs of the survey; but the costs of the survey in respect of the contiguous land shall be borne by the applicant at whose instance the survey was ordered.

**19. Appointment of surveyors where one of adjoining lands is Crown land, etc.**

(1) Where any land belonging to the Crown adjoins land belonging to any private person, company or corporation, the owner of the adjacent land (and if the owner or the reputed owner is absent from Grenada and has no attorney therein the Governor-General on his behalf) may appoint a surveyor to act with the surveyor appointed by the Director of Surveys to survey the boundaries of the lands.

(2) If the said surveyors do not agree a Judge of the High Court shall, on the application of either party, appoint a third surveyor as umpire.

(3) The cost of the survey, in case of non-contestation shall be a charge on the Consolidated Fund.

**20. Surveyors appointed by Director of Surveys or Judge may require production of plans and documents**

(1) Any surveyor appointed by the Director of Surveys or by a Judge may require the production to him or her of all plans and documents which he may consider necessary for the purposes of the survey to be performed by him or her.

(2) Every person who refuses or neglects to produce any plan or document in his or her possession to any such surveyor, when required in writing by the surveyor to do so, shall be liable on summary conviction to a fine of one thousand dollars.

**21. Surveyors to lodge two copies of plan and report in office of Director of Surveys, etc.**

(1) A surveyor appointed by the Director of Surveys shall, on the completion of any survey made by him or her, lodge in the office of the Director of Surveys, or such other place as may from time to time be prescribed by the Minister, two copies of the plan or diagram of the land surveyed, accompanied by reports or memoranda in the form and containing the particulars set forth in section 12.

(2) A copy of every such plan or diagram and report or memorandum shall be lodged by the Director of Surveys in the office of the Registrar of the Supreme Court after being accepted and countersigned, and notice of the same having been lodged in the said office shall be given in the *Gazette* by the Registrar.

(3) Every such report which is not contested within the time hereinafter fixed, and in the manner hereinafter provided for contestations, shall stand confirmed, and shall be binding on all parties.

## **22. Persons aggrieved may within twelve months petition Judge to review survey**

(1) Any person who may consider himself or herself aggrieved by any plan of a survey of boundaries made under the authority of this Act or by the report of a surveyor may within twelve months of the publication in the *Gazette* of the notice mentioned in the last preceding section apply by petition to a Judge in Chambers to review the survey. The petition shall state fully the objections to the survey and the petition's claims and the reasons for the application.

(2) On reading the petition the Judge shall name a day for the hearing thereof, and shall direct the person to whom notice of the hearing shall be given and the mode of service of the notice by the petitioner. He or she may also order the production of all plans and documents relating to the land or boundary surveyed in the possession of any person, and may order subpoenas to issue for the attendance of witnesses. Notice of the day of hearing shall be served on the Director of Surveys.

(3) The hearing of the petition may be had in Court or in Chambers as the Judge shall direct.

(4) On the day of hearing or at any adjournment thereof the Judge may make such order to review the survey or such other order as the case may require.

(5) The Chief Justice may frame forms, give directions and make rules for the procedure on the petition.

(6) The powers of the Judge for compelling the attendance and the remuneration of witnesses, for enforcing obedience to his or her orders, and generally on the conduct of the proceedings above-mentioned, shall be such as are possessed and exercised by the High Court or a Judge in other cases.

(7) When the Judge alters the boundaries in any case he or she shall cause the Director of Surveys to make a fresh plan in duplicate and place fresh boundary marks, if necessary; and the judgement of the Judge in writing, with such plan as last mentioned attached thereto, shall be recorded in the Registrar's office and in the office of the Director of Surveys or such other place as the Minister shall from time to time direct; and the boundaries in such fresh plan shall be thereafter the boundaries of the lands delineated in the plan.

## **23. Powers of Judge**

In all cases of contestation the Judge shall have power to award possession, or to order another survey, and shall have all the other powers conferred upon the Judge by law in actions of ejectment.

## **24. Fees and costs of survey to be a lien on lands if sued for within one year**

All fees and costs of survey due and payable by private persons, companies, or corporations, except such as are awarded by any judgement of the High Court, may be sued for and recovered before any court at the instance of the Permanent Secretary (Finance), and shall be a lien or charge on the lands for the survey of which or of the boundaries of which the fees and costs have been incurred:

Provided that the fees and costs shall be sued for within one year next after they have become so due and payable.

## **25. Limitation of time for making complaint**

No person shall be liable to the infliction of any of the penalties or punishments imposed by this Act, unless the complaint respecting the alleged offence is made within six months from the earliest time at which a complaint respecting it could be made.

## **26. Minister may make regulations, etc.**

(1) The Minister may make regulations for the better carrying out of the purposes of this Act.

(2) Anyone committing a breach of the regulations, or of any of the provisions of this Act for which no specific penalty has been provided, shall be liable on summary conviction to a fine of two hundred and fifty dollars.

**27. Prosecutions for offences, etc.**

(1) The Director of Surveys may prosecute for any offence against this Act or the regulations.

(2) All prosecutions and proceedings for the recovery of fines imposed under this Act shall be taken before a magistrate, who may dispose thereof summarily.

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**First Schedule**  
BOUNDARIES SETTLEMENT ACT

*Notice of Intended Survey*  
[Section 5.]

To ..... of .....

I hereby give you notice that I am employed by ..... of  
of ..... to survey  
..... (*here state the land to be surveyed*) situated in the  
parish of ..... and known by the name of .....  
and designated on the General Plan of Grenada as ..... No.....  
(*colour*) which adjoins land said to be in your possession or belonging to you; and that I shall  
commence to survey the same on ..... (day) the ..... (date),  
at ..... m. beginning at ..... and proceeding  
..... (*here state the course and  
distance*) at which time and place you are requested to attend by yourself or your agent, as you  
may think fit, and in the meantime I will make such traverses as I may deem requisite.

Dated: etc., .....

.....  
*Surveyor*

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**Second Schedule**  
BOUNDARIES SETTLEMENT ACT

*Tariff of Fees Payable to Surveyors*  
[Section 14.]

	\$ c
1. For surveying an acre, or part of an acre .....	13.20
2. For each additional acre up to ten acres .....	3.00
3. For each acre over ten acres and up to fifty acres .....	2.04
4. For each acre over fifty acres and upwards .....	1.44
5. For each copy of a plan and memorandum, a sum not exceeding five per cent of the surveyor's fee and not less than .....	1.80
6. For line surveys—	
(a) Up to 5 chains .....	5.04
(b) For each additional chain over 5 chains .....	1.00
7. For surveys (if employed by the day) per field day .....	15.12
8. For surveys (if employed by the day) per office day .....	7.20

*Note.*—In addition to the above fees there shall be paid to the surveyor an allowance of 15 cents per mile for each mile travelled by him computed from his office to the place at which the

survey is made and back to his office.

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**CHAPTER 36  
BOUNDARIES SETTLEMENT ACT**

**SUBSIDIARY LEGISLATION**

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*List of Subsidiary Legislation*

1. Boundaries Settlement (Fees) Regulations
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**BOUNDARIES SETTLEMENT (FEES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

1. Citation.
  2. Fees payable.
  3. Fees to be paid to Bailiff.
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BOUNDARIES SETTLEMENT (FEES) REGULATIONS

[Section 26.]

[13th April, 1892.]

**1. Citation**

These Regulations may be cited as the Boundaries Settlement (Fees) Regulations.

**2. Fees payable**

The following fees shall be payable to the Registrar of the Supreme Court for the service of the notices required by section 5 of the Act—

- |   |        |
|---|--------|
| (a) Where the parties upon whom the notices are to be served reside within one mile of the towns of St. George's, Gouyave, Sauteurs, or Hillsborough, for each notice ..... | \$0.25 |
| (b) Where the parties upon whom the notices are to be served reside beyond one mile of the towns of St. George's, Gouyave, Sauteurs, or Hillsborough, for each notice ..... | \$1.00 |

**3. Fees to be paid to Bailiff**

The fees so received in each case shall be paid to the Bailiff who served the notice.

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