



COMMISSIONER OF LANDS' CIRCULAR NO. 8 OF 1959

Licensed Land Surveyors And Settlement Tracings

Attention of Collectors are drawn to Section 13 of the Licensed Surveyors Ordinance No.11 of 1958 which provides the registration of Licensed Land Surveyors who would be entitled to practise their profession as land surveyors and who would be authorised to undertake title surveys.

2. Sub-sections 13(1) and (2) provide that only Licensed Land Surveyors and Government Surveyors may carry out *surveys for title* as defined in the Ordinance but under sub-section 13(3) any person may carry out any *other type of survey without a licence*.

The only persons so licensed at present are:

- (i) Mr. W.G. Brittain — c/o Messrs. Valentine and Dunne Ltd. Sime Darby Building, Kuala Lumpur.
- (ii) Mr. B.F. Brennan — 71, The Arcade Singapore 1.
- (iii) Mr. Yeoh Ho Huat — 151 Kubu Road, Malacca.

Their names have appeared in the Federal Government Gazette vide Notification No. 4437 of 5th November 1959.

As additional surveyors become licensed, their names and addresses would be notified in the Federal Government Gazette accordingly.

3. In the past, the Survey Department has been the only agency to carry out title surveys and it has carried out such surveys not by direct contract between the Department and the applicants but on behalf of the Land Authorities, who have provided contact with the applicants. Consequently on completion of title surveys, whether they be for first alienation or for some subsequent transactions such as sub-divisions, the Survey Department has supplied the Land Offices concerned with documents known as Settlement Tracings showing details of the surveys, in order that with these documents, the Land Officers could be able to point out the new boundaries as surveyed to the applicants and obtain their agreements thereto. For surveys carried out by the Survey Department, the existing procedure would continue.

4. With the introduction of the new Ordinance, Surveyors in private practice might now

carry out title surveys and they would do so by arrangements between themselves and the proprietors in respect of sub-division etc. of *land already alienated*. As such, the onus of pointing out the new boundaries and obtaining the proprietors' agreement *would lie on the Licensed Land Surveyors* concerned.

5. Although the Ordinance 11/58 provides the powers for Licensed Land Surveyors to carry out title surveys, it is nevertheless still essential that the full requirements of section 101 or the Land Code or its counterparts of the Land Laws of the other States be observed. This section states that subject to the provisions of Sections 50 and 51 and upon *the written application of any proprietor of land* held under a single document of title or under separate documents of title and the delivery thereof, it shall be lawful for the proper registering authority i.e. Collector or Registrar of Titles, to cause the land held thereunder to be by survey divided or combined in accordance with such application.

(ii) Under Section 50 of the Land Code, a proprietor has the right to subdivide his land into such lots as he may think fit subject to the provisions of any Town Planning Enactment or other Enactment. In the case of some States, like Kelantan, Section 37A(i) of its Land Enactment prohibits the sub-division of country land into lots of less than 1/4 or an acre unless exempted by His Highness the Sultan in Council.

(iii) Section 101(iv) of the Land Code requires the Collector to *satisfy himself* that the proposed sub-division does not contravene any approved Town Plan while Section 149 of the Town Boards Enactment requires every sub-division in a Town Board Area to be approved in writing by the Chairman, Town Board.

(iv) In order to give effect to the provisions of these laws, the Collector before sending a requisition for survey or permitting any Licensed Land Surveyors to carry out any survey should be careful to see in every case that the plan of the proposed sub-division is agreed to and signed by both the Chairman Town Board and the applicant or applicants. The plan should also be countersigned by the proper registering authority.

(v) In short, the procedure prevailing remains the same but the actual survey may either be carried out by the Survey Department or a Licensed Land Surveyor.

6. However, in the rare cases when Licensed Land Surveyors might be employed by Government to carry out title surveys of state land for alienation, the onus of pointing out the boundaries and obtaining the applicants' acceptance of these boundaries would continue to lie with the officers of the Land Offices. Such being the case, the Licensed Land Surveyors would be required as one of the terms of their contract for the task, to produce settlement tracings for use by the Land Offices. This would mean that for title surveys carried out by Licensed Land Surveyors, the Survey Department would not supply the Land Offices concerned with "settlement tracings."

7. It is nevertheless felt that it is not part of the Licensed Land Surveyor's duty, particularly when being employed privately, to assist Land Offices in keeping their

charting sheets up-to-date. In view of this, it has been agreed that when Licensed Land Surveyors plans have been deposited with and approved by the Chief Surveyors, the Chief Surveyors concerned would have the "charting tracings" made out and sent to Land Offices for use in maintaining Land Offices' records, in the same way that "charting tracings" have been supplied for all surveys carried out by the Survey Department in the past.

8. Collectors are advised that the above procedure has been agreed to between the Surveyor General and this Office and it should be followed whenever Licensed Land Surveyors are engaged to carry out title surveys either at the instance of applicants or the Government.

BADARUDDIN BIN ALANG AHMAD,

*For Ag. Commissioner of Lands,
Federation of Malaya*

CLFM. 97/54

Kuala Lumpur,
24th November, 1959