

Western Australia

Land Boundaries Act 1841

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Land Boundaries Act 1841

An Act to provide for the more effectual and accurate establishment of the boundaries of land within the Colony of Western Australia.

Preamble

Whereas the want of a sufficient survey-force in this Colony has heretofore rendered it impossible to ascertain with accuracy the proper boundaries of several grants of land; and whereas many deeds have accordingly been issued, in which the land has been described, either by marks or measurements which on more accurate survey are likely to prove in some degree erroneous, or by measurements to be made of certain distances in certain directions, according to the compass; and whereas it is expedient that all such descriptions should, with as little delay as possible, be corrected or carried into effect, by the erection of visible landmarks upon the several lands under the direction of the Surveyor-General of this Colony:

1. Marking of boundaries

Be it therefore enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that it shall be lawful for the Government, as soon as conveniently may be after the passing of this Act, to direct an authorised land officer to ascertain and mark by landmarks the proper boundaries of every grant heretofore made or hereafter to be made by Her Majesty, or her predecessors, her heirs or successors, of lands within this Colony, of which the description contained in the deed of grant shall be such as hereinbefore stated.

[Section 1 amended by No. 126 of 1987 s. 4.]

2. Notice of intended survey to be Gazetted

And be it enacted that notice shall be published in 3 successive 'Gazettes' of the intended survey of each district.

3. Approval, recording and Gazettal of marked boundaries

And be it enacted that whensoever and so soon as the several boundaries shall have been ascertained and marked within any such district as aforesaid, an authorised land officer shall report the same, accompanied by a map or plan of the said district, and a description of the several landmarks placed therein, for the approval of the Governor-in-Council; and when so approved shall enter a description of each grant of land so surveyed, according to such landmarks, in a record-book to be kept by him for that purpose; and every such description shall be signed by him and by the Governor-in-Council; and notice of every such entry shall be published in 3 successive 'Gazettes'.

[Section 3 amended by No. 126 of 1987 s. 5.]

4. Recorded boundaries deemed true boundaries, etc.

And be it enacted that all boundaries of lands so entered and signed as aforesaid, shall be deemed and taken to be the true boundaries of such lands respectively; all former descriptions thereof, in any title deeds or otherwise, notwithstanding, and whether such lands be in possession of the original owner or owners, or of his, her or their heir or assignee; and such record-book or a certified copy to be made and issued on demand without fee, of any entry in such book signed by the Surveyor-General or, in the case of signature of any such entry after the coming into operation of section 6 of the *Acts Amendment (Land Administration) Act 1987*, by an authorised land officer shall and may be given in evidence of the boundaries of such lands in any suit or cause affecting the same.

[Section 4 amended by No. 126 of 1987 s. 6.]

5. Proviso, distances on the Avon Base Line shall be taken as the guide for the survey of that line, and of the Avon District

Provided always and be it enacted that with respect to the district marked and known in the books of the Department within the meaning of the *Land Administration Act 1997* as the 'Avon District', the distances formerly marked out upon the line commonly known as the 'Avon Base Line', shall be deemed and taken in all surveys under this Act of such base line, and of all boundary lines of such lands parallel thereto, to express and contain the distances which the same were originally assumed to express and contain in the survey formerly made of the said 'Avon Base Line'.

[Section 5 amended by No. 126 of 1987 s. 6; No. 31 of 1997 s. 141.]

6. Entry onto land etc.

And be it enacted that it shall be lawful for an authorised land officer or any person or persons assisting him from time to time to enter upon any lands within this Colony for the purposes of this Act, and to take materials, and erect landmarks upon any part or parts of such lands respectively; and any person who shall wilfully obstruct or hinder him or them in the execution of such duty shall forfeit and pay a sum not less than \$2 nor exceeding \$10.

[Section 6 amended by No. 113 of 1965 s. 8(1); No. 126 of 1987 s. 7.]

7. Injuring landmarks an offence

A person who wilfully injures or defaces any such landmark as aforesaid commits an offence.

Penalty: Not less than \$20 and not more than \$100.

[Section 7 inserted by No. 59 of 2004 s. 141.]

[8. Repealed by 1 and 2 Edw. VII No. 14 s. 3(2).]

s. 10

[9. *Repealed by No. 78 of 1995 s. 63.*]

10. Interpretation

In this Act —

“authorised land officer” has the meaning given by the *Land Administration Act 1997*.

[Section 10 inserted by No. 126 of 1987 s. 9; amended by No. 31 of 1997 s. 141.]

11. Short title

This Act may be cited as the *Land Boundaries Act 1841*¹.

[Section 11 inserted by No. 10 of 1970 s. 3.]

Notes

- ¹ This is a compilation of the *Land Boundaries Act 1841* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
Untitled ²	4 & 5 Vict. No. 20	30 Sep 1841	30 Sep 1841
<i>Criminal Code Act 1902</i> s. 3(2)	1 & 2 Edw. VII No. 14	19 Feb 1902	19 Feb 1902
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<i>Statute Law Revision Act 1970</i> s. 3	10 of 1970	29 Apr 1970	29 Apr 1970
<i>Act Amendment (Land Administration) Act 1987</i> Pt. II	126 of 1987	31 Dec 1987	16 Sep 1988 (see s. 2 and <i>Gazette</i> 16 Sep 1988 p. 3637)
<i>Criminal Law Amendment Act (No. 2) 1992</i> s. 16(1)	51 of 1992	9 Dec 1992	6 Jan 1993
<i>Sentencing (Consequential Provisions) Act 1995</i> s. 63	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Acts Amendment (Land Administration) Act 1997</i> s. 141	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
Reprint of the <i>Land Boundaries Act 1841</i> as at 22 Nov 2002 (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)

- ² Now known as the *Land Boundaries Act 1841*; short title inserted (see note under s. 11).