

# Property Boundaries (Resolution of Disputes) Bill

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# B I L L

TO

Make provision for the resolution of disputes concerning the location or placement of the boundaries relating to the title of an estate in land; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## **1 Application of this Act to existing proceedings**

This section shall have effect where lands of different owners adjoin and—

- (a) a dispute has arisen between the owners as to the location of the exact line of the boundary between the lands; and
- (b) a claim has been issued in any court of competent jurisdiction alleging that an owner of adjoining land has trespassed upon land belonging to an adjoining land owner (irrespective of the remedy sought) and a defence has been filed which puts into issue the precise location of the boundary between adjoining land; or
- (c) a claim has been issued in any court of competent jurisdiction claiming a declaration as to the exact location of a boundary between the lands of adjoining owners; or
- (d) an application has been made to the Registrar of Her Majesty’s Land Registry under paragraphs 117 to 122 of the Land Registration Rules 2003 for the determination of the exact line of a boundary and any owner of land adjoining the boundary has given notice of objection in accordance with paragraph 119(6) of the Land Registration Rules 2003.

## **2 Stay of pending proceedings and referral of disputes for determination under this Act**

All claims and proceedings referred to in section 1 above shall be stayed automatically and shall be determined in accordance with section 5.

- 3 Procedure where a boundary dispute has arisen but no court proceedings have been commenced between adjoining landowners**
- (1) Where an owner of land (“the owner of land”) considers that a dispute has arisen between himself and the owner of adjoining land, he must follow the procedure set out in this section. 5
- (2) The owner of land must give to all persons who appear to him to be owners of adjoining land the subject of the dispute referred to in subsection (1) above (“the adjoining owner”) a description in writing accompanied by a plan identifying the exact line of the boundary claimed and showing sufficient physical features to allow the boundary to be drawn on an Ordnance Survey map together with such evidence as he shall consider necessary to establish the exact line of the boundary. 10
- (3) The documents referred to in subsection (2) above must be accompanied by a notice in conspicuous lettering informing the adjoining owner that the owner of land is proceeding under this section of this Act and informing the adjoining owner that a response, stating whether he objects to the exact line of the boundary claimed by the owner of land must be given to the land owner not less than 20 business days after the date upon which the adjoining owner was given all the documents referred to in subsection (2) above. 15
- (4) Where the adjoining owner gives notice under subsection (3) above that he objects to the claimed boundary line then the dispute shall be determined in accordance with section 5. 20
- (5) Where no response is given by the adjoining owner within the period referred to in subsection (3) above then he shall be deemed to have dissented from the notice and a dispute shall be deemed to have arisen between the parties and the dispute shall be determined in accordance with section 5. 25
- (6) Where in this section there is more than one person who qualifies as an adjoining owner of land the phrase “the adjoining owner” means all such persons.
- 4 Penalty for failure to comply with section 3** 30
- Where after the commencement of this Act a land owner issues proceedings in any court without having first complied with section 3 of this Act then he shall not be entitled to recover any costs incurred in the issue and service of such proceedings as against the adjoining land owner.
- 5 Resolution of disputes** 35
- (1) Where a dispute arises or is deemed to have arisen between a land owner and an adjoining owner in respect of any matter connected with the location of the boundary between the adjoining properties then either –
- (a) both parties shall concur in the appointment of one surveyor (in this section referred to as an “agreed surveyor”); or 40
- (b) each party shall appoint a surveyor and the two surveyors so appointed shall forthwith select a third surveyor (all of whom are in this section referred to as “the three surveyors”).
- (2) All appointments and selections made under this section shall be in writing and shall not be rescinded by either party. 45

- (3) If an agreed surveyor –
- (a) refuses to act;
  - (b) neglects to act for a period of ten days beginning with the day on which either party serves a request on him;
  - (c) dies before the dispute is settled; or
  - (d) becomes or deems himself incapable of acting,
- the proceedings for settling such dispute shall begin de novo. 5
- (4) If either party to the dispute –
- (a) refuses to appoint a surveyor under subsection (1)(b), or
  - (b) neglects to appoint a surveyor under subsection (1)(b) for a period of ten days beginning with the day on which the other party serves a request on him,
- the other party may make the appointment on his behalf. 10
- (5) If, before the dispute is settled, a surveyor appointed under subsection (1)(b) by a party to the dispute dies, or becomes or deems himself incapable of acting, the party who appointed him may appoint another surveyor in his place with the same power and authority. 15
- (6) If a surveyor –
- (a) appointed under subsection (1)(b) by a party to the dispute; or
  - (b) appointed under subsection (4) or (5),
- refuses to act effectively, the surveyor of the other party may proceed to act ex parte and anything so done by him shall be as effectual as if he had been an agreed surveyor. 20
- (7) If a surveyor –
- (a) appointed under subsection (1)(b) by a party to the dispute; or
  - (b) appointed under subsection (4) or (5),
- neglects to act effectively for a period of ten days beginning with the day on which either party or the surveyor of the other party serves a request on him, the surveyor of the other party may proceed to act ex parte in respect of the subject matter of the request and anything so done by him shall be as effectual as if he had been an agreed surveyor. 30
- (8) If either surveyor appointed under subsection (1)(b) by a party to the dispute refuses to select a third surveyor under subsection (1) or (9), or neglects to do so for a period of ten days beginning with the day on which the other surveyor serves a request on him –
- (a) the appointing officer; or
  - (b) in cases where the relevant appointing officer or his employer is a party to the dispute, the Secretary of State (or, where the land the subject of the dispute is located wholly in Wales, the National Assembly for Wales),
- may on the application of either surveyor select a third surveyor who shall have the same power and authority as if he had been selected under subsection (1) or subsection (9). 40
- (9) If a third surveyor selected under subsection (1)(b) –
- (a) refuses to act;
  - (b) neglects to act for a period of ten days beginning with the day on which either party or the surveyor appointed by either party serves a request on him; or
- 45

- (c) dies, or becomes or deems himself incapable of acting, before the dispute is settled,  
the other two of the three surveyors shall forthwith select another surveyor in his place with the same power and authority.
- (10) The agreed surveyor or as the case may be the three surveyors or any two of them shall settle by award – 5
- (a) the precise location of the boundary line between adjoining properties, and
  - (b) the extent to which any building, structure or other erection constructed on the land of one owner (“the trespassing owner”) may be trespassing upon the land of any adjoining owner, if at all, 10
  - (c) the works which must be undertaken by the trespassing owner at his own expense in order to abate any trespass made the subject of an award under subsection (b) above together with a reasonable time limit for the carrying out of such works. 15
- (11) Either of the parties or either of the surveyors appointed by the parties may call upon the third surveyor selected in pursuance of this section to determine the disputed matters and he shall make the necessary award.
- (12) An award may determine –
- (a) the right of any adjoining land owner to execute any work ordered under subsection (10)(c) above where the trespassing owner fails to carry them out within the time limit set under that paragraph and the obligation of the trespassing owner to compensate the adjoining owner for the cost of carrying out such work; 20
  - (b) the time and manner of executing any work; and 25
  - (c) any other matter arising out of or incidental to the dispute including the costs of making the award;
- but any period appointed by the award for executing any work shall not unless otherwise agreed between the adjoining owners begin to run until after the expiration of the period prescribed by this Act for service of the notice in respect of which the dispute arises or is deemed to have arisen. 30
- (13) The reasonable costs incurred in –
- (a) making or obtaining an award under this section;
  - (b) reasonable inspections of land, buildings or work to which the award relates; and 35
  - (c) any other matter arising out of the dispute
- shall be paid by such of the parties as the surveyor or surveyors making the award determine.
- (14) Where the surveyors appointed by the parties make an award the surveyors shall serve it forthwith on the parties. 40
- (15) Where an award is made by the third surveyor –
- (a) he shall, after payment of the costs of the award, serve it forthwith on the parties or their appointed surveyors; and
  - (b) if it is served on their appointed surveyors, they shall serve it forthwith on the parties. 45
- (16) The award shall be conclusive and shall not except as provided by this section be questioned in any court.

- (17) Either of the parties to the dispute may, within the period of fourteen days beginning with the day on which an award made under this section is served on him, appeal to the county court against the award and the county court may –
- (a) rescind the award or modify it in such manner as the court thinks fit; and
  - (b) make such order as to costs as the court thinks fit.
- (18) The parties may, at any time during the course of the procedure set out in this section, agree in writing to stay the procedure for an agreed period in order to refer the dispute to mediation.
- 6 Expenses**
- (1) Except as provided under this section expenses of work under this Act shall be defrayed by the adjoining land owners in equal shares.
- (2) Any dispute as to responsibility for expenses shall be settled as provided in section 5.
- (3) Where any adjoining premises are laid open in exercise of the right mentioned in section 5(10)(c) or 5(12)(a) a fair allowance in respect of disturbance and inconvenience shall be paid by the trespassing owner to the adjoining owner or occupier.
- 7 Security for expenses**
- An adjoining owner may serve a notice requiring a trespassing land owner before he begins any work required to be carried out under an award made under this Act to give such security as may be agreed between the owners or in the event of dispute determined in accordance with section 5.
- 8 Account for work carried out**
- (1) Within the period of two months beginning with the day of the completion of any work executed by a land owner of which the expenses are to be wholly or partially defrayed by a trespassing land owner in accordance with section 5(12)(a) the land owner shall serve on the trespassing owner an account in writing showing –
- (a) particulars and expenses of the work; and
  - (b) any deductions to which the trespassing owner or any other person is entitled in respect of old materials or otherwise;
- and in preparing the account the work shall be estimated and valued at fair average rates and prices according to the nature of the work, the locality and the cost of labour and materials prevailing at the time when the work is executed.
- (2) Within the period of one month beginning with the day of service of the said account the trespassing owner may serve on the land owner a notice stating any objection he may have thereto and thereupon a dispute shall be deemed to have arisen between the parties.
- (3) If within that period of one month the trespassing owner does not serve notice under subsection (2) he shall be deemed to have no objection to the account.

**9 Settlement of account**

- (1) All expenses to be defrayed by a trespassing owner in accordance with an account served under section 8 shall be paid by the adjoining owner.
- (2) Until any trespassing owner pays to the land owner such expenses as aforesaid the property in any works executed under this Act to which the expenses relate shall be vested solely in the land owner. 5

**10 Service of notices etc**

- (1) A notice or other document required or authorised to be served under this Act may be served on a person –
- (a) by delivering it to him in person; 10
  - (b) by sending it by post to him at his usual or last-known residence or place of business in the United Kingdom; or
  - (c) in the case of a body corporate, by delivering it to the secretary or clerk of the body corporate at its registered or principal office or sending it by post to the secretary or clerk of that body corporate at that office. 15
- (2) In the case of a notice or other document required or authorised to be served under this Act on a person as owner of premises, it may alternatively be served by –
- (a) addressing it “the owner” of the premises (naming them), and
  - (b) delivering it to a person on the premises or, if no person to whom it can be delivered is found there, fixing it to a conspicuous part of the premises. 20

**11 Offences**

- (1) If –
- (a) an occupier of land or premises refuses to permit a person to do anything which he is entitled to do with regard to the land or premises under section 5(12)(a); and 25
  - (b) the occupier knows or has reasonable cause to believe that the person is so entitled,
- the occupier is guilty of an offence. 30
- (2) If –
- (a) a person hinders or obstructs a person in attempting to do anything which he is entitled to do with regard to land or premises under section 5(12)(a); and
  - (b) the first-mentioned person knows or has reasonable cause to believe that the other person is so entitled, 35
- the first-mentioned person is guilty of an offence.
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine of an amount not exceeding level 3 on the standard scale.

**12 Recovery of sums** 40

Any sum payable in pursuance of this Act (otherwise than by way of fine) shall be recoverable summarily as a civil debt.

**13 Exception in case of Inns of Court**

- (1) This Act shall not apply to land which is situated in inner London and in which there is an interest belonging to—
- (a) the Honourable Society of the Inner Temple,
  - (b) the Honourable Society of the Middle Temple, 5
  - (c) the Honourable Society of Lincoln’s Inn, or
  - (d) the Honourable Society of Gray’s Inn.
- (2) The reference in subsection (1) to inner London is to Greater London other than the outer London boroughs.

**14 The Crown**

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- (1) This Act shall apply to land in which there is—
- (a) an interest belonging to Her Majesty in right of the Crown,
  - (b) an interest belonging to a government department, or
  - (c) an interest held in trust for Her Majesty for the purposes of any such department. 15
- (2) This Act shall apply to—
- (a) land which is vested in, but not occupied by, Her Majesty in right of the Duchy of Lancaster;
  - (b) land which is vested in, but not occupied by, the possessor for the time being of the Duchy of Cornwall. 20

**15 Interpretation**

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

- “adjoining owner” and “adjoining occupier” respectively mean any owner and any occupier of land, buildings, storeys or rooms adjoining those of the land owner; 25
- “appointing officer” means the person appointed under this Act by the local authority to make such appointments as are required under section 5(8);
- “land owner” means an owner of land who is desirous of exercising rights under this Act; 30
- “owner” includes—
- (a) a person in receipt of, or entitled to receive, the whole or part of the rents or profits of land;
  - (b) a person in possession of land, otherwise than as a mortgagee or as a tenant from year to year or for a lesser term or as a tenant at will; 35
  - (c) a purchaser of an interest in land under a contract for purchase or under an agreement for a lease, otherwise than under an agreement for a tenancy from year to year or for a lesser term; 40
- “surveyor” means any person not being a party to the matter appointed or selected under section 5 to determine disputes in accordance with the procedures set out in this Act.

**16 Other statutory provisions**

- (1) The Secretary of State may by order amend or repeal any provision of a private or local Act passed before or in the same session as this Act, if it appears to him necessary or expedient to do so in consequence of this Act.
- (2) (2) An order under subsection (1) may – 5
  - (a) contain such savings or transitional provisions as the Secretary of State thinks fit;
  - (b) make different provision for different purposes.
- (3) The power to make an order under subsection (1) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament. 10

**17 Short title, commencement and extent**

- (1) This Act may be cited as the Property Boundaries (Resolution of Disputes) Act 2012.
- (2) This Act shall come into force in accordance with provision made by the Secretary of State by order made by statutory instrument. 15
- (3) An order under subsection (2) may –
  - (a) contain such savings or transitional provisions as the Secretary of State thinks fit;
  - (b) make different provision for different purposes. 20
- (4) This Act extends to England and Wales only.

# Property Boundaries (Resolution of Disputes) Bill

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## **B I L L**

To make provision for the resolution of disputes concerning the location or placement of the boundaries relating to the title of an estate in land; and for connected purposes.

*Presented by Charlie Elphicke.*

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*Ordered, by The House of Commons,  
to be Printed, 25 June 2012.*

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