

Queensland



ANNO VICESIMO SEXTO

ELIZABETHAE SECUNDAE REGINAE

No. 18 of 1977

**An Act to provide for the constitution of the Surveyors Board of Queensland, to provide for the qualifications of The Surveyor-General and Director of Mapping and Surveying and of persons for registration as surveyors or associate surveyors, to provide for the constitution of a Surveyors Disciplinary Committee, to provide for the regulation of the practice of surveying and for related purposes**

[ASSENTED TO 21ST APRIL, 1977]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Surveyors Act 1977*.
2. **Commencement.** This Act shall commence on a day to be fixed by Proclamation.

**3. Arrangement of Act.** This Act is arranged as follows:—

PART I—PRELIMINARY;

PART II—ADMINISTRATION;

*Division 1—The Board;*

*Division 2—Functions and Powers of Board;*

*Division 3—Affairs of Board;*

*Division 4—Education;*

PART III—QUALIFICATION OF SURVEYORS AND REGISTRATION;

PART IV—REGULATION OF PRACTICE;

PART V—DISCIPLINE OF REGISTERED PERSONS;

PART VI—APPEALS FROM BOARD'S DECISIONS;

PART VII—MISCELLANEOUS;

SCHEDULE.

**4. Repeals.** The Acts specified in the Schedule are repealed.

**5. Meaning of terms.** In this Act, unless the contrary intention appears—

“associate surveyor” means a person registered under this Act as an associate surveyor;

“Board” means the Surveyors Board of Queensland constituted under this Act;

“cadastral survey” means any process of determining, mapping or planning the boundaries of a piece of land or waters required—

(a) under any Act dealing with the alienation, leasing, and occupation of Crown lands or with mining, or affecting titles to land; or

(b) by the proprietor, lessee or mortgagee under any Act affecting titles to land; or

(c) by the owner, proprietor, lessee, mortgagee or occupier of, or any person holding a registered interest in, any land for the re-establishment of, or identification of, or adjustment of any boundary of such land; or

(d) under any Act to be made or certified by a licensed surveyor;

“Committee” means a Surveyors Disciplinary Committee for the time being constituted under Part V;

“co-operating state” means a State or Colony within Her Majesty's Dominions with which reciprocal arrangements have been made by the Board for the recognition of the status of surveyors;

“licensed surveyor” means a registered surveyor whose registration is endorsed under this Act to the effect that he may perform cadastral surveys;

“Minister” means the Minister for Survey and Valuation or other Minister of the Crown charged at the material time with the administration of this Act: The term includes any Minister of the Crown who is temporarily performing the duties of the Minister;

- “ plan ” includes any survey plan, sketch for identification survey, map, aerial photograph or description made or obtained as part of any survey or surveys;
- “ Queensland Division ” means the Queensland Division, The Institution of Surveyors, Australia;
- “ register ” means the register of surveyors or, as the case may be, the register of associate surveyors kept under this Act;
- “ registered ” means registered under this Act;
- “ the repealed Acts ” means the Acts specified in the Schedule;
- “ secretary ” means the secretary of the Board appointed pursuant to this Act: The term includes any person for the time being performing the duties of the secretary;
- “ survey ” means the act or process of determining the form, contour, position, area, height, depth or any other similar particulars of the earth’s surface, whether on land or water, or of any natural or artificial features on, below or above any part of that surface or planning the position or the length and direction of the bounding lines of any part of that surface, or of any such natural or artificial features thereof and includes the making or obtaining of a plan or plans thereof;
- “ survey mark ” means a mark of the prescribed form used for the purposes of a survey;
- “ surveyor ” means a person registered as a surveyor under this Act;
- “ Surveyor-General ” means The Surveyor-General and Director of Mapping and Surveying: The term includes any person for the time being performing the duties of the Surveyor-General.

## PART II—ADMINISTRATION

### *Division 1—The Board*

**6. Administration of Act.** This Act shall be administered by the Minister and, subject to him, by the Board.

**7. Constitution of Board.** (1) On and from the commencement of this Act there shall be a Board called the “ Surveyors Board of Queensland ” which, subject to the Minister, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

(2) The Board shall be a body corporate with perpetual succession and a common seal and, subject to this Act, shall be capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts or sums of money due to it, and of acquiring, holding, alienating and otherwise dealing with property and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the Board and, until the contrary is proved, shall presume that it was duly affixed to any document on which it appears.

(4) The Board shall be taken to be constituted upon the commencement of the term of appointment of the members appointed to first constitute the Board.

(5) If at the time of the first constitution of the Board there is current an appointment of members of The Surveyors Board constituted under the repealed Acts such appointment shall, upon such constitution, cease.

**8. Members of Board.** The Board shall consist of nine members being—

- (a) the Surveyor-General who shall be a member *ex officio* and President of the Board;
- (b) two surveyors nominated by the Surveyor-General of whom one at least shall be a licensed surveyor;
- (c) three surveyors (one at least being a licensed surveyor) nominated by the Minister from a panel of five names of surveyors nominated by the Queensland Division;
- (d) two surveyors (one at least being a licensed surveyor) nominated by the Minister from a panel of four names of surveyors nominated by the Association of Consulting Surveyors Queensland;
- (e) one surveyor nominated by the Minister from a panel of three names of surveyors nominated by the Queensland Division who are engaged in the teaching of surveying at an institution of tertiary education in Queensland.

**9. Qualification of members.** A person nominated for membership of the Board—

- (a) shall have been registered as a surveyor under this Act or the repealed Acts or partly under this Act and partly under the repealed Acts for an aggregate period of five years at the least; and
- (b) shall not have attained the age of seventy years.

**10. Appointment of members.** (1) The members of the Board, other than the member *ex officio*, shall be appointed by the Governor in Council on the recommendation of the Minister by notification published in the Gazette.

(2) For the purpose of appointing members to first constitute the Board appointments may be made at any time after the passing of this Act and shall be effectual appointments notwithstanding that this Act has not then commenced but the term of appointment of the members so appointed shall not commence before the date of commencement of this Act.

(3) A person may hold office as a member of the Board in addition to any position he holds in the Public Service of Queensland.

**11. Term of appointment of members.** (1) Every member of the Board, other than the member *ex officio*, shall be appointed for a term of two years and, if he is duly nominated for a second or subsequent appointment and is qualified as prescribed, shall be eligible for further appointment to membership of the Board.

(2) Unless his office is sooner vacated as prescribed, a person's appointment as a member of the Board shall be deemed to continue until his successor, duly appointed, assumes his office as a member.

**12. Minister to request nominations.** (1) At least 21 days before an appointment of members of the Board, other than the member *ex officio*, is to be made the Minister shall request, in writing, the Surveyor-General, the Queensland Division and the Association of Consulting Surveyors Queensland to furnish to him the names of his or its nominees for appointment to membership of the Board in accordance with this Act within the time limited in the request.

(2) If at any time the Minister fails to comply with subsection (1) within the time limited therein he may at any later time issue his request in writing therein prescribed and such issue and all action taken thereon as prescribed shall be deemed to be sufficient compliance with this Act.

(3) If at any time default is made in furnishing to the Minister any or sufficient nominations of persons duly qualified for appointment to the Board the Minister may at his discretion nominate persons in sufficient number and of the prescribed qualifications so that this Act may be complied with.

The persons so nominated by the Minister shall be deemed to have been nominated by the person or association by whom such default was made.

**13. Surveyor-General to call for nominations.** (1) Forthwith upon receiving a request from the Minister referred to in section 12, the Surveyor-General shall advertise, by notification published in the Gazette, that he intends to nominate two surveyors to be members of the Board and that persons prepared to accept such nomination may, in writing, inform him accordingly.

(2) The Surveyor-General may nominate any person who is qualified to be so nominated whether or not that person has informed him in accordance with subsection (1).

**14. Vacating member's office.** (1) A member of the Board, other than the member *ex officio*, may, by writing addressed to the Minister, resign his office at any time.

(2) The Governor in Council may remove from office a member of the Board, other than the member *ex officio*, if—

- (a) he is made bankrupt or otherwise takes advantage of the laws relating to bankruptcy;
- (b) he becomes incapable, in the opinion of the Governor in Council, of discharging the duties of his office; or
- (c) he is, in the opinion of the Governor in Council, incompetent or unfit to hold his office.

(3) A member of the Board, other than the member *ex officio*, shall be deemed to have vacated his office—

- (a) in the event of his attaining the age of seventy years or dying;
- (b) in the event of his resignation, upon the receipt by the Minister of his notice of resignation;
- (c) in the event of his removal, upon the issue by the Minister of notice of his removal;
- (d) in the event of his absence without the Board's leave first obtained from three consecutive ordinary meetings of the Board of which notice has been duly given to him.

(4) For the purposes of subsection (3) (d)—

- (a) the non-attendance of a member at the time and place appointed for an ordinary meeting shall not constitute absence from such meeting unless a meeting of the Board at which a quorum is present is actually held on that day;
- (b) the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason of the lack of a quorum a meeting is not actually held on that day;
- (c) the names of the members who attended at the time and place appointed for an ordinary meeting shall be entered in the minute book provided pursuant to this Act.

**15. Casual vacancy in member's office.** (1) If a casual vacancy occurs in the office of a member of the Board, other than the member *ex officio*, during the currency of his term of appointment another person shall be appointed as a member in accordance with section 10, to fill that vacancy.

The appointment of a person appointed to fill a casual vacancy shall continue and be deemed to continue for as long as the appointment of his predecessor had the casual vacancy not occurred.

(2) For the purpose of such appointment the Minister shall select a person who, in his opinion, is a fit person qualified as prescribed (if the case requires it) to be recommended by him for appointment as a member.

**16. Delegate members of Board.** (1) A person may be nominated as a delegate member of the Board to deputise for a member of the Board.

A nomination of a delegate member shall be of no effect unless—

- (a) he is nominated as prescribed by this section; and
  - (b) he is a person qualified as prescribed to be nominated as a member of the Board in the office of the member for whom he is to deputise.
- (2) The nomination of a delegate member—
- (a) where it is for the purpose of one only meeting of the Board, shall be made by the member for whom the delegate member is to deputise;
  - (b) in any other case, shall be made by the Governor in Council on the recommendation of the Minister.
- (3) A nomination of a delegate member—
- (a) may be made only if the member for whom the delegate is sought will be absent from any meeting or meetings of the Board because of illness, absence from Queensland or other unavoidable reason;
  - (b) if it is made by a member, shall be notified in writing to the Minister as soon as practicable after it is made.

(4) For as long as his nomination as such continues in effect a delegate member shall be entitled to attend meetings of the Board in the absence of the member for whom he is deputising and while so attending shall be deemed to be a member of the Board.

(5) A nomination of a person as a delegate member shall terminate and be of no further effect—

- (a) in the case of a nomination expressed to be for the purpose of any meeting or meetings of the Board, upon the conclusion of that meeting or, as the case may be, those meetings;
- (b) in the case of a nomination expressed to be for a period, upon the expiration of that period;
- (c) if the member for whom he is deputising dies or vacates his office as prescribed; or
- (d) in the case of a nomination by the Governor in Council, it is revoked by the Governor in Council.

*Division 2—Functions and Powers of Board*

**17. Functions of Board.** The functions of the Board are—

- (a) to prescribe a course of study in surveying, to conduct examinations therefor and to issue certificates of competence in respect thereof;
- (b) to keep a register of persons from time to time registered as surveyors or as associate surveyors;
- (c) to arrange for the examination or testing of applicants for registration as surveyors or associate surveyors;
- (d) to recommend to the Minister with respect to qualifications to be had by persons desirous of registration;
- (e) to establish standards to be complied with by surveys;
- (f) to receive and investigate reports and complaints concerning the competence of surveyors and associate surveyors and the accuracy of their work;
- (g) to do such other things as are required of the Board by this Act.

**18. Powers of Board.** (1) The Board may engage the services of such person as it thinks fit for the performance on behalf of the Board of work that will assist the Board in the discharge of its functions.

(2) For the purpose of properly discharging its functions the Board, subject to the Minister, may exercise such powers and shall perform such duties as are prescribed by or under this Act.

*Division 3—Affairs of Board*

**19. Officers of Board.** (1) There shall be a secretary of the Board and there may be appointed such other officers of the Board as may be necessary for the effectual administration of this Act.

(2) The secretary and any other officers of the Board shall be appointed by the Governor in Council under and in accordance with the *Public Service Act 1922-1973* and shall hold their appointments subject to that Act.

(3) The Surveyor-General may assign any officer of the Department of Mapping and Surveying and Office of the Surveyor-General to perform duties on behalf of the Board on a part-time basis.

**20. Funds of Board.** (1) The Board shall establish and maintain a general fund and such other funds as in the Board's opinion are necessary for the effectual administration of this Act.

(2) There shall be paid to the credit of the general fund—

(a) all moneys standing to the credit of the fund called "Fees, Surveyors' Board" (maintained by the Department of Mapping and Surveying and Office of the Surveyor-General) as at the date of the establishment of the general fund;

(b) all moneys appropriated from time to time by Parliament for the purposes of the Board; and

(c) all fees, fines, penalties, costs and other moneys received by the Board in the course of the administration of this Act.

(3) There shall be paid from the general fund—

(a) all expenses of the Board in the administration of this Act;

(b) all expenses incurred before the commencement of this Act in the administration of the repealed Acts.

**21. Books of account.** The Board shall accurately keep such books of account and records of its receipts and expenditure as the Auditor-General requires from time to time.

**22. Statement of account.** The President of the Board shall present to each ordinary meeting of the Board a statement showing the financial position of the general fund as at the close of the month last preceding the date of the meeting and specifying, where possible, the items of receipts by and payments out of the fund since the date to which the last preceding statement was compiled.

**23. Audit.** At least once in each year the Auditor-General or a person authorized by him in that behalf shall audit the accounts of the Board.

In relation to such audit the Auditor-General shall have all the powers and authorities conferred on him by the *Audit Act 1874-1968*.

The Auditor-General shall report in respect of each audit.

**24. Meetings of Board.** The Board shall meet at such times and places as are appointed by the President by notice given to the members of the Board.

**25. President or his nominee to preside.** The President shall preside at every meeting of the Board at which he is present.

If at any time the person who is Surveyor-General is not present at a meeting of the Board a member of the Board nominated by the Surveyor-General for the purpose shall preside at the meeting and while so acting shall have all the powers and authorities of the President.

**26. Quorum of Board.** The quorum of the Board shall consist of four members who shall be competent to transact any business of the Board and may exercise all the powers and authorities of the Board.

**27. Conduct of meetings.** The meetings of the Board shall be conducted as prescribed by the regulations or in so far as it is not so prescribed as the Board determines from time to time.



**28. Custody and use of seal.** (1) The common seal of the Board shall be in the custody of the secretary.

(2) The common seal shall not be affixed to a document except under the authority of a resolution of the Board and shall be affixed by the secretary.

**29. Validity of proceedings.** An act or proceeding of the Board shall not be invalidated or in any way prejudiced by reason only of the fact that at the time such act was done or proceeding taken there were vacancies in the membership of the Board not exceeding one-half of the total number of members required to constitute the Board or that all the members for the time being holding office were not present at the meeting at which such act or proceeding was done or authorized or that there is a defect in the qualification, membership or appointment of any one or more of the members who joined in doing such act or taking such proceeding or in authorizing such act or proceeding or of any combination of such facts.

**30. Members of Board not personally liable.** A member of the Board shall not be personally liable on account of anything done or omitted bona fide for the purpose of the administration of this Act.

**31. Entitlements of members of Board.** Members of the Board shall be entitled to such fees and other remuneration for attendance at meetings of the Board as are approved by the Governor in Council save that a member of the Board who is an officer of the Public Service of Queensland shall not receive fees or remuneration for attendance at a meeting of the Board during his ordinary hours of duty.

Members of the Board shall be entitled to be re-imbursed such out of pocket expenses necessarily incurred by them in the performance of their duties as such members as are approved by the Board.

**32. Annual report.** Once in each year the Board shall furnish to the Minister a report on the conduct of its affairs during the year last preceding the report.

#### *Division 4—Education*

**33. Examinations.** (1) The Board shall from time to time hold examinations of persons desirous of qualifying themselves to be registered as surveyors, or associate surveyors and shall give certificates of competency in respect thereof to persons who have passed all the examinations and fulfilled all the conditions prescribed.

(2) No person shall be admitted to the final qualifying examination, unless he has attained the age of twenty years and has fulfilled all the conditions prescribed.

(3) The Board, instead of requiring a person to pass a written examination in all the prescribed subjects, may accept evidence satisfactory to it, that he has passed in all or any of those subjects, a written examination conducted by the Surveyors Board or other competent authority in a co-operating state being a board or authority recognised by the Board, or conducted by a university or other teaching or examining institution in any State or Territory of the Commonwealth, or other country, to a standard that is acceptable to the Board.

Acceptance by the Board of evidence of passing a written examination referred to in this subsection shall have the same force and effect as the passing of an examination conducted by the Board.

**34. Reciprocity of status.** The Board may enter into a reciprocal arrangement with the surveyors board or other competent authority of any State or Colony within Her Majesty's Dominions for the recognition of the status of any person authorised by such Board or other authority to practise as a surveyor in such State or Colony, and the registration of such person as a surveyor under this Act.

Any such arrangement may contain a condition that any such person applying to be registered under this Act shall furnish additional satisfactory evidence of character and competency.

**35. Appointment of examiners.** The Board may from time to time appoint such examiners as it thinks necessary to give effect to this Act and, with the approval of the Governor in Council, may pay those examiners such salary (or fees) and allowances as it thinks fit.

An examiner shall hold office during the pleasure of the Board.

Any member of the Board may be appointed an examiner and shall be paid the fees prescribed therefor.

### PART III—QUALIFICATION OF SURVEYORS AND REGISTRATION

**36. Qualification of Surveyor-General.** Appointment to the office of Surveyor-General shall in every case be of a person who is a licensed surveyor.

**37. Qualification of surveyors.** A person is qualified to be registered as a surveyor if he satisfies the Board that he is of good fame and character and is a fit and proper person to be so registered and—

(a)—

- (i) if he possesses the academic qualifications prescribed; and
- (ii) if he has gained over a period of two years practical experience in surveying sufficient to satisfy the Board of his capacity to maintain a high level of performance in all aspects (ethical, administrative and technical) of the practice of surveying; or

(b) he is otherwise qualified as prescribed.

In a particular case which in the opinion of the Board justifies it, the Board may increase or reduce the period referred to in provision (a) (ii) to such extent as it thinks fit.

**38. Qualification of associate surveyors.** A person is qualified to be registered as an associate surveyor—

- (a) if he satisfies the Board that he is of good fame and character and is a fit and proper person to be so registered; and
- (b) if he has completed a course of study acceptable to the Board and is the holder of a degree or diploma conferred after due examination by a prescribed educational institution or is the holder of a prescribed certificate issued after due examination by the Board.

**39. Registers.** (1) The Board shall cause to be kept—

- (a) a register of surveyors; and
- (b) a register of associate surveyors.

A register shall be in the prescribed form.

(2) A person who immediately before the commencement of this Act was registered under the repealed Acts as a surveyor is entitled to be registered under this Act as a licensed surveyor without his making application or taking any other step to that end.

(3) Subject to subsection (2), a person who seeks registration under this Act—

- (a) shall make application to the Board in the prescribed form and pay to the Board the prescribed fee; and
- (b) shall furnish to the Board such further information or documents as it requires and, if required by the Board, shall verify by way of declaration under *The Oaths Acts, 1867 to 1960* (the taking of which being hereby authorized) information furnished to the Board in respect of his application.

**40. Registration of body corporate as surveyor.** If the Governor in Council prescribes, by the regulations conditions on which bodies corporate may be registered as surveyors or licensed surveyors (which he is hereby authorized so to do) the Board may permit a body corporate to be registered as a surveyor or, as the case may be, a licensed surveyor subject to and in accordance with such regulations.

**41. Term of registration.** (1) Registration under this Act shall remain in force until the last day of December next following the date of entry of the registration in the appropriate register and may be renewed from year to year as prescribed by this Act.

(2) A person who seeks to renew his registration (including a person referred to in section 39 (2))—

- (a) shall make application to the Board in the prescribed form not earlier than the first day of October and not later than the last day of November in each year; and
- (b) shall pay to the Board the prescribed fee.

(3) Notwithstanding the provisions of paragraph (a) of subsection (2), if an application for renewal of registration is lodged with the secretary outside the time limited by that paragraph the Board may in its discretion grant or reject the application and may in respect of such an application require the applicant to pay to the Board such increased fee as is prescribed by the regulations for the purpose.

Such increased fee, if it is required by the Board to be paid, shall be taken to be the prescribed fee in relation to the application in question.

(4) Registration under this Act, when it is duly renewed shall remain in force until the last day of December next following the date of endorsement in the appropriate register that the registration is renewed for the year in question.

**42. Licensed surveyors.** (1) Where in respect of a person registered as a surveyor or of an applicant for registration as a surveyor the Board is satisfied that the person in question—

(a) has gained such experience in cadastral surveying as is acceptable to the Board; or

(b) is otherwise qualified as prescribed,

the Board may cause the registration of the person in the register of surveyors to be endorsed to the effect that he may perform cadastral surveys and such endorsement may be renewed by the Board from year to year when renewing such registration pursuant to section 41.

(2) A person whose registration is endorsed pursuant to subsection (1) is a licensed surveyor and shall continue to be a licensed surveyor while his registration remains so endorsed.

**43. Maintenance of register.** (1) The secretary shall—

(a) enter in the appropriate register the name and prescribed particulars of each person whose registration is approved by the Board;

(b) make in respect of a registration such endorsements as are required by the Board to be made in the register against that registration;

(c) remove from the register the name and particulars of—

(i) a person registered therein who has died or who has requested the Board in writing that his name be removed from the register;

(ii) a person whose registration has expired and is not renewed;

(iii) a person whose registration has been duly cancelled;

(iv) a person the removal of whose name the Board has instructed pursuant to subsection (2).

(2) The Board may instruct the secretary to remove from the register the name of a person whose name has been ordered to be erased from the register of surveyors maintained by any other registration authority and whose name at the material time has not been restored to that register.

(3) A person registered under this Act shall notify the Board of any change of name, address or other prescribed particulars and furnish particulars of such change within twenty-one days after the occurrence of the change.

**44. Inspection of registers.** (1) Upon the request of any person and the payment of the prescribed fee the secretary shall make the register sought available to that person for inspection.

(2) Upon payment of the prescribed fee the secretary shall issue a copy of any part of a register certified by him to be correct and bearing the seal of the Board.

**45. Certificate of registration.** (1) Upon payment of the prescribed fee every person registered under this Act is entitled to obtain from the secretary a certificate of his registration in the prescribed form.

(2) On application made to the Board and on payment of the prescribed fee, the secretary may issue to a person registered under this Act a duplicate or copy of his certificate of registration.

**46. Annual publication of list of surveyors.** (1) The Board shall cause to be published in the Gazette on or before the first day of March in each year a list of the names and addresses of persons who are registered as surveyors on the first day of February next preceding the date of publication of the list together with particulars sufficient to indicate whether each such person is a surveyor or a licensed surveyor and where applicable the particular categories of surveying which pursuant to this Act the Committee has ordered such surveyor not to practise therein or to restrict his practice thereto.

(2) A copy of the Gazette containing the list referred to in subsection (1) shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the state of the register of surveyors as at the date to which the list is compiled.

#### PART IV—REGULATION OF PRACTICE

**47. Holding out as surveyor unlawful.** (1) Subject to this section, a person who assumes or uses, alone or in combination with any other word or letter—

- (a) the name or title of surveyor; or
- (b) a name, initial, title or description which, having regard to the circumstances in which it is assumed or used, indicates or is calculated to indicate or is capable of indicating that he is a surveyor,

unless he is duly registered under this Act as a surveyor commits an offence against this Act and is liable to a penalty not exceeding \$1000.

(2) Subsection (1) does not apply to—

- (a) a person who is registered as an associate surveyor and uses the name or title “associate surveyor” only;
- (b) a person who assumes or uses the name, title or description of—
  - (i) aircraft surveyor;
  - (ii) building surveyor;
  - (iii) engineering surveyor;
  - (iv) health surveyor;
  - (v) marine surveyor;
  - (vi) mining surveyor;
  - (vii) quantity surveyor;
  - (viii) ship surveyor,

or such other name title, initial or description approved for the purposes of this section by the regulations.

(3) Notwithstanding the provisions of this section, a person shall not use the words “registered”, “licensed” or “authorized” in association with the word “surveyor” unless he is registered, licensed or, as the case may be, authorized under the provisions of this Act.

**48. Doing acts apt to mislead.** (1) Subject to this section, a person who does any act or causes or suffers any act to be done or makes any omission, which act or omission is calculated to cause or is capable of causing a person reasonably to believe that he is registered as a surveyor unless he is duly registered under this Act as a surveyor commits an offence against this Act and is liable to a penalty not exceeding \$1000.

(2) A person does not contravene subsection (1) by reason only of the fact that he performs a survey.

**49. Performance of cadastral surveys.** A person shall not perform a cadastral survey unless he is duly registered under this Act as a licensed surveyor or in performing that survey he is acting under the personal supervision of a licensed surveyor who by his conduct accepts responsibility for the correctness of the survey.

A person who contravenes or fails to comply with a provision of this section commits an offence against this Act and is liable to a penalty not exceeding \$1 000.

**50. Holding out as specializing in a particular category of surveying.** Subject to sections 49 and 61 and subject to the board's approval in that behalf a surveyor may hold himself out as specializing in a particular category or categories of surveying by stating in brackets that category or those categories after the words "registered surveyor".

**51. Obtaining registration by false pretence.** A person who becomes or attempts to become registered under this Act by means of a statement that is false or the production of a certificate that to his knowledge is false commits an offence against this Act and is liable to a penalty not exceeding \$1 000.

**52. Correction of surveyor's errors.** (1) A surveyor who makes an error in performing a survey may be requested by the Surveyor-General, the Registrar of Titles or other authority to correct the error.

Such request shall be in writing and shall state the reasons therefor.

(2) A surveyor who considers such request is of a trivial nature or that insufficient reasons therefor have been given may, within seven days of receipt of such request apply to the Surveyor-General for a direction—

(a) that the request is of a trivial nature;

(b) whether or not the reasons stated in the request are sufficient.

(3) (a) If the Surveyor-General directs that the request is of a trivial nature, the surveyor need not comply with such request.

(b) If the Surveyor-General directs that the reasons stated in the request are insufficient, the surveyor need not comply with such request until sufficient reasons, in writing are given to him.

(4) If the surveyor does not apply to the Surveyor-General pursuant to subsection (2) or if the Surveyor-General directs that the reasons stated in the request are sufficient, the surveyor shall correct the error at his own expense within 30 days from the receipt by him of the request or, as the case may be, the direction whichever is the later or such longer period as the Minister in his discretion determines.

(5) If an error made by a surveyor in performance of a survey is corrected by an inspecting surveyor instructed by the Surveyor-General the costs necessarily incurred therein may be recovered by the Surveyor-General from the surveyor whose error it was by action in a court of competent jurisdiction for a debt due and owing to the Surveyor-General and unpaid.

**53. Surveyor not to be interested in Crown land which he surveys.** A surveyor who has been or is concerned in the survey of any Crown land for occupation under any Act relating to mining or to the alienation, leasing or occupation thereof shall not acquire, directly or indirectly, an interest therein.

## PART V—DISCIPLINE OF REGISTERED PERSONS

**54. Disciplinary action against registered persons.** If a person registered under this Act—

- (a) is convicted of an offence against this Act or the repealed Acts;
- (b) is guilty of conduct that involves dishonesty;
- (c) has, in his practice of surveying, shown himself to be incompetent or has conducted himself unprofessionally;
- (d) has, by his conduct, shown himself to be unfit to be registered;
- (e) has become registered improperly;
- (f) fails to obey a requisition of the Surveyor-General, the Registrar of Titles or other authority issued under section 52; or
- (g) fails to obey an order made on him by a Committee,

disciplinary action may be taken against him as prescribed.

**55. Surveyors Disciplinary Committee.** (1) For the purpose of hearing and determining any charge brought against a registered person by way of disciplinary action there may be constituted from time to time as occasion demands a body to be called "Surveyors Disciplinary Committee".

(2) A Committee shall consist of a Judge of District Courts, who shall be its chairman, and two surveyors qualified as prescribed.

(3) The qualifications of the surveyors to be members of a Committee to hear and determine a charge to be brought before it are—

- (a) that each has been registered under this Act or under this Act and the repealed Acts for an aggregate period of 10 years at the least;
- (b) that neither is a member of the Board; and
- (c) if the charge is concerned with a particular aspect of surveying, that each, in the opinion of the Minister, has sufficient knowledge of and has had sufficient experience in that aspect of surveying.

**56. Appointment of Committee members.** The persons who are to constitute a Committee shall be appointed in each case by the Governor in Council on the recommendation of the Minister by notification published in the Gazette.

**57. Selection of surveyor members of Committee.** (1) For the purpose of his selection of two surveyors to be members of a Committee the Minister shall request the Queensland Division to furnish to him within the time limited by him a panel of three surveyors at the least who are qualified as prescribed to be members of the Committee to hear and determine the charge to be brought before the Committee.

(2) If—

- (a) a panel requested by the Minister is not furnished to him within the time limited by him; or
- (b) the panel furnished to him by the Queensland Division is, in his opinion, inadequate for any reason whatever,

the Minister may, subject to subsection (3), select one or both of the surveyors to be appointed as members of the Committee as he thinks fit.

(3) In the exercise of the power conferred on him by subsection (2) the Minister shall select surveyors who possess the qualifications prescribed by section 55 (3) that are appropriate to the hearing and determination of the charge to be brought before the Committee and who are members of the Queensland Division.

**58. Initiating proceedings before Committee.** (1) The Board may of its own motion or upon the complaint of a person aggrieved cause an investigation to be made of the conduct of a registered person.

A person who carries out any part of an investigation on behalf of the Board is hereby authorized to give evidence before a Committee in manner acceptable to the Committee as to his findings and as to his opinions based on those findings.

A person shall not be liable on account of anything said or done by him as a witness before a Committee.

(2) A person aggrieved by the conduct of a registered person who desires to complain of such conduct shall furnish to the Board his complaint in writing.

It is the duty of the Board to investigate each complaint and in doing so it shall satisfy itself whether or not the complaint is frivolous or vexatious. The Board may cause further investigation to be made into the matter of complaint if it considers such an investigation is necessary.

(3) The Board may, of its own motion or if it is satisfied that a complaint made by any person aggrieved is not frivolous or vexatious, cause a charge to be drawn against a registered person and may refer such charge to a Committee for hearing and determination by it.

Every such charge shall contain or be accompanied by sufficient particulars to inform the Committee and the registered person against whom it is made of the matter alleged in the charge.

(4) The provisions of this section shall not be construed so as to prejudice the right of any person to refer a charge to a Committee for hearing and determination. Such person shall comply with the provisions of section 59.

In the event of such a charge being unsuccessful the Committee shall award costs in the proceeding (including the costs of constituting the Committee and the fees payable to the members thereof who are surveyors) against the complainant.

**59. Proceedings before Committee.** (1) The secretary to the Board shall be also secretary to each Committee.

(2) A charge referred to a Committee for hearing and determination shall be lodged with the secretary who shall thereupon take all steps necessary to have a Committee constituted to hear and determine the charge.

(3) At least 30 days prior to the date fixed for the hearing, the secretary shall give notice in writing to the person against whom the charge is made, informing him of the charge, particulars thereof and the date and time for hearing.

(4) At the hearing by a Committee of a charge—

(a) a barrister or solicitor or a person employed by the Board may appear for the purpose of adducing evidence or assisting the Committee;



- (b) a person against whom the charge is brought is entitled to be represented by a barrister or solicitor or a person nominated by him as his agent; and
- (c) if the charge is brought upon the complaint of a person aggrieved, that person is entitled to be represented by a barrister or solicitor or a person nominated by him as his agent.

(5) A Committee shall be deemed to be a Commission of Inquiry within the meaning of *The Commissions of Inquiry Acts 1950 to 1954* and the members thereof to be Commissioners under those Acts and to have all the powers, authorities, rights, privileges and protection of Commissioners conferred by those Acts and witnesses before the Committee shall be deemed to have the protection conferred by those Acts on witnesses before a Commission of Inquiry.

**60. Decisions of Committee.** (1) The decision of the chairman of a Committee on a question of law shall be taken to be the Committee's decision.

(2) Subject to subsection (1), save where the Committee is unanimous the decision of the majority of its members shall be taken to be the Committee's decision.

**61. Disciplinary powers of Committee.** (1) If upon the hearing of a charge a Committee finds the charge proved it may do one or more of the following things—

- (a) reprimand the registered person against whom the charge was brought;
- (b) order that the registered person against whom the charge was brought pay to the Board within the time limited by the Committee a fine not exceeding \$1 000;
- (c) order that the registered person against whom the charge was brought correct at his own expense and within the time limited by it the work found to be defective;
- (d) order that the registered person against whom the charge was brought pay to the Board within the time limited by the Committee the cost of correcting the work found to be defective;
- (e) order the person against whom the charge was brought not to practise within a particular category of surveying or to restrict his practice to a particular category of surveying until, in either case, he satisfies the Board that he is qualified and competent to practise within that category or, as the case may be, to extend his practice beyond that category;
- (f) order that the endorsement pursuant to section 42 of the registration of the licensed surveyor against whom the charge was brought be suspended for a period not exceeding three years;
- (g) order that the endorsement pursuant to section 42 of the registration of the licensed surveyor against whom the charge was brought be cancelled;
- (h) order that the registration under this Act of the registered person against whom the charge was brought be suspended for a period not exceeding three years;

(i) order that the registration under this Act of the registered person against whom the charge was brought be cancelled.

(2) If upon the hearing of a charge a Surveyors Disciplinary Committee does not find the charge proved it shall dismiss the charge.

(3) A Surveyors Disciplinary Committee may in any case make such order as to costs in the proceeding before it (including the fees payable to the members of the Committee who are surveyors) as it thinks fit.

**62. Effect of Committee's orders.** (1) Where a Committee has ordered that a fine or expenses be paid to the Board and the order is not complied with within the time limited in the order the Board may recover the amount of such fine or expenses outstanding from the person against whom the order is made as a debt due and owing to the Board and unpaid by action in a court of competent jurisdiction.

(2) Where a Committee has ordered that a registration under this Act be cancelled the Board shall cause the name and particulars of the person against whom the order is made to be removed from the appropriate register.

(3) Where a Committee has ordered—

(a) that a registration under this Act be suspended; or

(b) that the practice of a registered person be restricted by order made pursuant to provision (e) of section 61 (1)

the Board shall cause an endorsement of the suspension or restriction and the cause thereof to be entered against the relevant registration in the appropriate register.

(4) Where a Committee has ordered that a licensed surveyor do not perform cadastral surveys the Board shall cause his endorsement as a licensed surveyor to be removed from the register of surveyors.

(5) Where a Committee has ordered that the registration of a registered person be suspended the person against whom the order is made shall be deemed not to be a registered person for the period of the suspension and until he complies with any regulations that provide for removal of the endorsement of suspension in the appropriate register.

**63. Notification of Committee's orders and reasons.** (1) A Committee shall give full reasons in writing for any orders made by it.

(2) As soon as practicable after a Committee has made its order and given the reasons therefor in writing the secretary to the Committee shall give—

(a) to the Board; and

(b) to the person or persons against whom the order is made, notification in writing of the order and of the Committee's reasons therefor.

**64. Effect to be given to Committee's orders.** It is the duty of the Board and every person, if the order of a Committee duly made is directed to it or him, to take all steps and do all things necessary to give full effect to the order.

**65. Committee's decision final.** (1) Subject to subsection (2), the decision of a Committee shall be final and conclusive and no appeal shall lie in respect thereof.

(2) A person aggrieved by the decision of a Committee with respect to a question of law may appeal within 30 days from the decision to the Supreme Court sitting as a Full Court which shall have jurisdiction to hear and determine the same.

If it considers necessary so to do the Supreme Court may order the Committee to rehear the charge having regard to its determination on the question of law concerned.

(3) The power to make rules of court under *The Supreme Court Act of 1921* includes power to make rules of court for institution and conduct of appeals to the Supreme Court under this section.

Until such rules of court are made or in so far as such rules of court do not extend, a Judge of the Supreme Court may, in the particular case, give such directions as he may think fit and the directions shall, according to their tenor, have the force and effect of rules of court made for the purposes thereof.

#### PART VI—APPEALS FROM BOARD'S DECISIONS

**66. Appeals.** (1) A person aggrieved by a refusal of the Board—

- (a) of his application to be registered; or
- (b) to renew his registration under this Act; or
- (c) of his application for his registration as a surveyor to be endorsed to the effect that he may perform cadastral surveys; or
- (d) to renew such endorsement,

may appeal therefrom to a Judge of the District Court at Brisbane who shall have jurisdiction to hear and determine the same and whose decision thereon shall be final.

When an appeal is allowed, it is the duty of the Board to give effect to the decision given in the appeal forthwith upon the appellant complying with the provisions of this Act.

(2) An appeal shall be by way of re-hearing, and shall be instituted within thirty days after notification of the refusal to the person aggrieved, or such further period as a Judge of District Court in exceptional circumstances allows, by filing a notice of appeal in the registry of the District Court at Brisbane and, subject to this section, by complying with any rules of court made with respect thereto.

(3) The appellant shall serve a copy of the notice of appeal on the secretary not later than seven days after the notice is filed in the registry of the District Court.

In exceptional circumstances, a Judge of the District Court may extend the period for service of the copy of the notice of appeal.

(4) Rules of court may be made under the *District Courts Act 1967-1976* with respect to the institution, conduct and disposal of an appeal.

Until such rules of court are made, or in so far as such rules of court do not extend, the Judge hearing any appeal under this section may, in the particular case, give such directions as he may think fit, and the directions shall, according to their tenor, have the force and effect of rules of court made for the purposes thereof.

(5) The proceeding on appeal under this section shall be deemed to be a proceeding before a District Court.

#### PART VII—MISCELLANEOUS

**67. Right to enter to perform surveys.** (1) A surveyor or any person authorized in writing by a surveyor with regard to a particular survey may at any reasonable hour and after giving to the occupier as much prior notice as is, in the circumstances, practicable open any fence and enter any land for the purpose of performing a survey or for any purpose relating thereto and be accompanied by such other persons and do all such things as are reasonably necessary for that purpose.

A surveyor or other person on his behalf shall not under the provisions of this subsection enter the dwelling house of any person except with the consent of that person.

(2) The provisions of subsection (1) shall not affect, limit or restrict the right of any person to compensation for actual injury or damage caused by a person exercising the power conferred by that subsection.

(3) A surveyor required to compensate a person pursuant to subsection (2) may recover the amount of such compensation from his employer where the act causing the injury or damage was necessary for the due making of the survey.

(4) A person who obstructs or attempts to obstruct a person exercising the power conferred by subsection (1) or a person accompanying that person under that subsection commits an offence against this Act and is liable to a penalty of \$100.

**68. Interference with survey marks.** (1) Subject to this section, a person shall not, without reasonable excuse, interfere with a survey mark.

(2) A person who proposes to carry out work likely to interfere with a survey mark shall take all necessary precautions to ensure that such survey mark is not interfered with during the carrying out of that work.

(3) A person who proposes to carry out work likely to interfere with a permanent mark within the meaning of *The Survey Co-ordination Act of 1952*—

(a) before commencing that work shall notify the Surveyor-General; and

(b) shall not commence that work until the Surveyor-General or a surveyor engaged by the person so proposing has taken all necessary steps to safeguard the permanent mark.

A person notifying the Surveyor-General under provision (a) shall state whether or not he has engaged a surveyor in the terms of provision (b) and if he has so engaged he shall state the name of that surveyor.

If a surveyor has not been so engaged the Surveyor-General may take the steps referred to in provision (b) and recover the costs incurred from the person proposing to carry out the work.

(4) A person may remove a survey mark defining a boundary in order to erect a fence, wall or other permanent improvement along that boundary.

(5) A person who causes interference with a survey mark, howsoever caused, shall forthwith—

- (a) advise the authority which placed the mark; or
- (b) if such authority is unknown, advise the Surveyor-General; or
- (c) engage a surveyor to reinstate the mark.

(6) A person who causes interference with a survey mark placed to define a boundary established in the course of a cadastral survey, shall advise the Surveyor-General, or engage a licensed surveyor to reinstate the mark.

(7) A person, other than a surveyor, shall not reinstate or attempt to reinstate a survey mark that has been interfered with unless he is a member of a class specified in subsection (2) (b) of section 47 authorized by the regulations to reinstate a survey mark of the same description as the survey mark that has been interfered with.

(8) A surveyor who reinstates a permanent mark within the meaning of *The Survey Co-ordination Act of 1952* in the same or another position shall forthwith deposit a plan with the Surveyor-General showing the position relative to both the former (if in existence) and any new witness marks.

**69. Right to uncover buried survey marks.** A surveyor or any person authorized in writing by him, may break up the surface of land, whether paved or not, to the extent necessary to uncover a survey mark which he believes to be buried and under that surface and to be essential for the performance of a survey. The person so breaking up the surface shall repair and reinstate the surface so broken up forthwith.

**70. Students in surveying and associate surveyors to have time to attend lectures and gain practical experience.** A surveyor who employs a person who is studying or undertaking a course of study for qualification as a surveyor or associate surveyor shall permit that person a reasonable time to attend lectures and gain the practical experience prescribed for registration under this Act.

**71. Disputes as to remuneration between departments and surveyors.** A surveyor, other than a surveyor permanently employed in the service of the Crown at a salary, who disputes the amount of remuneration payable to him by a department of the State in respect of a survey made by him for or in connexion with that department may refer the dispute to the Board.

The reference shall be in writing, shall state clearly and concisely the grounds upon which the reference is made and shall be lodged with the secretary within 90 days of the notification to the surveyor of the decision the subject of the reference.

The Board shall hear and determine every matter referred to it and its decision shall be final and without appeal.

The Board may make such order as to costs as it thinks reasonable.

**72. General penalty.** (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, save where a specific penalty is otherwise provided, is liable to a penalty not exceeding \$200.

(2) All penalties recovered in respect of an offence against this Act shall be paid to the Board.

**73. Proceedings generally.** (1) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886-1975* upon the complaint of the secretary, or a person authorized by the Board in that behalf.

(2) A prosecution for an offence against this Act may be commenced within one year from the time when the matter of complaint arose or within six months after the matter of complaint comes to the knowledge of the complainant whichever is the period later to expire.

**74. Evidentiary provisions.** In any proceeding for the purposes of this Act—

- (a) a certificate purporting to be signed by the secretary certifying the state of any part of a register at a date or during a period specified in the certificate or certifying that a person named therein was not, at a date or during a period specified therein, registered as a surveyor, licensed surveyor or, as the case may be, associate surveyor shall, upon its production, be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate;
- (b) every part of a register, and an extract of any part of a register purporting to be certified as correct by the secretary shall, upon its production, be admissible as evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (c) a certificate purporting to be that of the secretary as to—
  - (i) an order made by a Committee (including an order for costs made pursuant to section 61 (3));
  - (ii) the reasons given by a Committee in relation to an order made by it; or
  - (iii) an amount paid to or by the Board pursuant to an order of the Committee,
 shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;
- (d) a statement in a complaint commencing that proceeding of the date on which the matter of complaint came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of its content;
- (e) proof shall not be required of the authority of any person to prosecute an offence against this Act or to take any proceeding on behalf of the Board unless evidence is given to the contrary;

- (f) proof shall not be required of the appointment of the secretary or of any other officer appointed for the effectual administration of this Act or of the signature of the secretary.

**75. Service of documents and notices.** A notice, request or other document to be given or furnished under this Act may be served by post.

**76. Certificate in lieu of declaration by licensed surveyor on map or plan.** Notwithstanding the provisions of the *Real Property Act* 1861–1976 or any other Act, a certificate under the hand of a licensed surveyor upon a map or plan that he has surveyed the land comprised therein and that the map or plan is accurate shall have the same force and effect as a declaration by the licensed surveyor to the like effect.

**77. Regulations.** (1) The Governor in Council may make regulations not inconsistent with this Act providing with respect to—

- (a) the powers, duties and functions of the secretary, the secretary of the Committee and officers appointed for the effectual administration of this Act;
- (b) the registers and the manner of their keeping;
- (c) the making of applications to the Board, and the effect of furnishing false particulars therein;
- (d) the prescription of courses of study, professional practice, conditions of service, training and examinations for and the qualifications for registration as a surveyor or an associate surveyor;
- (e) the conduct of meetings of the Board, the entitlement of members of the Board to vote upon business before a meeting, and the conduct of proceedings before the Board;
- (f) the common seal of the Board and the attesting of documents by or on behalf of the Board or the Committee;
- (g) the fees payable under this Act and the purposes for which they are payable;
- (h) the forms to be used for the purposes of this Act;
- (i) a code of professional ethics to be observed by persons registered under this Act;
- (j) the provision and prescription of any matter or thing concerning the accuracy of surveys;
- (k) the supervision of associate surveyors by surveyors;
- (l) the fees that surveyors may charge for the performance of surveys;
- (m) the form, establishment and custody of survey marks;
- (n) the penalties to be imposed for breaches of the regulations but so that no such penalty shall exceed \$200;
- (o) all matters required or permitted by this Act to be prescribed and in respect of which the manner of prescription is not specified;
- (p) all matters that in his opinion are necessary or convenient to be prescribed to achieve the objects and purposes of this Act.

(2) Regulations may be made upon the passing of this Act.

**78. References to authorized surveyors in other Acts.** In any Act a reference to an authorized surveyor by whatever means expressed shall be taken to be a reference to a licensed surveyor.

## SCHEDULE

[s. 4]

Year and Number of Act	Short Title
8 Edw. VII. No. 3 ..	<i>The Land Surveyors Act of 1908</i>
2 Geo. V. No. 14 ..	<i>The Land Surveyors Act Amendment Act of 1911</i>
7 Geo. V. No. 9 ..	<i>The Land Surveyors Act Amendment Act of 1916</i>
No. 13 of 1974 ..	<i>Land Surveyors Act Amendment Act 1974</i>
No. 56 of 1974 ..	<i>Land Surveyors Act Amendment Act 1974 (No. 2)</i>