

Queensland



# VALUERS REGISTRATION ACT 1992

**Reprinted as in force on 14 November 1996  
(includes amendments up to Act No. 54 of 1996)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 2B**

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# Information about this reprint

This Act is reprinted as at 14 November 1996. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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**VALUERS REGISTRATION ACT 1992**

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# VALUERS REGISTRATION ACT 1992

[as amended by all amendments that commenced on or before 14 November 1996]

**An Act relating to the registration of valuers, and for related purposes**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Valuers Registration Act 1992*.

### Commencement

2. This Act commences on a day to be fixed by proclamation.

### Definitions

3. In this Act—

“**appointed member**” means a member appointed under section 6(1)(b).

“**assistant member**” means a person appointed under section 7 as an assistant member of the Board.

“**Board**” means the Valuers Registration Board of Queensland.

“**chairperson**” means the chairperson of the Board.

“**commencing day**” means the day fixed under section 2.

“**committee**” means a committee appointed under section 50.

“**investigator**” means a person authorised under section 44 to conduct an investigation on behalf of the Board.

“**member**” means a member of the Board.

“**register**” means the Register of Valuers of Queensland kept under this Act.

“**registered valuer**” means a valuer registered under this Act.

“**specialist retail valuer**” means a person whose name is recorded on the list of specialist retail valuers kept under section 42A (List of specialist retail valuers).

“**valuer**” means a person who, in any capacity, holds himself or herself out as ready to make a valuation of land.

### **Administration of Act**

4. Subject to the Minister, the Board administers this Act.

## **PART 2—THE BOARD**

### **Board continued in existence**

5. The Valuers Registration Board of Queensland established under the *Valuers Registration Act 1965* is, by this section, continued in existence under the name Valuers Registration Board of Queensland.

### **Membership**

6.(1) The Board consists of the following members—

- (a) a nominee, who is a valuer, of the chief executive; and
- (b) 2 registered valuers, 1 of whom is to be appointed from names submitted by the Australian Institute of Valuers and Land Economists under section 8.

(2) The members mentioned in subsection (1)(b) are to be appointed by the Governor in Council, by Gazette notice.



**Assistant members**

7. The Governor in Council may, by Gazette notice, appoint 2 assistant members—

- (a) 1 of whom is to be a registered valuer appointed from names submitted by the Australian Institute of Valuers and Land Economists under section 8; and
- (b) the other of whom is to be a registered valuer appointed from names submitted by the Real Estate Institute of Queensland under section 8.

**Panel of nominees**

8.(1) The submission of names of persons under section 6 and 7 is to be made within the time and in the way determined by the Minister.

(2) The persons named must live in Queensland.

(3) If an Institute fails to make a submission within the time and in the way determined by the Minister, the Governor in Council may appoint as a member or an assistant member any person who is otherwise qualified to be appointed under section 6 or 7.

**Tenure of office**

9. An appointment as an appointed member or assistant member—

- (a) begins on the day specified in the Gazette notice or, if no day is specified, on the day of publication of the notice; and
- (b) is for a term of 3 years or such shorter period as is specified in the notice.

**Eligibility for appointment**

10. A person is not eligible to become an appointed member or assistant member if—

- (a) the person is bankrupt or is otherwise taking advantage of the laws in force relating to bankruptcy; or

- (b) the person has been convicted of an indictable offence (whether in Queensland or elsewhere).

### **Casual vacancy**

**11.(1)** The office of an appointed member or assistant member becomes vacant if the member or assistant member—

- (a) dies; or
- (b) ceases to be eligible to become a member or assistant member; or
- (c) resigns from office by signed notice given to the Minister; or
- (d) is removed from office by the Governor in Council under section 12.

**(2)** A resignation takes effect on the day on which the notice of resignation is given to the Minister or, if a later day is specified in the notice for its operation, that day.

### **Removal from office**

**12.(1)** The Governor in Council may, by Gazette notice, remove an appointed member or assistant member if—

- (a) the member or assistant member is unable to perform the duties of office because of mental or physical incapacity; or
- (b) the member or assistant member is guilty of misconduct; or
- (c) the member or assistant member is absent, without prior leave granted by the Board and without reasonable excuse, from 3 consecutive meetings of the Board or a committee of which due notice has been given to the member or assistant member; or
- (d) the member or assistant member ceases to be a registered valuer.

**(2)** For the purposes of subsection (1)(c), attendance of an appointed member or an assistant member at the time and place appointed for a meeting of the Board or a committee is taken to constitute presence at a meeting even though, because of the lack of a quorum, the meeting does not take place.

**Casual appointment**

**13.(1)** If a vacancy happens in the office of an appointed member or assistant member, the Governor in Council may, under section 6 or 7, appoint a qualified person to the office for the balance of the predecessor's term of appointment.

**(2)** If otherwise qualified, a person appointed under subsection (1) is eligible for reappointment.

**Assistant member may act as Board member**

**14.** The chairperson may authorise an assistant member to act as a member—

- (a) during any period, or all periods, when an appointed member is unable, for any reason, to perform the duties of office; or
- (b) during a vacancy in the office.

**Who may act as member in absence of chief executive's nominee**

**15.(1)** The chief executive may authorise a valuer who is an officer of the department to act as a member—

- (a) during any period, or all periods, when the chief executive's nominee is unable, for any reason, to perform the duties of office; or
- (b) during a vacancy in the office.

**(2)** If the nominee is chairperson, the officer is not to act as chairperson unless authorised to act under section 16(3).

**Chairperson**

**16.(1)** In every appointment of the whole number of appointed members, the Governor in Council is to appoint a member to be chairperson.

**(2)** If a vacancy happens in the office of chairperson, the Governor in Council may, by Gazette notice, appoint another member to the vacant office.

(3) If the chairperson is not present at a meeting of the Board, the member appointed by the members present at the meeting may act as chairperson.

(4) A member acting as chairperson may perform the functions and exercise the powers of the chairperson.

### **Officers of the board employed under this Act**

17.(1) The board may employ a secretary and other officers necessary for this Act.

(2) The secretary and other officers are to be employed under this Act, and not under the *Public Service Act 1996*.

### **Meetings of Board**

18.(1) The Board is to meet as often as is necessary for the efficient conduct of its business.

(2) The secretary must give at least 7 days notice of the day and time of a meeting to members.

(3) The Board is to exercise its powers and perform its functions by majority vote.

(4) A member who abstains from voting is taken to have voted in the negative.

(5) If the vote on a question is equal, the chairperson has a casting vote.

(6) The members may adjourn a meeting from time to time.

### **Disclosure of interest**

19.(1) A member who has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Board must, as soon as possible after the relevant facts come to the member's knowledge, disclose the interest to a meeting of the Board.

(2) The disclosure is to be recorded in the minutes of the meeting, and, unless the Board otherwise determines, the member concerned must not—

(a) be present during the consideration by the Board of the matter in

question; and

(b) take part in any decision of the Board in respect of the matter.

(3) A member who makes a disclosure must not—

(a) be present during any deliberation by the Board as to whether to make a determination under subsection (2) in respect of the member; and

(b) take part in the making by the Board of such a determination.

### **Special meetings**

**20.(1)** The chairperson may, and on the request of a member must, convene a special meeting.

(2) If the chairperson does not convene a special meeting that has been requested within 10 days of the request, the member who requested the meeting may convene the meeting.

(3) The secretary is to give notice of the time and place of a special meeting and the business to be transacted at the meeting to members.

(4) Business other than that stated in the notice is not to be transacted at the meeting.

### **Quorum**

**21.(1)** A quorum at a meeting or special meeting of the Board is 2 members.

(2) If a quorum is not present within 15 minutes after the time when the meeting is to be held, the meeting is taken to be adjourned to a time and day, not later than 7 days after the adjournment, determined by the secretary.

(3) If a meeting is adjourned because a quorum is not present, the secretary is to enter the name of the member who is present in the minute book.

**Protection of members etc. from liability**

**22.(1)** A member, assistant member or an officer of the Board incurs no civil liability for an act or omission done or omitted to be done honestly and without negligence under, or for the purposes of, this Act.

**(2)** A liability that would, but for this section, attach to a person attaches to the State.

**Validity of acts**

**23.** A proceeding of the Board is not invalidated merely because of a defect in the qualification, appointment or membership of any member.

**Remuneration**

**24.** Members and assistant members are to be paid such fees and allowances as are approved by the Governor in Council.

**Funds**

**25.(1)** All amounts received by or on behalf of the Board must be paid into and form part of the funds of the Board.

**(2)** Expenses of and incidental to the administration of this Act must be paid from the funds of the Board.

**(3)** Funds that are not immediately required for the administration of this Act may be applied to such objects and purposes as appear to the Board calculated to advance the principles, standards or practice of land valuation.

## **PART 3—REGISTRATION**

### *Division 1—Registered valuers*

#### **Register**

**26.(1)** The Board is to keep a register to be called the Register of Valuers of Queensland in such form as it thinks fit.

(2) The register is to be in the custody of the secretary.

(3) The secretary is to record in the register the name and other particulars of registered valuers.

#### **Inspection of register**

**27.** A person may, on payment of the prescribed fee, inspect the register at the office of the Board.

#### **Publication of names of registered valuers**

**28.** The Board must publish in the Gazette a copy of the register as at 1 January in each year.

#### **Applications for registration**

**29.(1)** An application to be registered as a valuer is to be—

- (a) made to the Board in a form approved by the Board; and
- (b) supported by such evidence as the Board may require; and
- (c) accompanied by the prescribed fee.

(2) The applicant must give notice of the application in a newspaper circulating throughout the State.

(3) The notice is to be in a form approved by the Board and must state that objection to the application may be lodged with the secretary on or before the day specified in the notice.

(4) If a person objects to the application, the Board is to consider the

objection and may ask the applicant to furnish any additional information that the Board considers necessary.

(5) The Board must approve or refuse the application.

### **Qualifications for registration**

**30.** The Board is to register a person as a valuer if the person makes application under section 29 and satisfies the Board that the person—

- (a) is of good fame and character and is a fit and proper person to be registered as a valuer; and
- (b) either—
  - (i) holds a certificate of competence recognised by the Board and issued by a prescribed institute of valuers; or
  - (ii) has passed an examination approved by the Board; and
- (c) has had sufficient practical experience over a period of at least 5 years since starting an approved course of study to enable the person to competently value land in Queensland.

### **Attendance before Board of applicant**

**31.(1)** The Board may require an applicant for registration—

- (a) to give to the Board, orally or in writing, further information relating to the application; and
- (b) to attend before the Board for the purpose of giving information relating to the application.

(2) If the applicant fails to give information or to attend as required, the Board may refuse the application.

### **Entries in register**

**32.** Registration is effected by entering in the register—

- (a) the name of the person; and
- (b) the person's place of business or, if there is no such place, the person's place of residence; and



- (c) the person's qualifications; and
- (d) any other particulars that are prescribed or that the Board considers necessary.

### **Notice of Board's decision**

**33.(1)** The secretary must give written notice to the applicant of the Board's decision on an application for registration.

**(2)** If the application is refused, the notice must state the reasons for refusal and inform the applicant that the applicant may appeal against the refusal under section 61.

### **Certificate to be issued on registration**

**34.(1)** When the Board first registers a person as a valuer, the secretary must issue a certificate of registration to the person on payment of the annual roll fee determined under subsection (2) and any other prescribed fee.

**(2)** The amount of the annual roll fee that is to be paid when the Board first registers a person as a valuer is the prescribed roll fee payable to the Board for the year of registration, reduced by an amount equal to one-twelfth of the fee for each whole month of the year that has expired on the day of registration.

**(3)** For the purposes of subsection (2), a whole month is taken to have expired if registration is effected after the 15th day of the month.

**(4)** A certificate is evidence that the person named in the certificate was registered as a valuer on the day specified in the certificate.

### **Replacement and return of certificate**

**35.(1)** If the secretary is satisfied that a certificate issued to a registered valuer has been lost, stolen or destroyed, the secretary may issue to the person a duplicate certificate on payment of the prescribed fee.

**(2)** If a person ceases to be a registered valuer, the Board may by written notice require the person to deliver the person's certificate of registration to the secretary within 14 days of service of the notice on the person.

(3) The person must comply with the notice unless the person has reasonable excuse for failing to do so.

Maximum penalty—20 penalty units.

### **Annual roll fee**

**36.(1)** Before 1 November in each year, a registered valuer must pay to the Board the prescribed roll fee for the following year.

(2) A registered valuer who pays the roll fee after 31 October must pay the prescribed late fee.

(3) If a registered valuer does not pay the roll fee and the late fee before 31 December, the valuer's registration is cancelled and the secretary must remove the person's name and other particulars from the register.

(4) If a person's registration is cancelled under subsection (3), the Board must restore the registration if the person makes written application to the Board before the end of the year for which the roll fee was payable and pays the roll fee, the late fee and the prescribed restoration fee.

### **Removal from and alteration of register**

**37.(1)** A registered valuer must give written notice to the Board of any change in the particulars entered in the register within 30 days after the change happens.

(2) The Board is to remove from the register particulars of a valuer who has died or has, in writing, requested the removal.

(3) The Board may make such other alterations to particulars in the register as are necessary for the register to be an accurate record of the prescribed particulars of valuers.

### **Effect of removal from register**

**38.** A person whose name and other particulars are removed from the register ceases to be a registered valuer.

**Cancellation of registration**

**39.(1)** The Board may order that a valuer's registration be cancelled if—

- (a) in the Board's opinion, the valuer does not possess the qualifications entitling the valuer to registration; or
- (b) the valuer is mentally or physically incapable of managing the valuer's own affairs; or
- (c) the valuer has been convicted of an indictable offence (whether in Queensland or elsewhere); or
- (d) the valuer is guilty of misconduct in a professional respect.

**(2)** The Board must not act under subsection (1) unless the Board has given the valuer a written notice that—

- (a) sets out the reasons for the proposed cancellation; and
- (b) gives the valuer 30 days in which to make oral or written submissions to the Board in relation to the reasons.

**(3)** If the Board cancels a valuer's registration under this section, the Board must give the valuer a written notice that sets out the Board's decision and inform the valuer that the person may appeal against the order under section 61.

**Restoration of registration**

**40.(1)** A person whose particulars are removed from the register under section 37 may make written application to the Board for restoration of the registration.

**(2)** An application under subsection (1) is to be accompanied by the prescribed fee.

**(3)** If the Board is satisfied that the person is qualified to be registered the Board is to give effect to the application.

**(4)** When the Board restores a person's registration as a valuer and the roll fee for the year has not been paid, the roll fee that is to be paid to the Board is to be reduced by an amount equal to one-twelfth of the fee for each whole month of the year that has expired on the day of restoration.

(5) For the purposes of subsection (4), a whole month is taken to have expired if registration is effected after the 15th day of the month.

### **Unauthorised dealing with register**

**41.** Unless otherwise authorised by this Act, a person must not—

- (a) make an entry in the register; or
- (b) alter an entry in the register; or
- (c) remove a name or other particulars from the register; or
- (d) restore a name or other particulars to the register.

Maximum penalty—50 penalty units.

### **Waiver of fee**

**42.** Despite any other provision of this Act, the Board may waive the whole or part of a fee payable on an application for registration or restoration of a name to the register, or the issue of a certificate, if it appears to the Board just to do so.

## *Division 2—Specialist retail valuers*

### **List of specialist retail valuers**

**42A.(1)** The Board must keep a list of specialist retail valuers.

**(2)** The list must be kept separate from the register.

### **Valuers may apply to be recorded as specialist retail valuers**

**42B.(1)** An individual who is a registered valuer may apply to the Board to be recorded as a specialist retail valuer.

**(2)** The application must be in the form approved by the Board and accompanied by the fee prescribed by regulation.

**Grant of application**

**42C.(1)** If the Board is satisfied the applicant has enough experience in retail rental valuation, it must—

- (a) approve the application and record the applicant's name on the list of specialist retail valuers; and
- (b) give written notice to the applicant of the recording of the applicant's name on the list.

**(2)** However, the Board may limit the applicant's authority to make determinations of current market rents under this Act to particular areas of the State.

**(3)** If the Board limits the applicant's authority, the Board must—

- (a) specify the limitation and the reasons for the limitation in its notice to the applicant under subsection (1)(b); and
- (b) note the limitation on the list.

**Refusal of application**

**42D.** If the Board is not satisfied the applicant has enough experience in retail rental valuation it must—

- (a) refuse the application; and
- (b) give written notice to the applicant of the refusal and the grounds on which the Board decided the applicant does not have the experience.

**Failure to decide application**

**42E.** If the Board fails to decide an application within the time mentioned in section 42C (Board to decide applications), the failure is taken to be a decision to refuse the application at the end of the time.

**Inspection of list**

**42F.(1)** The Board must—

- (a) keep the list of specialist retail valuers open for inspection by

members of the public during office hours on business days at the Board's office; and

- (b) permit a person to take extracts from the list or, on payment of the appropriate fee by a person, give the person a copy of the list or part of it.

(2) The fee for a copy of the list or part of it is the amount that—

- (a) the Board considers to be reasonable; and
- (b) is not more than the reasonable cost of making the copy.

### **Removal of name from list**

**42G.(1)** If the Board removes a specialist retail valuer's name from the register, the Board must also remove the person's name from the list of specialist retail valuers.

(2) The person ceases to be a specialist retail valuer on removal of the person's name from the list.

### **Disciplinary charges against specialist retail valuers**

**42H.(1)** This section applies if the Board suspects on reasonable grounds that a specialist retail valuer has—

- (a) knowingly contravened section 28(3) (Rent review on basis of current market rent) of the *Retail Shop Leases Act 1994*; or
- (b) contravened section 29 (Matters to be considered by specialist retail valuers) or 32 (Valuer to give determination to lessor and lessee) of the *Retail Shop Leases Act 1994*.

(2) Part 4 (Complaints and Discipline), applies to the contravention as if the valuer had contravened a prescribed code of professional conduct.

## **PART 4—COMPLAINTS AND DISCIPLINE**

### **Complaints**

**43.(1)** A person who is aggrieved by the conduct of a registered valuer may complain to the Board.

**(2)** A complaint must be in writing.

### **Board may authorise investigation**

**44.(1)** The Board may—

- (a)** on a complaint made under section 43 or of its own initiative, authorise a person who is not a member or an assistant member to carry out an investigation of conduct of a registered valuer on behalf of the Board; or
- (b)** if it suspects on reasonable grounds that a registered valuer has contravened a prescribed code of professional conduct—authorise a person who is not a member or an assistant member to carry out an investigation in relation to the suspected contravention on behalf of the Board; or
- (c)** if it suspects on reasonable grounds that a person who is not a registered valuer has contravened section 63—authorise a person who is not a member or an assistant member to carry out an investigation in relation to the suspected contravention on behalf of the Board.

**(2)** The investigator must give the Board a written report on the investigation.

**(3)** The Board must not authorise the investigation of a complaint that in its opinion is frivolous or vexatious.

### **Powers of investigator**

**45.(1)** An investigator may, if it is reasonably necessary for the purposes of the investigation concerned, by written notice given to a person, require the person—

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- (a) to attend before the investigator, at a reasonable time and place specified in the notice, and there and then answer any questions; and
  - (b) to produce to the investigator, at a reasonable time and place specified in the notice, a document or thing in the person's custody or under the person's control.
- (2) If the document or thing is produced to the investigator, the investigator may—
- (a) examine the document or thing; and
  - (b) make copies of, or take extracts from the document or photograph the thing; and
  - (c) if the investigator reasonably considers it necessary to do so—keep the document or thing for 60 days or, if a prosecution for an offence against this Act of which the document or thing may afford evidence is instituted within that period, until the completion of the proceeding for the offence and of any appeal from the decision in relation to the proceeding.
- (3) While the investigator has possession of the document the investigator must allow it to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the investigator's possession.
- (4) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1) to the extent that the person is capable of doing so commits an offence.

Maximum penalty—20 penalty units.

- (5) It is a reasonable excuse for a person to fail to comply with a requirement under subsection (1) if complying with the requirement might tend to incriminate the person.

**Entry and search—evidence of offences**

**46.(1)** Subject to subsection (3), if an investigator has reasonable grounds for suspecting that there is in a place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act, the investigator may—



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- (a) enter the place; and
- (b) exercise the powers set out in section 47.

(2) If the investigator enters the place and finds the evidence, the following provisions have effect—

- (a) the investigator may seize the evidence;
- (b) the investigator may keep the evidence for 60 days or, if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceeding for the offence and of any appeal from the decision in relation to the proceeding;
- (c) if the evidence is a document—while the investigator has possession of the document, the investigator may take extracts from and make copies of the document, but must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the investigator's possession.

(3) The investigator must not enter the place or exercise a power under subsection (1) unless—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 48 that was issued in relation to the evidence authorises the entry or exercise of the power.

(4) If, while searching the place under subsection (1) under a warrant under section 48, the investigator—

- (a) finds a thing that the investigator believes, on reasonable grounds to be—
  - (i) a thing (other than the evidence) that will afford evidence of the commission of the offence mentioned in subsection (1); or
  - (ii) a thing that will afford evidence of the commission of another offence against this Act; and
- (b) the investigator believes, on reasonable grounds, that it is

necessary to seize the thing to prevent—

- (i) its concealment, loss or destruction; or
- (ii) its use in committing, continuing or repeating the offence mentioned in subsection (1) or the other offence, as the case may be;

subsection (2) applies to the thing as if it were the evidence.

(5) An investigator who seizes or damages anything under this section must give written notice of particulars of the thing or damage.

(6) The notice must be given to—

- (a) if anything is seized—the person from whom the thing was seized; or
- (b) if damage is caused to anything—the person who appears to the investigator to be the owner.

### **General powers of investigator in relation to places**

**47.(1)** The powers an investigator may exercise under section 46(1)(b) in relation to a place are as follows—

- (a) to search any part of the place;
- (b) to inspect, examine or photograph anything in the place;
- (c) to take extracts from, and make copies of, any documents in the place;
- (d) to take into the place such equipment and materials as the investigator reasonably requires for the purpose of exercising any powers in relation to the place;
- (e) to require the occupier or any person in the place to give to the investigator reasonable assistance in relation to the exercise of the investigator's powers mentioned in paragraphs (a) to (d).

(2) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1)(e) to the extent that the person is capable of doing so commits an offence.

Maximum penalty—20 penalty units.

(3) It is a reasonable excuse for a person to fail to comply with a requirement under subsection (1)(e) if complying with the requirement might tend to incriminate the person.

## **Warrants**

**48.(1)** An investigator may apply to a Magistrate for a warrant under this section in relation to a particular place.

(2) Subject to subsection (3), the Magistrate may issue the warrant if the Magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 72 hours, in the place a particular thing (“**the evidence**”) that may afford evidence relevant to the investigator’s investigation.

(3) If the Magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the Magistrate must not issue the warrant unless the investigator has given the information to the Magistrate in the form (either orally or by affidavit) that the Magistrate requires.

(4) The warrant must—

- (a) authorise the investigator, with such assistance and by such force as is necessary and reasonable—
  - (i) to enter the place; and
  - (ii) to exercise the powers set out in section 47; and
  - (iii) to seize the evidence; and
- (b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
- (c) specify the day (not more than 7 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

## **Charge of offence may be laid**

**49.** If, after considering an investigator’s report, the Board considers that

a prima facie case of an offence against section 63 has been made out against a person, the Board may commence proceedings under section 64.

### **Disciplinary charge may be laid**

**50.(1)** If the investigator considers that a prima facie case is made out against a registered valuer, the investigator may charge the person with—

- (a) misconduct in a professional respect; or
- (b) incompetence or negligence in the person's performance as a valuer.

**(2)** The charge and a copy of the investigator's report is to be given to the Board and to the person charged.

**(3)** The Board is to appoint a committee to consider the investigator's report.

**(4)** The committee is to consist of the members and the assistant members.

**(5)** The committee may—

- (a) take disciplinary action against the person charged; or
- (b) take no further action.

**(6)** If the committee acts under—

- (a) subsection (5)(a)—the committee must—
  - (i) start proceedings against the person charged; and
  - (ii) notify the person charged of the day, time and place of the proceeding; or
- (b) subsection (5)(b)—the committee must—
  - (i) order the Board to take no further action in relation to the matter; and
  - (ii) notify the person charged of the committee's decision.

### **Proceedings**

**51.(1)** A proceeding of a committee is open to the public only if—

- (a) the committee so determines; or
- (b) the registered valuer concerned so requires.

(2) In a proceeding, the investigator is entitled to give evidence, in a way acceptable to the committee, of the findings and the investigator's opinions based on the findings.

### **Records**

52. A committee must keep a record of its proceedings.

### **Procedure**

53.(1) A proceeding before a committee is to be conducted with as little formality and technicality, and with as much speed, as a proper consideration of the matters before the committee permits.

(2) In a proceeding, a committee is not bound by the rules of evidence but may inform itself of any matter in any way that it considers appropriate.

(3) A committee must observe the rules of natural justice.

(4) Subject to subsections (1) to (3), the chairperson may give directions as to the procedure to be followed in a proceeding.

### **Representation**

54. Without limiting section 53(3), in the conduct of a proceeding, a committee must give the registered valuer charged a reasonable opportunity of defending all allegations either in person or by counsel or solicitor.

### **Powers of committee**

55.(1) In a proceeding, a committee may—

- (a) by written notice, require a person to attend before the committee at a specified time and place—
  - (i) to give evidence; or
  - (ii) to produce a specified document or thing; and

- (b) require a person appearing before the committee to give evidence either to take an oath or make an affirmation and, for that purpose, the chairperson may administer an oath or affirmation; and
- (c) proceed in the absence of the person charged if the person has had reasonable notice of the proceeding.

(2) The committee may adjourn the proceeding from time to time.

(3) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the evidence that the person gives will be true.

### **Inspection of documents**

**56.(1)** If a document or thing is produced to a committee, the committee may—

- (a) examine the document or thing; and
- (b) make copies of, or take extracts from, the document or photograph the thing if it is relevant to the proceeding.

(2) A committee may, for the purposes of a proceeding, take possession of and retain for as long as is reasonably necessary, a document or thing produced to the committee.

(3) While it retains possession of a document or thing, the committee must permit the document or thing to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the committee's possession.

### **Offences—proceedings**

**57.(1)** A person served, as prescribed, with a notice under section 55(1)(a) must not fail, without reasonable excuse—

- (a) to attend a proceeding as required by the notice; or
- (b) to appear from time to time in the course of the proceeding as required by the chairperson of a committee; or
- (c) to produce a document or thing that is specified in the notice.

Maximum penalty—20 penalty units.

(2) A person appearing as a witness in a proceeding must not fail, without reasonable excuse—

- (a) to be sworn or to make an affirmation; or
- (b) to answer a question that the person is required to answer by the chairperson.

Maximum penalty—20 penalty units.

### **Self incrimination**

58. A person is not required—

- (a) to produce to a committee a document or thing; or
- (b) to answer a question asked by a member of a committee;

if producing the document or thing, or answering the question, might tend to incriminate the person.

### **Committee may order cancellation of registration, etc.**

59.(1) If a committee finds a registered valuer guilty of the charge made against the person, the committee may—

- (a) admonish or reprimand the valuer; or
- (b) order the valuer to give an undertaking to abstain from specified conduct; or
- (c) order the valuer to pay to the Board a penalty of an amount equal to not more than 100 penalty units; or
- (d) order that the valuer's registration be suspended for up to 12 months; or
- (e) order that the valuer's registration be cancelled.

(2) If a committee makes an order under subsection (1)(e), the Board is to remove from the register the name and other particulars of the valuer.

(3) A committee may order the valuer to pay to the Board the amount of the costs of and incidental to the proceeding, including the cost of the investigation that preceded the proceeding.

(4) If a committee makes an order under subsection (1)(c), the order may contain a direction that the valuer's registration be suspended for a specified period if the valuer fails to pay the penalty within a specified time.

(5) If the valuer does not pay the amount ordered within the time specified, the valuer's registration is suspended for the period specified in the direction.

### **Effect of removal and suspension**

**60.(1)** A person whose name and other particulars are removed from the register under section 59 ceases to be a registered valuer.

(2) A person whose registration is suspended under section 59 is, during the suspension, taken not to be a registered valuer.

### **Appeals**

**61.(1)** A person aggrieved by—

- (a) a refusal by the Board of the person's application for registration as a valuer; or
- (b) a refusal by the Board to restore the person's name and other particulars to the register; or
- (c) an admonition, reprimand or other order of a committee; or
- (d) a refusal by the Board of the person's application to be recorded as a specialist retail valuer; or
- (e) a decision by the Board to limit the person's authority as a specialist retail valuer to particular areas of the State; or
- (f) a decision by the Board to remove the person's name from the list of specialist retail valuers;

may appeal against the decision to a District Court Judge at Brisbane whose decision must be given effect by the Board.

(2) The appeal—

- (a) must be instituted—
  - (i) within 28 days after the person receives notice of the



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decision; and

- (ii) by filing a notice of appeal in the registry of the District Court at Brisbane; and
  - (iii) by complying with the rules of court applicable to such appeals; and
- (b) is by way of re-hearing on the material before the Board or committee or, if the Judge hearing the appeal so orders, on material submitted on the appeal, or on both.

**(3)** The Judge may—

- (a) if the appeal is made under subsection (1)(a)—
  - (i) allow the appeal and order the Board to register the person as a valuer; or
  - (ii) dismiss the appeal; or
- (b) if the appeal is made under subsection (1)(b)—
  - (i) allow the appeal and order the Board to restore the person's name and other particulars to the register; or
  - (ii) dismiss the appeal; or
- (c) if the appeal is made under subsection (1)(c)—
  - (i) allow the appeal; or
  - (ii) allow the appeal and make any other order that a committee may make under section 59(1)(a) to (d), (3) or (4); or
  - (iii) dismiss the appeal; or
- (d) if the appeal is made under subsection (1)(d)—
  - (i) allow the appeal and order the Board to record the person as a specialist retail valuer; or
  - (ii) dismiss the appeal; or
- (e) if the appeal is made under subsection (1)(e)—
  - (i) allow the appeal and order the Board to record the person as a specialist retail valuer—
    - (A) without limit on the person's authority to particular

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areas of the State; or

(B) with a substituted limit on the person's authority to particular areas of the State; or

(ii) dismiss the appeal; or

(f) if the appeal is made under subsection (1)(f)—

(i) allow the appeal and order the Board to restore the person's name and other particulars to the list of specialist retail valuers; or

(ii) dismiss the appeal.

(4) If on appeal an order is made for payment of a monetary penalty by the appellant, the payment is to be made to the Board and, for purposes of enforcement, the order is taken to be an order of the committee.

## PART 5—MISCELLANEOUS

### False statements

**62.** A person must not—

(a) make a statement to the Board that the person knows is false or misleading in a material particular; or

(b) omit from a statement made to the Board anything without which the statement is, to the person's knowledge, misleading in a material particular; or

(c) give to the Board a document containing information that the person knows is false, misleading or incomplete in a material particular without, at the same time—

(i) indicating that the document is false, misleading or incomplete and the respect in which it is false, misleading or incomplete; and

(ii) giving correct information if the person has, or can

reasonably obtain, the correct information.

Maximum penalty—50 penalty units.

### **Practice of unregistered valuer prohibited**

**63.(1)** Subject to subsections (2) and (3), a person who is not a registered valuer must not—

- (a) hold himself or herself out as being a registered valuer; or
- (b) carry on or attempt to carry on the business of a registered valuer; or
- (c) take, use or exhibit a name, letter, word, title, description or symbol that, either alone or in the circumstances in which it is taken—
  - (i) is capable of being reasonably understood to indicate; or
  - (ii) is intended by the person to indicate;

that the person is a registered valuer or is entitled to carry on the business of a registered valuer.

Maximum penalty—100 penalty units.

**(2)** If the person is a body corporate, an offence against subsection (1) is not committed if at least 1 director or member of the board of management of the body corporate or an employee of the body corporate is a registered valuer.

**(3)** It is not an offence against subsection (1) for a person who is an architect, engineer or quantity surveyor to make cost assessments or cost estimates in relation to a building, structure or improvement in the course of the person's professional duties.

### **Proceedings on behalf of Board**

**64.(1)** A proceeding in a court in the name of the Board may be instituted by the chairperson, the secretary or a person authorised by the chairperson.

**(2)** All penalties ordered to be paid in respect of offences against this Act are payable to the Board.

(3) All fees payable to the Board under this Act, and all penalties and costs ordered by a committee to be paid to the Board under this Act, constitute debts due to the Board and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

### **Evidentiary provisions**

**65.** In a proceeding for the purposes of this Act—

- (a) a certificate purporting to be signed by the secretary that a person named in the certificate—
  - (i) was or was not at a time or for a period specified in the certificate a registered valuer; or
  - (ii) was removed from the register on a date specified in the certificate; or
  - (iii) was suspended for a period specified in the certificate; is evidence of the fact stated in the certificate; and
- (b) it is not necessary to prove—
  - (i) the authority of the person who instituted the proceeding; or
  - (ii) the appointment of a member of the Board.

### **Regulations**

**66.(1)** The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may prescribe a code of professional conduct for valuers.

### **Savings and transitional**

**70.(1)** A person registered as a valuer under the repealed Act immediately before the commencing day is taken to be registered as a valuer under this Act.

(2) The Register of Valuers of Queensland kept under the repealed Act and existing immediately before the commencing day, is taken to be the

Register of Valuers of Queensland kept under this Act.

(3) For the purposes of the constitution of the Board continued in existence under section 5, the persons appointed to and holding office under the repealed Act immediately before the commencing day are taken to be the appointed members until the end of the term for which they were appointed under the repealed Act.

(4) On the commencing day—

- (a) an application for registration under the repealed Act as a valuer that is not disposed of before that day is, subject to subsection (6), to be treated as an application duly made to the Board for registration under this Act as a valuer; and
- (b) a proceeding by way of disciplinary action against a person registered under the repealed Act as a valuer that is not disposed of before that day is to be continued and disposed of under that Act; and
- (c) a proceeding by way of an appeal instituted under section 21 of the repealed Act by a person registered as a valuer under that Act that is not disposed of before that day may be continued and disposed of under this Act; and
- (d) an amount by way of penalty or costs that was payable to The Valuers Registration Board of Queensland under an order made under section 20 of the repealed Act is payable to, and recoverable by the Board, as if the order were an order of a committee under this Act.

(5) If—

- (a) a person's name and other particulars were removed from the Register of Valuers of Queensland kept under the repealed Act under a direction given under section 19 or 20 of that Act; and
- (b) the time allowed for instituting an appeal under section 21 of that Act has not expired; and
- (c) no appeal has been instituted;

the person may, before the end of that time, appeal against that order under section 61 as if it were an order of a committee made under section 59.

(6) A person who—

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- (a) started a course of study before 1 January 1992; and
- (b) satisfies the requirements of provision 2 of section 13 of the repealed Act;

is taken to comply with the requirements of section 30 of this Act.

(7) In this section—

**“repealed Act”** means the *Valuers Registration Act 1965*.

**References to repealed Act**

**71.** A reference in an Act or document to the *Valuers Registration Act 1965* is taken to be a reference to this Act.

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## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 14 November 1996. Future amendments of the Valuers Registration Act 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only]

Reprint No.	Amendments included	Reprint date
1	none	1 August 1992
2	to Act No. 81 of 1994	17 February 1995
2A	to Act No. 57 of 1995	18 September 1996

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1

## 6 List of legislation

### **Valuers Registration Act 1992 No. 2**

date of assent 27 March 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 1 May 1992 (1992 SL No. 76)

as amended by—

### **Lands Legislation Amendment Act 1992 No. 64 ss 1–3 sch 1**

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 1992 (1992 SL No. 448)

### **Retail Shop Leases Act 1994 No. 47 ss 1–2, 124 sch**

date of assent 14 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 28 October 1994 (1994 SL No. 386)

### **Land Act 1994 No. 81 ss 1–2, 525 sch 3**

date of assent 1 December 1994

commenced on date of assent

### **Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent



**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force**7 List of annotations****Definitions**

s 3 def “specialist retail valuer” ins 1994 No. 47 s 124 sch

**Officers of the board employed under this Act**

s 17 sub 1996 s 147 sch 2

**Board is statutory body**s 25A ins 1996 No. 54 s 9 sch**PART 3—REGISTRATION**

pt hdg sub 1994 No. 47 s 124 sch

**Division 1—Registered valuers**

div hdg ins 1994 No. 47 s 124 sch

**Replacement and return of certificate**

s 35 amd 1992 No. 64 s 3 sch 1

**Unauthorised dealing with register**

s 41 amd 1992 No. 64 s 3 sch 1

**Division 2—Specialist retail valuers**

div hdg ins 1994 No. 47 s 124 sch

**List of specialist retail valuers**

s 42A ins 1994 No. 47 s 124 sch

**Valuers may apply to be recorded as specialist retail valuers**

s 42B ins 1994 No. 47 s 124 sch

**Grant of application**

s 42C ins 1994 No. 47 s 124 sch

**Refusal of application**

s 42D ins 1994 No. 47 s 124 sch

**Failure to decide application**

s 42E ins 1994 No. 47 s 124 sch

**Inspection of list**

s 42F ins 1994 No. 47 s 124 sch

**Removal of name from list**

s 42G ins 1994 No. 47 s 124 sch

**Disciplinary charges against specialist retail valuers**

s 42H ins 1994 No. 47 s 124 sch

**Powers of investigator**

s 45 amd 1992 No. 64 s 3 sch 1

**General powers of investigator in relation to places**

s 47 amd 1992 No. 64 s 3 sch 1

**Offences—proceedings**

s 57 amd 1992 No. 64 s 3 sch 1

**Appeals**

s 61 amd 1994 No. 47 s 124 sch; 1995 No. 57 s 4 sch 1

**False statements**

s 62 amd 1992 No. 64 s 3 sch 1

**Specialist retail valuers**

s 67 prev s 67 om R1 (see RA s 40)  
pres s 67 ins 1994 No. 47 s 124 sch  
exp 28 October 1994 (see s 67(4))

**Amendment of Valuation of Land Act**

s 68 om R1 (see RA s 40)

**Amendment of Valuation of Land Act and Another Act Amendment Act**

s 69 om R1 (see RA s 40)

**References to repealed Act**

s 71 ins 1994 No. 81 s 525 sch 3

**SCHEDULE 1—ACTS REPEALED**

om R1 (see RA s 40)

**SCHEDULE 2—AMENDMENT OF VALUATION OF LAND ACT 1944**

om R1 (see RA s 40)

**SCHEDULE 3—AMENDMENT OF VALUATION OF LAND ACT AND ANOTHER ACT AMENDMENT ACT 1971**

om R1 (see RA s 40)

## **8 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9** sch reads as follows—

### **1. Part 2, after section 25—**

*insert—*

#### **‘Board is statutory body**

**‘25A.(1)** Under the *Statutory Bodies Financial Arrangements Act 1982*, the Board is a statutory body.

**‘(2)** The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the Board’s powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.’.