



Queensland

# Surveyors Act 2003

Reprinted as in force on 1 July 2009

Reprint No. 2A

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

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

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

# Surveyors Act 2003

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# Surveyors Act 2003

[as amended by all amendments that commenced on or before 1 July 2009]

## **An Act to provide for the registration of surveyors, surveying graduates and surveying associates, and for other purposes**

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Surveyors Act 2003*.

#### **2 Commencement**

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

#### **3 Purposes of Act**

- (1) The purposes of this Act are—
  - (a) to protect the public by ensuring surveys are carried out by registrants in a professional and competent way; and
  - (b) to uphold the standards of practice within the profession; and
  - (c) to maintain public confidence in the profession.
- (2) The purposes are to be achieved mainly by—
  - (a) establishing the Surveyors Board of Queensland; and
  - (b) providing for the registration of persons under this Act; and
  - (c) imposing obligations on persons in relation to the practice of the profession; and

- (d) providing for the investigation of, and conduct of disciplinary proceedings about, registrants' professional conduct; and
- (e) providing for the monitoring and enforcement of compliance with this Act.

#### **4 Act binds all persons**

- (1) This Act binds all persons, including the State.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

#### **5 Mutual recognition legislation not affected**

This Act does not affect the operation of the *Mutual Recognition (Queensland) Act 1992* or the *Trans-Tasman Mutual Recognition (Queensland) Act 1999*.

#### **6 Definitions**

The dictionary in schedule 3 defines particular words used in this Act.

## **Part 2 Surveyors Board of Queensland**

### **Division 1 Establishment, functions and powers**

#### **7 Establishment of board**

- (1) The Surveyors Board of Queensland is established.
- (2) The board—
  - (a) is a body corporate; and
  - (b) may sue and be sued in its corporate name.

**8 Board's relationship with the State**

The board does not represent the State.

**9 Functions of board**

The board has the following functions—

- (a) to establish competency frameworks for qualifying persons for registration and registration endorsements;
- (b) to accredit entities for assessing the competency of persons under the competency frameworks;
- (c) to assess applicants for registration and registration endorsements;
- (d) to register persons and issue registration certificates;
- (e) to keep a register of registrants;
- (f) to monitor registrants' compliance with disciplinary conditions of registration;
- (g) to authorise investigations, whether because of a complaint or on its own initiative, of registrants' professional conduct;
- (h) to take disciplinary proceedings against registrants;
- (i) to refer disciplinary matters, for hearing, to professional conduct review panels and surveyors disciplinary committees;
- (j) to provide administrative services for surveyors disciplinary committees;
- (k) to perform other functions given to the board under this or another Act.

**10 Board's independence etc.**

In performing its functions, the board must act independently, impartially and in the public interest.

**11 Powers of board**

- (1) The board has all the powers of an individual and may, for example, do all or any of the following—
  - (a) enter into contracts;
  - (b) acquire, hold, dispose of, and deal with, property;
  - (c) appoint agents and attorneys;
  - (d) engage consultants;
  - (e) fix fees and charges, and other terms, for services and other facilities it supplies;
  - (f) do anything else necessary or convenient to be done for, or in connection with, its functions.
- (2) Without limiting subsection (1), the board has the powers given to it under this or another Act.

**Division 2 Membership****12 Membership of board**

- (1) Subject to section 199, the board consists of 8 individuals of whom at least—
  - (a) 6 must be surveyors, comprised as follows—
    - (i) 3 cadastral surveyors;
    - (ii) 1 surveyor directly involved in teaching surveying;
    - (iii) 1 other cadastral surveyor employed in the department;
    - (iv) 1 other surveyor; and
  - (b) 2 others must represent the interests of the community generally in the conduct and practice of the profession.
- (2) The members must be appointed by the Governor in Council.
- (3) A surveyor may be appointed as a member only if the surveyor—



- (a) has been registered as a surveyor for periods totalling at least 5 years, including any registration as a surveyor under the repealed Act; or
  - (b) has held, for periods totalling at least 5 years, a mine surveyor certificate granted by the board of examiners under the repealed *Mines Regulation Act 1964* or the repealed *Coal Mining Act 1925*; or
  - (c) has been a member, for periods totalling at least 5 years, of a professional body for surveyors that the Minister considers an appropriate entity to nominate an individual for appointment.
- (4) A person may hold office as a member in conjunction with a public service office.

### **13 Nominations for appointment to board**

- (1) Before an appointment is made to the board under section 12, the Minister must, by written notice, ask the entities the Minister considers appropriate to nominate a number of individuals who are eligible, under the section, for the appointment.
- (2) The Governor in Council may, but is not required to, make the appointment from the nominees.

### **14 Chairperson of board**

- (1) The Governor in Council must appoint a member who is a cadastral surveyor to be the chairperson of the board.
- (2) A person may be appointed as the chairperson at the same time the person is appointed as a member.
- (3) The chairperson's term of office ends when the person's term of office as a member ends.
- (4) A vacancy occurs in the office of chairperson if the person holding the office—
  - (a) resigns the office by signed notice of resignation given to the Minister; or
  - (b) stops being a cadastral surveyor.

- (5) However, a person resigning the office of chairperson may continue to be a member.
- (6) If otherwise qualified, the chairperson is eligible for reappointment.

## **15 Term of appointment**

- (1) For the first composition of the board, 4 members are appointed for the term of 2 years, and 4 members are appointed for the term of 1 year, starting on the day stated in the member's instrument of appointment.
- (2) For a subsequent half-board appointment, each member is appointed for the term of 2 years starting on the day stated in the member's instrument of appointment.
- (3) Despite subsections (1) and (2), a member continues holding office after the member's term of office ends until the member's successor is appointed.
- (4) In this section—

*half-board appointment* means an annual appointment of the number of surveyors needed to fill the vacancies on the board created by the expiry of offices of board members under subsection (1).

## **16 Disqualification from membership**

- (1) A person can not become, or continue as, a member if the person—
  - (a) is an insolvent under administration within the meaning of the Corporations Act; or
  - (b) is, or has been, convicted of an indictable offence (including an indictable offence dealt with summarily) or an offence against this Act or the repealed Act and the conviction is not a spent conviction.
- (2) In this section—

*spent conviction* means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

## **17 Investigations about eligibility for appointment**

- (1) The chief executive may make investigations about a person included in the panel of nominees to decide whether the person is eligible for appointment to the board.
- (2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about the criminal history of the person.
- (3) The commissioner must give the report to the chief executive.
- (4) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

## **18 Criminal history is confidential document**

- (1) An officer, employee or agent of the department must not, directly or indirectly, disclose to anyone else a report, or information contained in a report, given under section 17.  
Maximum penalty for subsection (1)—100 penalty units.
- (2) However, the officer, employee or agent does not contravene subsection (1) if—
  - (a) disclosure of the report or information to someone else is authorised by the chief executive to the extent necessary to perform a function under or in relation to this Act; or
  - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive must destroy the report as soon as practicable after considering the person's eligibility for appointment to the board.

**19 Vacation of office**

- (1) A member is taken to have vacated office if the member—
- (a) dies; or
  - (b) resigns his or her office on the board by signed notice of resignation given to the Minister; or
  - (c) can not continue as a member under section 16; or
  - (d) is absent without the board's permission, or the Minister's approval given under section 22(1), from 3 consecutive ordinary meetings of the board of which proper notice has been given; or
  - (e) was appointed because the member was a surveyor and the member stops being a surveyor; or
  - (f) was appointed because the member was a cadastral surveyor and the member stops being a cadastral surveyor, resulting in fewer than 3 cadastral surveyors being included in the board's membership.
- (2) In this section—
- meeting***, of the board, means the following—
- (a) if the member does not attend—a meeting with a quorum present;
  - (b) if the member attends—a meeting with or without a quorum present.

**20 When notice of resignation takes effect**

A notice of resignation mentioned in section 14(4)(a) or 19(1)(b) takes effect when the notice is received by the Minister or, if a later time is stated in the notice, the later time.

**21 Casual vacancy in member's office**

- (1) If a vacancy occurs in the office of a member (the ***vacating member***) during the currency of the member's term of appointment, another person (the ***new member***) must be appointed by the Minister to fill the vacancy.

- (2) The new member's appointment continues for the remainder of the vacating member's term of appointment.
- (3) The new member must be—
  - (a) a member of the same type as the vacating member if, under section 12(1), the vacating member was required to be a particular type of member; and
  - (b) eligible under section 12(3) for the appointment if, under section 12(1), the vacating member was required to be a surveyor.
- (4) In this section—

*type*, of member, means a member who is—

  - (a) a cadastral surveyor; or
  - (b) directly involved in teaching surveying; or
  - (c) a cadastral surveyor and an employee of the department; or
  - (d) a surveyor not mentioned in paragraphs (a) to (c); or
  - (e) a representative of the interests of the community generally in the conduct and practice of the profession.

## **22 Leave of absence for a member**

- (1) The Minister may approve a leave of absence for a member of more than 3 months.
- (2) The Minister may appoint another person to act in the office of the member while the member is absent on the approved leave.
- (3) The person appointed must be—
  - (a) a cadastral surveyor if, under section 12(1), the absent member was required to be a cadastral surveyor; and
  - (b) eligible under section 12(3) for the appointment if, under section 12(1) the absent member was required to be a surveyor.

**23 Effect of vacancy or irregularity in membership of board**

Despite section 12, the performance of a function or exercise of a power by the board is not affected merely because of a vacancy or irregularity in the membership of the board.

**24 Remuneration and other entitlements of members**

- (1) A member is entitled to be paid the fees and allowances decided by the Governor in Council.
- (2) A member is also entitled to be reimbursed the reasonable amounts, approved by the board, for the member's out of pocket expenses necessarily incurred in performing the member's duties for the board.

**Division 3 Board business****25 Conduct of business**

Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

**26 Times and places of meetings**

- (1) Board meetings must be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or at least 2 members.

**27 Quorum**

A quorum for the board is 4 members.

**28 Presiding at meetings**

- (1) The chairperson must preside at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting or the office is vacant, a member chosen by the members present must preside.

**29 Conduct of meetings**

- (1) A question at a board meeting is decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between the members taking part in the meeting.

*Example of technology allowing reasonably contemporaneous and continuous communication—*

teleconferencing

- (4) A member who takes part in a board meeting under subsection (3) is taken to be present at the meeting.
- (5) A resolution is validly made by the board, even if it is not passed at a board meeting, if—
  - (a) a majority of the members gives written agreement to the resolution; and
  - (b) notice of the resolution is given under procedures approved by the board.

**30 Minutes**

- (1) The board must keep—
  - (a) minutes of its meetings; and
  - (b) a record of any resolutions made under section 29(5).
- (2) The board must record in the minutes of an ordinary meeting, the names of the members who attended the meeting.
- (3) The board must record a member's vote in the minutes of a meeting if—
  - (a) a resolution is passed at the meeting by a majority of the members present; and
  - (b) the member asks that the vote be recorded.

## **Division 4                      Disclosure of interests by members**

### **31            Disclosure of interests**

- (1) This section applies to a member if—
  - (a) the member has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and
  - (b) the interest could conflict with the proper performance of the member's duties about the consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a board meeting.
- (3) Unless the board otherwise directs, the member must not—
  - (a) be present when the board considers the issue; or
  - (b) take part in a decision of the board about the issue.
- (4) The member must not be present when the board is considering whether to give a direction under subsection (3).
- (5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—
  - (a) be present when the board is considering whether to give a direction under subsection (3) about the member; or
  - (b) take part in making the decision about giving the direction.
- (6) Subsection (7) applies if—
  - (a) because of this section, a member is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
  - (b) there would be a quorum if the member were present.
- (7) The remaining members present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.



- (8) A disclosure under subsection (2) must be recorded in the board's minutes.
- (9) A member does not have a direct or indirect interest in an issue if the interest arises merely because the person is a surveyor.

## **Division 5                      Directions by Minister**

### **32            Minister's power to give directions in the public interest**

- (1) The Minister may give the board a written direction about a matter relevant to the performance of its functions under this Act if the Minister is satisfied it is necessary, in the public interest, to give the direction.
- (2) Without limiting subsection (1), the direction may be—
  - (a) to give reports and information; or
  - (b) to apply to the board a policy, standard or other instrument applying to a public sector unit.
- (3) The direction can not be about any of the following—
  - (a) registering, or refusing to register, an applicant;
  - (b) endorsing, or refusing to endorse, a registration certificate;
  - (c) renewing, or refusing to renew, a registration or registration endorsement;
  - (d) imposing conditions on, or removing disciplinary conditions of, a registration;
  - (e) otherwise amending, or suspending or cancelling a registration.
- (4) Despite section 10, the board must comply with the direction.

## **Division 6                      Annual report**

### **33            Matters to be included in annual report**

- (1) The board's annual report under the *Financial Accountability Act 2009* for a financial year must include—
  - (a) copies of all ministerial directions given to the board under section 32 during the financial year; and
  - (b) the number of registrants at the end of the financial year.
- (2) However, the board must exclude from the copies mentioned in subsection (1)(a) all information likely to identify a person mentioned in the direction.

## **Division 7                      Other provisions about the board**

### **34            Board is a statutory body under the Financial Accountability Act 2009**

The board is a statutory body under the *Financial Accountability Act 2009*.

### **35            Board is a statutory body under the Statutory Bodies Financial Arrangements Act 1982**

- (1) The board is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (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*.

## **Part 3                      Registration and registration    endorsements**

### **Division 1                      Eligibility**

#### **36              Eligibility for registration or registration                          endorsement—individuals**

- (1) An individual may be registered as 1 of the following—
  - (a) a surveyor, with or without 1 or more registration endorsements;
  - (b) a surveying graduate;
  - (c) a surveying associate;
  - (d) an emeritus surveyor.
- (2) An individual is eligible for a registration mentioned in subsection(1)(a) to (c) if—
  - (a) the individual—
    - (i) has, within 1 year before applying for the registration, been assessed under this Act, the repealed Act or a corresponding law as having the relevant competency; or
    - (ii) under a corresponding law, holds a registration equivalent to the registration sought; and
  - (b) the board is satisfied the individual is a suitable person to hold the registration or registration endorsement; and
  - (c) for a registration with a registration endorsement as a consulting surveyor, the individual—
    - (i) has, within 1 year before applying for the registration, been assessed under this Act or the repealed Act as having the relevant competency; and
    - (ii) intends to carry on, or hold himself or herself out as carrying on, a business providing surveying services; and

- (iii) takes out and maintains the insurance cover prescribed under a regulation.
- (3) An individual may be registered as an emeritus surveyor if the individual—
  - (a) has been, but is no longer, registered as a surveyor under this Act, the repealed Act or a corresponding law; and
  - (b) is a suitable person to be registered as an emeritus surveyor; and
  - (c) otherwise meets the criteria prescribed under a regulation.

### **37 Suitability of individual for registration or registration endorsement**

In deciding whether an individual is a suitable person for section 36(2)(b) or (3)(b), the board must consider all relevant matters including the individual's reputation, having regard to character, honesty and integrity.

### **38 Eligibility for registration and registration endorsement—corporations**

- (1) A corporation may be registered as a surveyor with a registration endorsement as a consulting surveyor, with or without any other registration endorsements.
- (2) A corporation is eligible for registration if the corporation—
  - (a) is incorporated in Australia; and
  - (b) has, within 1 year before applying for the registration, been assessed under this Act or the repealed Act as having the relevant competency; and
  - (c) intends to carry on, or hold itself out as carrying on, a business providing surveying services; and
  - (d) takes out and maintains the insurance cover prescribed under a regulation; and
  - (e) complies with subsection (3).
- (3) The corporation must employ—

- (a) if the corporation requires an endorsement other than as a consulting surveyor—a surveyor who holds the registration endorsement required; or
- (b) if paragraph (a) does not apply—a surveyor.

## **Division 2            Competency assessment**

### **Subdivision 1        Competency frameworks**

#### **39        Establishing competency frameworks**

- (1) The board must establish the competency frameworks appropriate for the qualifications, skills, knowledge and experience needed for—
  - (a) registration as a surveyor, surveying graduate or surveying associate; or
  - (b) a registration endorsement.
- (2) In establishing a competency framework, the board must consult with the entities considered by the board as having appropriate knowledge and experience in the relevant type of surveying.
- (3) A competency framework is a statutory instrument, but is not subordinate legislation.
- (4) A competency framework has effect when it is published as required under section 40(a).

#### **40        Publishing competency frameworks**

The board must—

- (a) publish the competency frameworks on the board's website on the internet;<sup>1</sup> and
- (b) keep a copy of each competency framework and any document applied, adopted or incorporated by the

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<sup>1</sup> The board's website on the internet is <[www.surveyorsboard.com.au](http://www.surveyorsboard.com.au)>.

framework available for inspection without charge, during normal business hours at the board's office; and

*Editor's note—*

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- (c) if asked by a person and on payment of any fee decided by the board, give the person a copy of a competency framework.

## **Subdivision 2      Accredited entities**

### **41      Accreditation of entities for assessing competency**

- (1) The board may enter into a written agreement with an entity for accreditation of the entity for assessing the competency of persons.
- (2) The matters covered by the agreement may include amounts payable by the board to the entity for the assessment.

### **42      Record of accredited entities**

- (1) The board must keep a record stating each of the following—
  - (a) the name of each accredited entity;
  - (b) the contact details for the entity;
  - (c) the type of competency for which the entity is accredited.
- (2) The board must—
  - (a) keep the record available for inspection, without charge, during normal business hours at the board's office; and
  - (b) if asked by a person and on payment of any fee decided by the board, give the person a copy of all or part of the record.

### **Subdivision 3      Assessing competency**

#### **43      Who may assess competency**

- (1) The board, or an accredited entity, (the *assessing entity*) may assess a person's competency.
- (2) The assessing entity—
  - (a) may decide the procedure to be used by the entity for the assessment; and
  - (b) must ensure details of the procedure are readily available to any person.
- (3) The assessing entity must, if asked by a person, give details of the procedure to the person.
- (4) The procedure may include 1 or more of the following—
  - (a) training a person under an agreement (a *professional training agreement*) entered into between the board, the person and a surveyor who supervises the training;
  - (b) assessing a person's surveying project (a *professional assessment project*);
  - (c) assessing a person's skills and experience (*competence equivalence*).
- (5) Subsection (4) does not limit the procedures that may be decided under subsection (2)(a).

#### **44      Application for competency assessment**

- (1) A person may apply to the board, or an accredited entity, for assessment of the person's competency.
- (2) The application must be made in the way, and be accompanied by the assessment fee, prescribed under a regulation.
- (3) The assessment fee may consist of a fee for 1 or more of the following—
  - (a) lodging the application;
  - (b) varying or reloading a professional training agreement;

- (c) assessing and reporting on training under a professional training agreement;
- (d) assessing a professional assessment project;
- (e) assessing competence equivalence.

## **Division 3                      Applications for registration and registration endorsement**

### **45            Procedural requirements for application**

- (1) An application for registration or a registration endorsement must be—
  - (a) made to the board; and
  - (b) in the approved form; and
  - (c) accompanied by—
    - (i) the application fee prescribed under a regulation; and
    - (ii) the registration fee prescribed under a regulation; and
    - (iii) any documents, identified in the approved form, the board reasonably requires for deciding the application.
- (2) An application, other than an application for registration of a corporation or as an emeritus surveyor, must also be accompanied by—
  - (a) satisfactory evidence of the applicant's relevant competency; and
  - (b) for an applicant who is registered under a corresponding law—details of any conditions of the registration.
- (3) In addition, an application by an individual for a registration endorsement as a consulting surveyor must also be accompanied by satisfactory evidence that the applicant—
  - (a) intends to carry on, or hold himself or herself out as carrying on, a business providing surveying services; and



- (b) has taken out and maintains the insurance cover prescribed under a regulation.
- (4) Information in an application must, if the approved form requires, be verified by a statutory declaration.
- (5) The approved form must provide for the applicant to indicate whether, if the application is granted, the applicant consents to the applicant's address being included in the publicly available part of a register.

#### **46 Additional requirements for application by corporation**

- (1) An application for registration of a corporation must also be accompanied by satisfactory evidence that the corporation—
  - (a) is incorporated in Australia; and
  - (b) intends to carry on, or hold itself out as carrying on, a business providing surveying services; and
  - (c) employs a surveyor; and
  - (d) has taken out and maintains the insurance cover prescribed under a regulation.
- (2) An application for a registration endorsement, other than an endorsement as a consulting surveyor, for a corporation must also be accompanied by satisfactory evidence that a surveyor employed by the corporation holds the registration endorsement.

#### **47 Additional requirements for application for registration as an emeritus surveyor**

An application for registration as an emeritus surveyor must also be accompanied by—

- (a) satisfactory evidence of the applicant's previous registration as a surveyor, including the period for which the applicant was registered; and
- (b) any other documents, identified in the approved form, the board reasonably requires for deciding the application.

**48 Board's powers before deciding application**

- (1) Before deciding an application, the board may, by written notice given to the applicant, ask the applicant for any further information or document the board reasonably requires to decide the application.
- (2) The notice must state a reasonable period of at least 10 business days after it is given (the *stated period*) within which the information or document must be given.
- (3) The board may require the information or document to be verified by a statutory declaration.
- (4) The applicant is taken to have withdrawn the application if the applicant does not comply with the requirement within the stated period.
- (5) A notice under subsection (1) must be given to the applicant within 10 business days after the board receives the application.

**49 Deciding application**

- (1) The board must consider the application and decide to grant, or refuse to grant, the application.
- (2) However, the board may grant the application only if the board is satisfied the applicant is eligible under division 1 for the registration or registration endorsement for which the application is made.

**50 Steps to be taken after application decided**

- (1) If the board decides to grant the application, it must, as soon as practicable after making the decision, issue a registration certificate to the applicant.
- (2) If the board decides to refuse to grant the application, it must as soon as practicable after making the decision—
  - (a) give the applicant an information notice about the decision; and
  - (b) refund the registration fee paid by the applicant.

**51 Term of registration or registration endorsement**

- (1) A registration or registration endorsement is given for the term of not longer than 12 months—
  - (a) starting on the day, stated in the registration certificate, on which the certificate is issued; and
  - (b) written notice of which is given to the registrant when the certificate is issued.
- (2) A registration endorsement can not be given for a term longer than the term of the registration to which it relates.
- (3) At the end of the term of the registration, the registration and any current registration endorsement on it expires.
- (4) However, if an application for renewal of the registration is made before the term of the registration expires, the registration and any current registration endorsement on it is taken to continue until the application is decided.

**52 Registration certificate**

- (1) A registration certificate must—
  - (a) be in the approved form; and
  - (b) state—
    - (i) for registration of an individual—the registrant's name; or
    - (ii) for registration of a corporation—the corporation's name and ACN.
- (2) The certificate must also state the day on which it is issued.

**53 Failure to decide application**

- (1) The board is taken to have decided to refuse to grant an application if—
  - (a) unless paragraph (b) applies, the board fails to decide the application within 40 business days after receiving it; or
  - (b) the board—

- (i) under section 48, required the applicant to give the board further information or a document; and
  - (ii) fails to decide the application within 40 business days after receiving the information or document.
- (2) As soon as practicable after it is taken to have made the decision, the board must refund the registration fee paid by the applicant.

## **Division 4                      Renewing registration and registration endorsement**

### **54            Application for renewal**

- (1) A registrant may renew his or her registration or registration endorsement.
- (2) An application for the renewal must be—
  - (a) made to the board before the registration or registration endorsement expires; and
  - (b) in the approved form; and
  - (c) accompanied by—
    - (i) satisfactory evidence of the applicant's relevant competency; and
    - (ii) the registration fee prescribed under a regulation.
- (3) If the application is made later than 1 month before the registration expires, the application must also be accompanied by the fee, prescribed under a regulation, for the late application.

### **55            Board's powers before deciding application**

- (1) Before deciding the application, the board may, by written notice given to the applicant, ask the applicant for any further information or document the board reasonably requires to decide the application.

- (2) The notice must state a reasonable period of at least 10 business days after it is given (the *stated period*) within which the information or document must be given.
- (3) The board may require the information or document to be verified by a statutory declaration.
- (4) The applicant is taken to have withdrawn the application if the applicant does not comply with the requirement within the stated period.
- (5) A notice under subsection (1) must be given to the applicant within 10 business days after the board receives the application.
- (6) The board may also ask the chief executive for statistical information held by the chief executive about the quality of surveys carried out by the registrant to help the board decide the continued suitability of the applicant for the registration or registration endorsement.
- (7) The chief executive must comply with a request under subsection (6).

## **56 Deciding application**

- (1) The board must consider the application and decide to grant, or refuse to grant, the application.
- (2) However, the board may grant the application only if the board is satisfied the applicant is eligible under division 1 for the registration or registration endorsement for which the application is made.

## **57 Steps to be taken after application decided**

- (1) If the board decides to grant the application, it must, as soon as practicable after making the decision, give the applicant a written notice stating—
  - (a) the board's decision; and
  - (b) the term for which the registration or registration endorsement is renewed.
- (2) If the board decides to refuse to grant the application, it must as soon as practicable after making the decision—

- (a) give the applicant an information notice about the decision; and
- (b) refund the registration fee paid by the applicant.

## **58 Failure to decide application**

- (1) The board is taken to have decided to refuse to grant the application if—
  - (a) unless paragraph (b) applies, the board fails to decide the application within 40 business days after receiving it; or
  - (b) the board—
    - (i) under section 55, required the applicant to give the board further information or a document; and
    - (ii) fails to decide the application within 40 business days after receiving the information or document.
- (2) As soon as practicable after it is taken to have made the decision, the board must refund the registration fee paid by the applicant.

## **Division 5 Restoring expired registrations and registration endorsements**

### **59 When application to restore registration or registration endorsement may be made**

- (1) If a person's registration or registration endorsement has expired, the person may, within 3 months after the expiry, apply to the board for restoration of the registration or registration endorsement.
- (2) Despite subsection (1), the board may accept an application for restoration of a registration or registration endorsement made more than 3 months after the expiry if the board is satisfied it would be reasonable in all the circumstances to accept the application.

**60 Procedural requirements for applications to restore registration or registration endorsement**

- (1) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by—
    - (i) the fee prescribed under a regulation; and
    - (ii) any documents, identified in the approved form, the board reasonably requires to decide the application.
- (2) Information in the application must, if the approved form requires, be verified by a statutory declaration.

**61 Previous conditions continue for expired registration or registration endorsement**

If the board decides to restore the applicant's registration or registration endorsement, it is subject to the conditions attaching to it immediately before its expiry.

**62 How division 4 applies for applying to restore registration or registration endorsement**

For restoring a registration or registration endorsement, division 4, other than section 54(2)(a), applies as if—

- (a) an application for renewal of a registration or registration endorsement were an application for restoration of a registration or registration endorsement; and
- (b) an applicant for renewal of a registration or registration endorsement were an applicant for restoration of a registration or registration endorsement; and
- (c) a renewal of a registration or registration endorsement were a restoration of a registration or registration endorsement.

## **Division 6                      Amending, suspending, cancelling and surrendering registrations and registration endorsements**

### **63            Amending, suspending or cancelling registration or registration endorsement**

- (1) The board may amend, suspend or cancel a registration or registration endorsement if—
  - (a) the board reasonably believes—
    - (i) the registration or registration endorsement was obtained because of incorrect or misleading information; or
    - (ii) the registrant has contravened a disciplinary condition of registration; or
    - (iii) the registrant is no longer eligible for the registration; or
  - (b) the registrant is convicted of an offence against this Act or the repealed Act.
- (2) Also—
  - (a) if the registrant's equivalent registration under a corresponding law is suspended, the board may amend or suspend the registrant's registration or registration endorsement; or
  - (b) if the registrant's equivalent registration under a corresponding law is cancelled, the board may amend, suspend or cancel the registrant's registration or registration endorsement; or
  - (c) if the registrant fails to pay an amount that is payable by the registrant to the board under section 91(5) or 119(3), the board may suspend the registrant's registration or registration endorsement until the amount is paid.
- (3) In addition, the board may amend a registration or registration endorsement at the request of the registrant.



**64 Procedure for amendment, suspension or cancellation**

- (1) If the board reasonably believes it is necessary or desirable to amend, suspend or cancel a registration or registration endorsement (the *proposed action*), other than at the request of the registrant, the board must give the registrant a written notice that states each of the following—
  - (a) the proposed action; and
  - (b) the ground for the proposed action; and
  - (c) an outline of the facts and circumstances forming the basis for the ground; and
  - (d) if the proposed action is amendment of the registration or registration endorsement—the proposed amendment; and
  - (e) if the proposed action is suspension of the registration or registration endorsement—the proposed suspension period; and
  - (f) an invitation to show, within a stated period of at least 20 business days, why the proposed action should not be taken.
- (2) If, after considering all written representations made within the stated period, the board still considers the ground to take the proposed action exists, the board may—
  - (a) if the proposed action was to amend the registration or registration endorsement—amend it in the way stated in the notice; or
  - (b) if the proposed action was to suspend the registration or registration endorsement for a specified period—suspend it for not longer than the proposed suspension period; or
  - (c) if the proposed action was to cancel the registration or registration endorsement—either cancel it or suspend it for a period.
- (3) The board must inform the registrant of the decision by written notice.

- (4) If the board decides to amend, suspend or cancel the registration or registration endorsement, the notice must be an information notice.
- (5) A decision to amend, suspend or cancel the registration takes effect on the later of—
  - (a) the day when the information notice is given to the registrant; or
  - (b) the day of effect stated in the information notice.
- (6) The effect of an amendment does not depend on the amendment being noted on the registration certificate.

#### **65 Effect of suspension on renewal**

If a registration or registration endorsement is suspended, it may be renewed but continues to be suspended until the end of the suspension period.

#### **66 Returning registration certificate on cancellation of registration or registration endorsement**

If the board cancels a person's registration or registration endorsement, the person must, within 10 business days after receiving an information notice about the cancellation, return the person's registration certificate to the board, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

#### **67 Surrendering registration or registration endorsement**

A registrant may surrender the person's registration or registration endorsement by returning the registration certificate and giving written notice of surrender to the board.

## **Division 7                      Register**

### **68            Register**

- (1) The board must keep a register for surveyors, surveying graduates, surveying associates and emeritus surveyors.
- (2) A register may be kept in the way the board considers appropriate, including, for example, in an electronic form.
- (3) A register must contain the particulars prescribed under a regulation and may include other particulars decided by the board.
- (4) A person may—
  - (a) free of charge, inspect the information contained in the publicly available part of a register at the board's office during normal business hours; and

*Editor's note—*

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- (b) on payment of any fee decided by the board, obtain a copy of the information from the board.
- (5) A registrant's address may be contained in the publicly available part of a register only with the registrant's written consent.
- (6) The board may publish details contained in the publicly available part of a register at the times and in the way decided by the board.

## **Division 8                      Offences about registrations, registration endorsements and registers**

### **69            False or misleading information given by applicant**

A person, in making an application for registration or a registration endorsement, must not state anything to the board

that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

## **70 False or misleading documents given by applicant**

- (1) A person, in making an application for registration or a registration endorsement, must not give the board a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
- (a) informs the board, to the best of the person's ability, how it is false or misleading; and
  - (b) gives the correct information to the board if the person has, or can reasonably obtain, the correct information.

## **71 Offences about register**

A person must not, without a reasonable excuse—

- (a) make, cause to be made, or agree to the making of, a false or misleading entry in a register; or
- (b) produce or tender in evidence a document falsely purporting to be—
  - (i) a document, or a copy of an extract from an document, given to the board under this part; or
  - (ii) a copy of, or extract from, an entry in a register.

Maximum penalty—50 penalty units.

## **72 Notice of change in circumstances**

- (1) Within 20 business days after a change in a registrant's circumstances prescribed under a regulation, the registrant must give the board written particulars of the change.

Maximum penalty—20 penalty units.

(2) In this section—

*change*, in a registrant's circumstances—

- (a) means a change affecting the registrant's registration or details contained in the relevant register; but
- (b) does not include a change in the business name under which the registrant carries on a business providing surveying services.

### **73 Claims by persons as to registration**

(1) A person who is not a registrant must not claim to hold, or hold himself or herself out as holding, a registration or registration endorsement.

Maximum penalty—100 penalty units.

(2) A registrant must not falsely claim to hold—

- (a) a registration or registration endorsement; or
- (b) if disciplinary conditions have been imposed on the registrant's registration, a registration without the conditions.

Maximum penalty—100 penalty units.

(3) A person does not contravene subsection (1) or (2) merely because the person carries out a survey.

### **74 Claims by persons as to other persons' registration**

A person must not hold out another person as holding a registration or registration endorsement if the person knows, or ought reasonably to know, the other person does not hold the registration or registration endorsement.

Maximum penalty—100 penalty units.

*Example—*

A person carrying on a business providing surveying services must not hold out that an employee of the person is registered if the person knows the employee is not registered.

**75 Carrying out a cadastral survey**

- (1) A person must not carry out a cadastral survey unless the person is—
- (a) a cadastral surveyor; or
  - (b) a surveyor, surveying graduate or surveying associate carrying out the survey under the supervision of a cadastral surveyor who, expressly or impliedly, accepts responsibility for the survey's survey quality.

Maximum penalty—100 penalty units.

- (2) A person must not charge a fee for carrying out a cadastral survey unless the person is a consulting cadastral surveyor.

Maximum penalty—50 penalty units.

**76 Carrying on a business providing cadastral surveying services**

A person must not carry on a business providing cadastral surveying services unless the person is a consulting cadastral surveyor.

Maximum penalty—50 penalty units.

**77 Compliance with disciplinary conditions**

A registrant must comply with any disciplinary conditions of the registrant's registration.

Maximum penalty—50 penalty units.

**Division 9 Miscellaneous****78 Replacement or duplication of registration certificate**

- (1) A registrant may apply to the board for a replacement or duplicate registration certificate.
- (2) The application must be—
- (a) made in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.

## **Part 4                      Obligations of registrants and other persons**

### **Division 1                General**

#### **79            Notification of business name**

- (1) A registrant, before carrying on a business providing surveying services under a business name other than the registrant's own name, must give the board written notice of the business name.

Maximum penalty—20 penalty units.

- (2) Subsection (1) applies whether or not the business name is registered under the *Business Names Act 1962*.
- (3) Within 10 business days after changing the business name notified under subsection (1), the registrant must give the board written notice of the change.

Maximum penalty, for an individual or corporation—10 penalty units.

### **Division 2                Code of practice and other matters about professional conduct**

#### **80            Board must develop a code of practice**

- (1) The board must develop a written code of practice to provide guidance to registrants about appropriate professional conduct.
- (2) In developing or amending the code, the board must consult with each of the following—
  - (a) the chief executive;
  - (b) entities considered by the board as representing the interests of surveyors in the State;
  - (c) universities and training institutions—
    - (i) established in Queensland; and

- (ii) engaged in the education of students for the profession;
- (d) any other entity the Minister directs the board to consult with.
- (3) Subsection (2) does not limit the entities the board may consult with in developing or amending the code.
- (4) The board must regularly review the code.
- (5) The code of practice is a statutory instrument, but is not subordinate legislation.

## **81 When code of practice has effect**

- (1) The code of practice, or an amendment of it, has no effect until it is approved by the Minister by gazette notice.
- (2) The gazette notice is not subordinate legislation.

## **82 Inspection and notification of code**

- (1) The board must—
  - (a) publish the code of practice on the board's website on the internet;<sup>2</sup> and
  - (b) keep copies of the code open for inspection at the board's office by members of the public during ordinary office hours.

*Editor's note—*

The board's office is at Kennlyn Centre, Unit 18, Level 4, 457 Upper Edward Street, Spring Hill.

- (2) Also, the board must ensure registrants are notified of the approval of the code and any amendment of it.

## **83 Use of code of practice in disciplinary proceedings**

- (1) The code of practice is admissible as evidence in disciplinary proceedings brought by the board against a registrant.

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<sup>2</sup> The board's website on the internet is <[www.surveyorsboard.com.au](http://www.surveyorsboard.com.au)>.



- (2) However, the code may only be used to provide evidence of appropriate professional conduct or practice for the registrant.
- (3) Subsection (2) does not prevent a matter not dealt with in the code being a matter about which disciplinary proceedings may be brought against a registrant.

#### **84 Certificates etc. not to be false or misleading**

A registrant must not, in the registrant's professional capacity, sign or give to another person a certificate, notice, report or other document the registrant knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

## **Part 5                      Complaints and investigations    about registrants' professional    conduct**

### **Division 1                      Complaints and investigation**

#### **85                      Complaints about registrant's professional conduct**

- (1) A person who is aggrieved by a registrant's conduct in carrying out, or in relation to, a survey may make a written complaint about the conduct to the board.
- (2) The board may reject the complaint if it reasonably believes the complaint is frivolous, vexatious or trivial.
- (3) If the chief executive of the department in which the *Survey and Mapping Infrastructure Act 2003* is administered reasonably believes a surveyor has not complied with the survey standards under that Act or the repealed Act, the chief executive may refer the matter to the board.

**86 Board's power to deal with matter without investigation of the registrant's professional conduct**

- (1) This section applies if the board reasonably suspects a registrant has engaged in professional misconduct, whether or not a complaint has been made under section 85 about the registrant.
- (2) The board, by written notice given to the registrant, may ask the registrant to attend before the board or 1 or more of its members acting for the board to give information, answer questions or produce a document the board reasonably requires to decide—
  - (a) whether the board, without authorising an investigation of the registrant's professional conduct, can satisfactorily deal with the matter by—
    - (i) cautioning, advising or reprimanding the registrant; or
    - (ii) with the consent of the registrant, requiring the registrant, at the registrant's expense—
      - (A) to correct a survey to which the matter relates; or
      - (B) to undergo appropriate training, or competency assessment under part 3, division 2; or
  - (b) whether to authorise an investigation of the registrant's professional conduct.
- (3) The board may, but is not required to, ask the chief executive for any information or document relevant to helping the board decide whether to make a request under subsection (2).
- (4) If the board makes the request, the registrant is not required to comply with it.
- (5) If the registrant complies with the request, the registrant is not required to give information, answer a question or produce a document, if giving the information, answering the question or producing the document might tend to incriminate the registrant.
- (6) If the registrant complies with the request and the board decides it can satisfactorily deal with the matter in a way

stated in subsection (2)(a), it may deal with the matter in the stated way.

## **87 Board may authorise investigation of registrant's professional conduct**

- (1) This section applies if—
  - (a) the board reasonably believes a registrant has engaged in professional misconduct, whether or not a complaint has been made under section 85 about the registrant's professional conduct; or
  - (b) the registrant has not complied with a request made under section 86(2).
- (2) The board may—
  - (a) deal with the matter in a way mentioned in section 86(2)(a); or
  - (b) authorise an investigation of the registrant's professional conduct.

## **Division 2 Action following investigation**

### **Subdivision 1 Investigator's report and board's decision on investigation**

#### **88 Investigator's report about investigation**

As soon as practicable after completing an investigation of a registrant's professional conduct, the investigator must give the board a written report about the investigation.

#### **89 Board's decision on investigation**

- (1) This section applies if, after considering the report, the board reasonably believes the registrant has engaged in professional misconduct.
- (2) The board, as it considers appropriate in the circumstances, may decide—

- (a) to deal with the matter in a way mentioned in section 86(2)(a); or
- (b) to refer the matter to either—
  - (i) a panel comprising the board or 4 or more of its members (a *professional conduct review panel*) for dealing with the matter under section 91; or
  - (ii) a disciplinary committee for dealing with the matter under part 6.
- (3) In making a decision under subsection (2), the board must have regard to each of the following—
  - (a) the purposes of this Act and, in particular, the purpose mentioned in section 3(1)(a);
  - (b) the seriousness of the matter reported on.
- (4) In deciding the professional conduct review panel for subsection (2)(b)(i), the board must have regard to the nature of the matter investigated and the qualifications and experience of the members constituting the panel.

## **90 Board's notice, and implementation, of its decision on investigation**

As soon as practicable after deciding to refer the matter to a professional conduct review panel, the board must—

- (a) give written notice of the decision to—
  - (i) the registrant; and
  - (ii) if the investigation was the result of a complaint, the complainant; and
- (b) refer the matter to a professional conduct review panel.

## **Subdivision 2 Taking disciplinary action**

### **91 Disciplinary action by professional conduct review panel**

- (1) A professional conduct review panel to whom the board has referred a matter about a registrant must decide, having regard

to the circumstances of the case and seriousness of the matter—

- (a) whether any disciplinary action should be taken against the registrant; and
  - (b) what disciplinary action mentioned in subsection (3) to take.
- (2) The panel must decide the matter in the way the panel considers appropriate, but must observe natural justice.
- (3) The panel may decide to do 1 or more of the following—
  - (a) not take any disciplinary action against the registrant;
  - (b) caution or reprimand the registrant;
  - (c) require the registrant, at the registrant's expense—
    - (i) to correct a survey to which the matter relates within the reasonable period stated in the requirement; or
    - (ii) to undergo appropriate training, or competency assessment under part 3, division 2;
  - (d) order the registrant to pay to the board a fine of an amount not more than the equivalent of 100 penalty units.
- (4) In addition to taking any disciplinary action, the panel may order the registrant 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.
- (5) An amount ordered to be paid under subsection (3)(d) or (4) is a debt payable by the registrant to the board.
- (6) As soon as practicable after making its decision, the panel must give written notice of the decision and the reasons for the decision to—
  - (a) the registrant; and
  - (b) if the investigation was the result of a complaint, the complainant.
- (7) If the panel makes a decision under subsection (3)(c)(i) or (d) or orders the registrant to pay an amount under subsection (4), the notice must be an information notice.

**92 Protection against self-incrimination**

A registrant is not required to produce to a professional conduct review panel a document or thing, or to answer a question asked by the panel, if producing the document or thing or answering the question might tend to incriminate the registrant.

**93 Disciplinary action by disciplinary committee**

A disciplinary committee to whom the board has referred a matter about a registrant must hear and decide the matter under part 6.

**Part 6 Surveyors disciplinary committee****Division 1 Establishment and functions of surveyors disciplinary committee****94 Establishment**

- (1) A surveyors disciplinary committee must be established if the board refers a matter for hearing by a disciplinary committee under section 89(2)(b)(ii).
- (2) The committee must be established as soon as practicable after the referral.

**95 When disciplinary committee ceases to exist**

A disciplinary committee ceases to exist when it has performed the functions, or is no longer able to perform the functions, for which it was established.

**96 Functions**

The functions of a disciplinary committee are to conduct a hearing, and make decisions, about the matter referred to the committee.

**Division 2 Membership of disciplinary committee****97 Membership**

- (1) A disciplinary committee consists of the following 3 members—
  - (a) a District Court judge, who is to be the committee's chairperson;
  - (b) 2 suitable surveyors each of whom—
    - (i) has been registered as a surveyor for an aggregate of at least 10 years, including any registration as a surveyor under the repealed Act; and
    - (ii) is not a board member; and
    - (iii) is registered—
      - (A) for the type of survey to which the matter referred to the committee relates; or
      - (B) as an emeritus surveyor.
- (2) The committee members must be appointed by the Governor in Council.
- (3) In this section—

*suitable surveyor* means a surveyor considered by the Minister as suitable for appointment to the committee having regard to the nature of the matter referred to the committee.

**98 Payment of members**

A disciplinary committee member is entitled to be paid the remuneration and allowances decided by the Governor in Council.

## **Division 3                      Proceedings of disciplinary committee**

### **99        Notice of intention to conduct disciplinary proceedings by hearing**

- (1) The board must give written notice (a *hearing notice*) about a disciplinary committee's intention to conduct a hearing of a matter about a registrant.
- (2) The hearing notice must be given to—
  - (a) the registrant; and
  - (b) if the disciplinary proceedings relate to a complaint, the complainant.
- (3) The hearing notice must state each of the following—
  - (a) that the ground for the disciplinary proceedings is that the registrant has engaged in professional misconduct;
  - (b) the facts and circumstances forming the basis of the ground;
  - (c) the time and place of the hearing;
  - (d) that the registrant must attend the hearing;
  - (e) if the disciplinary proceedings relate to a complaint—that the complainant may, to the extent the complainant is not excluded from the hearing by the committee under section 106, attend the hearing;
  - (f) that the registrant may be accompanied by a lawyer or other person.
- (4) The time for the hearing, as stated in the hearing notice, must be at least 10 business days after the registrant receives the notice.

### **100       Substituted service on registrant and complainant**

- (1) The disciplinary committee may order substituted service of the hearing notice on the registrant or complainant if the committee is satisfied service can not be effected on the person under section 99(1).



- (2) Substituted service may be effected in any way ordered, including, for example, by facsimile or telephone.
- (3) If the registrant or complainant is served with the hearing notice as ordered by the committee under subsection (1), the notice is taken to have been given to the registrant or complainant under section 99.

### **101 Procedure for hearing by disciplinary committee**

- (1) When conducting the hearing, the disciplinary committee—
  - (a) must comply with natural justice; and
  - (b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues before it; and
  - (c) is not bound by the rules of evidence; and
  - (d) may inform itself of anything in the way it considers appropriate.
- (2) The chairperson of the committee may decide the procedures to be followed for the hearing.
- (3) The committee must—
  - (a) tell the registrant—
    - (i) the facts and circumstances for bringing the disciplinary proceedings against the registrant; and
    - (ii) the possible disciplinary action the committee may take under section 119 or 120; and
  - (b) if asked by the registrant, explain to the registrant any aspect of the committee's procedures, or any decisions or rulings, relating to the hearing; and
  - (c) ensure the registrant has the fullest opportunity practicable to be heard.

### **102 Time and place of hearing**

The hearing must be conducted at the time and place the chairperson of the disciplinary committee decides.

**103 Evidence by telephone, video link or another form of communication**

- (1) The disciplinary committee may decide to receive evidence or submissions for the hearing by using any technology allowing reasonably contemporaneous and continuous communication between the committee members and other persons taking part in the hearing.

*Example of technology allowing reasonably contemporaneous and continuous communication—*

teleconferencing

- (2) The committee may impose conditions on the receipt of evidence or submissions under subsection (1).

**104 Hearing open to the public**

Unless the disciplinary committee decides otherwise, the hearing is open to the public.

**105 Attendance and appearance at hearing**

- (1) At the hearing, the registrant may be accompanied by a lawyer or another person and is entitled to be represented by the lawyer or other person.
- (2) Also, subject to section 106, the complainant may attend the hearing.

**106 Disciplinary committee may exclude complainant or witness from hearing**

- (1) This section applies if the complainant or a witness is to give evidence at the hearing.
- (2) The disciplinary committee may direct that the person be excluded from a part or all of the hearing until the person gives evidence, if the committee reasonably believes the person's attendance before giving evidence would seriously prejudice the fairness of the hearing.

**107 Disciplinary committee may exclude disruptive person from hearing**

The disciplinary committee may direct a person attending the hearing, other than the registrant, to leave if the person is disrupting the hearing.

**108 Witnesses**

- (1) The disciplinary committee may, by written notice (an *attendance notice*) given to a person, require the person to attend the hearing at a stated reasonable time and place to give evidence, answer questions or produce a stated thing.
- (2) The chairperson of the committee, or a member of the committee permitted by the chairperson, may administer an oath to a person appearing as a witness before the committee.
- (3) The registrant may ask the committee for an attendance notice to be given to a person.
- (4) The committee must give the attendance notice to the person unless the committee reasonably believes it is unnecessary or inappropriate to do so.

**109 Disciplinary committee may proceed in absence of registrant or may adjourn hearing**

- (1) At the hearing, the disciplinary committee may proceed in the absence of the registrant if it reasonably believes the registrant has been given notice of the hearing.
- (2) The committee may adjourn the hearing from time to time.

**110 Questions to be decided by majority of disciplinary committee members**

- (1) Subject to subsection (2), a question before the disciplinary committee must be decided by a majority vote of the committee members and, if the votes are equal, the chairperson of the committee has a casting vote.
- (2) The chairperson's decision on a question of law is taken to be the committee's decision on the question.

**111 Procedure if committee member unable to participate further in the disciplinary proceedings**

- (1) This section applies if—
  - (a) the disciplinary committee has started to hear the matter but has not made its decision under division 5; and
  - (b) a committee member ceases to be a committee member or, for any other reason, is unable to take further part in the disciplinary proceedings.
- (2) Unless the committee member mentioned in subsection (1)(b) is the committee's chairperson, the remaining committee members may, if the registrant consents, constitute the committee for completing the proceedings and making the decision.
- (3) A new disciplinary committee must be established to hear the proceedings if—
  - (a) the committee member mentioned in subsection (1)(b) is the committee's chairperson; or
  - (b) the registrant does not consent to the remaining committee members constituting the committee.
- (4) A remaining committee member may be appointed to the new disciplinary committee.

**112 Inspection of things**

- (1) The disciplinary committee may inspect anything produced to it at the hearing.
- (2) If the committee reasonably considers the thing may be relevant to the hearing, the committee may do all or any of the following—
  - (a) photograph the thing;
  - (b) for a document—make a copy of, or take an extract from it;
  - (c) keep the thing while it is necessary for the hearing.
- (3) If the committee keeps the thing, the committee must allow a person otherwise entitled to possession of the thing to—

- (a) for a document—inspect, copy, or take an extract from, the document, at the reasonable time and place the committee decides; or
- (b) for another thing—inspect or photograph the thing, at the reasonable time and place the committee decides.

### **113 Disciplinary committee to keep record of proceedings**

- (1) The disciplinary committee must keep, in the way it considers appropriate, a record of evidence given to it for the disciplinary proceedings.
- (2) However, the committee is not required to keep a transcript of the proceedings.
- (3) When the proceedings end, the committee must give the record of evidence to the board.

## **Division 4                      Offences about disciplinary proceedings dealt with by disciplinary committee**

### **114 Offences about attending hearing, answering questions and related matters**

- (1) The registrant must not fail, without reasonable excuse—
  - (a) to attend as required by the hearing notice; or
  - (b) to continue to attend as required by the disciplinary committee until excused from further attendance.

Maximum penalty—50 penalty units.

- (2) A person given an attendance notice must not fail, without reasonable excuse—
  - (a) to attend as required by the attendance notice; or
  - (b) to continue to attend as required by the disciplinary committee until excused from further attendance.

Maximum penalty—50 penalty units.

- (3) At the hearing, a person appearing as a witness must not—

- (a) fail to take an oath or make an affirmation when required by the committee; or
- (b) fail, without reasonable excuse, to answer a question the person is required by a committee member to answer; or
- (c) fail, without reasonable excuse, to produce a thing the person is required by an attendance notice to produce.

Maximum penalty—50 penalty units.

- (4) It is a reasonable excuse for a witness to fail to answer a question or produce a thing that answering the question or producing the thing might tend to incriminate the witness.

### **115 False or misleading information**

A person must not state anything to the disciplinary committee, for the disciplinary proceedings, that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

### **116 False or misleading documents**

- (1) A person must not give to the disciplinary committee, for the disciplinary proceedings, a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
  - (a) informs the committee, to the best of the person's ability, how it is false or misleading; and
  - (b) gives the correct information to the committee if the person has, or can reasonably obtain, the correct information.

### **117 Contempt of disciplinary committee**

At the hearing, a person must not—

- (a) insult the committee or a committee member; or

- (b) deliberately interrupt the hearing; or
- (c) create, continue, or join in creating or continuing, a disturbance in or near a place where the hearing is being conducted; or
- (d) without lawful excuse, disobey a lawful order or direction of the committee; or
- (e) do anything else that would be contempt of court if the committee were a court of record.

Maximum penalty—50 penalty units.

## **Division 5                      Decision on completion of disciplinary proceedings**

### **118      Decision about whether ground for disciplinary action is established**

- (1) As soon as practicable after completing the hearing, the disciplinary committee must decide whether the registrant has engaged in professional misconduct.
- (2) In making its decision, the committee must have regard to—
  - (a) the code of practice; and
  - (b) any relevant survey standard or survey guideline made under the *Survey and Mapping Infrastructure Act 2003*; and
  - (c) any relevant previous decision by a disciplinary body of which the committee is aware.
- (3) Subsection (2) does not limit the matters the committee may consider in making its decision.

### **119      Decision about disciplinary action against registrant, other than former registrant**

- (1) This section does not apply to a former registrant.
- (2) If the disciplinary committee decides the registrant has engaged in professional misconduct, the committee may do all or any of the following—

- (a) advise, caution or reprimand the registrant;
- (b) order the registrant to do either or both of the following—
  - (i) pay to the board a fine of an amount not more than the equivalent of 200 penalty units;
  - (ii) correct, at the registrant's expense and within the reasonable period stated in the order, any work the subject of the disciplinary action the committee finds to be defective;
- (c) impose conditions on the registrant's registration, including, for example, a condition requiring the registrant—
  - (i) not to carry out a particular type of survey until the registrant satisfies the board the registrant has the relevant competency for the type of survey; or
  - (ii) to restrict the registrant's surveying practice to carrying out a particular type of survey, until the registrant satisfies the board the registrant has the relevant competency for other types of survey; or
  - (iii) to carry out surveys under supervision; or
  - (iv) to report to the board, within a stated reasonable time and in a stated reasonable way, about the registrant's compliance with conditions imposed by the committee;
- (d) suspend the registrant's registration or registration endorsement for not more than 3 years;
- (e) cancel the registrant's registration or registration endorsement;
- (f) if the committee cancels the registrant's registration, set conditions under which the registrant may re-apply for registration;
- (g) order the registrant—
  - (i) to do anything else the committee considers appropriate; or
  - (ii) to refrain from doing anything the committee considers inappropriate.



- (3) An amount ordered to be paid under subsection (2)(b)(i) is a debt payable by the registrant to the board.

**120 Decision about disciplinary action against former registrant**

- (1) This section applies only to a former registrant.
- (2) If the disciplinary committee decides the person has engaged in professional misconduct, the committee may—
- (a) take no further action relating to the matter; or
  - (b) do all or any of the following—
    - (i) order the person to do either or both of the following—
      - (A) to pay to the board a fine of an amount not more than the equivalent of 200 penalty units;
      - (B) to correct, at the person's expense and within the reasonable period stated in the order, any work the subject of the disciplinary action the committee finds to be defective;
    - (ii) state that another form of disciplinary action mentioned in section 119(2) would have been taken if the person were registered;
    - (iii) set conditions that must be imposed on any future registration of the person as a registrant.
- (3) If the committee states under subsection (2)(b)(ii) that if the person were currently registered it would have cancelled the person's registration, the committee must also decide the period during which the person must not again be registered by the board.
- (4) An amount ordered to be paid under subsection (2)(b)(i)(A) is a debt payable by the person to the board.

**121 Matters disciplinary committee must consider in making decision about disciplinary action**

- (1) In making a decision under section 119 or 120, the disciplinary committee must have regard to—
  - (a) the purposes of this Act stated in section 3(1); and
  - (b) any relevant previous decisions, of which the committee is aware, about the registrant by another disciplinary body.
- (2) For having regard to a decision mentioned in subsection (1)(b), the committee is entitled to access the decision and the reasons for it.
- (3) Subsection (1) does not limit the matters the committee may consider in making its decision.

**122 Disciplinary committee's power to order costs**

- (1) The disciplinary committee may make any order about costs it considers appropriate for the disciplinary proceedings.
- (2) However, the costs allowable are only—
  - (a) the costs that would be allowable if the disciplinary proceedings were proceedings in the District Court;<sup>3</sup> and
  - (b) the cost to the board of the investigation, of the registrant's professional conduct, that preceded the disciplinary proceedings.
- (3) Without limiting subsection (1), in making a decision about an order for costs, the committee—
  - (a) must take into consideration the cost of any investigation mentioned in subsection (2)(b); and
  - (b) must not take into consideration the amount of a fine, if any, imposed on the registrant in the proceedings.

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<sup>3</sup> See the Uniform Civil Procedure Rules, schedule 2 (Scale of costs—District Court).

## **Division 6                      Action after decision about disciplinary action**

### **123      Notification of disciplinary committee's decision**

- (1) The disciplinary committee must, as soon as practicable after making a decision under section 118, 119 or 120, give written notice about the decision to the registrant and the board.
- (2) The notice must state each of the following—
  - (a) for a decision—
    - (i) under section 118—whether a ground for disciplinary action against the registrant is established; or
    - (ii) for a decision under section 119 or 120—the disciplinary action, if any, the committee has decided to take in relation to the disciplinary proceedings;
  - (b) the reasons for the decision, including the reasons for any disciplinary action;
  - (c) the committee's decisions on material questions of fact arising during the disciplinary proceedings;
  - (d) by reference or otherwise, any evidence or other material on which the committee's decisions about material questions of fact were based;
  - (e) that the board or registrant may appeal on a question of law to the Court of Appeal about the decision;
  - (f) how to appeal.
- (3) The decision takes effect on the later of—
  - (a) the day the notice is given to the registrant; or
  - (b) the day of effect stated in the notice.

### **124      Board may notify other persons**

- (1) After the disciplinary committee makes a decision about disciplinary proceedings against the registrant, the board may—

- (a) publish the registrant's identity and the nature and outcome of the proceedings, including, for example, on the board's website on the internet<sup>4</sup> or in the board's annual report or a newsletter; and
  - (b) if the disciplinary proceedings relate to a complaint—by written notice advise the complainant of the committee's decision on the matter.
- (2) This section does not affect the board's power to record in the relevant register details of any disciplinary conditions of a registration.

## **Division 7                      Effect of decision**

### **125      Effect of disciplinary committee's decision**

The disciplinary committee's decision is binding on the board and the registrant.

### **126      Implementation of decision**

The board must give effect to the disciplinary committee's decision unless the decision is stayed under section 174.

### **127      Disciplinary action to be recorded in register**

- (1) This section applies if the disciplinary committee decides the registrant has engaged in professional misconduct and decides to take disciplinary action against the registrant.
- (2) As soon as practicable after the committee makes its decision about the disciplinary action, the board must record in the relevant register—
  - (a) for a decision to impose disciplinary conditions on the registrant's registration or registration endorsement—the details of the conditions; or
  - (b) for a decision to suspend a registration or registration endorsement—the period for which it is suspended; or

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<sup>4</sup> The board's website on the internet is <[www.surveyorsboard.com.au](http://www.surveyorsboard.com.au)>.

- (c) for a decision to cancel a registration or registration endorsement—
  - (i) the date it was cancelled; and
  - (ii) any conditions imposed by the committee on the registrant's re-application for registration.

## **Part 7                      Investigators**

### **Division 1                      Functions and powers generally**

#### **128      Functions of investigator**

An investigator has the functions of carrying out and reporting on the investigation for which the investigator is appointed.

#### **129      Powers of investigator**

For performing the investigator's functions, an investigator has the powers given to the investigator under this Act.

### **Division 2                      Appointment of investigators and other matters**

#### **130      Appointment**

- (1) The board may appoint a surveyor who is not a board member as an investigator.
- (2) An investigator is appointed on a case by case basis.

#### **131      Appointment conditions and limit on powers**

- (1) An investigator holds office on the conditions stated in—
  - (a) the investigator's instrument of appointment; or
  - (b) a signed notice given to the investigator.

- (2) The instrument of appointment or signed notice may limit the investigator's powers under this Act.
- (3) In this section—  
*signed notice* means a notice signed by the board.

### **132 Issue of identity card**

- (1) The board must give an identity card to each investigator.
- (2) The identity card must—
  - (a) contain a recent photo of the investigator; and
  - (b) contain a copy of the investigator's signature; and
  - (c) identify the person as an investigator under this Act.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

### **133 Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an investigator must—
  - (a) produce the investigator's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the investigator must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an investigator does not exercise a power in relation to a person only because the investigator has entered a place as mentioned in section 139(1)(b) or (2).

### **134 Resignation**

- (1) An investigator may resign by signed notice of resignation given to the board.

- (2) Within 21 days after resigning, the investigator must give the board a written report about the investigation carried out by the investigator.

### **135 Return of identity card**

A person who ceases to be an investigator must return the person's identity card to the board within 15 business days after ceasing to be an investigator, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

## **Division 3 Particular powers of investigators**

### **Subdivision 1 Power to obtain information**

#### **136 Power to require information or attendance**

For carrying out an investigation, an investigator may, by written notice given to a person, require the person—

- (a) to give stated information to the investigator within a stated reasonable time and in a stated reasonable way; or
- (b) to attend before the investigator at a stated reasonable time and place—
  - (i) to answer questions; or
  - (ii) to produce a stated thing.

#### **137 Offences**

- (1) A person required to give information to an investigator under section 136 must give the information as required by the notice, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person given a notice to attend before an investigator must, unless the person has a reasonable excuse—
- (a) attend as required by the notice; and

- (b) continue to attend as required by the investigator until excused from further attendance; and
- (c) answer a question the person is required to answer by the investigator; and
- (d) produce a thing the person is required to produce by the notice.

Maximum penalty—50 penalty units.

- (3) It is a reasonable excuse for a person not to give information, answer a question or produce a stated thing, that giving the information, answering the question or producing the thing might tend to incriminate the person.

### **138 Inspection of produced things**

- (1) If a thing is produced to an investigator, whether under a notice under section 136 or otherwise, the investigator may inspect it.
- (2) If the investigator reasonably considers the thing may be relevant to the investigation being carried out by the investigator, the investigator may do all or any of the following—
  - (a) photograph the thing;
  - (b) for a document—make a copy of, or take an extract from it;
  - (c) keep the thing while it is necessary for the investigation.
- (3) If the investigator keeps the thing, the investigator must allow a person otherwise entitled to possession of the thing—
  - (a) for a document—to inspect, copy, or take an extract from, the document, at the reasonable time and place the investigator decides; or
  - (b) for another thing—to inspect or photograph the thing, at the reasonable time and place the investigator decides.



## **Subdivision 2      Entry of places**

### **139      Power to enter places**

- (1) An investigator may enter a place for carrying out an investigation if—
  - (a) its occupier consents to the entry; or
  - (b) it is a public place and the entry is made when the place is open to the public; or
  - (c) the entry is authorised by a warrant.
- (2) For the purpose of asking the occupier of a place for consent to enter, an investigator may, without the occupier's consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the investigator reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

## **Subdivision 3      Procedure for entry**

### **140      Entry with consent**

- (1) This section applies if an investigator intends to ask an occupier of a place to consent to the investigator or another investigator entering the place under section 139(1)(a).
- (2) Before asking for the consent, the investigator must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the investigator may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state—
  - (a) the occupier has been told—

- (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) the occupier gives the investigator consent to enter the place and exercise powers under this division; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the investigator must immediately give a copy to the occupier.
- (6) If—
- (a) an issue arises in a proceeding before a court or the disciplinary committee about whether the occupier of the place consented to the entry; and
  - (b) an acknowledgment mentioned in subsection (4) is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

### **141 Application for warrant**

- (1) An investigator may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the investigator gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the application to be given by statutory declaration.

### **142 Issue of warrant**

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the *evidence*) that may provide evidence about a disciplinary matter being investigated by the investigator; and
  - (b) the evidence is at the place, or may be at the place within the next 7 days.
- (2) The warrant must state—
- (a) that a stated investigator may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise the investigator's powers under this division; and
  - (b) the disciplinary matter for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 14 days after the warrant's issue, the warrant ends.

### **143 Warrants—procedure before entry**

- (1) This section applies if an investigator named in a warrant issued under this subdivision for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the investigator must do or make a reasonable attempt to do the following things—
  - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing the investigator's identity card or another document evidencing the investigator's appointment;
  - (b) give the person a copy of the warrant;
  - (c) tell the person the investigator is permitted by the warrant to enter the place;

- (d) give the person an opportunity to allow the investigator immediate entry to the place without using force.
- (3) However, the investigator need not comply with subsection (2) if the investigator believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

## **Subdivision 4 Powers after entry**

### **144 General powers after entering places**

- (1) This section applies to an investigator who enters a place under section 139.
- (2) However, if an investigator enters a place to get the occupier's consent to enter premises, this section applies to the investigator only if the consent is given or the entry is otherwise authorised.
- (3) For monitoring and enforcing compliance with this Act, the investigator may do all or any of the following—
  - (a) search any part of the place;
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
  - (c) take an extract from, or copy, a document at the place;
  - (d) carry out a survey;
  - (e) place survey marks on land;
  - (f) take into or onto the place any person, equipment and materials the investigator reasonably requires for exercising a power under this division;
  - (g) require the occupier of the place, or a person at the place, to give the investigator reasonable help to exercise the investigator's powers under paragraphs (a) to (f);
  - (h) require the occupier of the place, or a person at the place, to give the investigator information to help the investigator ascertain whether this Act is being complied with.

- (4) When making a requirement mentioned in subsection (3)(g) or (h), the investigator must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

#### **145 Failure to help investigator**

- (1) A person required to give reasonable help under section 144(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) If an individual is required under section 144(3)(g) to give information, or produce a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

#### **146 Failure to give information**

- (1) A person of whom a requirement is made under section 144(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

### **Subdivision 5 Power to seize evidence**

#### **147 Seizing evidence at public place if entry made when place open**

An investigator who enters a public place when the place is open to the public may seize a thing at the place if—

- (a) the investigator reasonably believes the thing is evidence that is relevant to the investigation being carried out by the investigator; and

- (b) the evidence provided by the thing can not otherwise be obtained from it.

*Example—*

A theodolite may contain evidence that can be obtained from it by data download at the public place.

## **148 Seizing evidence at a place that may only be entered with consent or warrant**

- (1) This section applies if—
  - (a) an investigator is authorised to enter a place under this division only with the consent of the occupier of the place or a warrant; and
  - (b) the investigator enters the place after obtaining the necessary consent or warrant.
- (2) If the investigator enters the place with the occupier's consent, the investigator may seize a thing at the place if—
  - (a) the investigator reasonably believes the thing is evidence that is relevant to the investigation being carried out by the investigator; and
  - (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (3) If the investigator enters the place with a warrant, the investigator may seize the evidence for which the warrant was issued.
- (4) The investigator also may seize anything else at the place if the investigator reasonably believes—
  - (a) the thing is evidence that is relevant to the investigation; and
  - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.
- (5) However, the investigator must not seize a thing under this section if the evidence provided by the thing can otherwise be obtained from it.

**149 Securing seized things**

Having seized a thing, an investigator may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

*Examples of restricting access to a thing—*

- 1 sealing a thing and marking it to show access to it is restricted
- 2 sealing the entrance to a room where the seized thing is situated and marking the entrance to show access to the room is restricted

**150 Tampering with seized things**

If an investigator restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an investigator's approval.

Maximum penalty—50 penalty units.

**151 Receipt for seized things**

- (1) As soon as practicable after an investigator seizes a thing, the investigator must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the investigator must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value.

**152 Forfeiture of seized things**

- (1) A thing that has been seized under this subdivision is forfeited to the board if the investigator who seized the thing—
  - (a) can not find its owner, after making reasonable inquiries; or
  - (b) can not return it to its owner, after making reasonable efforts.
- (2) In applying subsection (1)—
  - (a) subsection (1)(a) does not require the investigator to make inquiries if it would be unreasonable to make inquiries to find the owner; and
  - (b) subsection (1)(b) does not require the investigator to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) Regard must be had to a thing's nature, condition and value in deciding—
  - (a) whether it is reasonable to make inquiries or efforts; and
  - (b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

**153 Dealing with forfeited things**

- (1) On the forfeiture of a thing to the board, the thing becomes the board's property and may be dealt with by the board as the board considers appropriate.
- (2) Without limiting subsection (1), the board may destroy or otherwise dispose of the thing.

**154 Return of seized things**

- (1) If a seized thing is not forfeited, the investigator must return it to its owner—
  - (a) at the end of 6 months; or



- (b) if proceedings involving the thing are started within 6 months, at the end of the proceedings and any appeal from the proceedings.
- (2) Despite subsection (1), unless a thing that has been seized as evidence is forfeited, the investigator must immediately return it to its owner if the investigator stops being satisfied its continued retention as evidence is necessary.

### **155 Access to seized things**

- (1) Until a seized thing is forfeited or returned, an investigator must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

## **Division 4 General investigation matters**

### **156 Investigator's obligation not to cause unnecessary damage**

An investigator must take all reasonable steps to ensure the investigator does not cause any unnecessary damage to property in exercising a power under division 3.

### **157 Notice of damage**

- (1) This section applies if—
  - (a) an investigator damages property when exercising or purporting to exercise a power; or
  - (b) a person (the *other person*) acting under the direction of an investigator damages property.
- (2) The investigator must immediately give notice of particulars of the damage to the person who appears to the investigator to be the owner of the property.
- (3) If the investigator believes the damage was caused by a latent defect in the property or circumstances beyond the

investigator's or other person's control, the investigator may state the belief in the notice.

- (4) If, for any reason, it is impracticable to comply with subsection (2), the investigator must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the investigator reasonably believes is trivial.
- (6) In subsection (2)—  
*owner*, of property, includes the person in possession or control of it.

## **158 Compensation**

- (1) A person may claim compensation from the board if the person incurs loss or expense because of the exercise or purported exercise of a power under division 3, subdivision 2, 4 or 5.
- (2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.
- (3) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- (4) A court may order compensation to be paid only if it is satisfied it is fair to make the order in the circumstances of the particular case.

## **159 False or misleading information given to investigator**

A person must not state anything to an investigator the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

**160 False or misleading documents given to investigator**

- (1) A person must not give an investigator a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the investigator, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

**161 Obstruction of investigator**

- (1) A person must not obstruct an investigator in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an investigator and the investigator decides to proceed with the exercise of the power, the investigator must warn the person that—

- (a) it is an offence to obstruct the investigator, unless the person has a reasonable excuse; and
- (b) the investigator considers the person's conduct is an obstruction.

- (3) In this section—

*obstruct* includes hinder and attempt to obstruct or hinder.

**162 Impersonation of investigator**

A person must not pretend to be an investigator.

Maximum penalty—50 penalty units.

## **Part 8 Appeals to District Court**

### **163 Who may appeal**

- (1) A person who is given, or is entitled to be given, an information notice for a decision may appeal against the decision to the District Court under this part.
- (2) Also, a person whose application the board is taken, under section 53 or 58,<sup>5</sup> to have decided to refuse to grant may, under this part, appeal against the decision to the District Court.
- (3) To help users of this Act, schedule 1 identifies the decisions for which an information notice must be given under this Act.

### **164 How to start an appeal**

- (1) An appeal may be started by—
  - (a) filing a notice of appeal with the registrar of—
    - (i) the District Court at the place where the appellant resides or carries on business; or
    - (ii) the District Court at Brisbane; and
  - (b) complying with the rules of court applicable to the appeal.<sup>6</sup>
- (2) Subsection (1) does not limit a provision of another law providing for where a proceeding may be started in the District Court.
- (3) The notice of appeal must be filed within 28 days after—
  - (a) the day the person is given notice of the decision appealed against; or
  - (b) if paragraph (a) does not apply, the day the person otherwise becomes aware of the decision.

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5 Section 53 deals with applications for registrations and registration endorsements and section 58 deals with applications for renewal of registrations and registration endorsements.

6 The Uniform Civil Procedure Rules contain provisions about appeals to the District Court.

- (4) The court may, at any time, extend the period for filing the notice of appeal.

### **165 Hearing procedures**

- (1) In deciding the appeal, the court—
- (a) has the same powers as the entity that made the decision appealed against; and
  - (b) is not bound by the rules of evidence; and
  - (c) must comply with natural justice.
- (2) The appeal is by way of rehearing, unaffected by the decision appealed against, on the material before the entity that made the decision and any further evidence allowed by the court.

### **166 Stay of operation of decision**

- (1) The court may grant a stay of the operation of the decision appealed against to secure the effectiveness of the appeal.
- (2) The stay—
- (a) may be given on conditions the court considers appropriate; and
  - (b) operates for the period fixed by the court; and
  - (c) may be revoked or amended by the court.
- (3) The period of the stay must not extend past the time when the court decides the appeal.
- (4) The appeal affects the decision, or carrying out of the decision, only if the decision is stayed.

### **167 Powers of court on appeal**

- (1) In deciding the appeal, the court may—
- (a) confirm the decision appealed against; or
  - (b) amend the decision appealed against; or
  - (c) substitute another decision for the decision appealed against.

- (2) If the court amends the decision appealed against or substitutes another decision for the decision appealed against, the amended or substituted decision is, for this Act (other than this part) taken to be the decision of the entity that made the decision appealed against.

## **168 Appointment of advisors**

- (1) If the court considers the appeal involves a question of special knowledge and skill, the court may appoint 1 or more persons (*advisors*) who the court considers possess the special qualifications necessary for the particular case to assist the court in deciding the appeal.
- (2) An advisor may advise the court on any matter, but questions of law and fact must be decided by the court.
- (3) The court may give the weight to the advice that it considers appropriate.

## **Part 9 Appeals to court of appeal from decisions of disciplinary committee**

### **169 Appealable decisions**

Each of the following decisions of a disciplinary committee is an appealable decision for this part—

- (a) a decision under section 118 about whether a registrant has engaged in professional misconduct;
- (b) a decision under section 119 to take disciplinary action against a registrant;
- (c) a decision under section 120 to take disciplinary action against a former registrant.

**170 Who may appeal**

The following persons may appeal to the Court of Appeal against an appealable decision—

- (a) the registrant to whom the appealable decision relates;
- (b) the board.

**171 Appeal on questions of law only**

An appeal to the Court of Appeal against an appealable decision may be made only on a question of law.

**172 How to start an appeal**

- (1) An appeal is started by—
  - (a) filing a notice of appeal with the registrar of the Supreme Court at Brisbane; and
  - (b) complying with the rules of court applicable to the appeal.<sup>7</sup>
- (2) For the Uniform Civil Procedure Rules, section 748, the date of the decision appealed from is taken to be the day the appellant receives notice of the appealable decision.
- (3) The court may, at any time, extend the period for filing a notice of appeal.

**173 Appellant to give notice of appeal to particular persons**

- (1) Within 14 days after filing the notice of appeal, the appellant must give a copy of the notice—
  - (a) if the appellant is the registrant, to the board; or
  - (b) if the appellant is the board, to the registrant.
- (2) If a registrant or the board is given a copy of a notice of appeal under subsection (1), the registrant or board is the respondent for the appeal.

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<sup>7</sup> The Uniform Civil Procedure Rules contain provisions about appeals to the Court of Appeal.

**174 Stay of operation of appealable decision**

- (1) If an appellant files, or has filed, a notice of appeal and makes an application to the Court of Appeal for a stay of the appealable decision to secure the effectiveness of the appeal, the court may grant the stay if it considers it appropriate.
- (2) The stay may be granted on conditions the court considers appropriate and has effect for the period stated by the court.
- (3) However, the period of the stay must not extend past the time when the court decides the appeal.
- (4) An appeal against an appealable decision does not affect the operation or carrying out of the decision unless the decision is stayed by the court.

**175 Hearing procedures**

The procedure for an appeal is to be under the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, under the directions of the Court of Appeal.

**176 Powers of court on appeal**

In deciding the appeal, the Court of Appeal may—

- (a) confirm the appealable decision; or
- (b) set aside the appealable decision; or
- (c) set aside the appealable decision and replace it with a decision the court considers appropriate; or
- (d) change the appealable decision in the way the court considers appropriate; or
- (e) send the matter back to the disciplinary committee that made the appealable decision and give the directions the court considers appropriate.



## **Part 10                      Legal proceedings**

### **Division 1                      Evidence**

#### **177      Application of div 1**

This division applies to a proceeding under this Act, including a proceeding before a disciplinary body.

#### **178      Appointments and authority**

It is not necessary to prove—

- (a) the appointment of any of the following entities—
  - (i) the Minister;
  - (ii) the chief executive;
  - (iii) the chairperson or another board member;
  - (iv) an investigator;
  - (v) a disciplinary body or a member of a disciplinary body; or
- (b) the authority of any of the following entities to do anything under this Act—
  - (i) the Minister;
  - (ii) the chief executive;
  - (iii) the board;
  - (iv) the chairperson or another board member;
  - (v) an investigator;
  - (vi) a disciplinary body or a member of a disciplinary body.

#### **179      Signatures**

A signature purporting to be the signature of the Minister, the chief executive, the chairperson, a board member or an investigator, is evidence of the signature it purports to be.

**180 Evidentiary matters**

A certificate purporting to be signed by the chairperson and stating any of the following matters is evidence of the matter—

- (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
  - (i) an appointment, approval or decision;
  - (ii) an order, direction, requirement or notice;
  - (iii) a registration certificate;
  - (iv) a record or an extract from a record;
  - (v) a register or an extract from a register;
- (b) a stated document is the code of practice in force under this Act;
- (c) a stated document is another document kept under this Act;
- (d) a stated document is a copy of a thing mentioned in paragraph (a), (b) or (c);
- (e) on a stated day, or during a stated period, a stated person was or was not a registrant;
- (f) on a stated day, or during a stated period, a registration or registration endorsement—
  - (i) was or was not in force; or
  - (ii) was or was not subject to a stated disciplinary condition;
- (g) on a stated day, a registration or registration endorsement was cancelled;
- (h) on a stated day, or during a stated period, a registration or registration endorsement was suspended;
- (i) on a stated day, or during a stated period, an appointment as an investigator was, or was not, in force for a stated person;
- (j) on a stated day, a stated person was given a stated notice or direction under this Act;

- (k) on a stated day, a stated requirement was made of a stated person;
- (l) a stated fee or other amount is payable by a stated person to the board and has not been paid.

## **Division 2                      Proceedings**

### **181      Summary proceedings for offences**

- (1) Proceedings for an offence against this Act are to be taken in a summary way under the *Justices Act 1886*.
- (2) The proceeding must start—
  - (a) within 1 year after the commission of the offence; or
  - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

### **182      Allegations of false or misleading information or documents**

It is enough for a complaint for an offence against this Act involving false or misleading information, or a false or misleading document, to state the statement made, or document given, was 'false or misleading' to the person's knowledge, without specifying which.

### **183      Penalties to be paid to board**

All penalties recovered as a result of proceedings for offences against this Act brought by the board must be ordered to be paid to the board.

### **184      Responsibility for acts or omissions of representatives**

- (1) This section applies in a proceeding for an offence against this Act.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

- (4) In this section—

*representative* means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

*state of mind* of a person includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

## **185 Executive officers must ensure corporation complies with Act**

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of

the executive officers committed the offence of failing to ensure the corporation complies with the provision.

- (4) However, it is a defence for an executive officer to prove—
- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
  - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

## **Part 11                      Miscellaneous**

### **186      Board's power to decide fee for producing a copy of a document**

The fee decided by the board under section 40(c), 42(2)(b) or 68(4)(b) for producing a copy of a document must be not more than the board's reasonable cost of producing the copy.

### **187      Board may authorise investigation of compliance by persons, other than registrants, with Act**

If the board reasonably suspects a person, other than a registrant or a registrant with the appropriate registration, has contravened section 73, 74, 75 or 76, the board may authorise an investigation of the suspected contravention.

### **188      Board's power to correct work and recover costs**

- (1) This section applies if—
- (a) a disciplinary body, under section 91(3)(c)(i), 119(2)(b)(ii) or 120(2)(b)(i)(B), requires or orders a registrant or former registrant to correct a survey; and
  - (b) the person fails to comply with the requirement or order—

- (i) if the disciplinary body's decision to make the requirement or order is stayed by a court on an appeal under this Act—as required by the decision of the court on the appeal; or
  - (ii) if subparagraph (i) does not apply—within the period stated in the requirement or order.
- (2) The board may engage a surveyor to correct the survey.
- (3) The cost reasonably incurred by the board in engaging the surveyor and correcting the survey is a debt payable by the person to the board.

### **188A Board may make guidelines**

- (1) The board may make guidelines to provide guidance to registrants about matters relating to the board's functions under this Act.
- (2) Without limiting subsection (1), a guideline may be about—
  - (a) in relation to a registrant carrying out a cadastral survey, the supervision the board considers necessary—
    - (i) to help ensure the survey's survey quality; or
    - (ii) to help the registrant gain a relevant competency for a registration or registration endorsement; or
  - (b) matters that relate to the code of practice and may help registrants comply with the code.
- (3) The board must ensure registrants are notified of the making of a guideline and any amendment of it.
- (4) The board must publish each guideline, as in force from time to time, on the board's web site on the internet.

### **189 Protecting officials from liability**

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an official mentioned in subsection (4)(a) or (b), the liability attaches instead to the State.

- (3) If subsection (1) prevents a civil liability attaching to an official mentioned in subsection (4)(c) to (f), the liability attaches instead to the board.
- (4) In this section—  
*official* means—
- (a) the Minister; or
  - (b) the chief executive; or
  - (c) the chairperson or another board member; or
  - (d) an employee of the board; or
  - (e) an investigator; or
  - (f) a person acting under the direction or authority of an investigator.

## **190 Confidentiality**

- (1) This section applies to a person who, in performing functions under this Act, acquires or acquired information about another person's affairs, including the professional conduct of a registrant or former registrant.
- (2) The person must not disclose the information to anyone else, unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

- (3) The person may disclose the information to someone else—
- (a) to the extent necessary to perform the person's functions under this Act; or
  - (b) if the disclosure is to a disciplinary body; or
  - (c) if the disclosure is authorised under this Act or another Act; or
  - (d) if the disclosure is otherwise required or permitted by law; or
  - (e) if the person to whom the information relates consents to the disclosure; or

- (f) if the disclosure is in a form that does not disclose the identity of the person to whom the information relates; or
  - (g) if the information is, or has been, accessible to the public, including, for example, because it is or was recorded in the publicly available part of a register; or
  - (h) if the disclosure is to the Minister to allow the Minister to act under paragraph (i); or
  - (i) if the Minister considers the disclosure is in the public interest and authorises the person to disclose the information.
- (4) If the Minister authorises information to be disclosed under subsection (3)(i) about a matter concerning a registrant, the Minister must inform the board of the authorisation and its purpose.

## **191 Approval of forms**

The board may approve forms for use under this Act.

## **192 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may provide for all or any of the following—
  - (a) the keeping of a register, including the particulars to be contained in a register;
  - (b) the title that may be used by a registrant or the holder of a registration endorsement to show the type of registration held by the registrant;
  - (c) the type of survey that may be carried out by the holder of a particular registration or registration endorsement;
  - (d) the supervision of persons carrying out surveys;
  - (e) the fees payable under this Act.
- (3) A regulation may prescribe a penalty of not more than 20 penalty units for a contravention of the regulation.



(4) In this section—

*holder*, of a registration or registration endorsement, means the person to whom the registration or registration endorsement is issued.

## Part 12 Transitional provisions

### Division 1 Transitional references

#### 193 Application of div 1

This division applies to references in Acts or documents.

#### 194 References to repealed Act

A reference to the repealed Act is, if the context permits, taken to be a reference to this Act.

#### 194A References

(1) A reference to this Act in any of the following provisions is taken also to have included, from 1 August 2004 until the commencement of this section, a reference to the repealed Act—

- (a) section 16;
- (b) section 36;
- (c) section 38;
- (d) section 63;
- (e) schedule 3, definition *professional conduct*;
- (f) schedule 3, definition *professional misconduct*.

(2) The reference to the *Survey and Mapping Infrastructure Act 2003* in section 85(3) of this Act is taken also to have included, from 1 August 2004 until the commencement of this section, a reference to the repealed Act.

**195 References to president appointed under repealed Act**

A reference to the president of the board appointed under the repealed Act is, if the context permits, taken to be a reference to the chairperson.

**196 References to authorised surveyors**

A reference to an authorised surveyor is, if the context permits, taken to be a reference to a cadastral surveyor.

**197 References to surveyor-general**

A reference to the surveyor-general is, if the context permits, taken to be a reference to the chief executive.

**198 References to persons holding column 1 registrations**

A reference to a person mentioned in column 1 of the table in section 200 is, if the context permits, taken to be a reference to a person mentioned in column 2 of the table opposite the column 1 reference.

**Division 2 Other transitional provisions****199 Continuation of existing members' membership**

- (1) For the interim period—
  - (a) the existing members continue in office and are taken to have been appointed as members under this Act; and
  - (b) the existing president continues in office and is taken to have been appointed as chairperson under this Act.
- (2) Despite sections 12 and 21, if a casual vacancy occurs in the office of the chairperson or a member during the interim period, the Minister may appoint another person to fill the vacancy for the remainder of the period.
- (3) Subject to section 15(3), at the end of the interim period, the existing president and existing members go out of office.
- (4) In this section—

**existing members** means the members of the old board holding office immediately before 1 August 2004.

**existing president** means the person holding office as president of the old board immediately before 1 August 2004.

**interim period** means the period from 1 August 2004 until—

- (a) 1 February 2005; or
- (b) the members of the board are sooner appointed under section 12.

**old board** means the Surveyors Board of Queensland constituted under the repealed Act and in existence immediately before 1 August 2004.

## 200 Existing registrations

- (1) This section applies to a person who, immediately before the commencement of this section, was registered or held a registration endorsement under the repealed Act for a type of registration or registration endorsement mentioned in column 1 of the following table (the **column 1 registration**)—

**Table**

	<b>Column 1</b>	<b>Column 2</b>
1	registration as a surveyor under section 37 of the repealed Act	surveyor
2	registration as a surveying graduate under section 38 of the repealed Act	surveying graduate
3	registration as a surveying associate under section 38A of the repealed Act	surveying associate
4	registration endorsement for a licensed surveyor under section 42 of the repealed Act	cadastral surveyor
5	registration endorsement for a consulting surveyor under section 42A of the repealed Act	consulting surveyor

Column 1	Column 2
6 registration endorsement for an engineering surveyor under section 50 of the repealed Act	engineering surveyor
7 registration endorsement for a hydrographic surveyor under section 50 of the repealed Act	hydrographic surveyor
8 registration endorsement for a mining surveyor (A) under section 50 of the repealed Act	mining surveyor (A)
9 registration endorsement for a mining surveyor (O) under section 50 of the repealed Act	mining surveyor (O)

- (2) The person is taken to be registered for the type of registration mentioned in column 2 of the table (the *column 2 registration*) shown opposite the column 1 registration.
- (3) If the column 1 registration was, immediately before the commencement, subject to conditions imposed by a surveyors disciplinary committee established under the repealed Act, the column 2 registration is taken to be subject to the conditions.
- (4) The column 2 registration continues in force, under this Act, for the remainder of its term.

## 201 Existing applications for column 1 registrations

- (1) This section applies to an application for a column 1 registration, or renewal of a column 1 registration, made under the repealed Act and not decided before the commencement of this section.
- (2) The application must be decided under this Act.
- (3) The application is taken to be for the column 2 registration, or renewal of the column 2 registration, shown opposite the column 1 registration.

- (4) Part 3, divisions 3 and 7 apply to the application.
- (5) However, sections 45(1)(b) and (c) and 54(2)(b) and (c) do not apply to the application.

## **202 Suspended registrations**

- (1) This section applies if a column 1 registration has been suspended and the period of suspension has not ended before the commencement of this section.
- (2) The suspension is taken to continue under this Act as a suspension of the column 2 registration shown opposite the column 1 registration.

## **203 Approval of business names under repealed Act**

- (1) This section applies if immediately before the commencement of this section—
  - (a) there was in force an approval of a business name for an individual under section 47A of the repealed Act; and
  - (b) from the commencement, the individual carries on the business providing surveying services under the approved business name.
- (2) The individual is taken to have given the board the notice required under section 79(1).

# **Part 13 Repeal**

## **205 Repeal of Surveyors Act 1977**

The Surveyors Act 1977 is repealed.

## **Schedule 1      Decisions for which information notices must be given**

section 163(3)

<b>Section</b>	<b>Description of decision</b>
49(1)	board's decision to refuse to grant an application for registration or a registration endorsement
56(1)	board's decision to refuse to grant an application for renewal or restoration of a registration or registration endorsement
64(2)	board's decision to amend, suspend or cancel a registration or registration endorsement
91(3)(c)(i) or (d) or (4)	professional conduct review panel's decision to take particular disciplinary action

## Schedule 3      Dictionary

### section 6

***accredited entity*** means an entity accredited under section 41 for assessing a person's competency.

***appealable decision***, for part 9, means a decision mentioned in section 169.

***applicant*** means an applicant for—

- (a) registration as a surveyor, surveying graduate, surveying associate or emeritus surveyor; or
- (b) a registration endorsement.

***approved form*** means a form approved under section 191.

***attendance notice*** see section 108.

***board*** means the Surveyors Board of Queensland established under section 7.

***cadastral surveyor*** means a surveyor who holds a registration endorsement for carrying out cadastral surveys.

***chairperson*** means the chairperson of the board appointed under section 14.

***code of practice***, of the board, means the code of practice approved under section 81.

***column 1 registration***, for part 12, see section 200(1).

***column 2 registration***, for part 12, see section 200(2).

***competence equivalence*** see section 43.

***competency*** means the qualifications, skills, knowledge and experience for—

- (a) registration as a surveyor, surveying graduate or surveying associate; or
- (b) a registration endorsement.

***competency framework*** means a competency framework established under section 39.

## Schedule 3 (continued)

**consulting surveyor** means a surveyor who holds a registration endorsement for carrying on a business providing surveying services.

**corresponding law** means a law applying, or that applied, in another State, the Commonwealth or a foreign country that provides, or provided, for the competency of persons to carry out surveying or a type of survey.

**criminal history**, of a person, means the convictions recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this Act.

**disciplinary action** means any action a disciplinary body may take against a registrant or former registrant under section 86(2)(a), 91, 119 or 120.

**disciplinary body** means 1 of the following—

- (a) the board acting under section 86;
- (b) a professional conduct review panel;
- (c) a disciplinary committee.

**disciplinary committee** means a surveyors disciplinary committee.

**disciplinary condition**, of registration, means a condition imposed on the registration under section 119(2)(c) or 120(2)(b)(iii).

**disciplinary matter** means a matter that may provide a ground for taking disciplinary action against a registrant or former registrant.

**disciplinary proceedings** means proceedings about a disciplinary matter conducted by a disciplinary body under this Act.

**emeritus surveyor** means a person registered as an emeritus surveyor.

**executive officer**, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.



## Schedule 3 (continued)

**first composition**, of the board, means the first composition of the board, other than under section 199, after the commencement of section 12.

**former registrant** means a person who is not currently, registered under part 3 but who has previously been registered under part 3 or the repealed Act.

**hearing notice** see section 99.

**indictable offence**, in relation to a reference to that term as including an indictable offence dealt with summarily, includes an indictable offence dealt with summarily whether or not the Criminal Code, section 659 applies to the indictable offence.

**information notice**, about a decision, means a notice stating the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the recipient of the information notice may appeal against the decision to the District Court;
- (d) how the recipient may appeal.

**investigator** means a surveyor appointed as an investigator under section 130.

**member** means a board member.

**place of seizure** see section 149.

**profession** means the surveying profession.

**professional assessment project** see section 43.

**professional conduct**, of a registrant or former registrant, means 1 or more of the following relating to the registrant's or former registrant's conduct or practice—

- (a) the registrant's or former registrant's competency to carry out surveys;
- (b) the accuracy or other survey quality achieved by the registrant or former registrant for a survey, including, for example, a cadastral survey carried out under the supervision of the registrant or former registrant;

**Schedule 3 (continued)**

- (c) the registrant's or former registrant's compliance with any disciplinary conditions of the registration;
- (d) the registrant's or former registrant's compliance with—
  - (i) this Act or the repealed Act; or
  - (ii) the code of practice or any code of professional conduct compiled or adopted under the repealed Act; or
  - (iii) the *Survey and Mapping Infrastructure Act 2003*, including survey standards made under that Act; or
  - (iv) survey standards made under the repealed Act.

***professional conduct review panel*** see section 89(2)(b)(i).

***professional misconduct***, of a registrant or former registrant, means 1 or more of the following relating to the registrant's or former registrant's conduct or practice—

- (a) carrying out a survey without the relevant competency;
- (b) failing to achieve the level of accuracy or other survey quality prescribed under a regulation or required under another Act for a survey;
- (c) noncompliance with any disciplinary conditions of the registration;
- (d) noncompliance with—
  - (i) this Act or the repealed Act; or
  - (ii) the code of practice or any code of professional conduct compiled or adopted under the repealed Act; or
  - (iii) the *Survey and Mapping Infrastructure Act 2003*, including survey standards made under that Act; or
  - (iv) survey standards made under the repealed Act.

***professional training agreement*** see section 43.

***reasonably believes*** means believes on grounds that are reasonable in the circumstances.

## Schedule 3 (continued)

***reasonably considers*** means considers on grounds that are reasonable in the circumstances.

***reasonably suspects*** means suspects on grounds that are reasonable in the circumstances.

***register*** means a register kept under section 68.

***registered*** means registered under this Act.

***registrant***—

(a) means a person registered under part 3; and

(b) for parts 5 and 6, includes a former registrant.

***registration certificate*** means a certificate issued for a registration or registration endorsement under this Act.

***registration endorsement*** means an endorsement on a registrant's registration showing that the registrant has the relevant competency to carry out a particular type of survey or carry on a business providing surveying services.

***relevant competency***, for a registration or registration endorsement, means the competency required under a competency framework for the registration or registration endorsement.

***repealed Act*** means the repealed *Surveyors Act 1977*.

***surveying associate*** means a person registered as a surveying associate.

***surveying graduate*** means a person registered as a surveying graduate.

***surveying services*** means services relating to carrying out surveys.

***surveyor*** means a person registered as a surveyor.

***surveyors disciplinary committee*** means a surveyors disciplinary committee established under section 94.

***survey quality*** means the quality of the following—

(a) the way in which the survey is carried out, including the survey marks used;

**Schedule 3 (continued)**

- (b) the survey results, including the information collected and the accuracy level achieved;
- (c) the plan of survey.

***Uniform Civil Procedure Rules*** means the *Uniform Civil Procedure Rules 1999*.

## 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 1 July 2009. Future amendments of the Surveyors Act 2003 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**

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 August 2004	
1A	2004 Act No. 33	27 October 2004	
1B	—	2 January 2005	prov exp 1 January 2005
1C	2005 Act No. 68	6 February 2006	
1D	2007 Act No. 19	18 May 2007	R1D withdrawn, see R2 rv
2 rv	—	18 May 2007	Revision notice issued for R2
2A	2009 Act No. 9	1 July 2009	

## 5 List of legislation

### **Surveyors Act 2003 No. 70**

date of assent 22 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 2004 (2004 SL No. 127)

amending legislation—

### **Natural Resources Legislation Amendment Act 2004 No. 33 pts 1, 3**

date of assent 27 October 2004

commenced on date of assent

### **Natural Resources and Other Legislation Amendment Act 2005 No. 68 pt 1, s 150 sch**

date of assent 8 December 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 6 February 2006 (2006 SL No. 6)

### **Land and Other Legislation Amendment Act 2007 No. 19 pts 1, 7**

date of assent 23 April 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 18 May 2007 (2007 SL No. 88)

### **Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

### **Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 6 pt 8**

date of assent 26 June 2009

ss 1–2 commenced on date of assent  
 remaining provisions not yet proclaimed into force (see s 2)

## **6 List of annotations**

### **Disqualification from membership**

**s 16** amd 2004 No. 33 s 23

### **Matters to be included in annual report**

**s 33** amd 2009 No. 9 s 136 sch 1

### **Board is a statutory body under the Financial Accountability Act 2009**

**prov hdg** amd 2009 No. 9 s 136 sch 1

**s 34** amd 2009 No. 9 s 136 sch 1

### **Eligibility for registration or registration endorsement—individuals**

**s 36** amd 2004 No. 33 s 24

### **Eligibility for registration and registration endorsement—corporations**

**s 38** amd 2004 No. 22 s 25

### **Who may assess competency**

**s 43** amd 2004 No. 33 s 26

### **Application for competency assessment**

**s 44** amd 2004 No. 33 s 27

### **Additional requirements for application by corporation**

**s 46** amd 2004 No. 33 s 28

### **Amending, suspending or cancelling registration or registration endorsement**

**s 63** amd 2004 No. 33 s 29

### **Carrying out a cadastral survey**

**s 75** amd 2007 No. 19 s 213

### **Complaints about registrant’s professional conduct**

**s 85** amd 2004 No. 33 s 30

### **Board may make guidelines**

**s 188A** ins 2007 No. 19 s 214

### **References**

**s 194A** ins 2004 No. 33 s 31

### **Continuation of existing members’ membership**

**s 199** sub 2004 No. 33 s 32

### **PART 13—REPEAL**

**pt hdg** amd 2005 No. 68 s 150 sch

### **Existing code of professional conduct of surveyors**

**s 204** exp 1 January 2005 (see s 204(3))

**Other Acts amended**

s 206 om R1 (see RA s 40)

**SCHEDULE 2—CONSEQUENTIAL AND MINOR AMENDMENTS OF OTHER ACTS**

om R1 (see RA ss 7(1)(k) and 40)

**SCHEDULE 3—DICTIONARY**def “**competence equivalence**” ins 2004 No. 33 s 33(1)def “**former registrant**” ins 2004 No. 33 s 33(1)def “**information notice**” amd 2004 No. 33 s 33(2)–(3)def “**professional assessment project**” ins 2004 No. 33 s 33(1)def “**professional conduct**” amd 2004 No. 33 s 33(4)–(6); 2007 No. 19 s 215(1)–(2)def “**professional misconduct**” amd 2004 No. 33 s 33(7)–(9); 2007 No. 19 s 215(3)def “**professional training agreement**” ins 2004 No. 33 s 33(1)

## **7 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

**Form 01A Version 0809—Application for Registration as a Surveying Associate**  
pubd gaz 10 October 2008 p 705

**Form 01R Version 0809—2009 Application for Renewal of Registration as a Surveying Associate**  
pubd gaz 10 October 2008 p 705

**Form 02A Version 0809—Application for Registration as a Surveying Graduate**  
pubd gaz 10 October 2008 p 705

**Form 02R Version 0809—2009 Application for Renewal of Registration as a Surveying Graduate**  
pubd gaz 10 October 2008 p 705

**Form 03A Version 0809—Application for Registration as a Surveyor**  
pubd gaz 10 October 2008 p 705

**Form 03R Version 0809—2009 Application for Renewal of Registration as a Surveyor**  
pubd gaz 10 October 2008 p 705

**Form 04A Version 0809—Application for Registration as a Surveyor with an Endorsement**  
pubd gaz 10 October 2008 p 705



- Form 04R Version 0809—2009 Application for Renewal of Registration as a Surveyor with an Endorsement**  
pubd gaz 10 October 2008 p 705
- Form 05A Version 0809—Application for Reciprocal Registration as a Surveyor**  
pubd gaz 10 October 2008 p 705
- Form 06A Version 0809—Application for Registration by a Corporation as a Surveyor with a Consulting Endorsement**  
pubd gaz 10 October 2008 p 705
- Form 06R Version 0809—2009 Application for Renewal of Registration by a Corporation as a Surveyor**  
pubd gaz 10 October 2008 p 705
- Form 07A Version 0809—Application for Registration as an Emeritus Surveyor**  
pubd gaz 10 October 2008 p 705
- Form 07R Version 0809—2009 Application for Renewal of Registration as an Emeritus Surveyor**  
pubd gaz 10 October 2008 p 705
- Form 08A Version 0809—Application for a Consulting Endorsement by a Surveyor (Individual)**  
pubd gaz 10 October 2008 p 705
- Form 08R Version 0809—2009 Application for Renewal of Registration as a Consulting Surveyor (Individual)**  
pubd gaz 10 October 2008 p 705
- Form 09A Version 0809—Application for Competency Assessment**  
pubd gaz 10 October 2008 p 705
- Form 10A Version 0804—Application for Restoration to the Register**  
pubd gaz 4 July 2008 p 1312
- Form 16 Version 1—Application for a Professional Training Agreement Kit**  
pubd gaz 30 July 2004 p 951
- Form 17A Version 0809—Professional Assessment Project (PAP) Approval**  
pubd gaz 10 October 2008 p 705
- Form 18 Version 1—Notification for Change of Registrant Details**  
pubd gaz 30 July 2004 p 951
- Form 19 Version 1—Application for Replacement / Duplication Registration Certificate**  
pubd gaz 30 July 2004 p 951
- Form 20 Version 0809—Statement of Continuing Professional Development Activities 2009 Registration Year**  
pubd gaz 10 October 2008 p 705
- Form 21A Version 0804—Application for Letter of Accreditation**  
pubd gaz 4 July 2008 p 1312

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