



Surveyors Act 2003

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Queensland

Surveyors Act 2003

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Surveyors Act 2003

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 2003*.

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 QCAT;
- (j) 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) The board must consist of 9 individuals.
- (2) Subject to subsection (1), a regulation may require the board to consist of individuals with particular qualifications or experience or who hold a particular type of position.
- (3) The members must be appointed by the Governor in Council.
- (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.
- (7) If a vacancy occurs in the office of chairperson (the *vacating chairperson*) during the currency of the chairperson's term of appointment, another member of the board who is a cadastral surveyor may be appointed by the Minister to fill the vacancy.
- (8) A person's appointment under subsection (7) continues until the earlier of the following—
 - (a) the day the remainder of the vacating chairperson's term of appointment ends;
 - (b) the day the Governor in Council appoints a new chairperson under this section.

15 Term of appointment

- (1) Each member of the board is appointed for a term of not more than 3 years, stated in the member's instrument of appointment.
- (2) Despite subsection (1), a member continues holding office after the member's term of office ends until the member's successor is appointed.

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 had particular qualifications or experience, or held a particular type of

position, and the member stops having the qualifications or experience or holding a position of that type.

- (2) Subsection (1)(e) does not apply if, despite the member no longer having the qualifications or experience or holding a position of that type, the membership of the board still complies with section 12(2).
- (3) 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) If the vacating member had particular qualifications or experience, or held a particular type of position, required under section 12(2), the new member must have the same qualifications or experience or hold a position of the same type.

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) If the member has particular qualifications or experience, or holds a particular type of position, required under section 12(2), the person appointed must have the same qualifications or experience or hold a position of the same type.

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 a majority of the members at the time the meeting is held.

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 as having the relevant competency; and
 - (ii) either—
 - (A) takes out and maintains the insurance cover prescribed under a regulation; or
 - (B) is covered for the period of registration by insurance cover taken out and maintained by a corporation that is a consulting surveyor.
- (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 as having the relevant competency; and
 - (c) takes out and maintains the insurance cover prescribed under a regulation; and
 - (d) complies with subsection (3).
- (3) The corporation must employ or have as one of its executive officers—
 - (a) a surveyor who holds a registration endorsement as a consulting surveyor; and
 - (b) if the corporation requires an endorsement other than as a consulting surveyor—a surveyor who holds the registration endorsement required.

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; and

Editor's note—

The board's website on the internet is
<www.surveyorsboard.com.au>.

- (b) keep a copy of each competency framework and any document applied, adopted or incorporated by the framework available for inspection without charge, during normal business hours at the board's office; and

Editor's note—

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

- (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 relodging 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 be accompanied by satisfactory evidence that the applicant—
 - (a) has taken out and maintains the insurance cover prescribed under a regulation; or
 - (b) will be covered for the period of registration by insurance cover taken out and maintained by a corporation that is a consulting surveyor.
- (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) has taken out and maintains the insurance cover prescribed under a regulation.
- (2) An application for a registration endorsement for a corporation must also be accompanied by satisfactory evidence that—
 - (a) a surveyor employed by or an executive officer of the corporation holds a registration endorsement as a consulting surveyor; and
 - (b) if the application is for a registration endorsement other than an endorsement as a consulting surveyor—a surveyor employed by or an executive officer of 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.
- (3) The board need not give an applicant an information notice for a decision taken to have been made under this section.

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—

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- (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.
 - (3) The board need not give an applicant an information notice for a decision taken to have been made under this section.

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—

The board's office is at Kenlynn Centre, Unit 18, Level 4, 457 Upper Edward Street, Spring Hill.
 - (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 cadastral surveys

- (1) A person who is not a registrant must not carry out a cadastral survey.

Maximum penalty—100 penalty units.

- (2) A person who is a registrant must not carry out a cadastral survey if the person is not a cadastral surveyor.

Maximum penalty—100 penalty units.

- (3) However, a person does not commit an offence against subsection (2) if—

- (a) the person carries out the cadastral survey under the supervision of a cadastral surveyor; and
- (b) the level of supervision by the cadastral surveyor complies with a guideline mentioned in section 188A(2)(a).

- (4) In this section—

registrant does not include an emeritus surveyor.

76 Carrying on a business providing cadastral surveying services

- (1) A person who is not a consulting cadastral surveyor must not carry on a business providing services relating to carrying out cadastral surveys.

Maximum penalty—50 penalty units.

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

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—
- (a) registered on the register established and maintained under the *Business Names Registration Act 2011* (Cwlth), section 22; or
 - (b) held under the *Business Names Registration Act 2011* (Cwlth), section 54; or
 - (c) held under the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (Cwlth), schedule 1, item 5.

Note—

See also the *Business Names Registration Act 2011* (Cwlth), section 18 (Offence—carrying on a business under an unregistered business name).

- (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;

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- (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; and

Editor’s note—

The board’s website on the internet is <www.surveyorsboard.com.au>.

- (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 Kenlynn 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.
- (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) QCAT 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.

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- (5) A referral under subsection (2)(b)(ii) must be made as provided under the QCAT Act.

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.

Part 6 **Disciplinary proceedings by QCAT**

94 **Jurisdiction of QCAT**

QCAT has jurisdiction to hear and decide disciplinary proceedings referred by the board under section 89(2)(b)(ii).

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

- (1) In making a decision about whether a registrant has engaged in professional misconduct, QCAT 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 QCAT is aware.
- (2) Subsection (1) does not limit the matters QCAT 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 QCAT decides the registrant has engaged in professional misconduct, QCAT 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 QCAT 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 QCAT;
 - (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 QCAT 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 QCAT considers appropriate; or
 - (ii) to refrain from doing anything QCAT 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 QCAT decides the person has engaged in professional misconduct, QCAT 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 QCAT 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 QCAT states under subsection (2)(b)(ii) that if the person were currently registered it would have cancelled the person's registration, QCAT 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 QCAT must consider in making decision about disciplinary action

- (1) In making a decision under section 119 or 120, QCAT must have regard to—
 - (a) the purposes of this Act stated in section 3(1); and

- (b) any relevant previous decisions, of which QCAT is aware, about the registrant by another disciplinary body.
- (2) For having regard to a decision mentioned in subsection (1)(b), QCAT is entitled to access the decision and the reasons for it.
- (3) Subsection (1) does not limit the matters QCAT may consider in making its decision.

122 QCAT's power to order costs

- (1) QCAT may make any order about costs it considers appropriate for the disciplinary proceedings.
- (2) However, the costs allowable are only—
 - (a) the costs that are allowable under the QCAT Act; 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, QCAT—
 - (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.

124 Board may notify other persons

- (1) After QCAT makes a decision about disciplinary proceedings against the registrant, subject to an order made by QCAT, 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 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 QCAT’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.

127 Disciplinary action to be recorded in register

- (1) This section applies if QCAT decides the registrant has engaged in professional misconduct and decides to take disciplinary action against the registrant.
- (2) As soon as practicable after QCAT 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
 - (c) for a decision to cancel a registration or registration endorsement—
 - (i) the date it was cancelled; and
 - (ii) any conditions imposed by QCAT 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 an appropriately qualified person as an investigator.
- (2) However, the board may not appoint a member as an investigator.
- (3) 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 QCAT 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) if the investigator is a surveyor—carry out a survey;
 - (e) if the investigator is a surveyor—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 Review of decisions by QCAT

163 Who may apply for review

- (1) A person who is given, or is entitled to be given, an information notice for a decision under this Act may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

- (2) Also, a person whose application the board is taken, under section 53 or 58, to have decided to refuse to grant may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

Note—

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

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.

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.

188B Board may delegate functions to board members

- (1) The board may delegate a function of the board to—
 - (a) an appropriately qualified member; or
 - (b) an appropriately qualified employee of the board.
- (2) However, subsection (1) does not apply in relation to the following functions—
 - (a) the establishment of a competency framework;

- (b) the accreditation of an entity for assessing the competency of persons under the competency frameworks;
 - (c) deciding an application for registration as a surveyor, or registration endorsement, other than an application to which the *Mutual Recognition (Queensland) Act 1992* or the *Trans-Tasman Mutual Recognition (Queensland) Act 2003* applies;
 - (d) deciding to monitor a registrant's compliance with disciplinary conditions of registration;
 - (e) authorising an investigation;
 - (f) deciding to take disciplinary proceedings against a registrant;
 - (g) deciding to refer a disciplinary matter, for hearing, to a professional conduct review panel or QCAT.
- (3) In this section—
function includes a power.

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.

190A Particular searches free of charge

- (1) This section applies to each of the following persons—
 - (a) the board;
 - (b) a member;
 - (c) an employee of the board;
 - (d) an investigator;
 - (e) a person acting under the direction or authority of an investigator.
- (2) The person may conduct a search of the following without payment of a fee—
 - (a) a register under the *Land Act 1994*, section 275 or the *Land Title Act 1994*, section 7;
 - (b) a valuation roll under the *Land Valuation Act 2010*;
 - (c) a State dataset under the *Survey and Mapping Infrastructure Act 2003*.
- (3) However, the search must be conducted—
 - (a) for the purpose of administering this Act; and
 - (b) in accordance with the practice of the entity that holds the register, valuation roll or State dataset.
- (4) In this section—

search, of a register, valuation roll or State dataset, includes obtaining information from the register, valuation roll or State dataset.

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 and repeal provisions for Act No. 70 of 2003**

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.

[s 200]

(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

Column 1	Column 2
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

Column 1	Column 2
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
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).

Division 3 Repeal

205 Repeal of Surveyors Act 1977

The Surveyors Act 1977 is repealed.

Part 13 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2010

206 Definitions for pt 13

In this part—

commencement means the day this part commences.

207 Existing application for registration or renewal by corporation

- (1) This section applies—
 - (a) to an application made by a corporation for registration as a surveyor with a registration endorsement as a consulting surveyor; and
 - (b) if the application was made but not decided before the commencement.
- (2) For deciding the application, sections 38 and 46 as in force immediately before the commencement continue to apply as if the amendments of those sections under the *Natural Resources and Other Legislation Amendment Act 2010*, part 17 had not commenced.

208 Continuation of board members

- (1) Subsection (2) applies to an existing member of the board, if the member was appointed after 1 March 2010 but before the commencement.
- (2) On the commencement, the member is taken to be appointed as a member for a term ending on 1 March 2013.
- (3) Subsection (4) applies to an existing member of the board if, other than for the subsection, the member's appointment would end on 29 October 2010.
- (4) On the commencement, the member is taken to be appointed as a member for a term ending on 1 September 2011.
- (5) This section applies to an existing member despite section 15 as in force before or after the commencement.
- (6) In this section—

existing member means a member of the board holding office immediately before the commencement.

Part 14 Transitional provision for Natural Resources and Other Legislation Amendment Act 2019

209 Existing board members

- (1) A person who, immediately before the commencement, was a member continues to be a member until the person is taken to have vacated office under section 19.
- (2) Despite new section 12, the board is taken to be properly constituted during the transition period if it is constituted in accordance with former section 12.
- (3) In this section—

former, in relation to a provision of this Act, means as in force immediately before the commencement.

new, in relation to a provision of this Act, means as in force on the commencement.

transition period means the period starting on the commencement and ending 12 months after the commencement.

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 survey—

- (a) means a survey to identify a boundary of a particular area of land; but

Examples—

- a survey carried out to prepare a survey plan, that reinstates a boundary of an area of land, for lodgement in the land registry
- a survey that works out the location of a boundary of an area of land that does not have, or has incomplete, survey marks
- the placing of a mark to represent the location of a boundary of an area of land

- (b) does not include the depiction on a plan of the approximate location of a boundary if the plan states the location of the boundary is approximate.

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.

consulting cadastral surveyor means a consulting surveyor who is a cadastral surveyor.

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) QCAT.

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.

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 means a notice complying with the QCAT Act, section 157(2).

investigator means a person 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;
 - (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, including, for example, a cadastral survey carried out under the supervision of the registrant or former registrant;
- (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.

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*.

survey includes—

(a) a survey of artificial features on, above or below the earth's surface; and

(b) recording a survey mentioned in paragraph (a) on a plan.

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.

survey quality means the quality of the following—

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