

Surveyors Regulation 2024

Explanatory notes for SL 2024 No. 129

made under the

Surveyors Act 2003

General Outline

Short title

Surveyors Regulation 2024.

Authorising law

Section 192 of the *Surveyors Act 2003* (Surveyors Act)

Policy objectives and the reasons for them

The objectives of the *Surveyors Regulation 2024* (Surveyors Regulation) are to:

1. support operation of the Surveyors Act, by providing for administrative matters that empower the Surveyors Board of Queensland (Surveyors Board) to carry out its responsibilities under the Surveyors Act. These matters include the qualifications or experience required for membership of the Surveyors Board, the prescribed criteria for registration as an emeritus surveyor, the level of professional indemnity insurance cover required for registration endorsement as a consulting surveyor, the approved form for application for competency assessment, the particulars required for the register of surveyors and the schedule of prescribed fees under the Surveyors Act;
2. repeal and replace the *Surveyors Regulation 2014*;
3. make minor amendments to update the effectiveness and efficiency of the *Surveyors Regulation 2014*.

The purpose of the Surveyors Act is to protect the public by ensuring surveys are carried out by registrants in a professional and competent way, to uphold the standards and practice within the profession and maintain public confidence in the profession. This is done through a system of registration for surveyors administered by the Surveyors Board.

Although members of the Surveyors Board are appointed by the Governor in Council, the Surveyors Board is an independent body corporate which does not represent the State. The impact of this on the profession is effectively a level of co-regulation. Experienced members of the profession are appointed to decide on matters of

competency and professional conduct, and most of the Surveyors Board's operating costs are met by professional registration fees. The Surveyors Regulation supports the Surveyors Act by providing for a limited number of administrative matters that empower the Surveyors Board to carry out its responsibilities.

Section 54 of the *Statutory Instruments Act 1992* provides that subordinate legislation expires on 1 September first occurring after the 10th anniversary of the day of its making unless it is sooner repealed or expires. The *Surveyors Regulation 2014* came into effect in 2014 and is due to expire on 1 September 2024. The provisions carried forward by the Surveyors Regulation remain necessary for the continued and effective operation of the Surveyors Board under the Surveyors Act.

Achievement of policy objectives

The Surveyors Regulation achieves the policy objectives by replacing the expiring *Surveyors Regulation 2014* and continuing the existence of the provisions of this regulation without significant policy change. The Surveyors Regulation provides for a limited number of administrative matters, to empower the Surveyors Board to meet its responsibilities under the Surveyors Act.

A significant matter is the setting of fees for registration and registration endorsements. The registration fees enable the Surveyors Board to raise funding for their operations. Any other approach would leave the Surveyors Board without adequate funding to fulfil its responsibilities under the Surveyors Act, thereby limiting the effective implementation of the Surveyors Act.

Other matters prescribed by the Surveyors Regulation include setting the qualifications or experience required for membership of the Surveyors Board, the level of professional indemnity insurance cover required for registration endorsement as a consulting surveyor, the prescribed criteria for registration as an emeritus surveyor, the approved form for an application for competency assessment, and the particulars required for the register of surveyors.

Professional indemnity insurance is an important public protection measure, ensuring surveying clients are sufficiently protected in the event a consulting surveyor causes a fault or loss to them.

Setting the qualification and experience required of Surveyors Board members is another vital component of the regulation. Members who hold appropriate levels of experience are necessary for the Surveyors Board to uphold its regulatory responsibilities. These relate to competency assessment, registration, and disciplinary decisions regarding cadastral and mining surveyors.

The Surveyors Regulation will repeal and replace the *Surveyors Regulation 2014* while taking the opportunity to make minor amendments to update provisions relevant to current administrative requirements, and in line with contemporary legislative practice, to ensure the framework continues to operate efficiently.

The minor amendments include:

1. *Amendment of the qualifications and experience prescribed to be held for membership of the Surveyors Board.* The position of surveyor ‘directly involved in teaching surveying’ position is amended to ensure the Surveyors Board retains the right mix of experience and to improve sustainability of future appointments. This position is updated to become another cadastral surveyor.
2. *Updating the minimum level of professional indemnity insurance required for registration endorsement as a consulting surveyor.* The current value of \$1 million has not been adjusted since prior to the current framework was established in 2003. The surveying industry has called to increase the minimum value to \$2 million, comparable to inflation over this period.

Consistency with policy objectives of authorising law

The Surveyors Regulation is consistent with the main objectives of the Surveyors Act, which are to maintain public confidence in the surveying profession and uphold the standard of practice within the profession by ensuring that surveys are carried out by registrants in a competent and professional way. This is achieved through a system of registration of surveyors administered by the Surveyors Board.

The Surveyors Regulation assists in meeting the objectives of the Surveyors Act by ensuring that operational funding for the system of registration continues, and that persons appointed to the Surveyors Board have the relevant qualifications and experience required for the role.

Inconsistency with policy objectives of other legislation

The Surveyors Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

If the *Surveyors Regulation 2014* was to expire without replacement, the fees for registration and registration renewal would not be prescribed, the required competency and experience required for Surveyors Board membership would not be set, and there would be no minimum amount of professional indemnity insurance cover prescribed to be held by registrants.

Without the Surveyors Regulation, the administration of the Surveyors Act would be compromised as the Surveyors Board would not be able to raise the funding to fulfil its obligations under the Surveyors Act. Protection of the public interest would be compromised because of this, and because registrants may not take out adequate professional indemnity insurance cover.

The most feasible option is to remake the *Surveyors Regulation 2014* with minor amendments. The provisions of the *Surveyors Regulation 2014* have been operating successfully for the past ten years and have been updated over time. No drivers for substantial change to the Surveyors Act framework have been identified by the Department of Resources or key stakeholders. Remaking the *Surveyors Regulation*

2014 with minor amendments will ensure the communities continued confidence in the profession and the broader industry is maintained at the current high level.

Benefits and costs of implementation

The benefit of remaking the *Surveyors Regulation 2014* is that there will be no weakening of the registration system for surveyors and public confidence in the profession and broader industry will be maintained.

The risk of allowing the *Surveyors Regulation 2014* to expire without replacement would be a weakening of the registration system for surveyors, in turn leading to a decline of confidence in the profession and a decline in the quality of work carried out by surveyors. A drop in the standard of practice would result in an increase in land boundary disputes and a decline of confidence in our land titling system, upon which the Queensland economy is based. A drop in the standard of practice would affect the civil engineering and mining sectors as they too are dependent on the work of competent and professional surveyors.

In terms of cost, the Surveyors Board is autonomous and is largely self-funded through the collection of fees from registrants. Registrants do not see the fees as unreasonable and the system as operating now is seen as cost effective. Making the Surveyors Regulation supports operation of the Surveyors Act and will not impose additional costs on registrants, stakeholders, or government.

Consistency with fundamental legislative principles

The Surveyors Regulation is consistent with fundamental legislative principles. It complies with relevant requirements of section 4(5) of the *Legislative Standards Act 1992*.

Consultation

The key professional associations representing surveyors in Queensland have been consulted about the efficiency and effectiveness of the Surveyors Regulation, including the Surveyors Board, Surveyors Australia, and the Geospatial Council of Australia. The Department of Resources has engaged directly with the surveying industry via presentations at the Queensland (Brisbane) and North Queensland (Cairns) Spatial Conferences and via a 'Surveying Alert', a subscribed email list reaching approximately 750 practicing surveyors.

Surveyors were given the opportunity to comment about the effectiveness and efficiency of the regulatory model. The Surveyors Board and other relevant industry bodies support remake of the *Surveyors Regulation 2014* with the minor updates proposed. The Surveyors Board advised that the fee structure within the Surveyors Regulation remains suitable.

The Surveyors Board supported amendment of the qualification and experience of Surveyors Board members, as well as increasing the minimum level of insurance required for registration endorsement as a consulting surveyor. The prescribed

minimum value of \$1 million of professional indemnity insurance is no longer considered to provide an adequate baseline. The Surveyors Board proposed a figure of \$2 million as being sufficient minimum insurance cover for consulting surveyors.

The Surveyors Board wrote to the Minister for Resources and Critical Minerals regarding changes to the qualifications and experience prescribed for its members. Most of the Surveyors Board's regulatory activity of registration and disciplinary action relate to cadastral surveying. To provide suitable experience for the Surveyors Board and ensure sustainability of future appointment, it proposed to remove the requirements for a surveyor 'directly involved in teaching surveying', and instead provide for another cadastral surveyor. It remains open for the Surveyors Board to contract academic services and advice as required.

Surveyors Australia, and the Geospatial Council of Australia support the continued regulation of professional indemnity insurance as an important public protection criterion for consulting surveyors. There was consensus the minimum amount required to be held increase to \$2 million. The professional associations did not consider this increase would adversely impact members.