

# Surveyors Act 1978

**Version No. 030**

**Surveyors Act 1978**

**Act No. 9180/1978**

Version incorporating amendments as at 25 February 1999

## TABLE OF PROVISIONS

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An Act to consolidate and amend the Law relating to Surveyors, to make certain consequential Amendments to various Acts and for other purposes.

**BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):**

### **1. Short title and commencement**

- (1) This Act may be cited as the **Surveyors Act 1978**.
- (2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

*S. 1(3) repealed by No. 41/1987 s. 103 (Sch. 4 item 64.1).*

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### **2. Repeals and savings**

- (1) The Acts mentioned in the Schedule to the extent to which they are in that Schedule expressed to be amended or repealed are hereby amended or repealed accordingly.
- (2) Except as in this Act expressly or by necessary implication provided--

(a) all persons things and circumstances appointed or created by or under the amended or repealed Acts or existing or continuing under any of the amended or repealed Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if those Acts had not been so amended or repealed;

(b) in particular and without affecting the generality of paragraph (a), the amendment or repeal shall not disturb the continuity of status operation or effect of any regulation order appointment registration licence certificate survey arrangement report indenture cancellation suspension annulment proceeding approval notice appeal obligation liability or right made effected issued granted given entered into presented passed fixed accrued incurred or acquired or existing or continuing by or under any of those Acts before the commencement of this Act.

**3. Definitions** In this Act unless inconsistent with the context or subject-matter--

**"Board"** means the Surveyors Board established under this Act;

*S. 3 def. of "cadastral survey" amended by Nos 121/1986 s. 112, 53/1988 s. 45 (Sch. 2 item 77) (as amended by No. 47/1989 s. 12(4), 12/1989 s. 4 (Sch. 2 item 118.1).*

**"cadastral survey"** means any survey made for or in connexion with or for the purpose of making or obtaining any plan or survey data to be used for or in connexion with any dealing or matter--

(a) relating to the alienation of Crown lands;  
 (b) relating to or affecting title to any lands;  
 (c) relating to the determination re-establishment identification or adjustment of the boundaries of any lands;  
 or  
 (d) (without affecting the generality of paragraphs (a), (b) and (c)) under the **Land Act 1958**, the **Land Acquisition and Compensation Act 1986**, the **Local Government Act 1989**, the **Property Law Act 1958**, the **Transfer of Land Act 1958**, the **Strata Titles Act 1967**, the **Cluster Titles Act 1974**, the **Subdivision Act 1988** or any other Act or enactment relating to the alienation of Crown lands or to title to any lands;

**"Institution"** means The Institution of Surveyors Victoria incorporated pursuant to the **Companies Act 1890** as a company limited by guarantee; **"land"** includes all land (including submerged land) within the State whether alienated from the Crown or not;

**"letter of accreditation"** means a letter signed by the secretary and addressed to the Surveyors Board or other similar authority in any place outside Victoria stating that a person is, at the date of the letter, a registered surveyor or licensed surveyor, as the case may be;

**"licensed surveyor"** means a registered surveyor in relation to whom the register is endorsed under section 16 to the effect that he is authorized to perform cadastral surveys;

**"plan"** includes any plan sketch map aerial photograph or description made or obtained as part of a survey;

**"prescribed"** means prescribed by this Act or the regulations;

**"reciprocal country"** means any country, State or territory with which reciprocal arrangements for the purposes of this Act have been made by the Board which are for the time being in force;

**"register"** means the register of surveyors kept under this Act;

**"registered surveyor"** means a person who is registered under section 12;

**"regulations"** means regulations under this Act;

**"secretary"** means secretary to the Board; **"survey"** means the act or process of determining the form contour position area height depth or any other similar particulars with respect to any part of the earth's surface (whether land or water) or of any natural or artificial features on below or above any part of that surface, or the length or direction of the boundary lines of any part of that surface or of any such natural or artificial features and includes the making or obtaining of a plan thereof and the placing or locating of a survey peg or survey mark for the purposes thereof; and **"to survey"** and the derivatives thereof have a corresponding interpretation;

**"training agreement"** means any writing containing a contract or agreement for tuition in the practice of surveying made between a registered or licensed surveyor and a person seeking to qualify himself for registration under section 12 or for endorsement under section 16 of the register in relation to him, as the case may be.

## PART I--SURVEYORS BOARD

#### 4. Surveyors Board

(1) For the purposes of this Act there shall be a Board to be known as the Surveyors Board.  
 (2) The Board shall consist of six members of whom--

S. 4(2)(a) amended by No. 46/1998 s. 7(Sch. 1).

(a) one (who shall be the chairman) shall be the person for the time being holding pursuant to the **Public Sector Management and Employment Act 1998** the office of Surveyor-General;

S. 4(2)(b) amended by No. 46/1998 s. 7(Sch. 1).

(b) one (who shall be the deputy chairman) shall be the person for the time being holding pursuant to the **Public Sector Management and Employment Act 1998** the office of Surveyor and Chief Draughtsman in Land Registry in the Department of Natural Resources and Environment;

(c) one shall be a person appointed by the Governor in Council on the nomination of the Minister;

(d) two shall be licensed surveyors appointed by the Governor in Council from a panel of three names of licensed surveyors submitted to the Minister by the Committee of the Institution; and

(e) one shall be a licensed surveyor who is engaged in the teaching of surveying in a tertiary course approved by the Board and who is appointed by the Governor in Council on the nomination of the Minister.

(3) If the Minister in writing requests the Institution to submit to him a panel of names for an appointment under paragraph (d) of sub-section (2) and the Institution does not before the expiration of a period of one month after the receipt by it of the request submit that panel, the Governor in Council may without such submission appoint any otherwise eligible person to be a member of the Board.

(4) Subject to this Part, a member of the Board appointed by the Governor in Council shall hold office for a period of two years but shall be eligible for re-appointment if then qualified.

(5) The Governor in Council may at any time remove from office an appointed member of the Board.

(6) A member of the Board appointed by the Governor in Council may resign his office by writing signed by him and delivered to the Governor in Council.

(7) A member of the Board shall be entitled to receive from the revenues of the Board--

(a) such remuneration as is fixed from time to time by the Governor in Council; and  
 (b) subject to sub-section (8), such travelling and other allowances as are prescribed.

(8) A member of the Board shall not be entitled to receive from the revenues of the Board any travelling or other allowances in respect of a visit to a reciprocating country in connexion with the business of the Board unless such visit has been approved by the Minister prior to the departure of the member from Victoria.

(9) The persons constituting the Surveyors Board under the **Land Surveyors Act 1958** and holding office immediately before the commencement of this Act shall, subject to this Part, be entitled to continue in office and the Board shall be deemed to be the same Board after as before the said commencement.

No. 6288 s. 4(8)-(10A).

#### 5. Meetings and procedure of Board

(1) At any meeting of the Board the chairman (or, in the absence of the chairman, the deputy chairman, or, in the absence of both the chairman and the deputy chairman, such member as the members present appoint) shall preside, and in the event of an equality of votes the person presiding shall have a second or casting vote.

(2) A quorum of the Board shall consist of three members of the Board.

(3) The powers and functions of the Board may be exercised in accordance with a majority of the votes of the members present at any meeting.

(4) An act or decision of the Board shall not be invalid by reason only of a vacancy in the office of a member of the Board or a defect or irregularity in the appointment of a member of the Board.

(5) Subject to this Act and the regulations, the procedure of the Board shall be in its discretion.

No. 6288 s. 4(6)(7).

#### 6. Vacancies etc.

(1) If any member of the Board appointed by the Governor in Council--

- (a) is absent without permission of the Board from four consecutive meetings of the Board;
- (b) becomes bankrupt or his property becomes in any manner subject to control under the law relating to bankruptcy;
- (c) is convicted of an indictable offence;
- (d) becomes insane;
- (e) is removed from office or resigns his office; or
- (f) dies--

his office as a member of the Board shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(2) On the occurrence of an extraordinary vacancy the Governor in Council may appoint an eligible person to fill that vacancy.

(3) A person appointed to fill an extraordinary vacancy shall, subject to this Part, hold office for the remainder of the term for which his predecessor in office was appointed but on the expiration of that term shall be eligible for

re-appointment if then qualified.

*No. 6288 s. 4(12).*

*S. 7 substituted by No. 46/1998 s. 7(Sch. I).*

**7. Secretary to the Board** A secretary to the Board is to be employed under Part 3 of the **Public Sector Management and Employment Act 1998**.

*No. 6288 s. 5.*

## **8. Powers and functions of Board**

Subject to this Act, the powers and functions of the Board shall be--

(a) to prescribe degrees diplomas and other qualifications (whether conferred or obtained in Victoria or in any place outside Victoria) for the purpose of qualification of persons desiring to be registered under section 12 or to have the register endorsed in relation to them under section 16 to the effect that they are authorized to perform cadastral surveys;

(b) to prescribe--

- (i) courses of study in surveying; and
- (ii) courses of training in surveying (including training under training agreements approved and registered by the Board)--

for the purpose of qualification of such persons as are mentioned in paragraph (a);

(c) to hold examinations in surveying and to determine the places where and the times at which such examinations are to be held;

(d) to appoint any one or more persons (who may or may not be members of the Board) to be examiners for the purposes of examinations held by the Board and to prescribe the remuneration of such examiners;

(e) to issue certificates under this Act (including certificates of having passed any examinations held by the Board);

(f) to approve and record training agreements;

(g) to keep a book containing the prescribed particulars of training agreements approved under section 9 and to remove all particulars of such agreements from that book; (h) to issue letters of accreditation;

(i) to issue and cancel certificates of registration under this Act;

(j) to keep a register containing the names addresses qualifications and other prescribed particulars of persons admitted to the register pursuant to this Act and to publish a copy of such register and of any supplementary list;

- (k) to endorse the register in relation to any person to the effect that such person is authorized to perform cadastral surveys;
- (l) to cancel and suspend the registration of any person under section 12 or any endorsement of the register under section 16 in relation to any person and to revoke such cancellation or suspension;
- (m) to enter into and to give effect to reciprocal arrangements (not inconsistent with this Act) with the Surveyors Board or other similar authority in any place outside Victoria for or with respect to--
  - (i) securing uniformity in the education training and examination of persons in surveying; (ii) registering under section 12 or endorsing under section 16 the register in relation to persons who satisfy the Board that they are registered or licensed or otherwise authorized to practise surveying or cadastral surveying, as the case may be, in such place;
  - (iii) granting exemptions from any course of study or course of training in surveying required by this Act to be completed or examination in surveying required by this Act to be passed by persons desiring to be registered under section 12 or to have the register endorsed in relation to them under section 16 to the effect that they are authorized to perform cadastral surveys to any person who satisfies the Board that he has in such place completed a course of study or course of training in surveying of a similar standard to the course of study or course of training in surveying required by this Act to be completed by such persons or passed an examination in surveying of a similar standard to the examination in surveying required by this Act to be passed by such persons;
- (n) to take proceedings for offences against this Act or the regulations; and
- (o) generally to do any other act or thing or exercise any other power or perform any other duty necessary for carrying the provisions of this Act into effect.

No. 6288 s. 6.

## **9. Training agreements to be approved and recorded by Board**

- (1) The Board may, upon application made to it in the prescribed manner and upon payment of the prescribed fee, approve training agreements.
- (2) The secretary shall record in a book to be kept for the purpose the prescribed particulars of training agreements approved under sub-section (1).
- (3) Indentures of apprenticeship within the meaning of the **Land Surveyors Act 1958** which have been approved and registered by the Surveyors Board under that Act before the commencement of this Act and which are in force at that commencement shall be deemed for the purposes of this Act to be training agreements and to have been approved by the Board pursuant to the provisions of sub-section (1).
- (4) For the purposes of sub-section (3) indentures of apprenticeship within the meaning of the **Land Surveyors Act 1958** shall be deemed to be in force at the commencement of this Act if--
  - (a) the pupil is serving under such indentures at that date; or
  - (b) the pupil has at that date completed service under such indentures but has not been issued by the Surveyors Board under the **Land Surveyors Act 1958** with a certificate of competency in surveying pursuant to the provisions of that Act.
- (5) The Board may, where it is of the opinion that a training agreement approved under sub-section (1) is no longer in force, cause all particulars of that agreement to be removed from the book kept under sub-section (2).

## **10. Issue by Board of certificates of competency in surveying**

- (1) The Board shall issue a certificate of competency in surveying to any person who--
  - (a) holds a prescribed degree diploma or other qualification;
  - (b) has completed to the satisfaction of the Board the course of study and course of training in surveying required by this Act to be completed and has passed the examinations in surveying required by this Act to be passed by persons desiring to be registered under section 12; and
  - (c) has paid the prescribed fee for the issue of a certificate of competency in surveying.
- (2) Notwithstanding anything in sub-section (1), the Board may issue a certificate of competency in surveying

to any person who is not eligible to be issued with such a certificate by reason only that he does not hold a prescribed degree diploma or other qualification if he holds such a degree diploma or other qualification as is approved by the Board or has passed such examinations as are approved by the Board for the purposes of this sub-section.

(3) The Board may accept such evidence as is satisfactory to it that a person desiring to be registered under section 12 has in a reciprocating country completed a course of study or course of training in surveying of a similar standard to the course of study or course of training in surveying required by this Act to be completed by persons desiring to be so registered or passed examinations in surveying of a similar standard to the examinations in surveying required by this Act to be passed by such persons.

(4) Where the Board is satisfied that a person has in a reciprocating country completed such a course of study or course of training in surveying as is mentioned in sub-section (3) or passed such examinations in surveying as are mentioned in that sub-section, that person shall be deemed for the purposes of sub-section (1) to have completed to the satisfaction of the Board the course of study or course of training in surveying required by this Act to be completed by persons desiring to be registered under section 12 or to have passed the examinations in surveying required by this Act to be passed by such persons, as the case may be.

(5) The Board may, upon being satisfied that a certificate of competency in surveying issued under this section has been lost or destroyed, cause to be issued, upon payment of the prescribed fee, a duplicate certificate which shall be of the same force as the original certificate.

## **11. Issue by Board of certificates of competency in cadastral surveying**

(1) The Board shall issue a certificate of competency in cadastral surveying to any person who--

- (a) holds a certificate of competency in surveying issued by the Board;
- (b) has completed to the satisfaction of the Board the course of study and course of training in surveying required by this Act to be completed and has passed the examinations in surveying required by this Act to be passed by persons desiring to have the register endorsed in relation to them under section 16 to the effect that they are authorized to perform cadastral surveys; and
- (c) has paid the prescribed fee for the issue of a certificate of competency in cadastral surveying.

(2) The Board may accept such evidence as is satisfactory to it that a person desiring to have the register endorsed in relation to him under section 16 to the effect that he is authorized to perform cadastral surveys has in a reciprocating country completed a course of study or course of training in surveying of a similar standard to the course of study or course of training in surveying required by this Act to be completed by persons desiring to have the register so endorsed or passed examinations in surveying of a similar standard to the examinations in surveying required by this Act to be passed by such persons.

(3) Where the Board is satisfied that a person has in a reciprocating country completed such a course of study or course of training in surveying as is mentioned in sub-section (2) or passed such examinations in surveying as are mentioned in that sub-section, that person shall be deemed for the purposes of sub-section (1) to have completed to the satisfaction of the Board the course of study or course of training in surveying required by this Act to be completed by persons desiring to have the register endorsed in relation to them under section 16 or to have passed the examinations in surveying required by this Act to be passed by such persons, as the case may be.

(4) The Board may, upon being satisfied that a certificate of competency in cadastral surveying issued under this section has been lost or destroyed, cause to be issued, upon payment of the prescribed fee, a duplicate certificate which shall be of the same force as the original certificate.

## **PART II--REGISTRATION OF SURVEYORS**

### **12. Application for registration**

(1) A person may apply to the Board to be registered as a surveyor under this section.

(2) The Board shall register an applicant if it is satisfied that the applicant--

- (a) holds a certificate of competency in surveying issued by the Board;
- (b) is of good character and is a fit and proper person to be so registered; and
- (c) has paid the prescribed fee for registration under this section.

(3) Notwithstanding anything in sub-section (2), the Board may register under this section an applicant who is not qualified to be registered under this section by reason only that he does not hold a certificate of competency in surveying issued by the Board if it is satisfied that the applicant--

- (a) is registered or licensed or otherwise authorized to practise surveying in a reciprocating country; or
- (b) is otherwise qualified as prescribed.

### **13. Issue by Board of certificates of registration**

(1) The Board shall, upon payment of the prescribed fee, issue to any person registered under section 12 a certificate of registration signed at a meeting of the Board by all the members of the Board present at such meeting.

(2) The Board may, upon being satisfied that a certificate of registration issued under sub-section (1) has been lost or destroyed, cause to be issued, upon payment of the prescribed fee, a duplicate certificate which shall be of the same force as the original certificate.

*No. 6288 s. 11(1)(6).*

### **14. Register of surveyors**

(1) The Board shall keep a register of surveyors to be called the Register of Surveyors which shall be in the prescribed form and contain the prescribed particulars of persons registered under section 12.

(2) Any person who immediately before the commencement of this Act was a licensed surveyor within the meaning of the **Land Surveyors Act 1958** shall be deemed to be registered under section 12.

(3) Where immediately before the commencement of this Act an order of suspension made by the Surveyors Board under section 12 of the **Land Surveyors Act 1958** was in force in respect of any person to whom a licence had been granted under that Act or issued under any corresponding previous enactment, such person shall, on the expiration of the period of suspension specified in that order, be deemed to be registered under section 12.

(4) A certificate purporting to be signed by the secretary stating that a person is or is not or was or was not registered under section 12 shall be *prima facie* evidence of the facts stated in the certificate.

*No. 6288 s. 11(2)-(5).*

### **15. Publication of register**

(1) The Board shall in the month of January next following the commencement of this Act and may in the month of January in any subsequent year cause a copy of the register as at the preceding 31st December to be published in the Government Gazette.

(2) In each year in which a copy of the register is not published under sub-section (1) the Board shall, in the month of January, cause to be published in the Government Gazette a supplementary list showing all alterations additions revisions endorsements and removals made in the register during the period of twelve months ended on the preceding 31st December.

(3) Each supplementary list published under sub-section (2) shall be deemed to be part of the last published copy of the register and that copy shall be read and construed as subject to that list.

(4) A copy of the register or of a supplementary list published under this section shall be *prima facie* evidence of the facts stated in the register or list so published and the absence of the name of a person from such a register or list shall be *prima facie* evidence that the person is not or was not registered under section 12, as the case may be, and the absence from such a register or list of any indication that the register had been endorsed under section 16 in relation to any person mentioned in that register or list to the effect that such person is authorized to perform cadastral surveys shall be *prima facie* evidence that the person is not or was not a licensed surveyor, as the case may be.

### **16. Licensed surveyors**

(1) A person registered under section 12 or an applicant for registration under that section may apply to the Board to have the register endorsed in relation to him to the effect that he is authorized to perform cadastral surveys.

(2) The Board shall endorse the register in relation to an applicant under sub-section (1) to the effect that he is

authorized to perform cadastral surveys if it is satisfied that the applicant--

- (a) holds a certificate of competency in cadastral surveying issued by the Board;
- (b) is a fit and proper person to have the register so endorsed in relation to him; and
- (c) has paid the prescribed fee for endorsement of the register under this section.

(3) Notwithstanding anything in sub-section (2), the Board may endorse the register under this section in relation to any person who is not qualified to have the register so endorsed in relation to him by reason only that he does not hold a certificate of competency in cadastral surveying issued by the Board if it is satisfied that the applicant--

- (a) is registered or licensed or otherwise authorized to perform cadastral surveys in a reciprocating country; or (b) is otherwise qualified as prescribed.

(4) Any person who by virtue of section 14(2) or (3) is deemed to be registered under section 12 shall in addition be deemed to have the register endorsed in relation to him to the effect that he is authorized to perform cadastral surveys.

(5) Where the Board endorses under this section the register in relation to any person to the effect that he is authorized to perform cadastral surveys the Board shall endorse to the same effect the certificate of registration issued to that person under section 13(1).

(6) A certificate purporting to be signed by the secretary stating that a person is or is not or was or was not a licensed surveyor shall be *prima facie* evidence of the facts stated in the certificate.

*No. 6288 s. 10.*

**17. Issue by Board of letters of accreditation** The Board may, upon application made to it and upon payment of the prescribed fee, issue a letter of accreditation in respect of any registered surveyor or licensed surveyor for the purpose of an application by such registered surveyor or licensed surveyor to be registered or licensed or otherwise authorized to perform surveys or cadastral surveys, as the case may be, in any place outside Victoria.

*No. 6288 s. 12(1)-(4)(8).*

#### **18. Cancellation or suspension of registration or endorsement on registration**

(1) Subject to sub-sections (3) to (14), the Board may, by order, cancel or suspend the registration of any person under section 12 if the Board is satisfied that he--

- (a) obtained his registration by fraud misrepresentation or concealment of facts;
- (b) has in Victoria, after the date of his registration, been convicted of an indictable offence or has elsewhere after that date been convicted of an offence which if committed in Victoria would have been an indictable offence;
- (c) has been convicted of an offence against this Act or the regulations or any corresponding previous enactment or regulations made thereunder;
- (d) has had his registration or licence or other authorization to practise surveying in any place outside Victoria cancelled or suspended for any reason other than the failure of that person to renew such registration licence or other authorization;
- (e) has certified to the accuracy of any survey or plan which was not made by himself or under his immediate direction and supervision or which he knew to be inaccurate or the accuracy of which he had not taken reasonable precautions to verify;
- (f) has wilfully or by culpable negligence or through incompetence made or had made under his direction and supervision any survey or plan which is so inaccurate or defective as to be unreliable;
- (g) has knowingly certified to the accuracy of any survey or plan made by him or under his direction and supervision in relation to which the requirements of this Act or the regulations or of any other Act or regulation relating to surveys had not been complied with;
- (h) has supplied any erroneous information with respect to any survey or plan knowing that information to be erroneous in any material particular; (i) has wilfully or by culpable negligence or through incompetence habitually made inaccurate or defective surveys or plans;
- (j) has (being a person who by virtue of section 14(2) or (3) is deemed to be registered under section 12) before the commencement of this Act been guilty of such conduct as is mentioned in paragraph (e), (f),

(g), (h) or (i) of section 12(1) of the **Land Surveyors Act 1958**; or  
(k) has (being a person who by virtue of section 14(2) or (3) is deemed to be registered under section 12) after the date of his registration under the **Land Surveyors Act 1958** but before the commencement of this Act been convicted of such an offence as is mentioned in paragraph (a) of section 12(1) of the **Land Surveyors Act 1958**.

(2) Subject to sub-sections (3) to (14), the Board may, by order, cancel or suspend the endorsement of the register under section 16 in relation to any person if the Board is satisfied that he--

(a) obtained that endorsement by fraud or misrepresentation or concealment of facts;  
(b) has had his registration or licence or other authorization to perform cadastral surveys in any place outside Victoria cancelled or suspended for any reason other than the failure of that person to renew such registration licence or other authorization;  
(c) has (being a person who by virtue of section 14(2) or (3) is deemed to be registered under section 12) before the commencement of this Act been guilty of such conduct as is mentioned in paragraph (c) of section 12(1) of the **Land Surveyors Act 1958**; or (d) is a person who by virtue of section 14(2) or (3) is deemed to be registered under section 12 and in respect of whom the Surveyors Board or other similar authority in any reciprocating State within the meaning of the **Land Surveyors Act 1958** has before the commencement of this Act taken such an action as is mentioned in paragraph (d) of section 12(1) of the **Land Surveyors Act 1958**.

(3) The Board shall not cancel or suspend the registration of any person under sub-section (1) or the endorsement of the register in relation to any person under sub-section (2) unless--

(a) it has sent to such person by registered post notice in writing of the intention of the Board to inquire into the matter and of the place and time of the inquiry (not being earlier than one month after the date of the notice) and of the grounds for the proposed cancellation or suspension; and  
(b) it has afforded the person a reasonable opportunity of giving an explanation personally or in writing.

*S. 18(4) amended by No. 35/1996 s. 453(Sch. 1 item 81).*

(4) Where notice has been given to any person under sub-section (3) the Board shall hold an inquiry into the matter and such person shall be entitled to appear at the inquiry and be heard either personally or by a legal practitioner or by any other person approved by the Board but if such person does not appear at the time specified in the notice the Board may proceed with the inquiry in his absence. (5) The suspension of the registration of any person under sub-section (1) or of the endorsement of the register in relation to any person under sub-section (2) shall have effect for such period not exceeding three years as the Board determines when suspending the registration or endorsement, as the case may be.

(6) Where the Board makes an order under this section cancelling or suspending the registration of any person under section 12 or the endorsement of the register under section 16 in relation to any person it may further order that person to pay the expenses incurred in investigating the matter and the costs of the inquiry.

(7) Where the Board after holding an inquiry is satisfied that the person in respect of whom the inquiry was held has been guilty of such conduct as is mentioned in sub-section (1) or (2), as the case may be, but that the gravity of that conduct does not warrant the making of an order cancelling or suspending the registration of that person under section 12 or the endorsement of the register under section 16 in relation to that person the Board may reprimand him and order him to pay within such period as the Board specifies the expenses incurred in investigating the matter and the costs of the inquiry.

(8) Where the Board pursuant to sub-section (7) orders any person to pay the expenses incurred in investigating any matter and the costs of any inquiry and that person does not pay such expenses and costs within the period specified by the Board the Board may, by order, suspend the registration of that person under section 12 or the endorsement of the register under section 16 in relation to that person, as the case may be, until that person pays such expenses and costs. (9) Notwithstanding anything in this section the Board may, where after holding an inquiry it is satisfied that the person in respect of whom the inquiry was held has been guilty of such conduct as is mentioned in paragraph (e), (f), (g), (h), (i) or (j) of sub-section (1), either in addition to or in lieu of any other order under this section, order him to pay within such period as the Board specifies the costs (if any) incurred in the correction of the inaccurate or defective survey or plan.

(10) Where the Board makes an order under this section suspending the registration of any person under section 12 or the endorsement of the register under section 16 in relation to any person--

(a) the suspension shall be recorded in the register; and  
(b) the person shall, during the period of the suspension, be deemed for the purposes of this Act not to be a registered surveyor or licensed surveyor, as the case may be.

(11) The Board may at any time revoke an order made under this section cancelling or suspending the registration of any person under section 12 or the endorsement of the register under section 16 in relation to any person.

(12) Where the Board makes an order under this section in respect of any person it shall send to such person by registered post notice in writing of the making of the order.

(13) Where the Board makes an order under this section cancelling or suspending the registration of any person under section 12 or the endorsement of the register under section 16 in relation to any person it shall send to the Surveyors Board or other similar authority in every reciprocating country notice in writing of the making of the order.

*S. 18(14) amended by No. 57/1989 s. 3 (Sch. item 193).*

(14) All costs or expenses ordered to be paid under this section may be recovered before the Magistrates' Court as a civil debt recoverable summarily or in any court of competent jurisdiction.

*No. 6288 s. 12(7).*

**19. Power of Board in conducting inquiries** The Board shall for the purpose of conducting any inquiry authorized to be held under section 18 have all the powers conferred by sections 14, 15, 16, 20 and 20A of the **Evidence Act 1958** and by any rules or orders made under section 20(4) of that Act upon a board appointed by the Governor in Council.

*No. 6288 s. 12(5)(6).*

## **20. Appeal**

*S. 20(1) amended by No. 19/1989 s. 16 (Sch. item 52.1).*

(1) Any person who feels aggrieved by an order of the Board under section 18 cancelling or suspending his registration under section 12 or the endorsement of the register under section 16 in relation to him may appeal to the County Court within three months after receiving notification of the cancellation or suspension, as the case may be.

*S. 20(2) substituted by No. 19/1989 s. 16 (Sch. item 52.2).*

(2) The decision of the County Court on an appeal under sub-section (1) is final and without appeal.

## **21. Return of certificates**

(1) Where the Board makes an order under section 18 cancelling the registration of any person under section 12 or the endorsement of the register under section 16 in relation to any person, the person in respect of whom the order is made shall, within fourteen days after receiving notification of the cancellation, surrender to the Board all certificates issued to him under this Act in relation to that registration or endorsement, as the case may be.

(2) A person who, without reasonable excuse, fails to comply with sub-section (1), shall be guilty of an offence.

Penalty: \$500.

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## **PART III--GENERAL**

**22. Offences by unregistered persons** A person who, not being a registered surveyor, assumes takes or uses (either alone or in conjunction with any other word or words or letters) the name or title of "registered surveyor" or the letters "R.S." or any other name title letters or description implying or that may reasonably be understood to imply

that the person is a registered surveyor shall be guilty of an offence and liable to a penalty of not more than \$1000 and in the case of a continuing offence to a daily penalty of not more than \$100 for each day the offence continues after conviction.

No. 6288 s. 13(1).

### **23. *Offences by unlicensed persons***

A person (whether employed in the public service or not) who--

- (a) not being a licensed surveyor, assumes takes or uses (either alone or in conjunction with any other word or words or letters) the name or title of "licensed surveyor" or the letters "L.S." or any other name title letters or description implying or that may reasonably be understood to imply that the person is a licensed surveyor;
- (b) not being a licensed surveyor, certifies to the accuracy of any cadastral survey or signs or initials any plan purporting to be the plan of a cadastral survey;
- (c) not being a licensed surveyor or a person acting under the direction and supervision of a licensed surveyor, makes or undertakes to make any cadastral survey or carries out any work in connexion with or undertakes to carry out any work in connexion with any cadastral survey or places in position in relation to any land any peg or other mark that may reasonably be taken for a survey peg or survey mark placed by or under the direction of a licensed surveyor for the purposes of a cadastral survey; or
- (d) not being a licensed surveyor, takes or demands a fee or reward for the making of a cadastral survey--

shall be guilty of an offence and liable to a penalty of not more than \$1000 and in the case of a continuing offence to a daily penalty of not more than \$100 for each day the offence continues after conviction.

### **24. *Offences by firms and corporations***

(1) Where a firm or corporation other than--

(a) a firm--

- (i) of which at least one member is a licensed surveyor whose sole or principal employment is in the service of the firm; and
- (ii) of which not less than one-half of the total number of members are licensed surveyors or are members of or eligible to be members of professional institutions representing surveyors, engineers, town planners, architects or cartographers or of such other professional institutions as are specified by the Board with the approval of the Minister and the members who are licensed surveyors or members of or eligible to be members of such institutions are beneficially entitled to not less than two-thirds of the capital assets and profits of the firm; or

(b) a corporation--

- (i) of which at least one director is a licensed surveyor whose sole or principal employment is in the service of the corporation;
- (ii) of which not less than one-half of the total number of directors are licensed surveyors or are members of or eligible to be members of such professional institutions as are mentioned in sub-paragraph (ii) of paragraph (a); and (iii) in which one or more shareholders are licensed surveyors or are members of or eligible to be members of such professional institutions as are mentioned in sub-paragraph (ii) of paragraph (a) and the shareholders who are licensed surveyors or members of or eligible to be members of such institutions are the beneficial owners of not less than two-thirds of the total issued share capital of the corporation and are entitled to exercise not less than two-thirds of the voting power of the corporation--

at any time more than two years after the commencement of this Act--

- (i) carries on either as the whole or as part of its business the practice of cadastral surveying or in any way holds itself out as carrying on or being entitled to carry on the practice of cadastral surveying; or
- (ii) takes or demands a fee or reward for the making of a cadastral survey--

every member of the firm or every director of the corporation, as the case may be, shall be guilty of an offence and liable to a penalty of not more than \$1000 and in the case of a continuing offence to a daily penalty of not more than \$100 for each day the offence continues after conviction.

(2) Sub-section (1) shall not apply to any public statutory body.

(3) Where a member of a firm which carries on either as the whole or as part of its business the practice of cadastral surveying ceases to be a member and, by reason of his so ceasing, any person would be liable to commit an offence against sub-section (1), that sub-section shall not apply to or in relation to anything done by the remaining members of the firm for the purpose of continuing the practice during a period of three months or such longer period as the Board approves in any particular case after the member ceases to be a member of the firm. (4) Where a director of, or a shareholder in, a corporation which carries on either as the whole or as part of its business the practice of cadastral surveying ceases to be a director or shareholder (as the case may be) and, by reason of his so ceasing, any person would be liable to commit an offence against sub-section (1), that sub-section shall not apply to or in relation to anything done by the corporation for the purpose of continuing the practice during a period of three months or such longer period as the Board approves in any particular case after the director or shareholder (as the case may be) ceases to be a director or shareholder.

*No. 6288 s. 13(2).*

**25. Interference with survey pegs and survey marks** A person who, without reasonable excuse, interferes with a survey peg or survey mark placed in position by or under the direction of a registered surveyor or licensed surveyor shall be guilty of an offence and liable to a penalty of not more than \$200 and upon a conviction for any such offence the court may, in addition to any penalty imposed, order the payment of a reasonable amount of damages (including any expenses incurred in replacing or re-establishing such survey peg or survey mark) to the registered surveyor or licensed surveyor concerned or to his employer (as the case requires).

*No. 6288 s. 14.*

**26. Powers of surveyors etc. in making surveys**

(1) When necessary for the purposes of any survey any person to whom this section applies may at any reasonable time and after giving as reasonable a notice as practicable of his intention to the occupier of any land--

- (a) enter that land; and
- (b) do upon such land all such acts (including the placing of any survey peg or survey mark) as are necessary for the purposes of the survey.

(2) Any person to whom this section applies shall be liable for damage caused by him in the exercise of his powers under sub-section (1) but shall not be liable for trespass in the exercise of such powers.

(3) This section applies to--

- (a) any licensed surveyor; and
- (b) any person acting under the direction and supervision of a licensed surveyor.

*No. 6288 s. 13(3).*

**27. Obstruction of surveyors etc.** A person who wilfully obstructs--

- (a) a registered surveyor; or
- (b) any person acting under the direction of a registered surveyor--

in carrying out his professional work or in exercising any powers conferred by this Act or any other Act shall be guilty of an offence.

Penalty: \$200.

*No. 6288 s. 15(1)(2).*

## 28. Financial

(1) Fees penalties and other sums paid or recovered under this Act shall be paid to the Board.  
(2) The Board shall apply fees penalties and other sums paid to it to the general expenses of the Board (including the payment of such remuneration and travelling and other allowances as the members of the Board are entitled to receive and such remuneration as examiners appointed by the Board are entitled to receive under this Act).

*S. 28(3)-(5) repealed by No. 31/1994 s. 4(Sch. 2 item 86).*

\* \* \* \* \*

*S. 29 repealed by No. 31/1994 s. 4(Sch. 2 item 86).*

\* \* \* \* \*

## 30. Proceedings

Proceedings under this Act may be taken by a person authorized by the Board either generally or in any particular case and in proceedings proof shall not, in the absence of evidence to the contrary, be required of the giving of that authority.

*No. 6288 s. 17.*

*S. 31 amended by Nos 10087 s. 3(1)(Sch. 1 item 251), 41/1987 s. 103 (Sch. 4 item 64.2), 46/1998 s. 7(Sch. 1).*

**31. Holders of certain offices to be licensed surveyors** A person shall not be eligible to hold pursuant to the **Public Sector Management and Employment Act 1998** the office of Surveyor-General or the office of Surveyor and Chief Draughtsman in the Land Registry in the Department of Natural Resources and Environment unless he is a licensed surveyor.

*No. 6288 s. 18.*

## 32. Surveying handbook

*S. 32(1) amended by No. 53/1988 s. 45(Sch. 2 item 78) (as amended by No. 47/1989 s. 22(f)).*

(1) The Board may from time to time cause to be prepared and published a handbook containing all Acts and regulations relating to surveying or subdivision of land, standards and content for plans and documents under the **Subdivision Act 1988** and such other information and matter relating to surveying generally as the Board may consider to be of value to registered surveyors.  
(2) The Board may sell any handbook published under sub-section (1) at such price as it thinks fit.

*No. 6288 s. 16.*

## 33. Regulations

The Board may, with the approval of the Governor in Council, make regulations for or with respect to--

- (a) regulating its own procedure;
- (b) prescribing degrees diplomas and other qualifications (whether conferred or obtained in Victoria or in any place outside Victoria) for the purpose of qualification of persons desiring to be registered under section 12 or to have the register endorsed in relation to them under section 16 to the effect that they are authorized to perform cadastral surveys;
- (c) prescribing--
  - (i) courses of study in surveying; and
  - (ii) courses of training in surveying (including training under training agreements approved by the Board)--

for the purpose of qualification of such persons as are mentioned in paragraph (b);

(d) regulating and supervising the conduct of examinations, prescribing the standard of examinations and prescribing the remuneration of examiners;

(e) prescribing the fees to be paid for--

- (i) examinations;
- (ii) registration under section 12;
- (iii) endorsement of the register under section 16;
- (iv) the issue of letters of accreditation under this Act;
- (v) the issue of certificates (including duplicate certificates) under this Act; and
- (vi) approval of training agreements under section 9;

(f) prescribing the form of the register and the entries to be made therein and the particulars to be contained therein; (g) regulating the recording of training agreements under section 9;

(h) prescribing the particulars to be recorded in the book of training agreements kept under section 9(2);

(i) securing the establishment and providing for the maintenance of survey marks;

(j) prescribing the fees that registered surveyors and licensed surveyors may charge for the making of surveys (other than surveys for which fees are fixed by or under any other Act);

(k) prescribing the particulars to be included in notices given under this Act;

(l) prescribing forms for the purposes of this Act;

(m) prescribing the form of certificate that every plan of, field notes of and extract of field notes of, a cadastral survey made by a licensed surveyor shall bear;

(n) prescribing the form of certificate that every plan of, field notes of and extract of field notes of, a survey made by a registered surveyor shall bear;

(o) requiring field notes and an extract of field notes to be prepared by a registered surveyor or licensed surveyor for the purposes of any survey or cadastral survey, as the case may be, made by him and prescribing the form of such field notes and extract of field notes; (p) imposing penalties of not more than \$1000 for any contravention of or failure to comply with the regulations;

(q) generally regulating and controlling--

- (i) the making of surveys by registered surveyors and licensed surveyors and the making of cadastral surveys;
- (ii) advertising by registered surveyors and licensed surveyors in relation to the practice of surveying; and
- (iii) the conduct of registered surveyors and licensed surveyors in connexion with the practice of surveying; and

(r) any matter or thing authorized or permitted to be prescribed or necessary to be prescribed for carrying this Act into effect.

**34. Disallowance of Regulations** In addition to and without in any way derogating from the provisions of the **Subordinate Legislation Act 1962** if either House of Parliament considers that any fee prescribed in a regulation made pursuant to paragraph (j) of section 33 is excessive it may pass a resolution in accordance with the requirements of sub-sections (2) and (2A) of section 6 of the **Subordinate Legislation Act 1962** disallowing such regulation and the regulation shall be disallowed if each House of Parliament passes a resolution accordingly.

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S. 2(1).

*Sch. amended by No. 53/1988 s. 45(Sch. 3 item 76) (as amended by No. 47/1989 s. 23).*

## SCHEDE

<b>Number of Act</b>	<b>Title of Act</b>	<b>Extent of Amendment or Repeal</b>

6288	<b>Land Surveyors Act 1958</b>	So much as has not already been repealed shall be repealed.
6299	<b>Local Government Act 1958</b>	In section 536(6) in the interpretation of "Licensed surveyor" for the expression " <b>Land Surveyors Act 1958</b> " there shall be substituted the expression " <b>Surveyors Act 1978</b> ".
6388	<b>Survey Coordination Act 1958</b>	<p>In section 3--</p> <p>(i) in the interpretation of "Licensed surveyor" for the expression "<b>Land Surveyors Act 1958</b>" there shall be substituted the expression "<b>Surveyors Act 1978</b>"; and</p>
		(ii) in the interpretation of "Surveyors Board" for the expression " <b>Land Surveyors Act 1958</b> " there shall be substituted the expression " <b>Surveyors Act 1978</b> ".
		In section 6(3) for the expression " <b>Land Surveyors Act 1958</b> " there shall be substituted the expression " <b>Surveyors Act 1978</b> ".
		In section 22(1)(g) for the expression " <b>Land Surveyors Act 1958</b> " there shall be substituted the expression " <b>Surveyors Act 1978</b> ".

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
6399	<b>Transfer of Land Act 1958</b>	<p>In section 4(1)--</p> <p>(i) in the interpretation of "Licensed surveyor" for the expression "<b>Land Surveyors Act 1958</b>" there shall be substituted the expression "<b>Surveyors Act 1978</b>"; and</p>
		(ii) in the interpretation of "Survey" for the expression " <b>Land Surveyors Act 1958</b> " there shall be substituted the expression " <b>Surveyors Act 1978</b> ".
		In section 95(2) for the expression " <b>Land Surveyors Act 1958</b> " there shall be substituted the expression " <b>Surveyors Act 1978</b> ".
7065	<b>Statute Law Revision Act 1963</b>	In the Schedule the item referring to the <b>Land Surveyors Act 1958</b> shall be repealed.
	<b>Land Surveyors</b>	

8990	<b>(Surveyors Board) Act 1977</b>	The whole shall be repealed.
9019	<b>Statute Law Revision Act 1977</b>	Items 106 and 107 in the Schedule shall be repealed.

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**NOTES**

**1. General Information** The **Surveyors Act 1978** was assented to on 21 November 1978 and came into operation on 1 December 1980: Government Gazette 5 November 1980 page 3901.

**Table of Amendments** This Version incorporates amendments made to the **Surveyors Act 1978** by the following Acts and subordinate instruments.

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**Statute Law Revision Act 1984, No. 10087/1984**

*Assent Date:* 22.5.84

*Commencement Date:* 22.5.84: subject to s. 3(2)

*Current State:* All of Act in operation

**Land Acquisition and Compensation Act 1986, No. 121/1986**

*Assent Date:* 23.12.86

*Commencement Date:* 29.11.87: Government Gazette 25.11.87 p. 3224

*Current State:* All of Act in operation

**Conservation, Forests and Lands Act 1987, No. 41/1987**

*Assent Date:* 19.5.87

*Commencement Date:* S. 103(Sch. 4 items 64.1, 64.2) on 1.7.87: Government Gazette 24.6.87 p. 1694

*Current State:* This information relates only to the provision/s amending the **Surveyors Act 1978**

**Subdivision Act 1988, No. 53/1988**

*Assent Date:* 31.5.88

*Commencement Date:* 30.10.89: Government Gazette 4.10.89 p. 2532

*Current State:* All of Act in operation

### **Local Government (Consequential Provisions) Act 1989, No. 12/1989**

*Assent Date:* 9.5.89

*Commencement Date:* S. 4(1)(Sch. 2 item 118.1) on 1.11.89: Government Gazette 1.11.89 p. 2798

*Current State:* This information relates only to the provision/s amending the **Surveyors Act 1978**

### **County Court (Amendment) Act 1989, No. 19/1989**

*Assent Date:* 16.5.89

*Commencement Date:* 1.8.89: Government Gazette 26.7.89 p. 1858

*Current State:* All of Act in operation

### **Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89

*Commencement Date:* S. 4(1)(a)-(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217

*Current State:* All of Act in operation

### **Financial Management (Consequential Amendments) Act 1994, No. 31/1994**

*Assent Date:* 31.5.94

*Commencement Date:* S. 4(Sch. 2 item 86) on 1.1.95: Government Gazette 28.7.94 p. 2055

*Current State:* This information relates only to the provision/s amending the **Surveyors Act 1978**

**Legal Practice Act 1996, No. 35/1996**

*Assent Date:* 6.11.96

*Commencement Date:* S. 453(Sch. 1 item 81) on 1.1.97: s. 2(3)

*Current State:* This information relates only to the provision/s amending the **Surveyors Act 1978**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98

*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)

*Current State:* This information relates only to the provision/s amending the **Surveyors Act 1978**

----- **Explanatory Details**

No entries at date of publication.

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## **NOTE:**

This index does not form part of the **Surveyors Act 1978** and is provided for convenience of reference only.