



Western Australia.

ANNO QUINQUAGESIMO NONO

VICTORIÆ REGINÆ.

No. XIV.

AN ACT to regulate the Licensing of Land Surveyors.

[Assented to, 11th September, 1895.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited for all purposes as "The Licensed Surveyors Act, 1895."

Short Title and commencement.

2. "THE Licensed Surveyors Act, 1886," is hereby repealed: Provided that such repeal shall not affect any license granted under the said repealed Act, or the validity of any survey made thereunder.

Repeal,
50 Vic., No. 6.

3. IN this Act, unless the context otherwise requires,—

"Board" means the Land Surveyors' Licensing Board:

Interpretation.

"License" a license to survey lands issued under this Act, or the Act hereby repealed:

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“Licensed Surveyor” shall mean a Surveyor licensed under this Act, or under the said repealed Act:

“Register” means the Register of Surveyors licensed to practise:

“Surveyor General” means the professional head of the Survey Branch of the Department of Lands and Surveys.

Constitution of Board.

4. (1.) THE Land Surveyors' Licensing Board is hereby re-constituted, and shall consist of the Surveyor General and five other members.

Nomination of members.

(2.) Except as hereinafter mentioned, all members of the Board, except the Surveyor General, shall be nominated for appointment by the Surveyor General, and appointed by the Governor.

Retirement of members.

(3.) Except the Surveyor General, the members of the Board shall retire from office on the thirty-first day of December next following their appointment, but shall be eligible for re-appointment, and shall be deemed to hold office until the appointment of their successors.

Removal of members.

(4.) The Governor may from time to time, on the recommendation of a majority of the Board, remove any member, except the Surveyor General, from such Board.

Manner of filling vacancy on Board.

(5.) Whenever any vacancy occurs on the Board by reason of the removal, death, or resignation of any member thereof other than the Surveyor General, the Surveyor General shall forthwith nominate another person to fill such vacancy, and the Governor may appoint such person as a member of the Board.

In default of Surveyor General, existing Board to nominate.

(6.) Whenever the Surveyor General neglects or omits to nominate for appointment,

(a.) On or before the first day of December in every year the members of the Board for the then ensuing year, or

(b.) Within one month from the date of the removal, death, or resignation of a member of the Board a person to fill the vacancy caused thereby,

the Governor may appoint as members of the Board for the then ensuing year, or to fill such vacancy, the persons or person nominated by a majority of the existing Board.

Nominations to be in writing.

(7.) All nominations for membership of the Board shall be in writing.

Quorum.

5. THREE members of the Board shall be a quorum for the conduct of business, and such quorum may lawfully exercise the

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powers vested in the Board, notwithstanding any vacancy in the membership of the Board.

6. THE Board shall exercise and perform the duties and powers, respectively, contained in this section,—

Duties and powers of Board.

(1.) The Board shall, at its first meeting, or as soon thereafter as practicable, appoint a secretary, and upon any vacancy occurring in such office shall forthwith fill up the appointment.

Secretary to be appointed.

(2.) Examinations shall be held and conducted by the members of the Board, or by any two members of the Board appointed by the Board for that purpose, in the month of September in every year, and at such other times as the Board by regulation appoints.

Examinations to be held.

(3.) The Board shall grant a certificate of competency in surveying to any person who at any such examination satisfies the Board in the subjects set for examination.

Certificate of competency.

(4.) The Board may, subject to regulations, issue a license to practise as a surveyor to any person,—

Board may issue licenses.

(a.) To whom it has granted a certificate of competency in surveying; or

(b.) Who has received a certificate of competency in surveying from

(1.) Any legally constituted Board of examiners for land surveyors in any of the Australasian Colonies, or from

(2.) Any authority by whom an examination (equivalent to that required by the Board) to test the qualifications of candidates is required prior to the granting of such certificate; and

(c.) Who is still entitled to practise as a land surveyor in the colony or country wherein he obtained such certificate.

(5.) The Board may refuse a license to any applicant if it is not satisfied as to his character.

License may be refused.

(6.) The Board shall cause to be kept a register, and to be entered therein the names of all licensed surveyors with the particulars of their certificates, and shall cause such register to be revised forthwith after the issue, cancellation, or suspension of any license.

Register to be kept.

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List of names to be published.

(7.) The Board shall cause to be published in the *Government Gazette*, during the month of December in every year, a list of the names of the licensed surveyors on the register, and shall within one month of the issuing, cancellation, or suspension of any license, publish a notice thereof in the *Government Gazette*.

Form of, and privileges conferred by license.
First Schedule.

7. EVERY license issued under this Act shall be signed by two members of the Board and countersigned by the secretary, and shall be in the form contained in the First Schedule to this Act, and when registered shall, except as hereinafter mentioned, entitle the holder thereof to practise as a land surveyor in the Colony of Western Australia: Provided always, that such license shall not authorise the holder thereof to practise as a land surveyor under "The Transfer of Land Act, 1893."

Surveyor to make declaration before issue of license.
Second Schedule.

8. BEFORE a surveyor is entitled to receive a license he shall make a statutory declaration before a Justice of the Peace, in the form contained in the Second Schedule to this Act, and shall deliver such declaration to the secretary of the Board.

Surveys by licensed surveyors.

9. EXCEPT as to lands under "The Transfer of Land Act, 1893," the surveys made by a licensed surveyor shall, on being verified and approved by the Surveyor General, be accepted by the Survey Department of the Government and adopted in all questions between the Government and the owners or occupiers of lands held under any tenure from the Crown, including all lands held under conditional rights of purchase, and shall also be accepted and adopted in all cases between the owners or occupiers or owner and occupier of any such land, as correct surveys.

Power of Board to deal with offences, suspend and cancel licenses.

10. (1.) IF it appears to the Board that any licensed surveyor is charged or may be reasonably charged with committing any one or more of the following offences, or with incurring any one or more of the following disqualifications (that is to say),—

- (a.) That he has wilfully certified to the accuracy of any survey or plan knowing the same to be inaccurate, or without taking reasonable precautions to verify its accuracy in every respect;
- (b.) That he has made or has caused to be made, under his immediate direction and supervision, surveys which are inaccurate or defective;
- (c.) That he has certified to the accuracy of any survey not executed by himself or under his immediate supervision;
- (d.) That he has rendered an account for services which have not been performed;

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- (e.) That he has obtained his license or certificate, or either of them, by fraud or misrepresentation, or concealment of facts; or
- (f.) That after the date of his registration he has been convicted of felony;

the Board shall inquire into the same, and if a majority of the Board then present find any such offence proved or any such disqualification to have been incurred, the Board may suspend the license of the accused for a period not exceeding three years, or may cancel the same absolutely.

(2.) At least seven clear days' notice of the time, place, and subject of such inquiry shall be delivered or posted to the person accused, who shall in person be entitled to be heard in defence.

Notice of inquiry.

(3.) The finding and decision of the Board on such inquiry shall be given in writing, and shall be signed by at least two members thereof and shall be countersigned by the secretary, and such writing shall be conclusive evidence of the matters therein contained and of the decision of the Board, which shall be final.

Finding and decision of Board to be in writing.

11. (1.) WHENEVER a license held by a licensed Surveyor and granted to him in any other Australasian colony shall be cancelled or suspended for a period in such colony, the license issued to him in this Colony may thereupon be cancelled or suspended for a like period by the Board, with or without prior notice to the Surveyor.

(2.) The Board shall forthwith cause the suspension or cancellation of a license to be entered in the register by writing "Cancelled" or "Suspended," and the date of such cancellation or the date and period of such suspension, as the case may require, opposite the name of the person affected thereby.

Suspensions and cancellations to be registered.

12. (1.) THE Board may, with the approval of the Governor, from time to time make, alter, and revoke regulations for all or any of the undermentioned purposes, namely:—

Regulations.

- (a.) Fixing the details of subjects for examinations;
- (b.) Fixing the time and place for examinations;
- (c.) Regulating the mode of conducting examinations and inquiries and the conditions under which certificates may be granted with partial or without examination;
- (d.) Prescribing the forms of such certificates;
- (e.) Prescribing the fees to be paid to any members of the Board appointed as examiners; .
- (f.) Regulating the times of meeting of the Board, the manner of voting, and the conduct of business thereat;

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- (g.) Prescribing the duties of the secretary and the remuneration to be paid for the same ;
- (h.) For the guidance of licensed surveyors in making surveys under this Act ; and
- (i.) For such other purposes as are necessary for the discharge of the duties of the Board and the exercise of its powers under this Act.
- (2.) All such regulations shall be published in the *Government Gazette*, and shall have the force of law from the date of such publication.
- (3.) A copy of the *Government Gazette* containing any such regulation shall be conclusive evidence of the due making thereof, and *prima facie* evidence that such regulation is still in force.
- 13.** THE members of the Board may receive from the fees received by it under this Act such fees as the Governor may approve.
- 14.** (1.) THE fees set forth in the Third Schedule to this Act shall be paid in advance to the secretary of the Board in respect of the several matters therein specified, and such fees shall be applied,—
- (a.) In payment of the expenses properly incurred by the Board in giving effect to the provisions of this Act ; and
- (b.) In payment of the fees payable to the examiners or members of the Board under this Act.
- (2.) After payment of expenses and fees as aforesaid the balance, if any, unexpended in any year shall be available for the like expenditure in any succeeding year.
- (3.) Accounts shall be kept by the Board of its receipts and disbursements.
- 15.** (1.) A LICENSED Surveyor may enter upon any lands for the purpose of defining the boundaries between different tenements, or for any purpose necessary to enable him to carry out any survey that he is employed to make.
- (2.) This section shall not exempt any such Surveyor from liability for any damage he may commit, but the employer of such surveyor shall be liable, at the suit of the surveyor, to reimburse him if the act occasioning such damage was sanctioned by such employer.
- 16.** ANY license under this Act shall, except upon proceedings to cancel the same, be conclusive evidence that all conditions precedent to the issue of such license have been duly fulfilled.
- Publication in Gazette.
- Evidence.
- Members of Board may receive remuneration.
- Application of fees.
Third Schedule.
- Balance available for ensuing year.
- Accounts to be kept.
- Surveyor may enter upon lands to survey.
- License evidence.

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- 17.** (1.) ANY person, not being a licensed surveyor, who
- (a.) Falsely pretends that he is a licensed surveyor; or
 - (b.) Takes or uses the name or title of a licensed surveyor, or any name, title, addition, or description implying that he is a licensed surveyor; or
 - (c.) Practises, charges, or receives a fee for work done as a land surveyor; or
 - (d.) Certifies to the accuracy of any survey or plan purporting to be a survey or plan for the purposes of "The Transfer of Land Act, 1893,"

Offences.

shall be guilty of an offence against this Act, and summarily punishable before any two or more Justices of the Peace, and liable upon conviction for every such offence to a penalty not exceeding One Hundred pounds.

(2.) Prosecutions under this Act may be instituted by the Board in the name of the Surveyor General.

Prosecutions.

18. SECTION A of the Schedule to the Shortening Ordinance shall be incorporated and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act.

Incorporation of section "A" of Shortening Ordinance.

19. WHENEVER reference is made to the Act hereby repealed, or to any of the provisions thereof, such reference shall be deemed to be made to this Act or the corresponding provisions hereof.

Reference to repealed Act.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.

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First Schedule.

Form of License.

“THE LICENSED SURVEYORS ACT, 1895.”

Section 7.

A. B., of [*insert address*] is hereby authorised to practise as a land surveyor in the Colony of Western Australia, subject to the provisions of “The Licensed Surveyors Act, 1895,” but nothing herein contained shall authorise the said A. B. to practise as a land surveyor under “The Transfer of Land Act, 1893.”

Dated this day of 189 .

(Signed) C. D.

(Signed) E. F.

Members of the Board.

(Countersigned) G. H.

Secretary of the Board.

Second Schedule.

Form of Declaration.

Section 8.

I, A.B., of [*insert address*] do solemnly and sincerely declare that I will, to the best of my ability and without partiality, favour, and affection, correctly survey and delineate the boundaries of such lands as may be entrusted to me to be surveyed, and in accordance with the provisions of “The Licensed Surveyors Act, 1895,” and the Regulations made thereunder; and I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Ordinance made and passed in the eighteenth year of the reign of Her present Majesty, No. 12, intituled “An Ordinance for the Abolition of unnecessary Oaths, and to substitute Declarations in lieu thereof.”

Third Schedule.

Fees payable to the Board.

Section 14.

	£	s.	d.
On every examination	3	3	0
On issue of certificate of competency	1	1	0
On issue of license	1	1	0