

Approved for reprint 2nd July, 1956.

WESTERN AUSTRALIA.

LICENSED SURVEYORS.

(9 Edw. VII. No. XXI.)

No. 25 of 1909.

[As amended by Act No. 16 of 1940 (a) and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to provide for the Registration and Licensing of Land Surveyors; to control the Practice of such Surveyors, and for other purposes incidental thereto.

[Assented to 29th October, 1909.]

BE it enacted, by the King'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 follow:—

1. This Act may be cited as the Licensed Surveyors Act, 1909-1940, and shall come into operation on the first day of January, one thousand nine hundred and ten.

Short title
and
commence-
ment.
See No. 16 of
1940, s. 4.

2. The Acts mentioned in the First Schedule are hereby repealed to the extent therein stated.

Repeal.
First
Schedule.

Wherever in any enactment reference is made to a licensed surveyor, such reference shall be deemed to mean a surveyor licensed under this Act, whose name appears on the register.

(a) Assented to 12th November, 1940.

Interpreta-
tion.

No. 25 of
1909, s. 3 am.
by No. 16 of
1940, s. 2.

See W.A. 1895,
No. 14, s. 3.
Q. 1908, No.
3, s. 3.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively:—

“Authorised Survey”—A survey of land authorised or required—

(a.) Under any Act dealing with the alienation, leasing, and occupation of Crown lands, or under the Transfer of Land Act, 1893,¹ or any other Act affecting titles to land; or

(b.) By the proprietor, lessee, or mortgagee under any Act affecting titles to land;

“Board”—The Land Surveyors’ Licensing Board constituted under this Act.

“Institute”—Means the Institution of Surveyors of Western Australia Incorporated.

“Licensed Surveyor”—A surveyor licensed under this Act, whose name appears on the register.

“Prescribed”—Prescribed by this Act or the regulations made thereunder.

“Reciprocating State”—Any State, Colony, or Dominion within His Majesty’s Dominions with which reciprocal arrangements have been made by the Board for the recognition of the status of surveyors.

“Register”—The register of licensed surveyors directed by this Act to be kept.

“Secretary”—The Secretary to the Board.

“Surveyor General”—The professional officer charged with the general control of surveys under the Department of Lands and Surveys.

“This Act”—This Act and any regulations made thereunder.

¹ Now Transfer of Land Act, 1893-1954.

4. (1) The Land Surveyors' Licensing Board as constituted under the principal Act is hereby reconstituted and shall consist of—

Constitution of Board. No. 25 of 1909, s. 4 repealed and new section 4 inserted by No. 16 of 1940, s. 3.

- (a) The Surveyor General who shall be *ex officio* a member of the Board and the chairman thereof.
- (b) Three members appointed by the Governor on the nomination of the Surveyor General, one at least of whom shall be a licensed surveyor.
- (c) Two members, who shall be licensed surveyors, appointed by the Governor on the nomination of the Institute.

(2) The members of the Board, other than the Surveyor General, shall go out of office on the thirty-first day of December in every year but shall be eligible for reappointment and shall be deemed to hold office until the appointment of their successors.

(3) The Governor may, on the recommendation of a majority of the members of the Board, remove any member other than the Surveyor General, from the Board.

(4) Whenever a vacancy occurs on the Board by reason of the removal, death, or resignation of any member other than the Surveyor General, the Governor shall, after nomination, appoint a member to fill the vacancy. If the member whose seat has become vacant was nominated by the Institute, the person to fill the vacancy shall be nominated by the Institute, and, if by the Surveyor General, he shall be nominated by the Surveyor General.

(5) Whenever the Surveyor General or the Institute neglects or omits to nominate for appointment—

- (a) on or before the first day of December in every year the members of the Board whom the Surveyor General or the Institute, as the case may be, is entitled under the provisions of paragraph (b) or of paragraph (c) of subsection (1) of this section to nominate for the then ensuing year;
- (b) within one month from the date of the removal, death, or resignation of a member of the Board, a person whom the Surveyor General or the Institute, as the case may be, is entitled under the provisions of subsection (4) of this section to nominate to fill the vacancy caused thereby,

the Governor may appoint as members or a member 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.

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

(7) All appointments of members shall be notified in the *Government Gazette*.

Rules.
Second
Schedule.
Q. 1908, No.
3, s. 5.

5. The rules set forth in the Second Schedule shall apply to the business, conduct, and proceedings of the Board.

Secretary and
other officers.
See W.A.
1895, No. 14,
s. 6 (1).
Q. 1908, No.
3, s. 6.

6. (1.) The Board may from time to time appoint a secretary and such examiners and other officers as they think necessary for giving effect to this Act.

(2.) All such persons shall hold office during the pleasure of the Board.

(3.) The Board, with the approval of the Governor, may pay the secretary and other officers such salaries, fees, or allowances as they think fit.

(4) The members of the Board may receive such fees as the Governor may approve.

7. Subject to this Act, every person shall be entitled to a license and to be registered as a licensed surveyor upon making application in the prescribed form, and proving to the satisfaction of the Board that such person—

Persons
entitled to
be registered.
See W.A. 1895,
No. 14, s. 6.
Q. 1908, No.
3, s. 7.

(i.) Has attained the age of twenty-one years, and is of good fame and character; and

(ii.) Was entitled to practise as a licensed surveyor under the Licensed Surveyors Act, 1895, or any Act thereby repealed; or

(iii.) Has obtained the prescribed certificate of competency after the prescribed examination; or

(iv.) Is qualified to practise as a surveyor in any reciprocating State and has otherwise complied with the conditions of this Act; or

(v.) Has passed in any country outside Western Australia, not being a reciprocating State, an examination recognised by the Board as being equivalent to the prescribed examination, and has also passed such further examination or has completed such field service with a licensed surveyor in a reciprocating State, or both of these, as the Board may require; and

(vi.) Has made a declaration before a Justice of the Peace in the form of the Third Schedule.

Third
Schedule.

Board may require the attendance of certain persons.
See Q. 1908, No. 3, s. 8.

8. (1.) The Board may require the attendance of any person who applies for a license and registration under this Act, and of any other person, and may examine or question any such persons or any witnesses who may attend before the Board, upon oath, affirmation, or otherwise, and for any such purpose the chairman may administer an oath or affirmation.

(2.) Every summons issued by the Board requiring the attendance of any person or the production of any documents shall have the same effect as a subpoena issued by the Supreme Court in a civil action; and the obedience thereto or non-observance thereof may be enforced and punished by a Judge of the said Court sitting in chambers in the same manner as in the case of the disobedience or non-observance of a subpoena issued by the said Court.

Examinations.
See Q. 1908, No. 3, s. 9.

9. (1.) The Board shall from time to time hold examinations of persons desirous of qualifying themselves to be registered as licensed surveyors, and shall give certificates of competency in surveying to persons who have passed all the examinations and fulfilled all the conditions prescribed.

2. No person shall be admitted to the final qualifying examination, unless he has attained the age of twenty years, and has fulfilled all the conditions prescribed.

(3.) The Board, instead of requiring any person to pass an examination in all the prescribed subjects, may accept in substitution for any part thereof a certificate of examination in any subject or subjects granted by any Australasian university or any university recognised by an Australasian university, or by any public educational institution now or hereafter to be established in Western Australia.

Such certificate of examination shall have the like force and effect as if such examination had been held by the Board.

10. The Board may enter into a reciprocal arrangement with the Surveyors' Board or other competent authority of any State, Colony, or Dominion within His Majesty's Dominions for the recognition of the status of any person authorised by such Board or other authority to practise as a surveyor in such State, Colony, or Dominion and for the registration of such person as a licensed surveyor under this Act.

Reciprocity.
Q. 1908, No.
3, s. 10.

Any such arrangement may contain a condition that any such person applying to be registered under this Act shall furnish additional evidence of character and competency to the satisfaction of the Board.

11. Every license issued under this Act shall be in the prescribed form and shall be signed by not less than two members of the Board and countersigned by the secretary.

Licenses.
See W.A. 1895,
No. 14, s. 7.

12. (1.) The Board shall cause a register to be kept which shall contain the names, addresses, and qualifications of all licensed surveyors, the respective dates on which they were registered, and such other particulars as may be prescribed.

Register of
licensed
Surveyors.
See Q. 1908,
No. 3, s. 11.

(2.) The register shall be open to inspection by any person on payment of the prescribed fee.

13. (1.) The Board shall, in the month of January in each year publish in the *Government Gazette* a list of the names of all licensed surveyors on the register, and shall within one month of the issue, cancellation, or suspension of any license, publish a notice thereof in the *Government Gazette*.

Copy of
register to be
published.
See Q. 1908,
No. 3, s. 12.

(2.) A copy of any entry in the register, purporting to be certified by the chairman or secretary as a true copy, shall in all proceedings whatsoever be *prima facie* evidence that the person therein named is a licensed surveyor, and possesses the qualifications therein mentioned, or that his license has been cancelled or suspended.

Certain entries to be erased.
See Q, 1008, No. 3, s. 13.

14. (1.) The Board shall from time to time erase any entry in the register which is proved to their satisfaction to have been fraudulently or incorrectly made.

(2.) Every licensed surveyor on changing his place of address shall forthwith give notice of the fact by post to the secretary.

(3.) Every district registrar of deaths in Western Australia on registering the death of any licensed surveyor shall forthwith give notice thereof by post to the secretary.

(4.) The secretary shall from time to time erase the names of all licensed surveyors who have died, and shall make such alterations and amendments in the register as the Board may from time to time direct, for the purpose of making the same an accurate record of the names, addresses, and qualifications of the licensed surveyors for the time being.

(5.) Any name erased from the register under this section may be restored by the Board.

Existing licensed surveyors may apply to be registered.

15. (1.) In the month of January, one thousand nine hundred and ten, the secretary shall cause to be sent, by registered letter to the last known address of every person whose name appears on the register of licensed surveyors under the Licensed Surveyors Act, 1895, or any Act thereby repealed, a notice intimating that such person must apply within twelve months to be registered as a licensed surveyor under this Act.

(2.) The name of any person failing to so apply may be omitted from the register: Provided that the Board may register any such person after the expiration of the prescribed period on proof to the satisfaction of the Board that the failure of such person to so apply was caused by inadvertence, the absence of such person from the State, or circumstances not under his control.

(3.) No fee for registration shall be payable by any applicant under this section.

16. (1.) A surveyor duly licensed and registered under this Act shall be entitled to practise his profession and to make authorised surveys.

Powers of licensed surveyors. See Q. 1908, No. 3. s. 14.

(2.) For a period of thirteen months after the commencement of this Act any person who is the holder of a license to practise as a surveyor granted under the Licensed Surveyors Act, 1895, or any Act thereby repealed, and who by virtue of such Acts would be entitled to practise as a licensed surveyor, shall be entitled to practise as a licensed surveyor and to make authorised surveys under this Act: Provided that any person so practising shall during the said period be subject to the provisions of this Act.

(3.) After the expiration of thirteen months from the commencement of this Act it shall be unlawful for any person to practise as a licensed surveyor, or to make or attempt to make any authorised survey unless he is licensed and registered under this Act.

(4.) Any person who practises as a licensed surveyor or makes or attempts to make any authorised survey, contrary to this section, shall be liable to a penalty not exceeding fifty pounds.

17. (1.) In making any authorised survey or for any purpose relating thereto, a licensed surveyor, with his assistants, may open any fence and may enter upon any land.

Surveyor may enter upon lands. Q. 1908, No. 3, s. 15.

(2.) This section shall not, however, exempt any licensed surveyor from liability for any damage he may commit; but the employer of such licensed surveyor shall be liable at the suit of the licensed surveyor to reimburse him if the act occasioning such damage was necessary for the due making of the survey.

(3.) Any person obstructing a licensed surveyor or his assistants in the exercise of the powers hereby conferred shall be liable to a penalty not exceeding ten pounds, which shall be considered to accrue from day to day while such obstruction lasts.

Plan to be approved by Surveyor General.

18. No authorised survey shall be accepted or adopted by any Government department or sub-department unless a plan of such survey has been lodged with and approved by the Surveyor General or other person appointed by the Governor to approve plans of authorised surveys.

Surveyors to correct errors at their own expense. See Q. 1908, No. 3, s. 16.

19. (1) The Surveyor General, and any other person appointed by the Governor to approve plans, may by notice in writing request any licensed surveyor to correct at his own expense within a time specified in such notice any error made by him in any authorised survey, or any such licensed surveyor shall be liable to pay the cost of such correction if such error has been corrected by a licensed surveyor instructed by the Surveyor General or other person appointed by the Governor as aforesaid.

(2) In the event of any licensed surveyor refusing or omitting within the time specified in the notice to correct any such error or omitting to pay the cost of the correction of any such error when called upon to do so, the Surveyor General or other authority may recover the cost of any such correction in the same manner as penalties are recoverable under this Act.

Provided that any request for the correction of a survey shall be made within two years from the date of the lodgment of the plan of such survey with the Surveyor General or other authority.

Surveyor not to be interested. See Q. 1908, No. 3, s. 17.

20. It shall be unlawful for any licensed surveyor, directly or indirectly, to acquire any interest in any land open for selection under any Act relating to the alienation, leasing, and occupation of Crown lands, if he has been or is concerned in the survey thereof, unless before acquiring such interest he obtains the permission of the Governor to do so.

21. (1) Upon a charge duly made and after inquiry, if it is shown with respect to any licensed surveyor that—

Power of Board to deal with offences. See W.A. 1895, No. 14, s. 10. Q. 1908, No. 3, s. 18.

- (a.) He has certified to the accuracy of any authorised survey, knowing the same to be inaccurate, or has negligently certified as aforesaid, without having taken reasonable precautions to verify the accuracy thereof; or
- (b.) He wilfully or by culpable negligence has made, or caused to be made under his immediate supervision, any survey which is so inaccurate or defective as to be unreliable; or
- (c.) His certificate of competency or license has been obtained by fraud; or
- (d.) After registration under this Act, or any repealed Act relating to the licensing of surveyors, he has been convicted of any misdemeanour or crime; or
- (e.) He has been guilty of a contravention or attempted contravention of the last preceding section of this Act; or
- (f.) He has been guilty of such improper conduct as in the opinion of the Board renders him unfit to practise as a licensed surveyor; or
- (g.) His certificate, license, or registration in any reciprocating State or in any other country has been suspended or cancelled in such reciprocating State or country,

the Board may—

- (i.) Erase the name of such licensed surveyor from the register; or
- (ii.) Suspend such licensed surveyor from practice as a surveyor for any period not exceeding three years, and enter the reasons for such suspension in the register; or

(iii.) Caution such licensed surveyor, and if the Board thinks fit, order him to pay the cost of any correction of an error, and the whole or any part of the cost of the inquiry.

(2.) The Board may reinstate a licensed surveyor whose name has been erased from the register, or who has been suspended from practice.

(3.) The erasure of a licensed surveyor's name from the register, his suspension from practice, or his re-instatement, shall be notified in the *Government Gazette*.

Charge
against
surveyor,
how dealt
with.
See W.A.
1895, No. 14,
s. 10. Q. 1908,
No. 3, s. 19.

22. (1.) Every charge against a licensed surveyor under the last preceding section shall be submitted to the Board in writing signed by the person making the charge; and, if it appears to the Board that the charge is one into which an inquiry should be held, the Board shall fix a time and place for that purpose.

(2.) At least fourteen days prior to the date fixed for such inquiry, notice in writing shall be sent by the secretary to the last known postal address of the licensed surveyor so charged, informing him of the time and place fixed for the inquiry, and supplying him with a copy of all charges made.

(3.) At such inquiry the licensed surveyor charged shall be entitled to be heard in his defence.

(4.) The finding and decision of the Board on such inquiry shall be given in writing, and shall be signed by at least two members of the Board 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.

Offences.
W.A. 1895, No.
14, s. 17.

23. (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 licensed surveyor; or
- (d.) Certifies to the accuracy of any survey or plan purporting to be a survey or plan of any authorised survey,

shall be guilty of an offence against this Act, and liable upon conviction for every such offence to a penalty not exceeding One hundred pounds.

24. The Board may, by the secretary or any person thereunto authorised in writing under the hand of the Chairman, in the name of the Board, institute, carry on, prosecute, and defend any action, complaint, or proceeding whatsoever.

Board may sue and be sued.
See Q. 1908, No. 3, s. 22.

25. The funds of the Board shall be applied by them towards the payment of all expenses necessarily incurred in carrying this Act into execution, and in doing and performing acts and things which the Board are by this Act empowered or required to do or perform, and the Board may pay out of their funds any sum recovered against the Board by process of law.

Application of funds.
Q. 1908, No. 3, s. 23.

26. (1.) The Board, with the approval of the Governor, may, from time to time, make regulations for all or any of the following purposes, namely:—

Regulations.
See W.A. 1895, No. 14, s. 12. Q. 1908, No. 3, s. 24.

- (a.) Regulating the meetings and proceedings of the Board and the conduct of the business thereof; the election of a member to perform the duties of the Chairman and act as Deputy Chairman during the illness or absence of the Chairman;
- (b.) Prescribing the duties of the secretary and other officers of the Board;

- (c.) Regulating the manner of keeping the register, and the particulars to be entered therein;
- (d.) Prescribing forms to be used for the purposes of this Act;
- (e.) Determining the evidence to be produced and conditions to be fulfilled by any person applying for registration under this Act;
- (f.) Prescribing the course of study, professional practice, conditions of service, and training and examination of persons desirous of obtaining certificates of competency entitling them to be registered as licensed surveyors;
- (g.) Regulating the granting of certificates of competency and licenses;
- (h.) Prescribing what certificates of examination will be recognised by the Board as a substitute for the examinations of the Board;
- (i.) Prescribing what certificates, diplomas, memberships, degrees, licenses, letters testimonial, or other titles, status, or documents, will be recognised by the Board as qualifying persons holding them or any of them to be registered as licensed surveyors, whether immediately or after further examination or field service, or both;
- (j.) Prescribing a scale of fees to be charged and paid in respect, of any application, examination, registration, certificate, license, inspection, or other proceeding, act, or thing provided or required under this Act; prescribing the fees payable to examiners; and to members of the Board for attendance at meetings;

- (k.) Requiring and regulating the registration in the office of the secretary of all contracts and articles of apprenticeship or pupilage under which apprentices or pupils in surveying are serving;
- (l.) Regulating the conduct of proceedings in connection with charges against licensed surveyors;
- (m.) For the direction and guidance of licensed surveyors in carrying out the provisions of the Acts relating to authorised surveys;
- (n.) Generally for carrying into effect the objects of this Act.

(2) A regulation may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches; but no such penalty shall exceed twenty pounds.

(3) All such regulations upon being so approved shall be published in the *Government Gazette*, and shall thereupon have the force of law, and shall be judicially noticed.

(4.) Any such regulation may be rescinded at any time by the Board with the approval of the Governor by notification in the *Government Gazette*.

27. (1.) The production of a copy of the *Government Gazette* purporting to contain any notification required to be published therein, relating to any appointment, register, registration, erasure, suspension, re-instatement, regulations, or any other matter under or for the purpose of this Act shall be received in all Courts as *prima facie* evidence of the facts therein published.

Evidence.
Q. 1908. No.
3, s. 25.

(2.) Every Court shall take judicial notice of the signature of the Chairman of the Board.

(3.) In any proceeding by or on behalf of the Board, it shall not be necessary to prove the appointment of the members, Chairman, or secretary.

Voidance of licenses issued under 56 Vict., No. 14, s. 15.

28. On the commencement of this Act all licenses issued under section fifteen of the Transfer of Land Act, 1893, shall be void.

Amendment of 56 Vict., No. 14, s. 16.

29. Section sixteen of the Transfer of Land Act, 1893, is amended by striking out the words "surveyors licensed" and inserting in place thereof "licensed surveyors lawfully entitled."

Recovery of penalties.

30. All offences against this Act and the regulations may be prosecuted, and all penalties recovered in a summary way under the provisions of the Justices Act, 1902.¹

SCHEDULES.

Section 2.

FIRST SCHEDULE.

Date.	Short Title.	Extent of Repeal.
59 Vict., No. 14	The Licensed Surveyors Act, 1895	The whole.
56 Vict., No. 14	The Transfer of Land Act, 1893	Section 15 and 17, "and in Section 166 the words 'and the survey shall be performed in all other respects as therein directed, and the map shall be declared to be accurate by a statutory declaration in the form of Schedule 27 of this Act, of a licensed surveyor.' Schedule 27."

¹ Now Justices Act, 1902-1954.

SECOND SCHEDULE.

Section 5.

Rules for the Conduct of the Board.

1. The Chairman shall be the executive officer of the Board.

2. Every appointment and every order, notice, certificate, or other document of the Board relating to the execution of this Act shall be sufficiently authenticated if signed by the Chairman or any two members of the Board.

3. No business shall be transacted at any meeting of the Board unless at least three of the members are present when such business is transacted.

4. The Chairman shall preside at all meetings at which he is present. In the absence of the Chairman, the members present shall elect from their number a Chairman for the day.

The Chairman, or, in his absence, the Chairman for the day, shall have a vote, and, when there is an equal division of votes upon any question, shall have a second or casting vote.

5. All powers vested in the Board may be exercised by the majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting.

At all meetings, save as herein otherwise provided, all members present shall vote.

If a member refuses to vote, his vote shall be counted for the negative.

6. The members present at a meeting may, from time to time, adjourn the meeting.

If a quorum is not present within half-an-hour after the time appointed for a meeting, the members present, or any one member if only one is present, or the secretary if no member is present, may adjourn such meeting to any time not later than seven days from the date of such adjournment:

Provided that nothing herein contained shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

7. All notices of any meeting shall be in writing, and shall be delivered or sent by post or otherwise to the address of each of the members previous to the meeting.

8. If any member refuses or neglects to act or to attend any duly convened meeting of the Board, all lawful acts and proceedings of the Board shall be as valid and effectual as if they had been done or authorised by the full Board.

