

Western Australia

Licensed Surveyors Act 1909

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Licensed Surveyors Act 1909

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Licensed Surveyors Act 1909

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.

1. Short title and commencement

This Act may be cited as the *Licensed Surveyors Act 1909*¹, and shall come into operation on 1 January 1910.

2. References to licensed surveyor

[Paragraph omitted under the Reprints Act 1984 s. 7(4)(e) and (f).]

Wherever in any enactment reference is made to a licensed surveyor, such reference shall be deemed to mean a surveyor licensed under this Act.

[Section 2 amended by No. 79 of 1996 s. 4.]

3. Interpretation

- (1) 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 or occupation of Crown lands, or under the *Transfer of*

Land Act 1893, or any other Act affecting titles to land; or

- (b) by the proprietor, lessee or mortgagee under any Act affecting titles to land,

including —

- (c) a survey of land which re-establishes the boundaries previously established by a survey of land so authorised or required, if that re-establishment —

- (i) involves the placement, replacement or relocation of any survey mark; or
- (ii) is followed by advice for the purpose of enabling the boundaries of the land in question to be located,

or both so involves and is so followed; and

- (d) the lodgment of a plan with a Government department or the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5 for acceptance or adoption —

- (i) as a plan of an authorised survey, if that plan is certified or otherwise held out as having been created from the result of an authorised survey, or as describing the boundaries of land within or the subject of that plan, which land is to be the subject of an authorised survey before that plan is approved under section 18; or
- (ii) as a compiled plan, if that plan is certified or otherwise held out as having been created from one or more authorised surveys recorded on plans approved under section 18, from field records that have been lodged, or from both.

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

“Institute” — The Institution of Surveyors, Australia, Western Australia Division Inc.

“licence” — A licence issued under this Act.

“licensed surveyor” — A surveyor licensed under this Act.

“practising certificate” — A practising certificate issued under section 11A.

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

“reciprocating State” — Any State, colony, or dominion within Her 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.

“standard period”, in relation to a practising certificate, means such period or periods, each not exceeding 3 years and expiring at the end of a calendar year, as is or are prescribed.

“survey mark” — A cairn, beacon, structure, post, peg, block, plug, tube, pipe, spike, pole or other mark of whatsoever material composed which is or has been placed, sunk or set up in such manner and by such persons as are prescribed.

“Surveyor General” — The professional officer charged with the general control of surveys under the department principally assisting the Minister in the administration of this Act.

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

- (2) A reference in this Act to practising as a licensed surveyor includes a reference to certifying plans, diagrams, maps and other documents which are required under this Act or any other written law to be certified by licensed surveyors.

[Section 3 amended by No. 16 of 1940 s. 2; No. 107 of 1976 s. 3; No. 79 of 1996 s. 5; No. 60 of 2006 s. 143(2).]

4. Constitution of Board

- (1) There shall be a Land Surveyors Licensing Board which shall consist of —
 - (a) the Surveyor General who shall be *ex officio* a member of the Board;
 - (b) one member appointed by the Governor, on the nomination of the chief executive officer, to represent interests in relation to land registration matters;
 - (ba) one member appointed by the Governor, on the nomination of the Minister, to represent the interests of the users of licensed surveyors' services;
 - (c) 2 members, who shall be licensed surveyors who hold practising certificates, appointed by the Governor on the nomination of the Institute;
 - (d) one member, who shall be a member of the teaching staff of the course of surveying of an educational institution in this State, appointed by the Governor on the nomination of the educational institution being a nomination made in accordance with subsection (4a).
- (1a) The Governor shall appoint, on the nomination of the Minister, one of the members of the Board to be the chairman of the Board.
- (1b) One person appointed under subsection (1)(a), (b), (ba) or (d) shall be a licensed surveyor who holds a practising certificate.
- (2) The members of the Board, other than the Surveyor General, shall go out of office on 31 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 Minister, the person to fill the vacancy shall be nominated by the Minister, and, if by the chief executive officer, he shall be nominated by the chief executive officer, and, if by the Institute, he shall be nominated by the Institute, and, if by an educational institution in this State, he shall be nominated by the educational institution.
- (4a) In relation to the appointment of a member pursuant to subsection (1)(d), the Surveyor General shall —
- (a) in respect of the occasion of the first appointment of a member as soon as practicable after the coming into operation of section 4 of the *Licensed Surveyors Act Amendment Act 1976*¹; and
 - (b) prior to each occasion thereafter when the office becomes vacant by effluxion of time but not later than 1 November in every year,
- by notice in writing request an educational institution in this State providing a course in surveying to nominate a member of the teaching staff of the course of surveying of the institution who is willing to act as member of the Board.
- (5) Subject to subsection (5a), whenever the Institute or an educational institution neglects or omits to nominate for appointment —
- (a) on or before 1 December in every year the members or member of the Board, as the case requires, whom the Institute or that institution, as the case may be, is entitled under the provisions of subsection (1)(c) or (d) to nominate for the then ensuing year;

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- (b) within one month from the date of the removal, death or resignation of a member of the Board, a person whom the Institute or that institution, as the case may be, is entitled under the provisions of subsection (4) 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.

- (5a) The Surveyor General shall, in the request made pursuant to subsection (4a), specify the date on or before which the nomination shall be made and where the educational institution neglects or omits to nominate a member of the Board on or before that date the Governor may appoint as member of the Board for the then ensuing year the 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*.

[Section 4 amended by No. 107 of 1976 s. 4; No. 70 of 2003 s. 40(1)-(5).]

5. Rules

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

6. Secretary and other officers

- (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. Persons entitled to be licensed

Subject to this Act, a person is entitled to a licence if the person applies for a licence in the prescribed form and in so doing transmits to the Board the prescribed application fee, and proves to the satisfaction of the Board that he —

- (a) has attained the age of 18 years;
- (aa) has not, during the period of 10 years before making the application, been convicted of, or served any part of a term of imprisonment for, an offence in Western Australia or elsewhere involving fraud or dishonesty;
- (ab) is not bound in relation to an offence referred to in paragraph (aa) by a bail undertaking;
- (ac) does not have a charge pending in relation to an offence referred to in paragraph (aa);
- (b) has obtained the prescribed certificate of competency, or is qualified to practise as a surveyor in any reciprocating State and has complied with all the requirements of this Act for the issue of a licence except for the requirement to obtain a certificate of competency; and
- (c) has made a declaration before a justice in the form set out in the Third Schedule.

[Section 7 inserted by No. 79 of 1996 s. 6; amended by No. 70 of 2003 s. 40(6).]

8. Board may require the attendance of certain persons

- (1) The Board may require the attendance of any person —
 - (a) who applies for the issue of a licence under this Act; or

s. 8A

- (b) who applies for the renewal of a practising certificate under this Act and in respect of whom the Board wishes to determine whether or not a requirement made under section 11B(1) has been complied with,

and of any other person for the purposes of dealing with the application, 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.

[Section 8 amended by No. 79 of 1996 s. 7; No. 55 of 2004 s. 648.]

8A. Powers of investigation

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
 - (a) determining any application or any other matter before the Board;
 - (b) determining whether or not a licensed surveyor is or has been complying with the requirements of this Act;
 - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;
 - (d) detecting offences against this Act.

- (2) The Board may designate an officer of the Board to be an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
 - (a) require any person —
 - (i) to give the investigator such information as the investigator requires; and
 - (ii) to answer any question put to the person, in relation to any matter the subject of such inquiry;
 - (b) require any person to produce any document to the investigator;
 - (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
 - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
 - (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
 - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
 - (c) may, by its terms, require that the information or answer required —
 - (i) be given orally or in writing;
 - (ii) be given at or sent or delivered to any place specified in the requirement;
 - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and

s. 8A

- (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
 - (a) shall be made by notice in writing served on the person required to produce a document;
 - (b) shall specify the time at or within which the document is to be produced; and
 - (c) may, by its terms, require that the document be produced —
 - (i) at any place specified in the requirement; and
 - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (8) Before entering any premises under this section the investigator —
 - (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
 - (b) shall display to the person, if any, giving the investigator entry, a document signed by the chairman of the Board

and certifying that the person is designated as an investigator by the Board.

[Section 8A inserted by No. 55 of 2004 s. 649.]

8B. Incriminating information, questions, or documents

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 8A a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 8C(1)(b).

[Section 8B inserted by No. 55 of 2004 s. 649.]

8C. Failure to comply with investigation

- (1) Where under section 8A a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —

- (a) fails to give that information or answer that question at or within the time specified in the requirement;
- (b) gives any information or answer that is false in any particular; or
- (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

s. 8D

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 8A, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
 - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 8A, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
 - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
 - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

[Section 8C inserted by No. 55 of 2004 s. 649.]

8D. Obstruction of investigator

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 8A.

Penalty: \$2 000.

[Section 8D inserted by No. 55 of 2004 s. 649.]

9. Certificates of competency

- (1) Subject to this section, the Board shall issue a certificate of competency to —
- (a) a person who has passed the prescribed examination and fulfilled all the prescribed conditions; or

- (b) a person who holds a degree, diploma, certificate or licence granted in or outside this State by some university, institute of technology, college or other public educational institution that is recognised by the Board as providing, together with such other qualifications (if any) by way of examination or field service, or both, as may be prescribed, sufficient evidence of the possession by the holder thereof of the requisite knowledge and skill for the efficient practice of the profession of surveying.
- (1a) A person is not eligible to be issued with a certificate of competency under subsection (1)(a) unless —
- (a) he has, before the coming into operation of section 6 of the *Licensed Surveyors Act Amendment Act 1976*¹, entered into articles of apprenticeship or pupilage pursuant to the regulations; or
 - (b) he —
 - (i) has, after the coming into operation of section 6 of the *Licensed Surveyors Act Amendment Act 1976*¹, but on or before the prescribed date, entered into articles of apprenticeship or pupilage pursuant to the regulations; and
 - (ii) satisfies the Board that he had, before the coming into operation of section 6 of the *Licensed Surveyors Act Amendment Act 1976*¹, agreed, arranged or contracted with a licensed surveyor to enter into articles of apprenticeship or pupilage pursuant to the regulations.
- (1b) In subsection (1a) “**prescribed date**” means 31 March 1979 or such later date as is prescribed.
- (2) No person shall be admitted to the final examinations prescribed for the purposes of subsection (1)(a) unless he has attained the age of 18 years, and has fulfilled all the conditions prescribed.

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- (3) The Board, instead of requiring any person to pass an examination prescribed for the purposes of subsection (1)(a) may accept in substitution for that examination 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.

[Section 9 amended by No. 107 of 1976 s. 6; No. 79 of 1996 s. 8.]

10. Reciprocity

- (1)(a) The Board may enter into a reciprocal arrangement with the Surveyor's Board or other competent authority of any State, colony, or dominion within Her 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 issue to that person of a licence under this Act.
- (b) Any such arrangement may contain a condition that any such person applying for the issue of a licence under this Act shall furnish additional evidence of character and competency to the satisfaction of the Board.
- (2) In order to avoid any doubt which but for the enactment of this subsection might arise, it is also enacted that without limiting the generality of the expression "**dominion within Her Majesty's dominions**", that expression shall be deemed to include and during the operation of this Act to have included the United Kingdom.

[Section 10 amended by No. 14 of 1958 s. 2; No. 79 of 1996 s. 9.]

11. Licences

Every licence issued under this Act shall be in the prescribed form and shall be signed by not less than 2 members of the Board and countersigned by the secretary.

11A. Practising certificates

- (1) Subject to this Act, a licensed surveyor is entitled to a practising certificate if the licensed surveyor applies for a practising certificate in the prescribed form and in so doing transmits to the Board the prescribed application fee.
- (2) A person who was, immediately before the commencement of section 10 of the *Licensed Surveyors Amendment Act 1996*¹, a licensed surveyor is to be regarded as holding a practising certificate which expires on 31 December following that commencement.
- (3) Subject to this section, a practising certificate issued to or renewed by a licensed surveyor under this Act, on or after the commencement referred to in subsection (2), takes effect for the standard period for which the prescribed fee has been paid —
 - (a) on the day of that issue or renewal; or
 - (b) on the day of expiry of any existing practising certificate held by the licensed surveyor,whichever is the later.
- (4) Subject to subsection (5), a licensed surveyor who wishes to renew his practising certificate shall apply for that renewal in the form approved by the Board not more than 90 days, and not less than 30 days, before the day of expiry of that practising certificate and shall in doing so transmit to the Board the prescribed renewal fee.
- (5) If an application for the renewal of a practising certificate is made less than 30 days before the expiry of the practising certificate or on or after that expiry, the Board may, if it considers that there is a satisfactory explanation for the late

s. 11B

making of that application, deal with that application under subsection (6) and may in so doing subject the practising certificate to such conditions as the Board thinks fit to impose.

- (6) Subject to section 11B, if the Board is, on receiving —
- (a) an application for the renewal of a practising certificate;
 - (b) the prescribed renewal fee; and
 - (c) if that application is an application referred to in subsection (5), the prescribed late renewal fee,

satisfied that the applicant remains entitled to a practising certificate, the Board shall, subject to any regulations referred to in section 26A, renew the practising certificate held by the applicant for the standard period for which the prescribed renewal fee has been paid.

[Section 11A inserted by No. 79 of 1996 s. 10.]

11B. Continuing education

- (1) The Board may require licensed surveyors holding practising certificates to attend specified courses, to gain specified experience, or to take other specified action, within a specified period for the purpose of maintaining or improving their knowledge and skills in the practice of the profession of surveying.
- (2) If the Board is not satisfied that a licensed surveyor has complied with requirements specified under subsection (1), the Board may —
- (a) suspend the practising certificate of the licensed surveyor until specified conditions are fulfilled;
 - (b) renew the practising certificate of the licensed surveyor subject to specified conditions, which may include a condition specifying the standard period for which that practising certificate is renewed;
 - (c) refuse to renew the practising certificate of the licensed surveyor until specified conditions are fulfilled; or

- (d) refuse to renew the practising certificate of the licensed surveyor.
- (3) If the Board refuses to renew a practising certificate until specified conditions are fulfilled, the practising certificate is, on the fulfilment of those conditions, to be renewed for the standard period specified by the Board or, if no standard period is so specified, the standard period for which the prescribed fee has been paid.
- (4) The Board may charge such fees as are approved by the Minister in relation to the provision of courses or other services for the purposes of this section.
- (5) In this section —

“specified” means specified in writing by the Board.

[Section 11B inserted by No. 79 of 1996 s. 10.]

12. Register of licensed surveyors

- (1) The Board shall cause a register to be kept which shall contain names, addresses, and qualifications of all licensed surveyors, the respective dates on which they were registered, and such other particulars as may be prescribed.
- (2) The register shall be open to inspection by any person on payment of the prescribed fee.

13. Copy of register to be published

- (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, indicating whether or not each licensed surveyor listed holds a practising certificate, and shall within one month of the issue, cancellation, or suspension of any licence or practising certificate, publish a notice thereof in the *Government Gazette*.
- (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

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whatsoever be *prima facie* evidence that the person therein named —

- (a) is a licensed surveyor;
- (b) holds or does not hold a practising certificate;
- (c) possesses the qualifications therein mentioned;
- (d) has had his licence cancelled or suspended; or
- (e) has had his practising certificate cancelled or suspended,

as the case requires.

[Section 13 amended by No. 79 of 1996 s. 11.]

14. Certain entries to be erased or corrected

- (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) The Registrar of Births, Deaths and Marriages 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 surveyors whose names appear on the register and 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 surveyors whose names appear on the register for the time being.
- (5) Any name erased from the register under this section may be restored by the Board.

[Section 14 amended by No. 79 of 1996 s. 12; No. 40 of 1998 s. 15.]

[15. Repealed by No. 79 of 1996 s. 13.]

16. Powers of licensed surveyors

- (1) A surveyor duly licensed under this Act shall be entitled to practise his profession and, if he holds a practising certificate, to make authorised surveys.

[(2) repealed]

- (3) A person shall not practise as a licensed surveyor unless he is the holder of a licence.
- (3a) A person shall not make or attempt to make any authorised survey unless he is a licensed surveyor and the holder of a practising certificate.
- (4) Any person who practises as a licensed surveyor or makes or attempts to make any authorised survey, contrary to this section, commits an offence and is liable to a penalty not exceeding \$10 000.

[Section 16 amended by No. 113 of 1965 s. 8; No. 107 of 1976 s. 7; No. 79 of 1996 s. 14.]

17. Surveyor may enter upon lands

- (1) In making any authorised survey or for any purpose relating thereto, a licensed surveyor who holds a practising certificate may, with his assistants, open any fence and may enter upon any land.
- (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 commits an offence and is liable to a penalty of \$2 000.

[Section 17 amended by No. 113 of 1965 s. 8; No. 79 of 1996 s. 15.]

18. Plan to be approved by Surveyor General

An authorised survey, other than a survey referred to in paragraph (c) of the definition of “authorised survey” in section 3(1), shall not be accepted or adopted by any Government department or the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5 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.

[Section 18 amended by No. 32 of 1994 s. 19; No. 79 of 1996 s. 16; No. 60 of 2006 s. 143(3).]

19. Surveyors to correct errors at their own expense

- (1) The Surveyor General, and any other person appointed by the Governor to approve plans, may by notice in writing call on —
 - (a) any licensed surveyor holding a practising certificate to correct at his own expense within a time specified in that notice any error made by him in an authorised survey; or
 - (b) any person who is or was a licensed surveyor (“**the person at fault**”) to pay the cost of correction by a licensed surveyor —
 - (i) holding a practising certificate; and
 - (ii) instructed by the Surveyor General or the other person appointed by the Governor, as the case requires,of any error made by the person at fault in an authorised survey.
- (2) In the event of any licensed surveyor refusing or omitting within the time specified in the notice to correct any such error or of any person who is or was a licensed surveyor 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 as a debt due to the Crown by action in a court of competent jurisdiction.

Provided that any request for the correction of a survey shall be made within 12 years from the date of the lodgment of the plan of such survey with the Surveyor General or other authority.

[Section 19 amended by No. 79 of 1996 s. 17.]

20. Surveyor not to be interested

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.

20A. Cancellation of licence or practising certificate at request of licensed surveyor

- (1) A licensed surveyor may —
 - (a) give notice in writing signed by him and delivered to the secretary requesting that his licence or practising certificate be cancelled; and
 - (b) surrender his licence or practising certificate to the secretary.
- (2) The secretary shall, on receipt of that notice and that licence or practising certificate, cancel that licence or practising certificate.
- (3) A person whose licence or practising certificate has been cancelled under subsection (2) may apply on a form approved by the Board for a new licence or practising certificate.
- (4) On payment to the Board of the prescribed fee and on being satisfied in respect of the applicant of the relevant matters set out in section 7, the Board shall issue a new licence or practising certificate to the applicant and may in so doing subject that licence or practising certificate to such conditions as the Board thinks fit to impose.

s. 20B

- (5) Despite the surrender by a person of a licence or a practising certificate or its cancellation under this section, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or practising certificate had not been surrendered or cancelled.

[Section 20A inserted by No. 79 of 1996 s. 18; amended by No. 55 of 2004 s. 650.]

20B. Disciplinary proceedings against licensed surveyors

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 21(1), against a licensed surveyor.

[Section 20B inserted by No. 55 of 2004 s. 651.]

21. Power of Board to deal with misconduct

- (1) There is proper cause for disciplinary action in respect of a licensed surveyor if —
- (a) he has falsely or negligently certified in respect of an authorised survey; or
 - (aa) he has falsely or negligently certified in respect of any plan, diagram, map or other document required or authorised under this Act or any other written law to be certified by a licensed surveyor; or
 - (b) he wilfully or by negligence has made, or caused to be made under his supervision, any survey which is so inaccurate or defective as to be unreliable; or
 - (ba) he has, in the course of surveying practice, been guilty of incompetence or negligence; or
 - (c) his certificate of competency, licence or practising certificate has been obtained by fraud; or
 - (d) after being licensed under this Act, or any repealed Act relating to the licensing of surveyors, he has been

- convicted of any indictable offence, or offence under this Act or under regulations made under section 26; or
- (e) he has been guilty of a contravention or attempted contravention of section 20; or
 - (f) he has been guilty of unprofessional conduct; or
 - (fa) he has disobeyed any order made under this subsection; or
 - (g) his certificate, licence, practising certificate or registration in any reciprocating State or in any other country has been suspended or cancelled in such reciprocating State or country.
- (1aa) If, in a proceeding commenced by an allegation under section 20B against a licensed surveyor, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may make an order —
- (a) reprimanding or cautioning that person;
 - (b) imposing on that person a fine not exceeding \$1 000;
 - (c) imposing conditions on the licence or practising certificate, or both, of that person, if that person is —
 - (i) still a licensed surveyor; or
 - (ii) an applicant for a licence or practising certificate, or both, or for the renewal of a practising certificate;
 - (d) suspending the licence or practising certificate of a person who is still a licensed surveyor and his entitlement to apply for a renewal of that practising certificate, if any, or for another licence or practising certificate —
 - (i) for such period not exceeding 3 years as is specified in the order; or
 - (ii) until any condition referred to in paragraph (c) has been complied with,whichever is the shorter period;

s. 21

- (e) suspending the entitlement of a person who is no longer a licensed surveyor to apply for another licence —
 - (i) for such period not exceeding 3 years as is specified in the order; or
 - (ii) until any condition referred to in paragraph (c) has been complied with,whichever is the shorter period;
- (f) if that person is still a licensed surveyor, cancelling his licence;
- (g) if that person is not still a licensed surveyor, cancelling his entitlement to apply for another licence; or
- (h) if that person is still a licensed surveyor, cancelling —
 - (i) his practising certificate; or
 - (ii) his entitlement to apply for a renewal of his expired practising certificate or for another practising certificate,

or make in relation to that person any 2 or more of the orders referred to in paragraphs (a) to (h) and applicable to that person and, if the State Administrative Tribunal thinks fit, make any one or more of the orders specified in subsection (1a) in relation to that person.

- (1a) The orders specified in this subsection are —
 - (a) an order that the person concerned correct any error within such reasonable period as is specified by the State Administrative Tribunal;
 - (b) an order that the person concerned pay to the Board or to any other person specified in that order the cost of correcting any error; and
 - (c) an order that the person concerned provide the Board with a performance bond or bank guarantee to meet the anticipated cost of correcting any error.

[(2) repealed]

- (3) For the purposes of subsection (1)(ba), surveying practice includes the creation of plans, diagrams and maps from the results of, or for the purposes of, an authorised survey.
- (4) The Board shall erase from the register the name of a person whose licence, or whose entitlement to apply for another licence, is cancelled under subsection (1aa)(f) or (g).
- (5) A person whose licence, or whose entitlement to apply for another licence, is cancelled under subsection (1aa)(f) or (g) is not entitled to apply under section 7 for the issue of a licence.
- (6) The State Administrative Tribunal may, on the application of the Board or a person —
 - (a) who holds a licence or practising certificate suspended, and whose entitlement to apply for a renewal of that practising certificate, if any, or for another licence or practising certificate is suspended, under subsection (1aa)(d), terminate those suspensions;
 - (b) whose entitlement to apply for another licence is suspended under subsection (1aa)(e), terminate that suspension;
 - (c) who held a licence cancelled under subsection (1aa)(f), order that the Board issue a fresh licence to that person;
 - (d) whose entitlement to apply for another licence has been cancelled under subsection (1aa)(g), order that the Board issue a fresh licence to that person; or
 - (e) who held a practising certificate cancelled under subsection (1aa)(h) or whose entitlement to apply for the renewal of an expired practising certificate or for another practising certificate has been cancelled under subsection (1aa)(h), order that the Board issue a fresh practising certificate to that person,

and may in so doing order that the Board subject a licence or practising certificate, or both, held or to be held by that person

s. 21AA

to such conditions as the State Administrative Tribunal thinks fit to impose.

- (7) The Board shall cause to be notified in the *Gazette* —
- (a) any action taken against a person under subsection (1aa); and
 - (b) the granting of any application referred to in subsection (6).
- (8) A licensed surveyor whose practising certificate is suspended under this section is not obliged to renew that practising certificate while it is suspended.
- (9) If a licensed surveyor whose practising certificate is suspended under this section wishes to make authorised surveys when that suspension ceases, that licensed surveyor shall, unless he has already paid the amount of the prescribed fee payable for the issue or renewal of that practising certificate for the standard period in which that cessation takes place, transmit the amount of the prescribed fee for a standard period to the Board before making or attempting to make an authorised survey.
- (10) A licensed surveyor whose practising certificate is cancelled or is suspended under this section for a period of not less than 30 days shall, within 14 days after that cancellation or suspension, return that practising certificate to the secretary.
Penalty: \$1 000.

[Section 21 amended by No. 79 of 1996 s. 19; No. 24 of 2000 s. 21(1); No. 55 of 2004 s. 652; No. 70 of 2004 s. 82.]

21AA. Suspension of licence by State Administrative Tribunal

- (1) Where the State Administrative Tribunal makes an order against a licensed surveyor or the holder of a practising certificate and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may order that the person's licence or practising certificate be suspended until the payment is made, or

for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

[Section 21AA inserted by No. 55 of 2004 s. 653.]

21A. Alteration and removal of licence or practising certificate conditions

The Board may, on the application of a licensed surveyor, alter or remove any condition to which the licence or practising certificate of the applicant is subject.

[Section 21A inserted by No. 79 of 1996 s. 20.]

22. Charge against surveyor

- (1) Every charge that there is proper cause for disciplinary action against a person under section 21 shall be submitted to the Board in writing signed by the person making the charge.
- (2) Subsection (1) does not prevent the Board from commencing an investigation on its own initiative.

[Section 22 inserted by No. 55 of 2004 s. 654.]

22A. Application for review

- (1) A person aggrieved by a reviewable decision of the Board may apply to the State Administrative Tribunal for a review of the decision.

- (2) In subsection (1) —

“person aggrieved” means a person whose licence or practising certificate is affected by a reviewable decision or who applies for the grant or renewal of a licence or practising certificate;

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“reviewable decision” means a decision of the Board in respect of an application for the grant or renewal of a licence or practising certificate or the imposition of a condition on a licence or practising certificate.

[Section 22A inserted by No. 55 of 2004 s. 655.]

23. Offences

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 in respect of the performance of an authorised survey; or
- (e) certifies or, purporting to be a licensed surveyor, signs any survey, plan, diagram, map or other document required under this Act or any other written law to be certified or signed by a licensed surveyor,

shall be guilty of an offence against this Act, and liable upon conviction for every such offence to a penalty not exceeding \$10 000.

[Section 23 amended by No. 113 of 1965 s. 8; No. 107 of 1976 s. 8; No. 79 of 1996 s. 23.]

24. Board may sue and be sued

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, prosecution, or proceeding whatsoever.

[Section 24 amended by No. 84 of 2004 s. 80.]

24A. Protection from liability for wrongdoing

- (1) In this section, a reference to the doing of anything includes a reference to the omission to do anything.
- (2) An action in tort does not lie against a person who is the Minister or a member of the Board or the secretary or another officer of the Board for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (3) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.

[Section 24A inserted by No. 79 of 1996 s. 24.]

25. Application of funds

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.

25A. Accounts

- (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall prepare financial statements in accordance with Australian Accounting Standards.
- (2) The financial statements shall be prepared on an accrual basis unless the Board determines otherwise.

[Section 25A inserted by No. 77 of 1987 s. 3.]

s. 25B

25B. Audit

The accounts and financial statements of the Board shall be audited at least once a year, at the expense of the Board, by an auditor appointed by the Board with the prior approval of the Minister.

[Section 25B inserted by No. 77 of 1987 s. 3.]

25C. Annual report

- (1) The Board shall on or before 30 June in each year make and submit to the Minister an annual report of its proceedings for the preceding year ending on 31 December together with a copy of the financial statements and the auditor's report.
- (1a) The Board's annual report is to include details of —
 - (a) the number, nature, and outcome, of —
 - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
 - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
 - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
 - (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the performance of the Board's functions.
- (2) The Minister shall cause a copy of each annual report, financial statements and auditor's report submitted under subsection (1) to be laid before each House of Parliament within 14 sitting days of that House after receipt of the report by the Minister.

[Section 25C inserted by No. 77 of 1987 s. 3; amended by No. 55 of 2004 s. 656.]

26. Regulations

- (1) The Board may, with the approval of the Governor, make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act, and, in particular —
- (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 the issue of a licence or the issue or renewal of a practising certificate 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 apply for the issue to them of licences;
 - (g) regulating the issue of certificates of competency and licences and the issue and renewal of practising certificates;
 - (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, licences, letters testimonial, or other titles, status, or documents, will be recognised by the Board as qualifying persons holding them or any of them for the

- issue to them of licences, whether immediately or after further examination or field service, or both;
- (ia) enabling the Board to issue certificates of recognition to retired surveyors, who have given long service as surveyors, in recognition of the contributions made by those surveyors to the profession of surveying;
 - (j) prescribing a scale of fees to be charged and paid in respect, of any application, examination, certificate, licence, 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) deleted]*
 - (m) for the direction and guidance of licensed surveyors in carrying out the provisions of the Acts relating to authorised surveys.
- (2) Regulations made under subsection (1) may create offences and provide in respect of each such offence a penalty not exceeding \$1 000.
 - (3) A certificate issued under regulations referred to in subsection (1)(ia) does not entitle its holder to practise as a surveyor or to make authorised surveys.
 - (4) Nothing in regulations referred to in subsection (1)(ia) or in subsection (3) prevents the holder of a certificate issued under those regulations who has ceased to be a licensed surveyor from again becoming a licensed surveyor in accordance with this Act.
 - (5) Regulations made under subsection (1) and prescribing a period or periods for the purposes of the definition of “standard period”

in section 3(1) may confer on the Board power, subject to that definition, to determine the length of the period or periods.

[Section 26 amended by No. 113 of 1965 s. 8; No. 107 of 1976 s. 9; No. 79 of 1996 s. 25; No. 24 of 2000 s. 21(2); No. 55 of 2004 s. 657.]

26A. Professional indemnity insurance

- (1) The Board may, with the approval of the Governor, make regulations under section 26 concerning indemnity against loss arising from claims in respect of any description of civil liability incurred by —
 - (a) a licensed surveyor or former licensed surveyor in connection with the practice of the licensed surveyor or former licensed surveyor;
 - (b) an employee or former employee of a licensed surveyor or former licensed surveyor in connection with the practice of the licensed surveyor or former licensed surveyor; or
 - (c) a licensed surveyor or former licensed surveyor in the course of practising as a licensed surveyor.
- (2) For the purpose of providing the indemnity referred to in subsection (1), regulations referred to in that subsection may —
 - (a) authorise or require the Institute to make arrangements with one or more insurers for the provision to licensed surveyors and former licensed surveyors of professional indemnity insurance and may authorise the Institute to do such acts and things as may be necessary or expedient for giving effect to those arrangements; and
 - (b) require licensed surveyors or former licensed surveyors, or any prescribed category of licensed surveyor or former licensed surveyor, to take out and maintain professional indemnity insurance in accordance with —
 - (i) the requirements of those regulations; and

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- (ii) the arrangements made under those regulations or a scheme or policy of insurance approved by or under those regulations.
- (3) Without limiting the generality of subsections (1) and (2), regulations referred to in subsection (1) may —
 - (a) specify the terms and conditions on and subject to which professional indemnity insurance is to be provided, including the amounts of insurance cover to be taken out and maintained by —
 - (i) licensed surveyors or former licensed surveyors; or
 - (ii) prescribed categories of licensed surveyor or former licensed surveyor,and the periods during which that insurance cover is to be maintained;
 - (b) specify classes or categories of licensed surveyor or practice to which different provisions or obligations under those regulations may apply;
 - [(c) deleted]*
 - (d) empower the Board to refuse to renew a practising certificate except to a licensed surveyor who —
 - (i) satisfies the Board that the licensed surveyor holds a valid current certificate of insurance for the category of practice in which the licensed surveyor intends to engage; or
 - (ii) is exempt under those regulations;
 - (e) empower the Board to suspend the licence of a licensed surveyor until the licensed surveyor —
 - (i) satisfies the Board that the licensed surveyor holds a valid current certificate of insurance for the category of practice in which the licensed surveyor intends to engage; or
 - (ii) is exempt under those regulations;

- (f) specify circumstances in which licensed surveyors or former licensed surveyors are exempt from those regulations or empower the Board to exempt any licensed surveyor or former licensed surveyor or class of licensed surveyor or former licensed surveyor in whole or in part from any provision of those regulations either for a specified or indefinite period or subject to any condition which may be imposed by the Board;
- (g) empower the Board to vary or revoke any exemption made by the Board under those regulations;
- (h) empower the Board to take such steps as it considers necessary or expedient to ascertain whether or not those regulations are being complied with; and
- (i) contain incidental, procedural and supplementary provisions.

[Section 26A inserted by No. 79 of 1996 s. 26; amended by No. 70 of 2003 s. 41.]

27. Evidence

- (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, reinstatement, 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.
- (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.

[28, 29. Repealed by No. 79 of 1996 s. 27.]

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30. Proceedings for offences

Proceedings for an offence against this Act shall be dealt with summarily in a court of summary jurisdiction.

[Section 30 inserted by No. 78 of 1995 s. 64.]

[First Schedule omitted under the Reprints Act 1984 s. 7(4)(e) and (f).]

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 2 members of the Board.
3. No business shall be transacted at any meeting of the Board unless at least 3 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 7 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.
9. No proceedings of the Board shall be invalidated by reason of any defect in any appointment, or by reason of there being any vacancy in the number of members at the time of such proceedings, provided that the number is not reduced below 3.

Notes

¹ This is a compilation of the *Licensed Surveyors Act 1909* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Licensed Surveyors Act 1909</i>	25 of 1909	29 Oct 1909	1 Jan 1910 (see s. 1)
<i>Licensed Surveyors Act Amendment Act 1940</i>	16 of 1940	12 Nov 1940	12 Nov 1940
Reprint of the <i>Licensed Surveyors Act 1909</i> approved 2 Jul 1956 in Vol. 10 of Reprinted Acts (includes amendments listed above)			
<i>Licensed Surveyors Act Amendment Act 1958</i>	14 of 1958	6 Oct 1958	6 Oct 1958
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
Reprint of the <i>Licensed Surveyors Act 1909</i> approved 1 Sep 1975 (includes amendments listed above)			
<i>Licensed Surveyors Act Amendment Act 1976</i>	107 of 1976	17 Nov 1976	Act other than s. 7-9: 17 Nov 1976 (see s. 2(1)); s. 7-9: 1 Jan 1977 (see s. 2(2) and <i>Gazette</i> 31 Dec 1976 p. 5127-8)
<i>Acts Amendment (Financial provisions of regulatory bodies) Act 1987 s. 3</i>	77 of 1987	26 Nov 1987	1 Jan 1988 (see s. 2)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 45</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Licensed Surveyors Amendment Act 1996</i>	79 of 1996	14 Nov 1996	5 Apr 1997 (see s. 2 and <i>Gazette</i> 4 Apr 1997 p. 1750)
<i>Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Act 1998 s. 15</i>	40 of 1998	30 Oct 1998	14 Apr 1999 (see s. 2 and <i>Gazette</i> 9 Apr 1999 p. 1433)

Short title	Number and year	Assent	Commencement
Reprint of the <i>Licensed Surveyors Act 1909</i> as at 1 Jan 1999 (includes amendments listed above except those in the <i>Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Act 1998</i>) (correction to reprint in <i>Gazette</i> 11 Jan 2000 p. 103)			
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 21	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Reprint of the <i>Licensed Surveyors Act 1909</i> as at 22 Nov 2002 (includes amendments listed above)			
<i>Acts Amendment and Repeal (Competition Policy) Act 2003</i> Pt. 10 ²	70 of 2003	15 Dec 2003	21 Apr 2004 (see s. 2 and <i>Gazette</i> 20 Apr 2004 p. 1297)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 73 ³	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Law Amendment (Simple Offences) Act 2004</i> s. 82	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80 ⁴	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
Reprint 5: The <i>Licensed Surveyors Act 1909</i> as at 5 May 2006 (includes amendments listed above)			
<i>Land Information Authority Act 2006</i> s. 143	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)

^{1a} On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling the reprint. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Land Administration) Act 1987</i> Pt. IX ⁵	126 of 1987	31 Dec 1987	To be proclaimed (see s. 2)

Short title	Number and year	Assent	Commencement
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 142 ⁶	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	To be proclaimed (see s. 2)
<i>Criminal Law and Evidence Amendment Act 2008</i> s. 66, 77(13) and 78(2)(c) ⁸	2 of 2008	12 Mar 2008	To be proclaimed (see s. 2)

² The *Acts Amendment and Repeal (Competition Policy) Act 2003* s. 40(7)-(9) reads as follows:

“

- (7) A person appointed under section 4 of the *Licensed Surveyors Act 1909* as a member of the Land Surveyors Licensing Board and holding office immediately before the commencement of this section continues to hold office under the first-mentioned section during the period from that commencement until the following 31 December (“**the transitional period**”) as if this section had not been enacted.
- (8) The Surveyor General continues to hold office as the chairman of the Land Surveyors Licensing Board during the transitional period as if this section had not been enacted.
- (9) A vacancy that occurs in the membership of the Land Surveyors Licensing Board during the transitional period is to be filled in accordance with section 4 of the *Licensed Surveyors Act 1909*, as enacted immediately before the commencement of this section.

”.

³ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

⁴ The amendment in the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004* s. 82 will not be included because of an error in the reference to the provision to be amended.

⁵ On the date as at which this reprint was prepared, the *Acts Amendment (Land Administration) Act 1987* Pt. IX (s. 40-44) had not come into operation. It reads as follows:

“

Part IX — *Licensed Surveyors Act 1909*

40. Principal Act

In this Part the *Licensed Surveyors Act 1909* is referred to as the principal Act.

41. Section 3 amended

Section 3 of the principal Act is amended by deleting the definition of “Surveyor General”.

42. Section 4 amended

- (1) Section 4 of the principal Act is amended —
- (a) in subsection (1) by deleting —
 - (i) paragraph (a); and
 - (ii) “Surveyor General” in paragraph (b) and substituting the following —
“ Minister ”;
 - (b) by repealing subsection (1a);
 - (c) in subsection (2) by deleting “, other than the Surveyor General,”;
 - (d) in subsection (3) by deleting “other than the Surveyor General,”;
 - (e) in subsection (4) by deleting —
 - (i) “other than the Surveyor General”; and
 - (ii) “Surveyor General”, where it occurs for the second and third times, and substituting in each case the following —
“ Minister ”;
 - (f) in subsection (4a) by deleting —
 - (i) “Surveyor General” and substituting the following —
“ Minister ”;
 - (ii) paragraph (a) and substituting the following paragraph —
“

- (a) in respect of the occasion of the first appointment of the member after the commencement of section 42 of the *Acts Amendment (Land Administration) Act 1987*, as soon as is practicable after that commencement; and
 - ”;
 - (g) in subsection (5) by deleting “Surveyor General”, wherever it occurs, and substituting in each case the following —
“ Minister ”;
 - (h) in subsection (5a) by deleting “Surveyor General” and substituting the following —
“ Minister ”; and
 - (i) by inserting after subsection (5a) the following subsection —
“
(5b) The Governor shall, on the nomination of the Minister, appoint one of the members of the Board who is a licensed surveyor to be the chairman of the Board.
”.
- (2) Notwithstanding anything in subsection (1) —
- (a) the members of the Board who were in office immediately before the commencement of this section, except for the member referred to in section 4(1)(a) of the principal Act, shall —
 - (i) if that commencement occurred before 1 January 1988, continue in office until 31 December 1987; or
 - (ii) if that commencement occurred on or after 1 January 1988 but before 1 January 1989, continue in office until 31 December 1988;
 - and
 - (b) if the commencement of this section occurred —
 - (i) before 1 January 1988, any vacancy in the office of member of the Board which occurred after that commencement but before 1 January 1988; or

- (ii) on or after 1 January 1988 but before 1 January 1989, any vacancy in the office of member of the Board which occurred after that commencement but before 1 January 1989, shall be filled, subject to subsection (3), in the manner provided by the principal Act as in force immediately before that commencement.
- (3) A vacancy referred to in subsection (2) caused by the going out of office of a member of the Board appointed before the commencement of this section under section 4(1)(b) of the principal Act shall be filled by the appointment by the Governor on the nomination of the Minister of a new member of the Board.
- (4) In subsections (2) and (3) “Board” has the meaning given by the principal Act.

43. Section 18 amended

Section 18 of the principal Act is amended by deleting “Surveyor General” and substituting the following —

“ Registrar of Titles ”.

44. Section 19 amended

Section 19 of the principal Act is amended by deleting “Surveyor General”, wherever it occurs, and substituting in each case the following —

“ Registrar of Titles ”.

”.

⁶ On the date as at which this reprint was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 142, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

142. Other amendments to various Acts

Each Act listed in Schedule 2 is amended as set out in that Schedule immediately below the short title of the Act.

”.

Schedule 2 cl. 27 reads as follows:

“

Schedule 2 — Other amendments to Acts

27. Licensed Surveyors Act 1909

s. 21(1b) ⁷ s. 21(1c) ⁷	In each provision, delete “a Local Court” and insert instead — “ the Magistrates Court ”. In each provision delete “the Local Court” wherever it occurs and in each place insert instead — “ the Magistrates Court ”.
s. 21(1b) ⁷	Delete “the clerk of”.

”

⁷ The amendments to section 21(1b) and (1c) in the *Courts Legislation Amendment and Repeal Act 2004* have not been proclaimed because those subsections were repealed by the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* s. 562.

⁸ On the date as at which this compilation was prepared, the *Criminal Law and Evidence Amendment Act 2008* s. 66, 77(13) and 78(2)(c) had not come into operation. They read as follows:

“

66. Licensed Surveyors Act 1909 amended

- (1) The amendments in this section are to the *Licensed Surveyors Act 1909*.
- (2) Section 8C(2) is amended by deleting “defendant” in each place where it occurs and in each place inserting instead —
“ accused ”.

77. Courts Legislation Amendment and Repeal Act 2004 amended

- (1) The amendments in this section are to the *Courts Legislation Amendment and Repeal Act 2004*.
- (13) Schedule 2 clauses 1 to 42 and 44 to 51 are repealed.

78. Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 amended

- (1) The amendments in this section are to the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004*.
- (2) Section 82 is amended in Table 2 as follows:
 - (c) by deleting the row relating to the *Licensed Surveyors Act 1909*;

”

