

New Zealand.



SURVEYORS' INSTITUTE AND BOARD OF EXAMINERS.

1908, No. 188.

Vol. V., p. 521; Facs.
For General Regulations, see
Gazette, 1923, p. 1793.

AN ACT to consolidate certain Enactments of the General Assembly relating to the New Zealand Institute of Surveyors and to the Surveyors' Board.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Refer: 1928 Inset.

1. (1.) The Short Title of this Act is "The Surveyors' Institute and Board of Examiners Act, 1908."

Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:—

Enactments consolidated.

(a.) The Institute incorporated, the Council and Board constituted, all offices, appointments, licenses, certificates, regulations, rules, by-laws, Orders in Council, orders, registers, instruments, and generally all acts of authority which originated under the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated:

Savings.

Provided that such Institute shall be deemed to be the same Institute and corporation under this Act, without change of corporate entity or otherwise:

Provided also that in the case of members of the Council and Board respectively appointed or elected for a specified term the current term of office shall be computed from the date of its commencement.

Interpretation.
1900, No. 58, sec. 2

(b.) All matters and proceedings commenced under the said enactments, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

2. In this Act, if not inconsistent with the context,—

“Australian State” means any State or territory now or hereafter forming part of the Commonwealth of Australia, and includes any such State or territory while it was a colony:

“Board” means the Surveyors’ Board constituted under this Act:

“Certificate” means a certificate of competency in surveying granted before or after the coming into operation of this Act by the Board of Examiners for land-surveyors, or other legally constituted authority, in any Australian State:

“Institute” means the New Zealand Institute of Surveyors incorporated by or under this Act:

“License” means a license to practise as a surveyor under this Act:

“Licensed surveyor” means any person registered in respect of a qualification or certificate under this Act:

“Minister” means the Minister of Lands:

“Qualification” means—

(a.) A certificate issued before the coming into operation of “The New Zealand Institute of Surveyors and Board of Examiners Act, 1900,” by the Surveyor-General to any person to act as an authorised surveyor; or

(b.) A certificate of competency issued by the Board of Examiners under “The Land Act, 1892,” before the coming into operation of the last-mentioned Act:

“Register” means the register of surveyors entitled to practise:

“Surveyor-General” means the Surveyor-General or other person for the time being acting as professional head of the survey branch of the Department of Lands and Survey:

“Year” means a year ending on the thirty-first day of December.

New Zealand Institute of Surveyors.

3. All persons who at the time of the coming into operation of this Act are members of the Institute, and all persons who at any time hereafter become members of the Institute in accordance with this Act and the by-laws and rules in force thereunder, are hereby constituted a body corporate by the name of “The New Zealand Institute of Surveyors,” and by such name may sue and be sued.

4. The Institute under its corporate name shall have perpetual succession and a common seal.

5. The Institute may at all times acquire and hold, for any estate or term of years whatever, any real estate of any nature or kind whatsoever, and may also acquire any personal estate; and may sell, convey, demise, exchange, mortgage, and dispose of such real or personal estate or any part thereof:

Provided that the real estate to be so acquired shall not exceed a total area of ten acres.

Incorporation.
Ibid, sec. 3

Seal.
Ibid, sec. 4

Purchase of land.
Ibid, sec. 5

Act. 1908, sec. 1.

6. (1.) The affairs of the Institute shall be managed by a Council, consisting of President, two Vice-Presidents, Honorary Treasurer, and six ordinary members, all of whom shall be elected by ballot from amongst the members of the Institute.

Council and officers.
1900, No. 58, sec. 6

(2.) The President shall hold office for two years; and three of the other members of the Council shall retire annually by ballot, but be eligible for re-election.

(3.) Five members of the Council shall form a quorum, but the number may be increased or reduced by the Institute in general meeting.

7. (1.) Meetings of the Institute shall be held at such times and places as the by-laws direct.

General meetings.
Ibid, sec. 7

(2.) The rules and by-laws of the Institute shall provide for the representation, quorum, and voting at such meetings of its members.

8. (1.) The Council shall transact all the ordinary business of the Institute, and shall cause to be kept proper minutes of its proceedings; and may appoint committees, with such delegated powers as the Council thinks proper to confer; and may make by-laws for the regulation of its own affairs, provided that such by-laws are approved by the Minister and are not repugnant to this Act.

Powers of Council.
Ibid, sec. 8

(2.) The Council may also appoint a Secretary and other necessary officers, and in its discretion cancel such appointments; and may order the payment out of the funds of the Institute of such salaries or allowances to such officers as it determines.

(3.) The Council may also fix a scale of the maximum charges which it shall be lawful for any licensed surveyor to charge for any work as such licensed surveyor.

9. No person under the age of twenty-one years, and no person who is not a licensed surveyor under this Act, or does not possess any of the qualifications mentioned in section two hereof, shall be eligible to become a member of the Institute; and any person who ceases to be a licensed surveyor, or to possess any such qualification, shall thereupon cease to be a member of the Institute.

Disqualification
from membership
Ibid, sec. 9

10. (1.) At any meeting of members of the Institute it shall be lawful for them, or such of them as are present, provided the number is not less than ten, to make such by-laws, rules, or orders (not repugnant to this Act) as they deem proper for any of the following purposes:—

By-laws.
Ibid, sec. 10

- (a.) For the government of the Institute, and for fixing the manner of electing the Council, President, Vice-Presidents, Treasurer, Auditors, and such other officers as are deemed necessary, and the qualifications respectively for such officers, and the term of their continuance in office, and the manner and time in which any vacancy shall be filled up;
- (b.) For regulating the admission of persons as members of the Institute;
- (c.) For expelling members therefrom for misconduct and mal practice or other reasonable causes;
- (d.) For convening ordinary or special meetings of members;
- (e.) For the granting of certificates of membership;
- (f.) For conferring fellowships and creating honorary memberships and other titles of distinction;
- (g.) For fixing the fees or other payments to be paid for becoming or while a member of the Institute;

Refer: 1973 Inct.

- (h.) For imposing a fine not exceeding two pounds upon any member of the Institute for the breach of any by-law; and
 - (i.) Generally for carrying the objects for which the Institute is formed into full effect.
- (2.) Such by-laws, rules, or orders may from time to time in like manner be altered or revoked:

Provided that, until otherwise determined by the Institute, notice of any proposed alteration or revocation shall be given in writing to the Council at least three months before the date of the meeting:

Provided also that all by-laws, rules, or orders shall be submitted to the Minister, and be subject to his approval:

Provided further that no by-law, rule, or order for expelling members, for granting certificates of membership, or for defining the nature and extent of the education to be expected from candidates seeking to enter the profession shall have any effect until approved by the Governor in Council and published in the *Gazette*.

Surveyors' Board of Examiners.

Appointment of
Surveyors' Board.
1900, No. 58, sec. 11

11. The Governor in Council may, subject to the provisions of this section, appoint four persons who, together with the Surveyor-General, shall be a Board, to be called "the Surveyors' Board":—

(a.) Only persons holding a qualification or license shall be eligible for nomination and appointment on the Board.

(b.) All members of the Board except the Surveyor-General (who shall be *ex officio* a member of the Board) shall be nominated for appointment in the manner following, that is to say: two of such members shall be nominated by the Minister and two by the Council of the Institute, or if the said Council for the period of one month fails to nominate, then the Board may nominate such last-mentioned members.

(i.) All nominations shall be in writing.

(ii.) Nominations made by the said Council to fill an ordinary vacancy shall be lodged with the Minister during the month of November, and nominations made by the Board to fill an ordinary vacancy shall be so lodged during the month of December in every year.

(iii.) Every nomination by the Minister or Board of a nominee member to fill an extraordinary vacancy on the Board caused by the removal, or death, or resignation of a nominee member not nominated by the Minister shall be made and lodged as aforesaid within one month after the happening of such vacancy.

(c.) The nominee members of the Board shall retire from office on the thirty-first day of December in every year, but shall be eligible for reappointment, and shall hold office until the appointment of their successors.

(d.) The Governor in Council may from time to time remove any nominee member of the Board from his office.

(e.) The Governor in Council may, subject as hereinbefore provided, appoint persons in the place of any members removed from office, dying, resigning, or retiring from office.

(f.) The members of the Board shall receive from the revenues of the Board such fees as the Governor in Council determines.

12. (1.) Three members of the Board shall be a quorum for the conduct of business.

Quorum.
1900, No. 58, sec. 12

(2.) A quorum of the Board may lawfully exercise the powers vested in the Board, notwithstanding any vacancy in its membership.

Add Subsection (2) See "Inset"

13. The Board shall exercise and perform the duties and powers following, namely:—

Duties and powers
of Board.
Ibid, sec. 13

(a.) The Board shall at its first meeting, or as soon as practicable, and upon the occurrence of any vacancy in the office, appoint a Secretary.

(b.) Examinations shall be held and conducted by the members of the Board in the months of March and September in every year, and at such other times as the Board by regulation appoints.

(c.) The Board shall give certificates to any person who at any examination of the Board satisfies the examiners in the subjects set for examination.

(d.) The Board may issue a license to any person holding a certificate or qualification. Such license shall be signed by two members of the Board (of whom the Surveyor-General shall be one) and countersigned by the Secretary.

(e.) The Board may refuse a license or certificate to any applicant if the members thereof are not satisfied as to his character.

(f.) The Board shall cause to be kept a register-book, in which shall be entered the names of all persons holding licenses, with the particulars of their qualifications or certificates; and such register shall be revised forthwith after the issue, cancellation, or suspension of any license; and notice of every such issue, cancellation, or suspension shall, within one month from the date thereof, be published in the *Gazette*.

14. If the Board refuses to issue a license to any person, it shall, if required by him, state in writing the reason for such refusal; and, unless such reason is that he failed to pass the prescribed examination, he may appeal to the Governor, and the Governor may, after considering the representations of the Board, order the Board to issue a license, and such order shall be duly obeyed.

Appeal if license
refused.
Ibid, sec. 14

15. Every license issued and registered under this Act shall, while in force, entitle the holder thereof to practise as a surveyor under any Act in force relating to the alienation and disposal of Crown land, and to effect surveys under such Act and under all Acts affecting titles to land; and no person shall practise under such Acts or effect such surveys unless he is so licensed.

Statutes and anor. v. Barnett,
11 G.L.R. 633; 28 L.R. S.C. 810.
Registration and
effect of license.
Ibid, sec. 15

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

Offences resulting
in suspension or
cancellation of
license.
Ibid, sec. 16

(a.) That he has wilfully certified to the accuracy of any survey or plan knowing the same to be inaccurate or without taking reasonable precautions to verify its accuracy in every respect;

- (b.) That he wilfully or by culpable negligence has made, or has had made under his immediate direction and supervision, any survey or plan which is inaccurate or defective;
 - (c.) That he has certified to the accuracy of any survey or plan not executed by himself or under his immediate supervision;
 - (d.) That he has obtained his license, qualification, or certificate, or any of them, by fraud or misrepresentation or concealment of facts;
 - (e.) That after the date of his registration he has been convicted of any crime for which the punishment is death or imprisonment for three years or upwards; or
 - (f.) That his license in any Australian State has been cancelled or suspended, or that his name has been lawfully removed from the surveyors register of any Australian State,—
- then the Board may, if it thinks fit, inquire into the charge or charges, and if a majority of the Board then present find the charge or charges, or any of them, proved the Board may suspend the license of the accused for a period not exceeding three years or may cancel the same absolutely.

(2.) The finding and decision of the Board on such inquiry shall be given in writing, and shall be signed by at least two members thereof (of whom the Surveyor-General shall be one), 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.

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

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

Board may make regulations.
1900, No. 58, sec. 17

17. (1.) The Board may make regulations for all or any of the undermentioned purposes, namely:—

- (a.) Fixing the details of subjects for examinations;
- (b.) Fixing the time and place for examinations;
- (c.) Regulating the mode of conducting examinations and inquiries, and the conditions under which certificates may be granted (with partial or without examination) to applicants who produce satisfactory evidence of having passed an examination equivalent in the opinion of the Board to that prescribed by the Board, and of having been professionally employed for not less than twelve months in any Australian State;
- (d.) Regulating the times of meeting of the Board and the conduct of business thereat;
- (e.) Prescribing the duties of the Secretary;
- (f.) The guidance of surveyors under "The Native Land Court Act, 1894," "The Land Transfer Act, 1908," "The Land Act, 1908," or under any other Act relating to or affecting surveys of land; and

(g.) Such other purposes as may be necessary for the discharge of their duties and the exercise of their powers under this Act.

(2.) All such regulations, on being approved by the Governor in Council, shall be gazetted, and a copy of the *Gazette* containing such regulations so approved shall, if not inconsistent with this Act, be conclusive evidence of the due making thereof, and shall have the force of law, and shall be judicially noticed.

18. (1.) The fees set forth in the Second Schedule hereto shall be paid in advance to the Secretary of the Board in respect of the several matters therein specified, and shall be paid into some bank approved of by the Board to the credit of an account entitled "the Surveyors' Board Account," to be operated upon by cheques signed by any two members of the Board and countersigned by the Secretary.

Fees, how payable and appropriated. 1900, No. 58, sec. 18

(2.) Such moneys shall be applied by the Board—

(a.) In payment of the expenses incurred by the Board in giving effect to this Act, including remuneration to a Secretary and Auditor :

(b.) In payment of the fees payable to the members of the Board under this Act.

(3.) After payment of such expenses and fees as aforesaid the balance (if any) left unexpended in any year shall be available for similar expenditure in any succeeding year, provided that any accumulated balance in excess of fifty pounds shall be forthwith paid into the Reserve Fund.

(4.) Accounts shall be kept by the Board of its receipts and disbursements, and shall be audited at least once a year.

Accounts.

19. Before any person receives a license under this Act he shall make a declaration in the form in the Third Schedule to this Act before a Justice, and shall deliver such declaration to the Secretary of the Board.

Declaration in Third Schedule. Ibid, sec. 19

20. (1.) Every person not being a licensed surveyor who, for gain or reward, as a surveyor, either—

Offences by person not licensed as a surveyor. Ibid, sec. 20

(a.) Knowingly and wilfully pretends that he is a licensed surveyor; or

(b.) Certifies to the accuracy of any survey or plan purporting to be a survey or plan for the purposes of title to land, or signs or initials any such survey or plan,—

is liable to a fine not exceeding twenty pounds.

(2.) Prosecutions for offences against this Act may be instituted by the Board through its Secretary, or by an officer appointed by the Council.

21. Any license under this Act shall, except upon proceedings to cancel or suspend the same, be conclusive evidence that all conditions precedent to the issue of such license have been duly fulfilled.

License to be conclusive evidence that conditions fulfilled.

22. (1.) The Board shall publish in the *Gazette* in the month of January in every year a list containing the names of persons registered in respect of qualification or certificate under this Act.

Ibid, sec. 21
List of registered surveyors. Ibid, sec. 22

(2.) The production of such *Gazette* shall in any Court be *prima facie* evidence that the persons named in such list are registered under this Act, or, as the case may be, that a person whose name is not in such list is not so registered.