

New Zealand.



ANALYSIS.

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1938, No. 4.

AN ACT to consolidate and amend certain Enactments of the General Assembly relating to Surveyors.

[18th August, 1938.]

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

1. This Act may be cited as the Surveyors Act, 1938, and shall come into force on the first day of July, nineteen hundred and thirty-nine.

2. In this Act, unless the context otherwise requires,—

“ Board ” means the Survey Board constituted under this Act:

“ Council ” means the Council of the New Zealand Institute of Surveyors constituted under this Act:

“ Chief Surveyor ” means a Chief Surveyor appointed under the Land Act, 1924:

“ Institute ” means the New Zealand Institute of Surveyors constituted under this Act:

“ Minister ” means the Minister of Lands:

“ Prescribed ” means prescribed by this Act, or by rules or regulations made under this Act:

“ Secretary ” means the Secretary of the Board:

“ Surveyor ” means a person registered as a surveyor under this Act:

“ Surveyor-General ” means the Surveyor-General appointed under the Land Act, 1924, and includes his deputy.

Title.

Short Title and commencement.

Interpretation.

See Reprint of Statutes, Vol. IV, p. 637

Ibid., p. 636

Survey Board.

3. (1) There is hereby established a Board, to be known as the Survey Board. The said Board shall be deemed to be identical with the Survey Board constituted under the Surveyors Registration Act, 1928.

Survey Board constituted.

(2) The Board shall consist of—

Ibid., Vol. I, p. 391

(a) The Surveyor-General, who shall be the Chairman; and

(b) Four surveyors appointed by the Minister, of whom two shall be appointed on the recommendation of the Institute.

(3) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(4) Except as provided in the next succeeding subsection, every appointed member of the Board shall be appointed for a term of one year, but may from time to time be reappointed, or may be at any time removed from office by the Minister for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Surveyor-General.

(5) If any appointed member of the Board dies, is removed from office, or resigns, the vacancy so created shall within two months after the occurrence thereof be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

(6) Unless he sooner vacates his office as provided in the last preceding subsection, every member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

Meetings of Board.

4. (1) At every meeting of the Board three members shall form a quorum.

(2) Every question before the Board shall be determined by a majority of the votes of the members present at a meeting of the Board.

(3) The Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(4) Except as expressly provided in this Act or in regulations made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

Fees and allowances of members.

5. (1) There may from time to time be paid to the members of the Board out of its funds such fees and allowances as the Minister of Finance may from time to time approve.

(2) Except as provided in this section, no member of the Board shall be entitled to receive any remuneration or other payment out of the funds of the Board.

Officers of Board.

6. The Board may from time to time appoint a Secretary and such other officers and servants as it may require.

New Zealand Institute of Surveyors.

7. (1) There is hereby established a body, to be known as the New Zealand Institute of Surveyors, which shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.

Incorporation
of New
Zealand
Institute of
Surveyors.

(2) The Institute constituted under this section is hereby declared to be the same body corporate as the New Zealand Institute of Surveyors constituted under the Surveyors Institute Act, 1908.

(3) The general functions of the Institute shall be to promote and encourage proper conduct amongst surveyors; to suppress illegal, dishonourable, improper, and objectionable practices; to preserve and maintain the integrity and status of the profession of surveying; to provide opportunities for the acquisition and diffusion of knowledge in relation to surveying and kindred subjects; to consider and suggest amendments in the law relating to surveys and surveying; to provide means for the amicable settlement of professional differences; and generally to protect and promote the interests of the profession of surveying and the interests of the public in relation to surveys and surveying.

See Reprint
of Statutes,
Vol. I, p. 386

8. (1) Every surveyor holding an annual practising certificate for the time being in force under section thirty-three of this Act shall be a member of the Institute, whether or not he applies for membership thereof.

Membership of
Institute.

(2) Every member of the Institute who ceases to be registered under this Act shall thereupon cease to be a member of the Institute.

(3) Every member of the Institute who ceases to hold an annual practising certificate for the time being in force under this Act shall thereupon cease to be a member of the Institute unless he retains his membership in accordance with the next succeeding subsection.

(4) Any person who, not being the holder of an annual practising certificate as aforesaid, is for the time being registered as a surveyor under this Act may, in accordance with the rules of the Institute, be retained or admitted as a member of the Institute.

Council of the
Institute.

9. (1) The affairs of the Institute shall be managed by a Council consisting of a President, two Vice-Presidents, and not less than seven other members, of whom one shall be a member of the Institute appointed by the Surveyor-General prior to each annual general meeting of the Institute. All the members of the Council other than the member appointed by the Surveyor-General shall be elected by the members of the Institute by ballot from among their number.

(2) In addition to the members provided for by the last preceding subsection the Council may, on the retirement of the President, appoint him to be a member of the Council, to hold office as such until the next annual election of members of the Council.

(3) The President shall hold office for two years. The member of the Council appointed by the Surveyor-General shall hold office for one year. In every year one of the Vice-Presidents and two of the elected members of the Council shall retire from office. The Vice-President who has held office longer as such shall retire before the other, and the elected members of the Council who have held office longest as such shall retire before the other elected members. In every case where a question arises as to which of two or more members who have held office for the same period should retire the question shall be determined by lot. Every retiring President, Vice-President, or other member of the Council shall be eligible for re-election or reappointment to the office from which he retires or to any other office.

(4) At every meeting of the Council five members, or such other number as may from time to time be prescribed by the rules of the Institute, shall form a quorum.

Powers of
Council.

10. 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 fit. Except as otherwise provided in this Act or in any rules or regulations made under this Act, the Council may regulate its procedure in such manner as it thinks fit.

Officers of
Institute.

11. (1) The Council may from time to time appoint such officers and servants as it deems necessary for the efficient exercise of its functions.

(2) Any person may hold office concurrently as an officer of the Board and as an officer of the Institute.

12. (1) The Institute may from time to time, at a meeting at which not less than twenty members are present, make rules (not inconsistent with this Act) for all or any of the following purposes:—

Rules of
Institute.

- (a) For the regulation and good government of the Institute and of the members and affairs thereof; and regulating the election of the President, Vice-Presidents, and other members of the Council, and the filling of extraordinary vacancies in the Council:
- (b) Regulating the audit of the accounts of the Institute and the appointment of auditors, and prescribing their qualifications:
- (c) Providing for the issue to surveyors of annual practising certificates, and prescribing the fees payable in respect thereof:
- (d) Regulating the admission or retention as members of the Institute of persons who are not holders of annual practising certificates under this Act:
- (e) Providing for and regulating the granting of certificates of membership:
- (f) Providing for the convening of ordinary and special meetings of the Institute and of the Council, and regulating the quorum, the representation of members, and the procedure thereat:
- (g) Providing for the conferring of fellowships, honorary memberships, and other distinctions:
- (h) Prescribing the fees or other payments, annual or otherwise, to be paid by members of the Institute:
- (i) Regulating the charges that may be made by surveyors for work as such, and prescribing scales of charges:
- (j) Regulating the professional conduct of members of the Institute:
- (k) Imposing a fine not exceeding five pounds upon any member of the Institute for the breach of any rule made under this section:
- (l) Generally for carrying the objects for which the Institute is formed into full effect.

(2) Rules may be so made under this section that different fees or other payments (whether for annual practising certificates or otherwise) are prescribed for different classes of surveyors or members and that any class of surveyors or members is exempted from any fee or other payment.

(3) No rules made under this section shall come into force unless and until they are approved by the Minister. No rules made for any of the purposes specified in paragraph (i) of subsection one of this section shall be approved by the Minister unless and until they are approved by the Board.

(4) Any fine imposed upon any member under any rule made under this section shall be deemed to be a debt due from the member to the Institute, and shall be recoverable accordingly in any Court of competent jurisdiction.

Registration of Surveyors.

Qualifications
for
registration.

13. (1) Every adult person shall be entitled to be registered under this Act who satisfies the Board—

- (a) That he has obtained a certificate of competency as a surveyor after examination in accordance with regulations made under this Act; or
- (b) That he is the holder of a recognized certificate (as hereinafter defined) granted out of New Zealand, and has had such experience in New Zealand of the duties of a surveyor as may be prescribed by regulations made under this Act.

(2) For the purposes of this section the term “recognized certificate” means a certificate, diploma, degree, or license granted by a university, college, board, or other authority and recognized by the Board as furnishing sufficient evidence of the possession by the holder thereof of the requisite knowledge and skill for the efficient practice of the profession of surveying.

(3) Notwithstanding anything in the foregoing provisions of this section, but subject to the provisions of section thirty-seven of this Act as to appeals, no person shall be registered under this Act if, in the opinion of the Board, he is not a fit person to be registered by reason of the fact that he is not of good character and reputation.

14. (1) Application for registration as a surveyor under this Act shall be made in writing addressed to the Secretary of the Board. Every such application shall be accompanied by the prescribed fee.

Application for registration.

(2) Every application for registration shall be accompanied by a copy thereof, which shall, on receipt by the Secretary, be forthwith forwarded by him to the Institute.

15. (1) As soon as practicable after the receipt of any application for registration the Board shall consider the application and shall give such directions in respect thereof as it thinks fit and as are hereinafter authorized.

Applications to be considered by Board.

(2) Before giving any such directions the Board may, if it thinks fit, examine on oath or otherwise the applicant, or any person objecting to the application, or any other person, with respect to the application; and for the purposes of this subsection the Chairman of the Board may administer an oath to any person.

(3) The Board may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application, or with respect to any objection to an application.

16. (1) Within one month after the receipt by the Institute of a copy of any application as aforesaid the Institute may give notice in writing to the Secretary of the Board of its desire to object to the registration of the applicant, and of the grounds of the objection. A copy of the notice shall forthwith be sent by the Institute to the applicant.

Objections by Institute.

(2) The Board shall appoint a convenient time and place for hearing the objection, and shall give notice thereof in writing to the applicant and to the Secretary of the Institute at least seven clear days before the time so appointed.

(3) Both the applicant and the Institute shall be entitled to be present and to be heard, and may be represented by counsel or otherwise at the hearing of the objection.

17. (1) If the Board, after considering any application as aforesaid, is of opinion that the applicant is entitled to be registered under this Act, it shall so direct, and the Secretary shall thereupon register the applicant, and shall notify him accordingly.

Secretary to observe directions of Board.

(2) If the Board, after considering any application as aforesaid, is of opinion that the applicant is not entitled to be so registered it shall direct accordingly, and the Secretary shall thereupon refuse to register the applicant, and shall notify him accordingly.

Register of
Surveyors.

18. (1) Registration under this Act shall be effected by the entry in the Register of Surveyors (which shall be kept by the Secretary) of the name and address of the applicant, of the qualifications by virtue of which he is registered, and of such other particulars as may be prescribed.

(2) The Register of Surveyors shall be open to inspection by the public during ordinary office hours on payment of the prescribed fee.

Certificate of
registration.

19. The Secretary shall, on application in that behalf made to him at any time by a surveyor and on payment of the prescribed fee, issue to that surveyor a certificate of registration.

Penalty for
wrongfully
procuring
registration.

20. Every person who wilfully makes or causes to be made any false entry in or falsification of the register, or procures or attempts to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, commits an offence and is liable to twelve months' imprisonment or to a fine of fifty pounds.

Registrars
to notify
Secretary of
deaths of
surveyors.

21. Every Registrar of Births and Deaths in New Zealand, on receiving notice of the death of any surveyor, shall forthwith transmit by post to the Secretary a certificate under his hand of that death, with particulars of the time and place of death; and on the receipt of that certificate the Secretary shall remove the name of the deceased surveyor from the register.

Surveyors to
notify changes
of address.

22. (1) Every surveyor who at any time changes his address as appearing on the register shall, within three months thereafter, send to the Secretary a notice of his new address, and the Secretary shall thereupon correct the entry in the register relating to that surveyor accordingly.

(2) Every surveyor who fails to comply with the provisions of this section is liable to a fine of five pounds.

23. (1) The Secretary may at any time, and shall if the Board so directs, send to any surveyor, by registered letter addressed to him at his address as appearing on the register, an inquiry as to whether or not he desires to have his name retained on the register.

Name to be removed from register if surveyor cannot be found, &c.

(2) If no reply is received to that letter within six months from the posting thereof, or if the letter is not delivered and is returned to the Secretary, the Secretary shall, if the Board so directs, remove from the register the name of the surveyor to whom the letter was sent.

(3) Any person whose name has been removed from the register in pursuance of this section may apply to the Secretary to have his name restored to the register, and on payment of the prescribed fee his name shall be restored to the register accordingly.

24. Every surveyor who obtains any approved certificate, diploma, degree, or license, other than that by virtue of which he is registered, may apply to the Board to amend the register so far as it relates to the qualifications of that surveyor; and on such application the Board, if satisfied that the applicant is entitled to the certificate, diploma, degree, or license in respect of which the application is made and that it is one of a kind approved by the Board for the purposes of this section, shall direct the Secretary to amend the register accordingly, and the Secretary shall thereupon insert in the register particulars as to the certificate, diploma, degree, or license.

Additional certificates, &c., may be entered in register.

25. (1) If any person has been registered under this Act by reason of any false or fraudulent representation or declaration, made either verbally or in writing, or if any person not entitled to be registered under this Act has been so registered, the Board shall cause the name of that person to be removed from the register, and the fact of the removal shall be notified by the Secretary in the *Gazette*.

Correction of register.

(2) If any particulars appearing in the register in respect of the qualifications of any surveyor are proved to the satisfaction of the Board to be, or are to the knowledge of the Board, false or erroneous in any respect, the Board shall direct the Secretary to erase those particulars from the register, or otherwise to amend the register, and the Secretary shall thereupon amend the register accordingly.

(3) The provisions of the last preceding subsection shall apply, notwithstanding the fact that at the time when the entry in the register was made the surveyor was actually possessed of the qualifications particulars of which appear in the register, or that at that time the entry was otherwise correct.

Removal of name from register or suspension where similar action taken outside New Zealand.

26. (1) The Board may cause to be removed from the register the name of any person registered under paragraph (b) of subsection one of section thirteen of this Act by virtue of a certificate granted out of New Zealand and recognized as provided in that section, if the Board is satisfied that the certificate has been revoked or cancelled by the authority that granted it.

(2) If the Board is satisfied that any certificate recognized as aforesaid has been suspended for any period by the authority that granted it, the Board may suspend the registration under this Act of the holder of the certificate for the same period or for any unexpired portion of that period.

(3) If any person registered under paragraph (a) of subsection one of section thirteen of this Act, by virtue of a certificate of competency granted in New Zealand, has been authorized by any competent authority to practise his profession out of New Zealand and his right so to practise is thereafter suspended for any period, the Board may if it thinks fit suspend his registration under this Act for the same period or for any unexpired portion of that period.

Removal of name from register if surveyor guilty of indictable offence or grave misconduct.

27. (1) The Board may cause the name of any surveyor to be removed from the register if it is satisfied, after inquiry as hereinafter provided, but not otherwise—

(a) That he has been guilty of such improper conduct as renders him in the opinion of the Board unfit to be registered under this Act, or has been convicted (either before or after his registration) of an indictable offence punishable by imprisonment for a term of two years or upwards:

(b) That he has certified to the accuracy of any survey or of any plan in relation to a survey without having personally carried out or supervised that survey and the field operations connected therewith, or without having checked

the accuracy of the entries in any field-book and the accuracy of all calculations, working-plans, and other survey records that may have been made by any other person employed by him in connection therewith:

- (c) That he has certified to the accuracy of any survey carried out by him or under his personal supervision if the operations of pegging and ground-marking, and all other requirements of the survey, have not been carried out in accordance with the regulations for the time being in force under this Act relating to the conduct of surveys and the operations incidental thereto:
- (d) That he has certified to the accuracy of any survey or plan knowing the same to be defective:
- (e) That, by reason of negligence or incompetence, he has habitually made defective surveys, or has habitually made surveys to which he has not applied adequate checks:
- (f) That he has made any entry in any field-book or copy of a field-book or other survey record which purports to have been derived from actual observation or measurement in the field if in fact it has not been so derived:
- (g) That he has supplied to the Surveyor-General any erroneous information in relation to any survey, land-boundaries, or survey-pegs knowing that information to be erroneous in any material particular:
- (h) That he has without reasonable cause failed to perform any duty imposed on surveyors under any regulation made for any of the purposes specified in paragraph (g) of subsection two of section forty of this Act.

(2) The name of any surveyor shall not be removed from the register under paragraph (a) of the last preceding subsection by reason of any offence committed before the date of his registration if at that date the Board was aware of his conviction in respect of that offence.

(3) The fact that any survey or plan may have been approved by the Surveyor-General or by any other

officer of the Survey Branch of the Lands and Survey Department on behalf of the Surveyor-General, whether before or after the commencement of this Act, or that any act or default complained of may have been done or made before the commencement of this Act, shall be no defence to a charge under this section in relation to a defective survey or plan; but nothing in this subsection shall be construed to render any surveyor liable to a penalty in respect of any act or default done or made by him before the commencement of this Act if the doing of that act or the making of that default was not an offence at the time when the act was done or the default was made.

Inquiry by Board into charges of misconduct.

28. (1) Every complaint that any surveyor has been guilty of any act or default specified in the last preceding section shall be referred to the Chief Surveyor of the district in which the act or default is alleged to have been done or made, and the Chief Surveyor shall investigate the matter and report thereon in writing to the Board.

(2) The Board shall hold an inquiry into the matter, and shall give to the surveyor concerned not less than thirty clear days' notice in writing of its intention to hold the inquiry, and of the time and place of hearing, and of the nature of the charge to be inquired into. The notice may be served personally or by registered letter addressed to the surveyor concerned at his last known place of business or abode.

(3) At the inquiry the surveyor concerned shall be entitled to be present and to be heard, and may, if he thinks fit, be represented by counsel or otherwise.

(4) The Chief Surveyor who makes the investigation and report as aforesaid shall not be competent to act as a member of the Board for the purposes of the inquiry or of the deliberations of the Board thereon.

(5) At any inquiry held under this section the Board may determine that an amount to be specified by the Board, being the whole or any portion of the cost of any field inspections undertaken by direction of the Surveyor-General for the purpose of testing the accuracy of any survey that is found to be defective, may be recovered from the surveyor concerned as a debt due to the Crown, and the amount so specified shall thereupon become recoverable accordingly.

(6) Every complaint shall be prosecuted at the inquiry by the Chief Surveyor of the district in which the act or default complained of is alleged to have been done or made, or, failing him, by such other person as the Surveyor-General shall appoint, except where the complaint is made in the first instance by the Institute and is prosecuted by the Institute. The Chief Surveyor or his substitute and the Institute may be heard and may be represented by counsel or otherwise at any inquiry held under this section.

Practice of Surveying.

29. For the purposes of this Act every person, whether employed in the Public Service or not, shall be deemed to act as a surveyor who—

Definition of practice of surveying.

- (a) Performs or executes, or undertakes to perform or execute, any surface-survey intended to form the basis of any plan or diagram appertaining to any instrument registered or intended to be registered under the Land Transfer Act, 1915, or the Deeds Registration Act, 1908, whether or not the plan or diagram is itself intended for registration:

See Reprint of Statutes, Vol. VII, pp. 1143, 1162

Provided that this paragraph shall not apply in any case where the District Land Registrar intimates in writing that he does not propose to exercise the power conferred on him by section one hundred and seventy-eight of the Land Transfer Act, 1915, to require the deposit of a plan:

Ibid., p. 1220

- (b) Performs or executes, or undertakes to perform or execute, any survey affecting the delimitation of boundaries or the location of survey-pegs in connection with any land for the purposes of the registration of any instrument under the Land Transfer Act, 1915, or the Deeds Registration Act, 1908:
- (c) Performs or executes, or undertakes to perform or execute, any surface-survey of any Crown lands within the meaning of the Land Act, 1924, which is intended to form the basis of any plan or diagram, or which affects the delimitation of boundaries or the location of survey-pegs:

Ibid., Vol. IV, p. 622

- (d) Performs or executes, or undertakes to perform or execute, any surface-survey of any Native land within the meaning of the Native Land Act, 1931, which is intended to form the basis of any plan or diagram to be used for the purposes of any application to or order or determination of the Native Land Court, or which affects the delimitation of boundaries or the location of survey-pegs for the purposes of any such application, order, or determination:
- (e) Performs or executes, or undertakes to perform or execute, any surface-survey or inspection of any land which is intended to form the basis of any plan or diagram to be used for the purposes of any coal-mining right under the Coal-mines Act, 1925, or any mining privilege under the Mining Act, 1926, or any application for a coal-mining right or mining privilege, or which affects the delimitation of boundaries or the location of survey-pegs for the purposes of any such coal-mining right, mining privilege, or application:
- (f) Places in position in relation to any land any peg or other mark, not being a survey-peg or survey-mark, with intent that it may be mistaken by any person for a survey-peg or survey-mark placed in that position by a surveyor for the purposes of a survey:
- (g) Being an officer of the Department of Lands and Survey, certifies to the correctness of any plan or diagram purporting to delineate or define the boundaries of any land, or purporting for the purposes of any easement over land to delineate or define any line or lines.

30. (1) Every person who, not being registered as a surveyor under this Act, acts as a surveyor, commits an offence and is liable to a fine of fifty pounds.

(2) No proceedings for an offence against this section shall be commenced except by information laid by the Secretary or some other officer of the Board

See Reprint
of Statutes,
Vol. VI,
p. 103

Ibid., Vol. V,
pp. 843, 943

Unregistered
persons not
to act as
surveyors.

or by a member of the Board, acting pursuant to a resolution of the Board. Every information for an offence against this section shall be deemed to have been laid in conformity with this subsection unless and until the contrary is proved.

31. (1) Every person commits an offence who, not being registered under this Act, uses or causes or permits to be used any written words, titles, or initials, or any abbreviation of any words, titles, or initials, which are intended to cause or may reasonably cause any person to believe that he is registered under this Act, or that he is qualified to act as a surveyor.

Improper use of words, initials, &c., implying registration, or membership of Institute.

(2) Every person commits an offence who, not being a member of the Institute, uses or causes or permits to be used any written words, titles, or initials, or any abbreviation of any words, titles, or initials, which are intended to cause or may reasonably cause any person to believe that he is a member of the Institute.

(3) Every person who commits an offence against this section is liable to a fine of twenty pounds, and to a further fine of five pounds for every day during which the offence is continued after conviction.

32. (1) After any inquiry made as provided in section twenty-eight of this Act into a complaint against any surveyor the Board may, by writing under the hand of the Chairman, impose a penalty upon the surveyor not exceeding fifty pounds, or suspend the surveyor from practice for a period not exceeding twelve months.

Disciplinary powers of Board.

(2) Every monetary penalty imposed by the Board under this section shall be recoverable as a debt due to the Board by proceedings taken by the Secretary in his own name on behalf of the Board.

(3) While any order of suspension from practice under this section remains in force the surveyor shall be deemed not to be a surveyor, but forthwith on the expiry of the order his rights and privileges as a surveyor shall be revived as from the date of the expiry of the order.

(4) An order of suspension shall not take effect in any case until the expiration of twenty-one clear days after the notification by the Board to the surveyor of the making of the order. If within that period the surveyor gives due notice of appeal under section thirty-seven of this Act, the order shall not take effect unless and

until it is confirmed by the Board of Appeal or the appeal is for any reason dismissed by that Board:

Provided that, unless the Board of Appeal otherwise orders, the period of suspension specified in the order shall commence on the day when the order commences to have effect.

(5) The powers conferred on the Survey Board by this section are in addition to its powers under sections twenty-six, twenty-seven, and twenty-eight of this Act.

Annual Practising Certificates.

Surveyors to have annual practising certificates.

33. (1) In this section "year" means a year ending on the thirtieth day of June.

(2) Notwithstanding anything to the contrary in the foregoing provisions of this Act, no person shall after the commencement of this Act be entitled to act as a surveyor unless he is the holder of an annual practising certificate issued in accordance with this section.

(3) Every person who acts as a surveyor in breach of the last preceding subsection commits an offence, and is liable to a fine of five pounds for every day during which the offence continues.

(4) Subject to the payment of the prescribed fee, the Secretary of the Institute, on application in that behalf by any registered surveyor, shall issue to him an annual practising certificate, and any such certificate shall be in force during the year in respect of which it is issued:

Provided that if at any time during the currency of any such certificate the holder thereof ceases to be registered as a surveyor the certificate shall be deemed to be cancelled.

(5) Every person entitled to receive an annual practising certificate under this section shall be deemed to have obtained that certificate when he has duly applied to the Secretary of the Institute for it and has paid the prescribed fee.

Financial Provisions.

Application of fees, &c., received by the Board.

34. (1) The Secretary of the Board shall take and receive the fees prescribed by regulations made under this Act as payable to the Board in respect of the matters specified in the regulations.

(2) Until the prescribed fee has been paid the Secretary may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable.

(3) All fees, monetary penalties, and other moneys received on behalf of the Board under this Act shall be forthwith paid into a bank approved by the Board to the credit of an account to be called the Survey Board Account, and may be applied by the Board as follows:—

- (a) In payment of the expenses incurred by the Board in respect of this Act, including the remuneration of the Secretary and other officers and servants of the Board, and the cost of the audit of its accounts:
- (b) In payment of any fees or allowances payable in accordance with this Act to members of the Board:
- (c) In payment of the expenses in whole or in part of not more than two delegates appointed to represent the Board at any conference in New Zealand or Australia of persons engaged or qualified to engage in the profession of surveying:
- (d) In the purchase of books or other publications relating to surveying, or the purchase of any instruments or materials deemed necessary by the Board for carrying out its duties under this Act:
- (e) Otherwise for the payment of any expenditure lawfully incurred by the Board.

(4) The Board may from time to time, as it thinks fit, invest any moneys not for the time being required for any of the purposes mentioned in the last preceding subsection by depositing them in the Post Office Savings-bank or with any bank or other institution authorized to receive moneys on deposit.

(5) The accounts of the Board shall be audited by the Audit Office in the same manner as if the funds of the Board were public moneys.

35. (1) The Secretary of the Institute shall take and receive the fees prescribed by the rules of the Institute as payable to the Institute in respect of the matters specified in the rules.

Fees payable
to Institute.

(2) Until the prescribed fee has been paid the Secretary of the Institute may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable.

Institute to contribute to Board's funds.

36. (1) The Council shall from time to time pay to the Board out of the moneys of the Institute such sums, not exceeding one hundred and fifty pounds in any financial year ending on the thirty-first day of March, as may, with the moneys of the Board, be required for payment of the expenditure lawfully incurred by the Board at any time after the thirty-first day of March, nineteen hundred and thirty-nine (whether before or after the commencement of this Act).

(2) If any question arises as to the amount to be paid by the Institute under this section in any financial year it shall be determined by the Minister, whose decision shall be final.

Miscellaneous.

Appeals from decisions of Board.

37. (1) Every person who is dissatisfied with any decision of the Board relating to an application by him for registration, or to the removal of his name from the register, or to the suspension of his registration, or to his suspension from practice, or to the recovery from him of any moneys, or to the imposition on him of any penalty, may, within three months after notice of the decision has been communicated to him by the Secretary, give notice of appeal in the prescribed manner to the Secretary.

(2) Upon receipt of the notice of appeal the Secretary shall take all steps necessary for the constitution of a Board of Appeal, consisting of a Magistrate and two assessors. The assessors shall be appointed in accordance with regulations under this Act to represent the Board and the appellant respectively.

(3) The Board of Appeal so constituted shall as soon as practicable hear the appeal, and may confirm the decision of the Board, or may order the registration of the appellant or the restoration of his name to the register or the determination of the order of suspension, or the remission of the whole or any part of the amount recoverable from him, or may make such other order as the case may require.

(4) On any appeal under this section the decision of not less than two members of the Board of Appeal shall be the decision of that Board, and that decision shall be final and conclusive.

(5) On any appeal under this section the Board of Appeal may make an order for the payment by the Survey Board, the Minister, the Institute, or the appellant, as the case may be, of the costs incurred in respect of the appeal by any other party to the appeal, and in any such case the costs so awarded may be recovered in any Court of competent jurisdiction as a debt due by the party against whom they have been awarded to the party in whose favour they have been awarded.

38. (1) All proceedings in respect of offences against this Act or against any regulations made under this Act shall be taken in a summary way, and shall be heard before a Stipendiary Magistrate.

Offences punishable summarily.

(2) All fines recovered in any such proceedings shall be paid into the Public Account to the credit of the Consolidated Fund.

39. A certificate under the hand of the Secretary to the effect that any person was or was not registered as a surveyor under this Act at any time or during any period specified in the certificate, or as to any entry in the Register of Surveyors or as to any act or proceeding of the Board, shall, until the contrary is proved, be sufficient evidence of the matters therein specified.

Certificate by Secretary to be evidence of registration, &c.

40. (1) The Governor-General may from time to time, on the recommendation of the Board, make by Order in Council all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

Regulations.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- (a) Prescribing the form of and the method of keeping the Register of Surveyors:
- (b) Prescribing the forms of applications, certificates, and other documents required under this Act:
- (c) Prescribing the fees payable to the Board in respect of examination and of registration

- under this Act and in respect of the restoration of names after their removal from the register and in respect of any other alteration of or addition to the register; and also prescribing fees for the issue of certificates of registration and other certificates, and for copies of certificates, and for inspections of the register:
- (d) Prescribing the subject-matter of examinations to be conducted by the Board, the standards required to be obtained by successful candidates, the times when examinations will be held, and the conditions governing the grant of exemptions from any of the requirements of the regulations or of the Board in relation either to examinations or to professional experience:
 - (e) Regulating the procedure of the Board:
 - (f) Prescribing the conditions governing the employment and training by registered surveyors of indentured apprentices or cadets:
 - (g) Regulating the conduct of surveys, including provisions for ensuring the accuracy of plans and surveys under any Act relating to or affecting surveys of land; and providing for amendments and additions to plans and diagrams in accordance with requisitions in that behalf made by a Chief Surveyor or other person authorized to make them, and for the custody and the delivery to a Chief Surveyor or other person authorized to receive them of plans and diagrams delivered to surveyors, whether for compliance with such requisitions or otherwise:
 - (h) Providing such other matters as may be necessary for the efficient discharge by the Board of its duties and functions under this Act:
 - (i) Providing for the appointment of assessors and regulating the conduct of appeals under section thirty-seven of this Act:
 - (j) Providing for the taxation or review by the Council or a committee thereof or by a Magistrate of charges made by surveyors for work as such:

(k) Prescribing fines, not exceeding fifty pounds, for the breach of any regulation made under this section.

(3) All regulations made under this section shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then in session, and, if not, then within fourteen days after the commencement of the next ensuing session.

41. (1) The Surveyors' Institute Act, 1908, the Surveyors' Institute Amendment Act, 1928, the Surveyors Registration Act, 1928, and section one hundred and seventy-seven of the Land Transfer Act, 1915, are hereby repealed.

(2) All offices, appointments, Orders in Council, regulations, rules, by-laws, orders, registers, registrations, records, certificates, instruments, and generally all acts of authority that originated under any of the said enactments, and are subsisting or in force on the commencement 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.

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

(4) All references in the Public Works Act, 1928, or in the Land Transfer Act, 1915, or in any other Act, to authorized surveyors or to licensed surveyors shall, unless the context otherwise requires, be deemed after the commencement of this Act to be references to surveyors registered under this Act.

Repeals and savings.
See Reprint of Statutes, Vol. I, pp. 386-401; Vol. VII, p. 1219

Ibid., Vol. VII, pp. 622, 1162