



NSW Legislative Council Hansard

Surveying Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Wednesday 8 June 2005.

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [3.15 p.m.]: I move:

That this bill be now read a second time.

The Surveying Act was brought into force in 2003 as a result of the recommendations of the national competition policy review of the Surveyors Act 1929 and consultation with key stakeholders. The main objects of the new Act are: to regulate the conduct of surveys carried out by the Surveyor-General and other public authorities; to provide for the establishment and maintenance of a register of public surveys; to provide for the registration of land surveyors and mining surveyors; to confer powers of entry on the Surveyor-General and registered surveyors; to create offences with respect to the conduct of surveying and the protection of survey marks; and to provide for the constitution and functions of the Board of Surveying and Spatial Information.

Whilst the Act is a great improvement on the earlier legislation, this bill contains a number of further reforms. The first proposed change includes a definition of "spatial information" in section 3A of the Surveying Act, to give legal certainty to the use of that term in the legislation:

(1) For the purposes of the Act, spatial information is defined as "any information about a location in space and time including, but not limited to, information about the following (if relevant):

- (a) natural resources at the location;
- (b) the environment and climate at the location;
- (c) land ownership and other ownership rights at the location;
- (d) the use of land at the location;
- (e) any infrastructure at the location; and
- (f) the demography of the location.

(2) A location to which spatial information relates may be:

- (a) a point or a two or three dimensional area, and
- (b) a location that is:
 - (i) above the Earth's surface;
 - (ii) below the Earth's surface;
 - (iii) on the Earth's surface, or
 - (iv) any combination of the above.

The second proposed amendment provides for the correction of survey errors. Under proposed section 9A the Surveyor-General or Registrar-General will be able to require a registered surveyor to correct errors in his or her survey; and if the surveyor does not do so, the Surveyor-General or Registrar-General will be able to appoint another surveyor to correct the error. Likewise, the Chief Inspector of Mines and Chief Inspector of Coal Mines will be able to direct a registered surveyor to correct an error in a mining survey. On a default in this duty, another surveyor may be appointed to correct the error.

It should be noted that a failure to comply with a requirement to amend a survey under section 9A will amount to professional misconduct, rendering a surveyor liable to the disciplinary action specified in section 13 of the Surveying Act. A third amendment will include new section 9B in the Act. This section will allow the Surveyor-General to appoint another surveyor to satisfy requisitions on a plan, lodged in the office of the Registrar-General, where the original surveyor has died, is absent or infirm, cannot be found, or is no longer a registered surveyor. I seek leave to have the remainder of my speech incorporated in *Hansard*.

Leave granted.

A further amendment will alter section 10 of the Surveying Act, to require the payment of the annual registration fee for surveyors to be made on 31 August rather than 31 October. This will result in increased efficiencies in the registration procedure.

A new section 16A is also being included in the Act. This provision will allow disciplinary action to be taken against a surveyor who has removed his or her name from the register of surveyors to avoid investigation of a complaint.

A sixth amendment will alter section 27 (2) (e) of the Act and repeal clause 4A (3) of the Surveying Regulation. These changes provide that between one and three members of the Board of Surveying and Spatial Information are to be appointed by the Minister from nominees of the relevant professional associations of persons involved in the spatial information industry. At the moment those members must be nominated by a single prescribed association of persons involved in the spatial information industry.

Section 30 (2) of the Surveying Act provides that committees established by the Board of Surveying and Spatial Information must include at least two (2) Board members, but may include other members who are not Board members, so long as the Board members outnumber the other members. An amendment to section 30 (2) removes the requirement that Board members outnumber other members of such committees.

An eighth amendment will permit the Surveyor-General to delegate his or her functions under the Surveying Act or any other Act to any member of the staff of the Department of Lands or any person authorised by regulation.

A new section 35A is to be included in the Surveying Act to prohibit the unlawful disclosure of information obtained in the administration of the Act.

Section 36 (2) of the Act will be amended to provide that regulations may be made in respect to the manner in which complaints about the conduct of registered surveyors are made to, and dealt with by, the Board of Surveying and Spatial Information.

A new section 36 (3) is also to be inserted in the Act to specify the Ministers who must consult on changes to certain regulations relating to mining surveys.

Schedule 2 of the bill will include a new clause in the Surveying Regulation to permit complaints against surveyors to be dealt with in accordance with the "Policy for the Consideration of Complaints against Surveyors" issued by the Board of Surveying and Spatial Information, and as in force from time to time.

Finally, Schedule 3 of the bill will amend the Defamation Act to provide a defence of absolute privilege for defamation for the publication to or by the Board of Surveying and Spatial Information, a Board member, or a committee or subcommittee of the Board, in the process of investigating and determining complaints against registered surveyors.

As honourable members would be aware, this exoneration from the defamation legislation is necessary to ensure that complaints can be made to, and be fully considered by, the Board of Surveying and Spatial Information. I commend the bill to the House.