No. , 1920.

A BILL

To provide for the registration of surveyors; to authorise registered surveyors to enter land for purposes relating to surveys; to regulate the practice of surveyors; to amend the Real Property Act, 1900, and certain other Acts; and for purposes consequent thereon or incidental thereto.

[Mr. Loughlin;—15 *September*, 1920.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. (1) This Act may be cited as the "Land Surveyors Act, 1920," and shall commence and come into force on the first day of January, one thousand nine hundred and twenty. 5

Repeal. First Schedule.

(2) The Act mentioned in the First Schedule to this Act is repealed to the extent therein indicated.

(3) Wherever in any enactment reference is made to the Chief Surveyor, such reference shall be deemed to mean the Surveyor-General. 10

Wherever in any enactment reference is made to a licensed surveyor, such reference shall, on and after the expiration of twelve months from the commencement of this Act, be deemed to mean a surveyor registered under this Act. 15

Parts of Act.

2. This Act is divided into Parts as follows :—

PART I.—PRELIMINARY—*ss.* 1-3.

PART II.—THE BOARD OF SURVEYORS—*ss.* 4-7.

PART III.—THE REGISTER—*ss.* 8-9. 20

PART IV.—REGISTERED SURVEYORS—*ss.* 10-16.

PART V.—MISCELLANEOUS—*ss.* 17-22.

Interpretation.

3. In this Act, unless the context otherwise indicates or requires, the following terms have the meanings set against them respectively, that is to say,— 25

Authorised survey.

"Authorised survey"—A survey of land authorised or required—

(a) under any Act dealing with the alienation, leasing, or occupation of Crown lands or mining, or affecting titles to land; or 30

(b) for the purpose of ascertaining, laying down, or determining the boundaries or dimensions of any land.

Board.

"Board"—The Board of Surveyors of New South Wales constituted under this Act. 35

"Institution

"Institution of Surveyors"—The Institution of Surveyors of New South Wales incorporated. Institution of Surveyors.

"Minister"—The Secretary for Lands, or other Minister of the Crown for the time being charged with the administration of this Act. Minister.

5

"Prescribed"—Prescribed by this Act, or by any regulation made thereunder. Prescribed.

"Register"—The register of surveyors directed by this Act to be kept. Register.

10

"Registrar-General"—The officer who bears that designation, or the officer performing his duties for the time being. Registrar-General.

"Regulations"—The regulations made under this Act. Regulations.

15

"Surveyor"—A person who for the time being is registered under this Act. Surveyor.

"Surveyor-General"—The officer of the Department of Lands who bears that designation, or the officer performing his duties for the time being. Surveyor-General.

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PART II.

The Board of Surveyors.

4. There is hereby constituted a board, consisting of the Surveyor-General, who shall ex officio be a member of the board and the President thereof, and four other members who shall be appointed by the Governor as hereinafter in this Act provided, which board, under the name of the Board of Surveyors of New South Wales, shall be a body corporate, having perpetual succession and a common seal, with power to hold lands. Incorporation of Board of Surveyors of New South Wales.

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5. Within three months after the commencement of this Act, and in the month of January in every third year after the year one thousand nine hundred and nineteen, the Surveyor-General and the Registrar-General may each nominate to the Minister an officer in Nomination and appointment of members.

in the Government service, and the council of the Institution of Surveyors may so nominate two full members of such institution, to be members of the board. The Minister, as soon as practicable after the receipt of such nominations, shall, if he approves thereof, recommend to the Governor the appointment of such persons as members of the board. If the full number be not so nominated, or if any person nominated be not approved, the Minister shall recommend to the Governor the appointment of such other persons as shall be necessary to complete the board.

Only persons registered as surveyors under this Act shall be appointed as members of the second or any subsequent board.

Tenure of office by members.

6. (1) Subject to the provisions of this Act, the members of the board appointed as aforesaid shall hold office until new members are appointed, but shall be eligible for reappointment.

Member may resign.

(2) Any member may apply to resign his seat on the board by letter addressed to the Minister, and on the Governor approving of such resignation such person shall cease to be a member of the board.

Member may be removed.

(3) The Governor may for sufficient cause remove any member from the board, and such person shall thereupon cease to be a member of the board.

Appointment of new members.

(4) The Governor may fill any vacancy caused by the resignation, removal, or death of any member of the board, by appointing any person nominated by the Surveyor-General, or the Registrar-General, or the council of the Institution of Surveyors, according as the person whose place is to be filled was nominated by the Surveyor-General, or the Registrar-General, or such council. If no person is so nominated within twenty-eight days from the resignation, removal, or death of a member, the Governor may appoint any person recommended by the Minister.

What is to be a quorum.

(5) Three members of the board shall form a quorum. The president of the board shall have an original and casting vote on any matter before the board.

(6) The members of the board shall be paid such fees as may be determined by the Governor.

7.

7. The Governor may from time to time appoint a registrar of the board and such examiners and other officers as the Governor may think fit for carrying out the provisions of this Act, and may at any time remove any of the same. Registrar and other officers.

The fees of members of the board and of such examiners, and the salaries and emoluments of the officers and persons so appointed as aforesaid, and all other expenses necessary to the carrying out of this Act, shall, with the approval of the Minister, be paid out of the Consolidated Revenue Fund. Payment of salaries and fees.

PART III.

The Register.

8. (1) The board shall cause a register to be kept which shall contain the names and addresses of all surveyors, the respective dates on which they were registered, and such other matters as the board may direct. Board shall keep a register.

(2) As soon as may be after registration, the board shall cause particulars as aforesaid of the registration of every surveyor to be published in the Gazette.

(3) A copy of the register shall, in the month of January in each year, be published by the board in the Gazette.

(4) A copy of the register, purporting to be signed by the president, shall in all proceedings whatsoever be prima facie evidence that the persons whose names are therein contained, and no others, were surveyors at the time when the said copy of the register purported to have been so signed.

(5)

(5) A certified copy of an entry in the register purporting to be signed by the president shall, in all proceedings whatsoever, be prima facie evidence of the existence of the entry in the register at the time such copy purports to have been signed. 5

Certain entries to be removed.

9. The board shall from time to time remove any entry in the register which is proved to their satisfaction to have been fraudulently or incorrectly made or procured.

PART IV. 10

Registered Surveyors.

Persons entitled to be registered.

10. Subject to this Act, any person shall be entitled to be registered as a surveyor upon making application to the board in the prescribed form, paying the prescribed fee, and proving to the satisfaction of the board 15 that he—

(a) has attained the age of twenty-one years, is of good professional fame and of good character; and

(b) holds a subsisting license to survey issued before 20 the commencement of this Act by the Surveyor-General or the Chief Surveyor of the Department of Lands; or

(c) has obtained the prescribed certificate of competency after the prescribed examination; or 25

(d) is entitled to practise as a surveyor in any other Dominion, State, or Colony within His Majesty's Dominions:

Provided that it is proved to the board that by the laws and regulations in that behalf in 30 force in such Dominion, State, or Colony the right

right to practise as a surveyor therein is granted to persons who are registered in this State as surveyors under this Act by virtue of their being so registered, and without further examination:

Provided also that in the opinion of the board his qualifications are such as render him competent to practise as a surveyor in this State;

(e) has passed in any country outside New South Wales, an examination recognised by the board as being equivalent to the prescribed examination, and has also passed such further examination or has completed such field service with a surveyor in New South Wales, or both of these, as the board may require; and

(f) has made a declaration before a justice of the peace in the form of the Second Schedule to this Act: Second Schedule.

Provided that the board may dispense with such of the certificates, examinations, or other conditions for registration required by this Act as to them may seem just in favour of any person who has commenced his apprenticeship or professional education in surveying in New South Wales or elsewhere before the commencement of this Act.

Powers and duties of registered surveyors.

11. (1) Subject to this Act, a registered surveyor shall be entitled to practise as a surveyor and to make authorised surveys. Powers of surveyor.

(2) After the expiration of twelve months from the commencement of this Act, a person who is not registered under this Act shall not practise as a surveyor, or make any authorised survey. Surveys by surveyors.

(3) Any person who contrary to this section practises as a surveyor, or makes or attempts to make any authorised survey, or takes or uses any title, initials, addition, or description implying that he is registered under this Act, unless he is so registered, shall be liable to a penalty not exceeding *fifty* pounds.

12.

Surveyor may enter upon lands to survey.

12. (1) In making any authorised survey or for any purpose relating thereto, a surveyor, with his assistants, may enter any land, and for that purpose may open any fence. Notice shall be given as prescribed.

This section shall not, however, exempt any surveyor from liability for any damage he may commit; but the employer of such surveyor shall be liable at the suit of the surveyor to reimburse him if the act occasioning such damage was necessary for the due making of the survey. 5 10

Defacing survey marks or obstructing surveyor.

(2) Any person who unlawfully and wilfully obliterates, removes, or defaces any survey mark, or obstructs a surveyor or his assistants in the exercise of the powers hereby conferred shall be liable to a penalty not exceeding *ten* pounds. 15

Surveyors to correct errors at their own expense.

13. Every surveyor who makes an error in any authorised survey shall correct such error at his own expense; or shall be liable to pay the cost of such correction, if such error has been corrected by a surveyor, instructed by the Surveyor-General, Registrar-General, or other authority. 20

Where under this Act a surveyor is made liable to pay the cost of the correction of a survey or of an error in a survey, the amount of such cost may be recovered from such surveyor as a debt due from him to the person who authorised the survey. 25

Charges against surveyors.

Power of board to deal with offences.

14. (1) Upon a charge made as hereinafter prescribed and after inquiry, if it is shown with respect to any surveyor that— 30

(a) he has certified to the accuracy of any authorised survey, knowing the same to be inaccurate, or has negligently certified as aforesaid, without having taken reasonable precautions to verify the accuracy thereof; or 35

(b) he wilfully or by culpable negligence has made, or caused to be made under his immediate supervision, any authorised survey which is so inaccurate or defective as to be unreliable; or

(c)

(c) his certificate of competency has been obtained by fraud; or

(d) after registration, he has been convicted of any misdemeanour or crime; or

(e) he has been guilty of such improper conduct as in the opinion of the board renders him unfit to practise as a surveyor; or

(f) his certificate, license, or registration in any co-operating State has been suspended or cancelled in such State;

the board may—

(i) remove the name of such surveyor from the register; or

(ii) suspend such surveyor from practice as a surveyor for any period not exceeding three years, and the details of such suspension shall be entered in the register; or

(iii) caution such surveyor and order him to pay the cost of the correction of an error due to his negligence or omission.

Reinstatement and gazettal.

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

The removal of a surveyor's name from the register, his suspension from practice, or his reinstatement shall be notified in the Gazette.

Penalty.

(3) Any person whose name has been removed from the register, or who has been suspended as aforesaid, who practises as a surveyor before his reinstatement has been so notified in the Gazette shall be liable to a penalty not exceeding *fifty* pounds.

Charge against a surveyor to be made in writing.

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

Notice of inquiry.

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

Surveyor entitled to be heard in defence.

(3) At such inquiry, the surveyor charged shall be entitled to be heard in his defence; and he may be represented by counsel or solicitor.

Appeal

16. Any person dissatisfied with any decision of the board shall have the right of appeal to the Supreme Court, and such appeal shall be in the nature of a rehearing.

The appellant shall serve notice of appeal, stating the grounds thereof, upon the board within thirty days after the pronouncing of the decision, and at least thirty days before the date of the hearing of the appeal.

Such appeal shall be by notice of motion and shall be filed in the Supreme Court within thirty days after the aforesaid decision.

The president of the board shall, at the request of any party to the proceedings before the board, make a note of any question raised in such proceedings and shall if required furnish the applicant with a copy of such note or allow a copy to be taken of same. Such copy shall be filed in the Supreme Court and shall be used and received at the hearing of the appeal.

If no appeal be filed, the decision of the board shall be final, and shall be observed by every person concerned.

PART V.

MISCELLANEOUS.

Power to summon witnesses

17. (1) The president of the board may in writing under his hand summon any person to attend before the board for the purpose of being examined with respect to any matter within the jurisdiction of the board.

(2) Every person duly summoned as aforesaid who does not attend after reasonable expenses have been paid or tendered to him, or attending refuses to be sworn or to make a solemn declaration, or refuses to be examined or to give evidence or to answer any question that the board may legally ask him, shall be liable to a penalty not exceeding *twenty* pounds.

18.

18. The board shall from time to time hold examinations of persons desirous of qualifying themselves to be registered as surveyors, and shall give certificates of competency in surveying to persons who have passed all the examinations and fulfilled all the conditions prescribed. Examinations.

19. (1) The board may, by any person thereunto authorised in writing under the hand of the president, in the name of the board, institute, carry on, prosecute, and defend any action, complaint, or proceeding whatsoever. Board may sue.

(2) All penalties for offences against this Act, and all fees payable, may be recovered by the board before a court of petty sessions. Recovery of penalties, &c.

20. (1) All moneys received by the board shall be paid into the Treasury to the account of the Consolidated Revenue Fund. Fees to be paid into Consolidated Revenue.

(2) The board shall furnish to the Minister such reports, accounts, vouchers, and documents relating to any matter entrusted to or performed by the board, as the Minister may require. Board to furnish accounts.

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

(a) Prescribing the conditions preliminary to the examination of applicants for certificates and the subjects on which examination shall be required. Preliminary conditions of examination.

(b) 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 president during the absence of the president. Meetings, &c.

(c) Regulating the manner of keeping the register. Register.

(d) Prescribing the forms to be used for the purposes of this Act. Forms.

(e) Determining the evidence to be produced by any person applying for registration under this Act. Applications for registration.

(f) Regulating the granting of certificates of competency. Certificates.

(g)

Recognised certificates.

(g) Prescribing what certificates, diplomas, memberships, degrees, licenses, letters, testimonial, or other titles, status, or documents, will be recognised by the board as qualifying persons holding them to be registered as surveyors, whether immediately or after further examination or field service, or both.

Fees.

(h) Prescribing fees to be paid in respect of any application, examination, certificate, inspection, or other proceeding, act, or thing provided or required under this Act.

Apprenticeship.

(i) Requiring and regulating the registration of all contracts and articles of apprenticeship or pupilage under which apprentices or pupils in surveying serve.

Complaints.

(j) Regulating proceedings in connection with charges against surveyors.

Information and guidance.

(k) For the information and guidance of surveyors in carrying out surveys, and matters incidental to or consequent on surveys.

General.

(l) Generally for carrying into effect the objects of this Act.

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

(3) Any regulations relating to surveys required for the purposes of any department of the Government shall be subject to the approval of the Minister of the Department concerned.

(4) Regulations made under this Act shall—

(a) be notified in the Gazette;

(b) be laid before each House of the Parliament within fourteen days after the making thereof if Parliament is sitting, or if Parliament is not sitting then within fourteen days after the next meeting of Parliament;

(c) come into operation on the date fixed in the regulation, or if the date is not so fixed, then on the date on which the regulation is notified in the Gazette:

Provided

Provided that if either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

Evidence.

22. (1) The production of a copy of the Gazette purporting to contain any notification required to be published in the Gazette and relating to any appointment, register, registration, removal, suspension, reinstatement, regulations, or any other matter under or for the purposes 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 president 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 or president.

SCHEDULES.

FIRST SCHEDULE.

Section 1.

No. of Act.	Title of Act.	Extent of repeal.
No. 25, 1900 ...	The Real Property Act, 1900 ...	Section 11.

SECOND SCHEDULE.

Section 11.

I, A.B., do hereby solemnly and sincerely declare that I will, to the best of my ability, and without partiality, favour, or affection, correctly survey, delineate, and mark in accordance with the regulations under the Land Surveyors Act, 1918, the boundaries of any lands I may be instructed or employed to survey.

A.B.

Declared day of , 19 , before me,

J.K., Justice of the Peace.

Sydney : William Applegate Gullick, Government Printer.—1920.

[1*s.* 1*d.*]

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