

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

ALLAN PICKERING,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 12 November, 1964.*

## New South Wales



ANNO TERTIO DECIMO

ELIZABETHÆ II REGINÆ

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Act No. , 1964.

An Act to make further provision with respect to the constitution and the powers, authorities, duties and functions of the Board of Surveyors of New South Wales, the registration of surveyors of land and the rights of surveyors to enter on land; to extend the circumstances in which surveyors may be suspended from practice or have their registration cancelled; for these and other purposes to amend the Surveyors Act, 1929–1946; and for purposes connected therewith.

BE



*Surveyors (Amendment).*

**B**E it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Surveyors (Amendment) Act, 1964".

Short title,  
citation  
and com-  
mencement.

(2) The Surveyors Act, 1929, as amended by subsequent Acts and by this Act, may be cited as the Surveyors Act, 1929-1964.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Surveyors Act, 1929-1946, is amended—

Amendment  
of Act No.  
3, 1929.

(a) (i) by omitting from the matter relating to Part III in section two the letters and figures "ss. 8, 9." and by inserting in lieu thereof the letters and figures "ss. 8-9B.";

(ii) by omitting from the matter relating to Part V in the same section the letters and figures "ss. 17-26." and by inserting in lieu thereof the letters and figures "ss. 17-29.";

(b) (i) by inserting in section three immediately before the definition of "Board" the following new definition :—

Sec. 3.  
(Interpre-  
tation.)

"Articles" means an indenture or writing containing a contract or an agreement whereby a surveyor agrees to give instruction and provide experience in the principles and practice of surveying to a person who in consideration of such instruction and experience binds himself to serve the surveyor for the term of the contract or agreement.

(ii)



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*Surveyors (Amendment).*

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- (ii) by omitting from the same section the definition of "Institution" and by inserting in lieu thereof the following definition :—

5                    "Institution" means Institution of Surveyors,  
                     New South Wales, Incorporated, or its  
                     successors.

- (iii) by omitting from the definition of "Practise" in the same section the words "as a principal for fee or reward, or as an officer of the Public Service of New South Wales or as an employee of any statutory authority constituted for public purposes" and by inserting in lieu thereof the words "for fee or reward";
- 10

- (iv) by omitting from the same section the definition of "Reciprocating State" and by inserting in lieu thereof the following definition :—
- 15

                     "Reciprocating State" means any country,  
                     as defined in section eleven of this Act,  
                     with the Surveyors' Board or other  
20                    competent authority of which reciprocal  
                     arrangements have been made  
                     pursuant to that section.

- (v) by omitting from the same section the definition of "Survey" and by inserting in lieu thereof the following definitions :—
- 25

                     "Registrar" means registrar of the board.

                     "Survey" means a measurement or  
                     delimitation of land authorised or  
                     required—

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

(b)



*Surveyors (Amendment).*

- (b) subject to section twenty-five of this Act, under any Act dealing with mining; or
- 5 (c) by the Crown, the proprietor, lessee or mortgagee of the land or a prospective proprietor, lessee or mortgagee thereof; or
- 10 (d) in connection with the dedication, reservation, resumption or disposal thereof for any purpose under the authority of any Act,
- 15 and includes all matters prescribed which are incidental to or consequent upon such measurement or delimitation, and "surveying" has a meaning corresponding with that of "survey".
- (c) (i) by omitting from section five the words "Within Sec. 5. three months after the commencement of this (Nomination and appointment of members.) Act and in the month of January in every year thereafter" and by inserting in lieu thereof the words "In the month of January following the commencement of the Surveyors (Amendment) Act, 1964, and in the month of January in every second year thereafter";
- 20 25
- (ii) by omitting from the same section the word "licensed" wherever occurring;
- (iii) by omitting from the same section the words
- 30 "The persons to be nominated by the council of the Institution shall be elected, in the manner prescribed, to the first board by persons who hold subsisting licenses to survey issued before the commencement of this Act, and to the second and subsequent boards by surveyors registered under this Act.";
- 35
- (d)



*Surveyors (Amendment).*

(d) (i) by omitting from subsection four of section Sec. 6.  
six the words "in the manner hereinbefore (Tenure of  
indicated by"; office by  
members  
and  
quorum.)

5 (ii) by omitting from subsection six of the same  
section the words "a fee of two guineas for  
each sitting of the board which he has  
attended: provided that the fees paid in  
10 respect of such sittings to any member during  
any year shall not exceed fifty guineas" and  
by inserting in lieu thereof the words "such  
fees as the Governor may from time to time  
determine";

(iii) by inserting at the end of the same section  
the following new subsections :—

15 (8) A resolution signed by all members of  
the board holding office for the time being  
shall be as valid and effective as if it had been  
passed at a meeting of the board and any  
20 such resolution shall be recorded in the  
minutes of the board's proceedings.

25 (9) (a) The board may from time to time  
by resolution delegate to the president of the  
board such of the powers, authorities, duties  
and functions of the board (other than this  
power of delegation) as may be prescribed by  
the regulations and as are specified in the  
resolution.

(b) Any such delegation—

30 (i) may be revoked by the board by reso-  
lution;  
(ii) shall not preclude the board from  
exercising the powers, authorities,  
duties or functions delegated; and  
35 (iii) may be made either generally or for  
any particular case or class of cases.

(c)



*Surveyors (Amendment).*

(c) When acting within the scope of any such delegation to him, the president of the board shall be deemed to be the board.

5 (e) by inserting in subsection one of section eight after Sec. 8.  
the word "matters" the words "as the board may (Board to  
think fit or"; keep a register.)

(f) by omitting section nine and by inserting in lieu Subst.  
thereof the following sections : — sec. 9,  
new secs.  
9A, 9B.

10 9. The board may remove from the register the Removal  
name of any person— from  
register.

(a) who dies; or

(b) who becomes a mentally ill person, a pro-  
tected person or an incapable person  
within the meaning of the Mental Health  
15 Act, 1958, as amended by subsequent Acts;  
or

(c) who notifies the registrar that he desires that  
his name be removed; or

20 (d) whose entitlement to practise as a surveyor  
in some place outside the State of New  
South Wales is revoked or cancelled in  
accordance with the law in force in that  
place except where such revocation or can-  
cellation is at his own request.

25 9A. The board may remove or amend any entry Amendment  
in the register if the entry is proved to its satisfaction of entry.  
to have been fraudulently made or procured or to  
be incorrect.

9B. (1) The board—

30 (a) may, if it thinks fit, in any case; and Restoration  
(b) shall, where the surveyor affected has been of name  
reinstated pursuant to subsection four of removed  
section fourteen of this Act, from  
register.

restore



*Surveyors (Amendment).*

restore to the register any name removed therefrom and such restoration may be made without payment of a fee or on payment of such fee, not exceeding the prescribed roll fee, as the board may direct.

5 (2) Nothing in subsection one of this section shall affect the provisions of subsection six of section ten of this Act.

10 (g) by omitting subsections five and six of section ten and by inserting in lieu thereof the following sub-  
sections : — Sec. 10.  
(Persons  
entitled  
to be  
registered.)

15 (5) If any surveyor does not pay the prescribed roll fee before or in the month of July in any year, the board shall notify him, by letter addressed to him at the address appearing in the register, that if the fee is not paid before the thirty-first day of October next following his name will be removed from the register. If any surveyor who has been so notified fails to pay such fee before the said thirty-first day of October, the board shall remove his name from the register.

(6) If the name of any surveyor is removed from the register under this section, the board shall restore his name to the register upon payment of such fees as are prescribed.

25 (7) A surveyor who changes his address as appearing in the register shall, within three months thereafter, notify the board of his new address and the board shall thereupon alter the entry in the register relating to that surveyor accordingly.

30 (8) A surveyor who fails to comply with the provisions of subsection seven of this section shall be liable to a penalty not exceeding five pounds.

(h)



*Surveyors (Amendment).*

- (h) (i) by omitting from subsection one of section Sec. 11.  
eleven the words "State, Colony, or Dominion" (Reciprocal  
within His Majesty's Dominions" and by arrange-  
inserting in lieu thereof the word "country"; board  
with other  
States, etc.)
- 5 (ii) by omitting from the same subsection the  
words "State, Colony, or Dominion" where  
secondly occurring and by inserting in lieu  
thereof the word "country";
- 10 (iii) by inserting next after subsection two of the  
same section the following new subsections : —
- (3) Any reciprocal arrangement entered  
into by the board for the purposes specified in  
subsection one of this section and subsisting  
immediately before the commencement of the  
15 Surveyors (Amendment) Act, 1964, shall be  
deemed to have been entered into pursuant to  
the provisions of that subsection.
- (4) In this section "country" means the  
20 United Kingdom of Great Britain and  
Northern Ireland, the Dominion of New  
Zealand, any State or Territory of the  
Commonwealth of Australia and any other  
prescribed country, state, territory or place.
- (i) (i) by omitting subsection one of section twelve Sec. 12.  
25 and by inserting in lieu thereof the following (Right to  
subsection : — make  
surveys.)
- (1) No person, unless registered under  
this Act, shall practise as a surveyor.
- (ii) by omitting from subsection two of the same  
30 section the words "fifty pounds" and by  
inserting in lieu thereof the words "one  
hundred and fifty pounds";
- (iii)



*Surveyors (Amendment).*

(iii) by inserting next after subsection two of the same section the following new subsection : —

(3) This section shall not extend to—

5 (a) a pupil who, under the supervision of a surveyor, is receiving instruction or acting in the course of his duties, as required by his articles; or

10 (b) a surveyor's assistant or draftsman acting in the course of the duties usually performed by surveyors' assistants or draftsmen, as the case may be.

15 (j) (i) by inserting in subsection one of section thirteen after the word "fence" the words "Sec. 13. (Power of entry upon lands.)", may insert any survey mark and may enter any building for the purpose of determining the position of a wall or for defining a boundary which is otherwise inaccessible";

20 (ii) by omitting from subsection two of the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";

(k) (i) by inserting at the end of paragraph (f) of subsection one of section fourteen the following word and new paragraphs : — Sec. 14. (Power of board to deal with offences.)

25 " ; or

(g) he has failed to comply with any of the provisions of this Act or the regulations made thereunder; or

30 (h) he has been convicted of an offence relating to the duties and functions of surveyors, the carrying out of surveys or matters incidental to or consequent upon



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*Surveyors (Amendment).*

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upon surveys, under any Act or regulation, other than this Act and the regulations made thereunder, or under any ordinance or by-law; or

- 5 (i) he has been guilty of misconduct in a professional respect,";

- (ii) by inserting next after the same subsection the following new subsection :—

10 (1A) Without limiting the meaning of the expression "misconduct in a professional respect" in paragraph (i) of subsection one of this section, a surveyor shall be deemed guilty of such misconduct if—

- 15 (a) after the expiration of twelve months from the commencement of the Surveyors (Amendment) Act, 1964, and except where this Act otherwise provides or the board permits, he practises surveying—

- 20 (i) on his own account under a name other than his own name; or

- 25 (ii) in partnership or association under a name other than his own name and the name of each other person in partnership or association with whom he is so practising;

- 30 (b) in connection with the practice of surveying he uses or allows the use of his name at premises at or from which, in the opinion of the board, he or his partners or associates, if any, do not regularly practise surveying;

(c)



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*Surveyors (Amendment).*

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- 5 (c) without the permission of the board, he allows his name to be joined in connection with the practice of surveying with the name of a person not registered under this Act, except where the name is that of a deceased or retired partner who was a surveyor at the time of his death or retirement, and the registrar has been so notified;
- 10 (d) he uses or publishes, or allows the use or publication of, any title, name, words, or letters which are capable of being understood to indicate that he is qualified in surveying, or as a
- 15 surveyor, other than such title, name, words, or letters as truly indicate a qualification in surveying or as a surveyor which he in fact holds or possesses; or
- 20 (e) he directly or indirectly gives or offers, or agrees to give or offer, any person any commission, gratuity, service or other consideration whatever for securing or attempting to secure
- 25 for him any instructions to make surveys or any work in connection with surveys.
- 30 (iii) by omitting from paragraph (a) of subsection two of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
- (iv) by omitting paragraph (e) of the same subsection;

(v)



*Surveyors (Amendment).*

(v) by inserting next after the same subsection the following new subsections : —

(2A) Nothing in this section shall authorise the board to impose a fine—

5 (a) in any case coming within paragraph (e) or (h) of subsection one of this section; or

10 (b) where a surveyor has been convicted by a court as a result of his failure to comply with the particular provision of this Act or the regulations made thereunder in respect of which a charge has been made pursuant to paragraph (g) of subsection one of this section.

15 (2B) In any case coming within paragraph (g) or (h) of subsection one of this section, no person shall be liable to have his name removed from the register or be suspended from practice if his failure to comply with the Act, regulation, by-law or ordinance concerned does not, either from its trivial nature or the circumstances under which it took place, render such person unfit in the public interest to practise surveying.

25 (2C) The board may suspend from practice any surveyor whose entitlement to practise in a reciprocating State is suspended under the law in force in the reciprocating State. The board shall not impose a period of suspension under this subsection which expires later than  
30 the period of suspension imposed by the Surveyors' Board or other competent authority of the reciprocating State.

35 (vi) by inserting in subsection five of the same section after the word "Gazette" the words "and his name, if removed from the register, has been restored thereto";

(vii)



*Surveyors (Amendment).*

- (vii) by omitting from the same subsection the words  
 "fifty pounds" and by inserting in lieu thereof  
 the words "one hundred and fifty pounds, and  
 a further penalty not exceeding ten pounds  
 for every day during which the offence is con-  
 tinued";
- (l) (i) by inserting in subsection one of section fifteen Sec. 15.  
 after the word "charge" where secondly occur- (Charge  
 ring the words "and shall, except where the against a  
 charge is made by a person authorised in surveyor.)  
 writing to make such charge by the council  
 of the Institution or by an officer of any  
 Government department or statutory authority  
 constituted for public purposes, be accom-  
 panied by a deposit of ten pounds";
- (ii) by inserting in subsection two of the same sec-  
 tion after the word "sent" the words "by  
 certified or registered mail";
- (iii) by omitting from subsection three of the same  
 section the words "or solicitor" and by insert-  
 ing in lieu thereof the words "solicitor or  
 agent";
- (iv) by inserting next after the same subsection the  
 following new subsection : —
- (4) Where the board is of the opinion that  
 the charge is vexatious or frivolous it shall  
 so declare and thereupon the sum deposited  
 shall be forfeited. In the absence of any  
 such declaration the sum so deposited shall  
 be refunded to the complainant.
- (m) by inserting in subsection one of section sixteen Sec. 16.  
 after the word "may" the words "within three (Appeal.)  
 months of such decision,";
- (n) by omitting from subsection two of section eighteen Sec. 18.  
 the words "twenty pounds" and by inserting in lieu (Power to  
 thereof the words "fifty pounds"; summon  
 witnesses.)
- (o)



*Surveyors (Amendment).*

- (o) (i) by omitting from paragraph (i) of subsection Sec. 23.  
one of section twenty-three the words "inden- (Regula-  
tures and contracts of apprenticeship" and by tions.)  
inserting in lieu thereof the word "articles";
- 5 (ii) by omitting paragraph (l) of the same subsec-  
tion and by inserting in lieu thereof the  
following paragraph : —  
(l) the making and marking of surveys,  
and matters incidental to or consequent  
10 on the making and marking of surveys;
- (iii) by inserting next after paragraph (m) of the  
same subsection the following new para-  
graphs : —  
(n) standards of measurement and accuracy  
15 to be adopted for the purpose of  
surveys;  
(o) advertising by surveyors.
- (iv) by omitting from subsection two of the same  
section the words "twenty pounds" and by  
20 inserting in lieu thereof the words "fifty  
pounds";
- (p) (i) by omitting from subsection two of section Sec. 26.  
twenty-six the words "of Surveyors"; (Delivery  
of signed  
bill by  
surveyor.)
- 25 (ii) by inserting next after subsection four of the  
same section the following new subsection : —  
(5) In this section, "registrar" means  
registrar of the Land and Valuation Court.
- (q) by inserting next after section twenty-six the New secs.  
following new sections : — 27-29.
- 30 27. (1) The board may order a surveyor to Surveyor  
produce or make available for its inspection any to produce  
document in his possession, custody or control field book,  
etc.  
relating to the making of any survey or to any  
matter arising under this Act or the regulations  
made



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*Surveyors (Amendment).*

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made thereunder, and any member of the board or the registrar may make extracts therefrom or copies thereof.

5 (2) Any such document shall be retained by the board only for such period as may reasonably be required for the purpose of inspection and making extracts or copies or, if its production is ordered during the conduct and for the purposes of an inquiry under section fourteen of this Act, until  
10 the completion of the inquiry.

(3) Except as provided in subsection four of this section, no information contained in any document produced or made available pursuant to subsection one of this section or any extract therefrom or copy thereof shall be disclosed by the  
15 members of the board or the registrar to any other person without the permission of the surveyor producing the document or making it available.

(4) Information contained in a document  
20 produced or made available pursuant to this section during the conduct of and for the purposes of an inquiry under section fourteen of this Act may be disclosed by the board in the course of the inquiry if it is relevant to the charge being investigated, but  
25 if the nature of the document is such that it is not possible to obtain relevant information therefrom without disclosing other information, that other information may be disclosed to the extent that it is necessary to obtain relevant information.

(5) Any order made by the board pursuant  
30 to this section shall be in or to the effect of the form prescribed and a copy of the order under the hand of the registrar shall be delivered to the surveyor personally or sent to him by letter sent by  
35 certified or registered mail addressed to his last-known postal address.

(6)



*Surveyors (Amendment).*

(6) The surveyor to whom the order refers shall comply with the terms thereof within seven days of its receipt or such further time as the board may allow.

5 (7) In this section, "document" includes any field book, field notes, plan or record.

28. Notwithstanding any other provision in this Act, upon the death of a surveyor the board may authorise his executor, administrator or trustee to carry on, for such period as the board may determine and in the name of such deceased surveyor, the practice formerly carried on by him provided the practice is so carried on under the personal supervision of a surveyor, who may be such executor, administrator or trustee, and provided the name of such supervising surveyor is registered with the board as superintendent of the practice.

Continuation of name of deceased surveyor.

29. No matter or thing done or suffered by the board, or any member of the board, or the registrar, or any person duly authorised under any provision of this Act, bona fide in the execution or intended execution of such Act, or the exercise or discharge or intended exercise or discharge of any of its or his powers, authorities, duties or functions, shall subject the board or any member of the board, or the registrar, or such person, or the Crown, to any liability in respect thereof.

Protection of board and members and others from liability.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964  
[1s. 4d.]



No. , 1964.

## A BILL

To make further provision with respect to the constitution and the powers, authorities, duties and functions of the Board of Surveyors of New South Wales, the registration of surveyors of land and the rights of surveyors to enter on land; to extend the circumstances in which surveyors may be suspended from practice or have their registration cancelled; for these and other purposes to amend the Surveyors Act, 1929-1946; and for purposes connected therewith.

[MR. COMPTON;—10 November, 1964.]

BE



*Surveyors (Amendment).*

**B**E it enacted by the Queen'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  
5 follows :—

1. (1) This Act may be cited as the "Surveyors Short title,  
(Amendment) Act, 1964". citation  
and com-  
mencement.

(2) The Surveyors Act, 1929, as amended by subse-  
quent Acts and by this Act, may be cited as the Surveyors  
10 Act, 1929-1964.

(3) This Act shall commence upon a day to be  
appointed by the Governor and notified by proclamation  
published in the Gazette.

2. The Surveyors Act, 1929-1946, is amended—

Amendment  
of Act No.  
3, 1929.

15 (a) (i) by omitting from the matter relating to Part Sec. 2.  
III in section two the letters and figures "ss. 8, (Parts of  
9." and by inserting in lieu thereof the letters Act.)  
and figures "ss. 8-9B.";

20 (ii) by omitting from the matter relating to Part V  
in the same section the letters and figures  
"ss. 17-26." and by inserting in lieu thereof  
the letters and figures "ss. 17-29.";

25 (b) (i) by inserting in section three immediately Sec. 3.  
before the definition of "Board" the following (Interpre-  
new definition :— tation.)

30 "Articles" means an indenture or writing  
containing a contract or an agreement  
whereby a surveyor agrees to give  
instruction and provide experience in  
the principles and practice of surveying  
to a person who in consideration of  
such instruction and experience binds  
himself to serve the surveyor for the  
term of the contract or agreement.

(ii)



*Surveyors (Amendment).*

- (ii) by omitting from the same section the definition of "Institution" and by inserting in lieu thereof the following definition :—

5 "Institution" means Institution of Surveyors,  
New South Wales, Incorporated, or its  
successors.

- 10 (iii) by omitting from the definition of "Practise"  
in the same section the words "as a principal  
for fee or reward, or as an officer of the Public  
Service of New South Wales or as an employee  
of any statutory authority constituted for  
public purposes" and by inserting in lieu  
thereof the words "for fee or reward";

- 15 (iv) by omitting from the same section the defini-  
tion of "Reciprocating State" and by inserting  
in lieu thereof the following definition :—

20 "Reciprocating State" means any country,  
as defined in section eleven of this Act,  
with the Surveyors' Board or other  
competent authority of which recip-  
rocal arrangements have been made  
pursuant to that section.

- 25 (v) by omitting from the same section the definition  
of "Survey" and by inserting in lieu thereof  
the following definitions :—

"Registrar" means registrar of the board.

"Survey" means a measurement or  
delimitation of land authorised or  
required—

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

(b)



*Surveyors (Amendment).*

- (b) subject to section twenty-five of this Act, under any Act dealing with mining; or
- 5 (c) by the Crown, the proprietor, lessee or mortgagee of the land or a prospective proprietor, lessee or mortgagee thereof; or
- 10 (d) in connection with the dedication, reservation, resumption or disposal thereof for any purpose under the authority of any Act,
- 15 and includes all matters prescribed which are incidental to or consequent upon such measurement or delimitation, and "surveying" has a meaning corresponding with that of "survey".
- (c) (i) by omitting from section five the words "Within Sec. 5. three months after the commencement of this (Nomination Act and in the month of January in every and appointment of year thereafter" and by inserting in lieu members.) thereof the words "In the month of January following the commencement of the Surveyors (Amendment) Act, 1964, and in the month of January in every second year thereafter";
- 20 25
- (ii) by omitting from the same section the word "licensed" wherever occurring;
- (iii) by omitting from the same section the words
- 30 "The persons to be nominated by the council of the Institution shall be elected, in the manner prescribed, to the first board by persons who hold subsisting licenses to survey issued before the commencement of this Act, and to the second and subsequent boards by
- 35 surveyors registered under this Act."; (d)



*Surveyors (Amendment).*

(d) (i) by omitting from subsection four of section six the words "in the manner hereinbefore indicated by";

Sec. 6.  
(Tenure of  
office by  
members  
and  
quorum.)

5 (ii) by omitting from subsection six of the same section the words "a fee of two guineas for each sitting of the board which he has attended: provided that the fees paid in respect of such sittings to any member during any year shall not exceed fifty guineas" and  
10 by inserting in lieu thereof the words "such fees as the Governor may from time to time determine";

(iii) by inserting at the end of the same section the following new subsections:—

15 (8) A resolution signed by all members of the board holding office for the time being shall be as valid and effective as if it had been passed at a meeting of the board and any  
20 such resolution shall be recorded in the minutes of the board's proceedings.

(9) (a) The board may from time to time by resolution delegate to the president of the board such of the powers, authorities, duties and functions of the board (other than this  
25 power of delegation) as may be prescribed by the regulations and as are specified in the resolution.

(b) Any such delegation—

30 (i) may be revoked by the board by resolution;

(ii) shall not preclude the board from exercising the powers, authorities, duties or functions delegated; and

35 (iii) may be made either generally or for any particular case or class of cases.

(c)



*Surveyors (Amendment).*

(c) When acting within the scope of any such delegation to him, the president of the board shall be deemed to be the board.

5 (e) by inserting in subsection one of section eight after Sec. 8.  
the word "matters" the words "as the board may (Board to  
think fit or"; keep a  
register.)

(f) by omitting section nine and by inserting in lieu Subst.  
thereof the following sections :— sec. 9,  
new secs.  
9A, 9B.

10 9. The board may remove from the register the Removal  
name of any person— from  
register.

(a) who dies; or

15 (b) who becomes a mentally ill person, a pro-  
tected person or an incapable person  
within the meaning of the Mental Health  
Act, 1958, as amended by subsequent Acts;  
or

(c) who notifies the registrar that he desires that  
his name be removed; or

20 (d) whose entitlement to practise as a surveyor  
in some place outside the State of New  
South Wales is revoked or cancelled in  
accordance with the law in force in that  
place except where such revocation or can-  
cellation is at his own request.

25 9A. The board may remove or amend any entry Amendment  
in the register if the entry is proved to its satisfaction of entry.  
to have been fraudulently made or procured or to  
be incorrect.

9B. (1) The board—

30 (a) may, if it thinks fit, in any case; and Restoration  
(b) shall, where the surveyor affected has been removed  
reinstated pursuant to subsection four of from  
section fourteen of this Act, register.

restore



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*Surveyors (Amendment).*

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restore to the register any name removed therefrom and such restoration may be made without payment of a fee or on payment of such fee, not exceeding the prescribed roll fee, as the board may direct.

- 5           (2) Nothing in subsection one of this section shall affect the provisions of subsection six of section ten of this Act.

- 10           (g) by omitting subsections five and six of section ten and by inserting in lieu thereof the following sub- sections : —
- Sec. 10.  
(Persons  
entitled  
to be  
registered.)

15           (5) If any surveyor does not pay the prescribed roll fee before or in the month of July in any year, the board shall notify him, by letter addressed to him at the address appearing in the register, that if the fee is not paid before the thirty-first day of October next following his name will be removed from the register. If any surveyor who has been so notified fails to pay such fee before the said thirty-first day of October, the board shall remove his name from the register.

20

(6) If the name of any surveyor is removed from the register under this section, the board shall restore his name to the register upon payment of such fees as are prescribed.

- 25           (7) A surveyor who changes his address as appearing in the register shall, within three months thereafter, notify the board of his new address and the board shall thereupon alter the entry in the register relating to that surveyor accordingly.

- 30           (8) A surveyor who fails to comply with the provisions of subsection seven of this section shall be liable to a penalty not exceeding five pounds.

(h)



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*Surveyors (Amendment).*

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- (h) (i) by omitting from subsection one of section Sec. 11.  
eleven the words "State, Colony, or Dominion" (Reciprocal  
within His Majesty's Dominions" and by arrange-  
inserting in lieu thereof the word "country"; board  
with other  
States, etc.)
- 5 (ii) by omitting from the same subsection the  
words "State, Colony, or Dominion" where  
secondly occurring and by inserting in lieu  
thereof the word "country";
- 10 (iii) by inserting next after subsection two of the  
same section the following new subsections : —
- (3) Any reciprocal arrangement entered  
into by the board for the purposes specified in  
subsection one of this section and subsisting  
immediately before the commencement of the  
15 Surveyors (Amendment) Act, 1964, shall be  
deemed to have been entered into pursuant to  
the provisions of that subsection.
- (4) In this section "country" means the  
20 United Kingdom of Great Britain and  
Northern Ireland, the Dominion of New  
Zealand, any State or Territory of the  
Commonwealth of Australia and any other  
prescribed country, state, territory or place.
- (i) (i) by omitting subsection one of section twelve Sec. 12.  
25 and by inserting in lieu thereof the following (Right to  
subsection : — make  
surveys.)
- (1) No person, unless registered under  
this Act, shall practise as a surveyor.
- 30 (ii) by omitting from subsection two of the same  
section the words "fifty pounds" and by  
inserting in lieu thereof the words "one  
hundred and fifty pounds";
- (iii)



*Surveyors (Amendment).*

(iii) by inserting next after subsection two of the same section the following new subsection :—

(3) This section shall not extend to—

5

(a) a pupil who, under the supervision of a surveyor, is receiving instruction or acting in the course of his duties, as required by his articles; or

10

(b) a surveyor's assistant or draftsman acting in the course of the duties usually performed by surveyors' assistants or draftsmen, as the case may be.

15

(j) (i) by inserting in subsection one of section thirteen after the word "fence" the words " , may insert any survey mark and may enter any building for the purpose of determining the position of a wall or for defining a boundary which is otherwise inaccessible";

20

(ii) by omitting from subsection two of the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";

25

(k) (i) by inserting at the end of paragraph (f) of subsection one of section fourteen the following word and new paragraphs :—

" ; or

(g) he has failed to comply with any of the provisions of this Act or the regulations made thereunder ; or

30

(h) he has been convicted of an offence relating to the duties and functions of surveyors, the carrying out of surveys or matters incidental to or consequent upon

Sec. 13.  
(Power of entry upon lands.)  
Sec. 14.  
(Power of board to deal with offences.)



*Surveyors (Amendment).*

upon surveys, under any Act or regulation, other than this Act and the regulations made thereunder, or under any ordinance or by-law; or

5 (i) he has been guilty of misconduct in a professional respect,";

(ii) by inserting next after the same subsection the following new subsection :—

10 (1A) Without limiting the meaning of the expression "misconduct in a professional respect" in paragraph (i) of subsection one of this section, a surveyor shall be deemed guilty of such misconduct if—

15 (a) after the expiration of twelve months from the commencement of the Surveyors (Amendment) Act, 1964, and except where this Act otherwise provides or the board permits, he practises surveying—

20 (i) on his own account under a name other than his own name; or

25 (ii) in partnership or association under a name other than his own name and the name of each other person in partnership or association with whom he is so practising;

30 (b) in connection with the practice of surveying he uses or allows the use of his name at premises at or from which, in the opinion of the board, he or his partners or associates, if any, do not regularly practise surveying;

(c)



*Surveyors (Amendment).*

- 5 (c) without the permission of the board, he allows his name to be joined in connection with the practice of surveying with the name of a person not registered under this Act, except where the name is that of a deceased or retired partner who was a surveyor at the time of his death or retirement, and the registrar has been so notified;
- 10 (d) he uses or publishes, or allows the use or publication of, any title, name, words, or letters which are capable of being understood to indicate that he is qualified in surveying, or as a
- 15 surveyor, other than such title, name, words, or letters as truly indicate a qualification in surveying or as a surveyor which he in fact holds or possesses; or
- 20 (e) he directly or indirectly gives or offers, or agrees to give or offer, any person any commission, gratuity, service or other consideration whatever for securing or attempting to secure
- 25 for him any instructions to make surveys or any work in connection with surveys.
- 30 (iii) by omitting from paragraph (a) of subsection two of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
- (iv) by omitting paragraph (e) of the same subsection;
- (v)



*Surveyors (Amendment).*

- (v) by inserting next after the same subsection the following new subsections :—
- (2A) Nothing in this section shall authorise the board to impose a fine—
- 5 (a) in any case coming within paragraph (e) or (h) of subsection one of this section; or
- 10 (b) where a surveyor has been convicted by a court as a result of his failure to comply with the particular provision of this Act or the regulations made thereunder in respect of which a charge has been made pursuant to paragraph (g) of subsection one of this section.
- 15 (2B) In any case coming within paragraph (g) or (h) of subsection one of this section, no person shall be liable to have his name removed from the register or be suspended from practice if his failure to comply with
- 20 the Act, regulation, by-law or ordinance concerned does not, either from its trivial nature or the circumstances under which it took place, render such person unfit in the public interest to practise surveying.
- 25 (2C) The board may suspend from practice any surveyor whose entitlement to practise in a reciprocating State is suspended under the law in force in the reciprocating State. The board shall not impose a period of suspension
- 30 under this subsection which expires later than the period of suspension imposed by the Surveyors' Board or other competent authority of the reciprocating State.
- 35 (vi) by inserting in subsection five of the same section after the word "Gazette" the words "and his name, if removed from the register, has been restored thereto";
- (vii)



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*Surveyors (Amendment).*

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- 5 (vii) by omitting from the same subsection the words  
“fifty pounds” and by inserting in lieu thereof  
the words “one hundred and fifty pounds, and  
a further penalty not exceeding ten pounds  
for every day during which the offence is con-  
tinued”;
- 10 (1) (i) by inserting in subsection one of section fifteen Sec. 15.  
after the word “charge” where secondly occur- (Charge  
ing the words “, and shall, except where the against a  
charge is made by a person authorised in surveyor.)  
writing to make such charge by the council  
of the Institution or by an officer of any  
Government department or statutory authority  
constituted for public purposes, be accom-  
panied by a deposit of ten pounds”;
- 15 (ii) by inserting in subsection two of the same sec-  
tion after the word “sent” the words “by  
certified or registered mail”;
- 20 (iii) by omitting from subsection three of the same  
section the words “or solicitor” and by insert-  
ing in lieu thereof the words “, solicitor or  
agent”;
- 25 (iv) by inserting next after the same subsection the  
following new subsection : —  
(4) Where the board is of the opinion that  
the charge is vexatious or frivolous it shall  
so declare and thereupon the sum deposited  
shall be forfeited. In the absence of any  
such declaration the sum so deposited shall  
30 be refunded to the complainant.
- (m) by inserting in subsection one of section sixteen Sec. 16.  
after the word “may” the words “, within three (Appeal.)  
months of such decision,”;
- 35 (n) by omitting from subsection two of section eighteen Sec. 18.  
the words “twenty pounds” and by inserting in lieu (Power to  
thereof the words “fifty pounds”; summon  
witnesses.)  
(o)



*Surveyors (Amendment).*

- (o) (i) by omitting from paragraph (i) of subsection Sec. 23.  
one of section twenty-three the words "inden- (Regula-  
tures and contracts of apprenticeship" and by tions.)  
inserting in lieu thereof the word "articles";
- 5 (ii) by omitting paragraph (l) of the same subsection  
and by inserting in lieu thereof the  
following paragraph : —  
(1) the making and marking of surveys,  
and matters incidental to or consequent  
10 on the making and marking of surveys;
- (iii) by inserting next after paragraph (m) of the  
same subsection the following new paragraphs : —  
(n) standards of measurement and accuracy  
15 to be adopted for the purpose of  
surveys;  
(o) advertising by surveyors.
- (iv) by omitting from subsection two of the same  
section the words "twenty pounds" and by  
20 inserting in lieu thereof the words "fifty  
pounds";
- (p) (i) by omitting from subsection two of section Sec. 26.  
twenty-six the words "of Surveyors"; (Delivery  
of signed  
bill by  
surveyor.)
- 25 (ii) by inserting next after subsection four of the  
same section the following new subsection : —  
(5) In this section, "registrar" means  
registrar of the Land and Valuation Court.
- (q) by inserting next after section twenty-six the New secs.  
following new sections : — 27-29.
- 30 27. (1) The board may order a surveyor to Surveyor  
produce or make available for its inspection any to produce  
document in his possession, custody or control field book,  
etc.  
relating to the making of any survey or to any  
matter arising under this Act or the regulations  
made



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*Surveyors (Amendment).*

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made thereunder, and any member of the board or the registrar may make extracts therefrom or copies thereof.

5 (2) Any such document shall be retained by the board only for such period as may reasonably be required for the purpose of inspection and making extracts or copies or, if its production is ordered during the conduct and for the purposes of an inquiry under section fourteen of this Act, until  
10 the completion of the inquiry.

(3) Except as provided in subsection four of this section, no information contained in any document produced or made available pursuant to subsection one of this section or any extract therefrom or copy thereof shall be disclosed by the  
15 members of the board or the registrar to any other person without the permission of the surveyor producing the document or making it available.

(4) Information contained in a document  
20 produced or made available pursuant to this section during the conduct of and for the purposes of an inquiry under section fourteen of this Act may be disclosed by the board in the course of the inquiry if it is relevant to the charge being investigated, but  
25 if the nature of the document is such that it is not possible to obtain relevant information therefrom without disclosing other information, that other information may be disclosed to the extent that it is necessary to obtain relevant information.

(5) Any order made by the board pursuant  
30 to this section shall be in or to the effect of the form prescribed and a copy of the order under the hand of the registrar shall be delivered to the surveyor personally or sent to him by letter sent by  
35 certified or registered mail addressed to his last-known postal address.

(6)



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*Surveyors (Amendment).*

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(6) The surveyor to whom the order refers shall comply with the terms thereof within seven days of its receipt or such further time as the board may allow.

5 (7) In this section, "document" includes any field book, field notes, plan or record.

28. Notwithstanding any other provision in this Act, upon the death of a surveyor the board may <sup>Continua-  
tion of name  
of deceased  
surveyor.</sup> authorise his executor, administrator or trustee to carry on, for such period as the board may determine and in the name of such deceased surveyor, the practice formerly carried on by him provided the practice is so carried on under the personal supervision of a surveyor, who may be such  
10  
15 executor, administrator or trustee, and provided the name of such supervising surveyor is registered with the board as superintendent of the practice.

29. No matter or thing done or suffered by the board, or any member of the board, or the registrar, <sup>Protection  
of board  
and  
members  
and others  
from  
liability.</sup> or any person duly authorised under any provision of this Act, bona fide in the execution or intended execution of such Act, or the exercise or discharge or intended exercise or discharge of any of its or his powers, authorities, duties or functions, shall  
20  
25 subject the board or any member of the board, or the registrar, or such person, or the Crown, to any liability in respect thereof.

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964  
[1s. 4d.]



## SURVEYORS (AMENDMENT) BILL, 1964.

### EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to provide that the three surveyors nominated by the Council of the Institution of Surveyors, New South Wales, Incorporated, for appointment as members of the Board of Surveyors of New South Wales may be nominated without being elected by surveyors registered under the Surveyors Act ;
- (b) to provide for the appointment of persons as members of the board in every second year instead of in every year ;
- (c) to authorise the Governor to determine the fees to be paid to members of the board ;
- (d) to enable the board to deal with matters by a resolution signed by all members without holding a meeting of the board and to authorise the president of the board to deal with prescribed matters on its behalf ;
- (e) to make further provision for the keeping of a register of surveyors, including the entry, removal and restoration of names and notification of changes of address ;
- (f) to enable the board to suspend a surveyor if his entitlement to practise outside New South Wales is suspended ;
- (g) to permit the board to enter into reciprocal arrangements with countries other than those at present specified in the Act for the recognition of the status of surveyors ;
- (h) to empower a surveyor to insert any survey mark on any land and enter any building for the purpose of determining the position of a wall or defining a boundary which is otherwise inaccessible ;
- (i) to extend the powers of the board to fine, suspend or deregister a surveyor to cases where—
  - (i) a surveyor fails to comply with any provision of the Surveyors Act or the regulations made thereunder ;
  - (ii) a surveyor is convicted of an offence relating to the duties and functions of surveyors and matters incidental thereto, under any other Act or regulation or under any ordinance or by-law ; and
  - (iii) a surveyor is guilty of misconduct in a professional respect ;
- (j) to enable the board to control the name or names under which and the premises at or from which a surveyor carries on his practice ;
- (k) to empower the Governor to make regulations relating to the marking of surveys, the standards of measurement and accuracy of surveys and advertising by surveyors ;



- (l) to empower the board to order a surveyor to produce any documents including field books, field notes, plans or records in his possession, custody or control relating to a survey and to provide that extracts therefrom or copies thereof may be produced at any inquiry for the suspension of a surveyor or the removal of his name from the register ;
- (m) to enable the board to authorise an executor, administrator or trustee to carry on the practice of a deceased surveyor under the supervision of a surveyor ;
- (n) to indemnify the board, the registrar and any authorised person from liability for any matter or thing done bona fide in the execution of its or his duty ;
- (o) to increase the penalties for offences under the Act and the fines which may be imposed by the board ;
- (p) to make other provisions of a consequential or minor nature.



No. , 1964.

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## A BILL

To make further provision with respect to the constitution and the powers, authorities, duties and functions of the Board of Surveyors of New South Wales, the registration of surveyors of land and the rights of surveyors to enter on land; to extend the circumstances in which surveyors may be suspended from practice or have their registration cancelled; for these and other purposes to amend the Surveyors Act, 1929-1946; and for purposes connected therewith.

[MR. COMPTON;—10 November, 1964.]

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BE



*Surveyors (Amendment).*

**B**E it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Surveyors (Amendment) Act, 1964".

Short title,  
citation  
and com-  
mencement.

(2) The Surveyors Act, 1929, as amended by subsequent Acts and by this Act, may be cited as the Surveyors Act, 1929-1964.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Surveyors Act, 1929-1946, is amended—

Amendment  
of Act No.  
3, 1929.

15 (a) (i) by omitting from the matter relating to Part III in section two the letters and figures "ss. 8, 9." and by inserting in lieu thereof the letters and figures "ss. 8-9B.";

Sec. 2.  
(Parts of  
Act.)

20 (ii) by omitting from the matter relating to Part V in the same section the letters and figures "ss. 17-26." and by inserting in lieu thereof the letters and figures "ss. 17-29.";

25 (b) (i) by inserting in section three immediately before the definition of "Board" the following new definition :—

Sec. 3.  
(Interpre-  
tation.)

30 "Articles" means an indenture or writing containing a contract or an agreement whereby a surveyor agrees to give instruction and provide experience in the principles and practice of surveying to a person who in consideration of such instruction and experience binds himself to serve the surveyor for the term of the contract or agreement.

(ii)



*Surveyors (Amendment).*

- (ii) by omitting from the same section the definition of "Institution" and by inserting in lieu thereof the following definition :—

5 "Institution" means Institution of Surveyors,  
New South Wales, Incorporated, or its  
successors.

- 10 (iii) by omitting from the definition of "Practise"  
in the same section the words "as a principal  
for fee or reward, or as an officer of the Public  
Service of New South Wales or as an employee  
of any statutory authority constituted for  
public purposes" and by inserting in lieu  
thereof the words "for fee or reward";

- 15 (iv) by omitting from the same section the defini-  
tion of "Reciprocating State" and by inserting  
in lieu thereof the following definition :—

20 "Reciprocating State" means any country,  
as defined in section eleven of this Act,  
with the Surveyors' Board or other  
competent authority of which recip-  
rocal arrangements have been made  
pursuant to that section.

- 25 (v) by omitting from the same section the definition  
of "Survey" and by inserting in lieu thereof  
the following definitions :—

"Registrar" means registrar of the board.

"Survey" means a measurement or  
delimitation of land authorised or  
required—

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

(b)



*Surveyors (Amendment).*

- 5 (b) subject to section twenty-five of  
this Act, under any Act dealing  
with mining; or
- (c) by the Crown, the proprietor,  
lessee or mortgagee of the land  
or a prospective proprietor,  
lessee or mortgagee thereof; or
- 10 (d) in connection with the dedica-  
tion, reservation, resumption or  
disposal thereof for any pur-  
pose under the authority of any  
Act,

15 and includes all matters prescribed  
which are incidental to or consequent  
upon such measurement or delimita-  
tion, and "surveying" has a meaning  
corresponding with that of "survey".

- 20 (c) (i) by omitting from section five the words "Within Sec. 5.  
three months after the commencement of this (Nomination  
Act and in the month of January in every and appoint-  
year thereafter" and by inserting in lieu ment of  
thereof the words "In the month of January members.)  
following the commencement of the Surveyors  
(Amendment) Act, 1964, and in the month  
25 of January in every second year thereafter";

(ii) by omitting from the same section the word  
"licensed" wherever occurring;

- 30 (iii) by omitting from the same section the words  
"The persons to be nominated by the council  
of the Institution shall be elected, in the  
manner prescribed, to the first board by per-  
sons who hold subsisting licenses to survey  
issued before the commencement of this Act,  
and to the second and subsequent boards by  
35 surveyors registered under this Act.";

(d)



*Surveyors (Amendment).*

(d) (i) by omitting from subsection four of section Sec. 6.  
 six the words "in the manner hereinbefore (Tenure of  
 indicated by"; office by  
 members  
 and  
 quorum.)

5 (ii) by omitting from subsection six of the same  
 section the words "a fee of two guineas for  
 each sitting of the board which he has  
 attended: provided that the fees paid in  
 10 respect of such sittings to any member during  
 any year shall not exceed fifty guineas" and  
 by inserting in lieu thereof the words "such  
 fees as the Governor may from time to time  
 determine";

(iii) by inserting at the end of the same section  
 the following new subsections:—

15 (8) A resolution signed by all members of  
 the board holding office for the time being  
 shall be as valid and effective as if it had been  
 passed at a meeting of the board and any  
 20 such resolution shall be recorded in the  
 minutes of the board's proceedings.

(9) (a) The board may from time to time  
 by resolution delegate to the president of the  
 board such of the powers, authorities, duties  
 and functions of the board (other than this  
 25 power of delegation) as may be prescribed by  
 the regulations and as are specified in the  
 resolution.

(b) Any such delegation—

30 (i) may be revoked by the board by reso-  
 lution;  
 (ii) shall not preclude the board from  
 exercising the powers, authorities,  
 duties or functions delegated; and  
 35 (iii) may be made either generally or for  
 any particular case or class of cases.

(c)



*Surveyors (Amendment).*

(c) When acting within the scope of any such delegation to him, the president of the board shall be deemed to be the board.

5 (e) by inserting in subsection one of section eight after Sec. 8.  
the word "matters" the words "as the board may think fit or"; (Board to keep a register.)

(f) by omitting section nine and by inserting in lieu thereof the following sections :— Subst. sec. 9, new secs. 9A, 9B.

10 9. The board may remove from the register the name of any person— Removal from register.

(a) who dies; or

15 (b) who becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts; or

(c) who notifies the registrar that he desires that his name be removed; or

20 (d) whose entitlement to practise as a surveyor in some place outside the State of New South Wales is revoked or cancelled in accordance with the law in force in that place except where such revocation or cancellation is at his own request.

25 9A. The board may remove or amend any entry in the register if the entry is proved to its satisfaction to have been fraudulently made or procured or to be incorrect. Amendment of entry.

9B. (1) The board—

30 (a) may, if it thinks fit, in any case; and Restoration of name removed from register.  
(b) shall, where the surveyor affected has been reinstated pursuant to subsection four of section fourteen of this Act,

restore



*Surveyors (Amendment).*

restore to the register any name removed therefrom and such restoration may be made without payment of a fee or on payment of such fee, not exceeding the prescribed roll fee, as the board may direct.

5 (2) Nothing in subsection one of this section shall affect the provisions of subsection six of section ten of this Act.

10 (g) by omitting subsections five and six of section ten and by inserting in lieu thereof the following sections : — Sec. 10.  
(Persons entitled to be registered.)

15 (5) If any surveyor does not pay the prescribed roll fee before or in the month of July in any year, the board shall notify him, by letter addressed to him at the address appearing in the register, that if the fee is not paid before the thirty-first day of October next following his name will be removed from the register. If any surveyor who has been so notified fails to pay such fee before the said thirty-first day of October, the board shall remove  
20 his name from the register.

(6) If the name of any surveyor is removed from the register under this section, the board shall restore his name to the register upon payment of such fees as are prescribed.

25 (7) A surveyor who changes his address as appearing in the register shall, within three months thereafter, notify the board of his new address and the board shall thereupon alter the entry in the register relating to that surveyor accordingly.

30 (8) A surveyor who fails to comply with the provisions of subsection seven of this section shall be liable to a penalty not exceeding five pounds.

(h)



*Surveyors (Amendment).*

- (h) (i) by omitting from subsection one of section Sec. 11.  
eleven the words "State, Colony, or Dominion (Reciprocal  
within His Majesty's Dominions" and by arrange-  
inserting in lieu thereof the word "country"; board  
with other  
States, etc.)
- 5 (ii) by omitting from the same subsection the  
words "State, Colony, or Dominion" where  
secondly occurring and by inserting in lieu  
thereof the word "country";
- 10 (iii) by inserting next after subsection two of the  
same section the following new subsections : —
- (3) Any reciprocal arrangement entered  
into by the board for the purposes specified in  
subsection one of this section and subsisting  
immediately before the commencement of the  
15 Surveyors (Amendment) Act, 1964, shall be  
deemed to have been entered into pursuant to  
the provisions of that subsection.
- (4) In this section "country" means the  
20 United Kingdom of Great Britain and  
Northern Ireland, the Dominion of New  
Zealand, any State or Territory of the  
Commonwealth of Australia and any other  
prescribed country, state, territory or place.
- (i) (i) by omitting subsection one of section twelve Sec. 12.  
25 and by inserting in lieu thereof the following (Right to  
subsection : — make  
surveys.)
- (1) No person, unless registered under  
this Act, shall practise as a surveyor.
- (ii) by omitting from subsection two of the same  
30 section the words "fifty pounds" and by  
inserting in lieu thereof the words "one  
hundred and fifty pounds";
- (iii)



*Surveyors (Amendment).*

(iii) by inserting next after subsection two of the same section the following new subsection : —

(3) This section shall not extend to—

- 5 (a) a pupil who, under the supervision of a surveyor, is receiving instruction or acting in the course of his duties, as required by his articles; or
- 10 (b) a surveyor's assistant or draftsman acting in the course of the duties usually performed by surveyors' assistants or draftsmen, as the case may be.

15 (j) (i) by inserting in subsection one of section thirteen after the word "fence" the words "any building for the purpose of determining the position of a wall or for defining a boundary which is otherwise inaccessible"; Sec. 13. (Power of entry upon lands.)

20 (ii) by omitting from subsection two of the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";

(k) (i) by inserting at the end of paragraph (f) of subsection one of section fourteen the following word and new paragraphs : — Sec. 14. (Power of board to deal with offences.)

25 " ; or

- (g) he has failed to comply with any of the provisions of this Act or the regulations made thereunder ; or
- 30 (h) he has been convicted of an offence relating to the duties and functions of surveyors, the carrying out of surveys or matters incidental to or consequent upon



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*Surveyors (Amendment).*

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upon surveys, under any Act or regulation, other than this Act and the regulations made thereunder, or under any ordinance or by-law; or

5 (i) he has been guilty of misconduct in a professional respect,”;

(ii) by inserting next after the same subsection the following new subsection : —

10 (1A) Without limiting the meaning of the expression “misconduct in a professional respect” in paragraph (i) of subsection one of this section, a surveyor shall be deemed guilty of such misconduct if—

15 (a) after the expiration of twelve months from the commencement of the Surveyors (Amendment) Act, 1964, and except where this Act otherwise provides or the board permits, he practises surveying—

20 (i) on his own account under a name other than his own name; or

25 (ii) in partnership or association under a name other than his own name and the name of each other person in partnership or association with whom he is so practising;

30 (b) in connection with the practice of surveying he uses or allows the use of his name at premises at or from which, in the opinion of the board, he or his partners or associates, if any, do not regularly practise surveying;

(c)



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*Surveyors (Amendment).*

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- 5 (c) without the permission of the board, he allows his name to be joined in connection with the practice of surveying with the name of a person not registered under this Act, except where the name is that of a deceased or retired partner who was a surveyor at the time of his death or retirement, and the registrar has been so notified;
- 10 (d) he uses or publishes, or allows the use or publication of, any title, name, words, or letters which are capable of being understood to indicate that he is qualified in surveying, or as a
- 15 surveyor, other than such title, name, words, or letters as truly indicate a qualification in surveying or as a surveyor which he in fact holds or possesses; or
- 20 (e) he directly or indirectly gives or offers, or agrees to give or offer, any person any commission, gratuity, service or other consideration whatever for securing or attempting to secure
- 25 for him any instructions to make surveys or any work in connection with surveys.
- 30 (iii) by omitting from paragraph (a) of subsection two of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
- (iv) by omitting paragraph (e) of the same subsection;

(v)



*Surveyors (Amendment).*

(v) by inserting next after the same subsection the following new subsections : —

(2A) Nothing in this section shall authorise the board to impose a fine—

5 (a) in any case coming within paragraph (e) or (h) of subsection one of this section; or

10 (b) where a surveyor has been convicted by a court as a result of his failure to comply with the particular provision of this Act or the regulations made thereunder in respect of which a charge has been made pursuant to paragraph (g) of subsection one of this section.

15 (2B) In any case coming within paragraph (g) or (h) of subsection one of this section, no person shall be liable to have his name removed from the register or be suspended from practice if his failure to comply with the Act, regulation, by-law or ordinance concerned does not, either from its trivial nature or the circumstances under which it took place, render such person unfit in the public interest to practise surveying.

25 (2C) The board may suspend from practice any surveyor whose entitlement to practise in a reciprocating State is suspended under the law in force in the reciprocating State. The board shall not impose a period of suspension under this subsection which expires later than the period of suspension imposed by the Surveyors' Board or other competent authority of the reciprocating State.

35 (vi) by inserting in subsection five of the same section after the word "Gazette" the words "and his name, if removed from the register, has been restored thereto";

(vii)



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*Surveyors (Amendment).*

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- 5 (vii) by omitting from the same subsection the words  
“fifty pounds” and by inserting in lieu thereof  
the words “one hundred and fifty pounds, and  
a further penalty not exceeding ten pounds  
for every day during which the offence is con-  
tinued”;
- 10 (1) (i) by inserting in subsection one of section fifteen Sec. 15.  
after the word “charge” where secondly occur- (Charge  
ring the words “, and shall, except where the against a  
charge is made by a person authorised in surveyor.)  
writing to make such charge by the council  
of the Institution or by an officer of any  
Government department or statutory authority  
constituted for public purposes, be accom-  
15 panied by a deposit of ten pounds”;
- (ii) by inserting in subsection two of the same sec-  
tion after the word “sent” the words “by  
certified or registered mail”;
- 20 (iii) by omitting from subsection three of the same  
section the words “or solicitor” and by insert-  
ing in lieu thereof the words “, solicitor or  
agent”;
- (iv) by inserting next after the same subsection the  
following new subsection : —  
25 (4) Where the board is of the opinion that  
the charge is vexatious or frivolous it shall  
so declare and thereupon the sum deposited  
shall be forfeited. In the absence of any  
such declaration the sum so deposited shall  
30 be refunded to the complainant.
- (m) by inserting in subsection one of section sixteen Sec. 16.  
after the word “may” the words “, within three (Appeal.)  
months of such decision,”;
- 35 (n) by omitting from subsection two of section eighteen Sec. 18.  
the words “twenty pounds” and by inserting in lieu (Power to  
thereof the words “fifty pounds”; summon  
witnesses.)  
(o)



*Surveyors (Amendment).*

- (o) (i) by omitting from paragraph (i) of subsection Sec. 23. one of section twenty-three the words "indentures and contracts of apprenticeship" and by inserting in lieu thereof the word "articles";
- 5 (ii) by omitting paragraph (l) of the same subsection and by inserting in lieu thereof the following paragraph : —
- (l) the making and marking of surveys, and matters incidental to or consequent on the making and marking of surveys;
- 10 (iii) by inserting next after paragraph (m) of the same subsection the following new paragraphs : —
- (n) standards of measurement and accuracy to be adopted for the purpose of surveys;
- 15 (o) advertising by surveyors.
- (iv) by omitting from subsection two of the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";
- 20 (p) (i) by omitting from subsection two of section Sec. 26. twenty-six the words "of Surveyors"; (Delivery of signed bill by surveyor.)
- 25 (ii) by inserting next after subsection four of the same section the following new subsection : —
- (5) In this section, "registrar" means registrar of the Land and Valuation Court.
- (q) by inserting next after section twenty-six the following new sections : — New secs. 27-29.
- 30 27. (1) The board may order a surveyor to produce or make available for its inspection any document in his possession, custody or control relating to the making of any survey or to any matter arising under this Act or the regulations made



*Surveyors (Amendment).*

made thereunder, and any member of the board or the registrar may make extracts therefrom or copies thereof.

5 (2) Any such document shall be retained by the board only for such period as may reasonably be required for the purpose of inspection and making extracts or copies or, if its production is ordered during the conduct and for the purposes of an inquiry under section fourteen of this Act, until  
10 the completion of the inquiry.

15 (3) Except as provided in subsection four of this section, no information contained in any document produced or made available pursuant to subsection one of this section or any extract therefrom or copy thereof shall be disclosed by the members of the board or the registrar to any other person without the permission of the surveyor producing the document or making it available.

20 (4) Information contained in a document produced or made available pursuant to this section during the conduct of and for the purposes of an inquiry under section fourteen of this Act may be disclosed by the board in the course of the inquiry if it is relevant to the charge being investigated, but  
25 if the nature of the document is such that it is not possible to obtain relevant information therefrom without disclosing other information, that other information may be disclosed to the extent that it is necessary to obtain relevant information.

30 (5) Any order made by the board pursuant to this section shall be in or to the effect of the form prescribed and a copy of the order under the hand of the registrar shall be delivered to the surveyor personally or sent to him by letter sent by  
35 certified or registered mail addressed to his last-known postal address.

(6)



*Surveyors (Amendment).*

(6) The surveyor to whom the order refers shall comply with the terms thereof within seven days of its receipt or such further time as the board may allow.

5 (7) In this section, "document" includes any field book, field notes, plan or record.

10 28. Notwithstanding any other provision in this Act, upon the death of a surveyor the board may authorise his executor, administrator or trustee to carry on, for such period as the board may determine and in the name of such deceased surveyor, the practice formerly carried on by him provided the practice is so carried on under the personal supervision of a surveyor, who may be such  
15 executor, administrator or trustee, and provided the name of such supervising surveyor is registered with the board as superintendent of the practice.

20 29. No matter or thing done or suffered by the board, or any member of the board, or the registrar, or any person duly authorised under any provision of this Act, bona fide in the execution or intended execution of such Act, or the exercise or discharge or intended exercise or discharge of any of its or his powers, authorities, duties or functions, shall  
25 subject the board or any member of the board, or the registrar, or such person, or the Crown, to any liability in respect thereof.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964



# New South Wales



ANNO TERTIO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 46, 1964.**

An Act to make further provision with respect to the constitution and the powers, authorities, duties and functions of the Board of Surveyors of New South Wales, the registration of surveyors of land and the rights of surveyors to enter on land; to extend the circumstances in which surveyors may be suspended from practice or have their registration cancelled; for these and other purposes to amend the Surveyors Act, 1929-1946; and for purposes connected therewith. [Assented to, 27th November, 1964.]

BE



*Surveyors (Amendment).*

**B**E it enacted by the Queen'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:—

Short title,  
citation  
and com-  
mencement.

1. (1) This Act may be cited as the "Surveyors (Amendment) Act, 1964".

(2) The Surveyors Act, 1929, as amended by subsequent Acts and by this Act, may be cited as the Surveyors Act, 1929-1964.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment  
of Act No.  
3, 1929.

2. The Surveyors Act, 1929-1946, is amended—

Sec. 2.  
(Parts of  
Act.)

(a) (i) by omitting from the matter relating to Part III in section two the letters and figures "ss. 8, 9." and by inserting in lieu thereof the letters and figures "ss. 8-9B.";

(ii) by omitting from the matter relating to Part V in the same section the letters and figures "ss. 17-26." and by inserting in lieu thereof the letters and figures "ss. 17-29.";

Sec. 3.  
(Interpre-  
tation.)

(b) (i) by inserting in section three immediately before the definition of "Board" the following new definition:—

"Articles" means an indenture or writing containing a contract or an agreement whereby a surveyor agrees to give instruction and provide experience in the principles and practice of surveying to a person who in consideration of such instruction and experience binds himself to serve the surveyor for the term of the contract or agreement.

(ii)



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*Surveyors (Amendment).*

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- (ii) by omitting from the same section the definition of "Institution" and by inserting in lieu thereof the following definition : —

"Institution" means Institution of Surveyors, New South Wales, Incorporated, or its successors.

- (iii) by omitting from the definition of "Practise" in the same section the words "as a principal for fee or reward, or as an officer of the Public Service of New South Wales or as an employee of any statutory authority constituted for public purposes" and by inserting in lieu thereof the words "for fee or reward";

- (iv) by omitting from the same section the definition of "Reciprocating State" and by inserting in lieu thereof the following definition : —

"Reciprocating State" means any country, as defined in section eleven of this Act, with the Surveyors' Board or other competent authority of which reciprocal arrangements have been made pursuant to that section.

- (v) by omitting from the same section the definition of "Survey" and by inserting in lieu thereof the following definitions : —

"Registrar" means registrar of the board.

"Survey" means a measurement or delimitation of land authorised or required—

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

(b)



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*Surveyors (Amendment).*

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- (b) subject to section twenty-five of this Act, under any Act dealing with mining; or
- (c) by the Crown, the proprietor, lessee or mortgagee of the land or a prospective proprietor, lessee or mortgagee thereof; or
- (d) in connection with the dedication, reservation, resumption or disposal thereof for any purpose under the authority of any Act,

and includes all matters prescribed which are incidental to or consequent upon such measurement or delimitation, and "surveying" has a meaning corresponding with that of "survey".

Sec. 5.  
(Nomination  
and appoint-  
ment of  
members.)

- (c) (i) by omitting from section five the words "Within three months after the commencement of this Act and in the month of January in every year thereafter" and by inserting in lieu thereof the words "In the month of January following the commencement of the Surveyors (Amendment) Act, 1964, and in the month of January in every second year thereafter";
- (ii) by omitting from the same section the word "licensed" wherever occurring;
- (iii) by omitting from the same section the words "The persons to be nominated by the council of the Institution shall be elected, in the manner prescribed, to the first board by persons who hold subsisting licenses to survey issued before the commencement of this Act, and to the second and subsequent boards by surveyors registered under this Act.";

(d)



*Surveyors (Amendment).*

- (d) (i) by omitting from subsection four of section six the words "in the manner hereinbefore indicated by"; Sec. 6.  
(Tenure of  
office by  
members  
and  
quorum.)

- (ii) by omitting from subsection six of the same section the words "a fee of two guineas for each sitting of the board which he has attended: provided that the fees paid in respect of such sittings to any member during any year shall not exceed fifty guineas" and by inserting in lieu thereof the words "such fees as the Governor may from time to time determine";

- (iii) by inserting at the end of the same section the following new subsections :—

(8) A resolution signed by all members of the board holding office for the time being shall be as valid and effective as if it had been passed at a meeting of the board and any such resolution shall be recorded in the minutes of the board's proceedings.

(9) (a) The board may from time to time by resolution delegate to the president of the board such of the powers, authorities, duties and functions of the board (other than this power of delegation) as may be prescribed by the regulations and as are specified in the resolution.

(b) Any such delegation—

- (i) may be revoked by the board by resolution;
- (ii) shall not preclude the board from exercising the powers, authorities, duties or functions delegated; and
- (iii) may be made either generally or for any particular case or class of cases.

(c)



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*Surveyors (Amendment).*


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(c) When acting within the scope of any such delegation to him, the president of the board shall be deemed to be the board.

Sec. 8.  
(Board to  
keep a  
register.)

- (e) by inserting in subsection one of section eight after the word "matters" the words "as the board may think fit or";

Subst.  
sec. 9,  
new secs.  
9A, 9B.

Removal  
from  
register.

- (f) by omitting section nine and by inserting in lieu thereof the following sections :—

9. The board may remove from the register the name of any person—

- (a) who dies; or
- (b) who becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts; or
- (c) who notifies the registrar that he desires that his name be removed; or
- (d) whose entitlement to practise as a surveyor in some place outside the State of New South Wales is revoked or cancelled in accordance with the law in force in that place except where such revocation or cancellation is at his own request.

Amendment  
of entry.

9A. The board may remove or amend any entry in the register if the entry is proved to its satisfaction to have been fraudulently made or procured or to be incorrect.

Restoration  
of name  
removed  
from  
register.

9B. (1) The board—

- (a) may, if it thinks fit, in any case; and
- (b) shall, where the surveyor affected has been reinstated pursuant to subsection four of section fourteen of this Act,

restore



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*Surveyors (Amendment).*

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restore to the register any name removed therefrom and such restoration may be made without payment of a fee or on payment of such fee, not exceeding the prescribed roll fee, as the board may direct.

(2) Nothing in subsection one of this section shall affect the provisions of subsection six of section ten of this Act.

- (g) by omitting subsections five and six of section ten and by inserting in lieu thereof the following subsections : —
- Sec. 10.  
(Persons entitled to be registered.)

(5) If any surveyor does not pay the prescribed roll fee before or in the month of July in any year, the board shall notify him, by letter addressed to him at the address appearing in the register, that if the fee is not paid before the thirty-first day of October next following his name will be removed from the register. If any surveyor who has been so notified fails to pay such fee before the said thirty-first day of October, the board shall remove his name from the register.

(6) If the name of any surveyor is removed from the register under this section, the board shall restore his name to the register upon payment of such fees as are prescribed.

(7) A surveyor who changes his address as appearing in the register shall, within three months thereafter, notify the board of his new address and the board shall thereupon alter the entry in the register relating to that surveyor accordingly.

(8) A surveyor who fails to comply with the provisions of subsection seven of this section shall be liable to a penalty not exceeding five pounds.

(h)



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*Surveyors (Amendment).*

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Sec. 11.  
(Reciprocal  
arrange-  
ment by  
board  
with other  
States, etc.)

- (h) (i) by omitting from subsection one of section eleven the words "State, Colony, or Dominion within His Majesty's Dominions" and by inserting in lieu thereof the word "country";
- (ii) by omitting from the same subsection the words "State, Colony, or Dominion" where secondly occurring and by inserting in lieu thereof the word "country";

- (iii) by inserting next after subsection two of the same section the following new subsections :—

(3) Any reciprocal arrangement entered into by the board for the purposes specified in subsection one of this section and subsisting immediately before the commencement of the Surveyors (Amendment) Act, 1964, shall be deemed to have been entered into pursuant to the provisions of that subsection.

(4) In this section "country" means the United Kingdom of Great Britain and Northern Ireland, the Dominion of New Zealand, any State or Territory of the Commonwealth of Australia and any other prescribed country, state, territory or place.

Sec. 12.  
(Right to  
make  
surveys.)

- (i) (i) by omitting subsection one of section twelve and by inserting in lieu thereof the following subsection :—

(1) No person, unless registered under this Act, shall practise as a surveyor.

- (ii) by omitting from subsection two of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";

(iii)



*Surveyors (Amendment).*

- (iii) by inserting next after subsection two of the same section the following new subsection : —
- (3) This section shall not extend to—
- (a) a pupil who, under the supervision of a surveyor, is receiving instruction or acting in the course of his duties, as required by his articles; or
- (b) a surveyor's assistant or draftsman acting in the course of the duties usually performed by surveyors' assistants or draftsmen, as the case may be.
- (j) (i) by inserting in subsection one of section Sec. 13. thirteen after the word "fence" the words (Power of entry upon lands.) "may insert any survey mark and may enter any building for the purpose of determining the position of a wall or for defining a boundary which is otherwise inaccessible";
- (ii) by omitting from subsection two of the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";
- (k) (i) by inserting at the end of paragraph (f) of Sec. 14. subsection one of section fourteen the follow- (Power of board to deal with offences.) ing word and new paragraphs : —
- “; or
- (g) he has failed to comply with any of the provisions of this Act or the regulations made thereunder; or
- (h) he has been convicted of an offence relating to the duties and functions of surveyors, the carrying out of surveys or matters incidental to or consequent upon



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*Surveyors (Amendment).*

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upon surveys, under any Act or regulation, other than this Act and the regulations made thereunder, or under any ordinance or by-law; or

- (i) he has been guilty of misconduct in a professional respect,”;
- (ii) by inserting next after the same subsection the following new subsection : —

(1A) Without limiting the meaning of the expression “misconduct in a professional respect” in paragraph (i) of subsection one of this section, a surveyor shall be deemed guilty of such misconduct if—

- (a) after the expiration of twelve months from the commencement of the Surveyors (Amendment) Act, 1964, and except where this Act otherwise provides or the board permits, he practises surveying—
  - (i) on his own account under a name other than his own name; or
  - (ii) in partnership or association under a name other than his own name and the name of each other person in partnership or association with whom he is so practising;
- (b) in connection with the practice of surveying he uses or allows the use of his name at premises at or from which, in the opinion of the board, he or his partners or associates, if any, do not regularly practise surveying;

(c)



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*Surveyors (Amendment).*

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- (c) without the permission of the board, he allows his name to be joined in connection with the practice of surveying with the name of a person not registered under this Act, except where the name is that of a deceased or retired partner who was a surveyor at the time of his death or retirement, and the registrar has been so notified;
  - (d) he uses or publishes, or allows the use or publication of, any title, name, words, or letters which are capable of being understood to indicate that he is qualified in surveying, or as a surveyor, other than such title, name, words, or letters as truly indicate a qualification in surveying or as a surveyor which he in fact holds or possesses; or
  - (e) he directly or indirectly gives or offers, or agrees to give or offer, any person any commission, gratuity, service or other consideration whatever for securing or attempting to secure for him any instructions to make surveys or any work in connection with surveys.
- (iii) by omitting from paragraph (a) of subsection two of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
- (iv) by omitting paragraph (e) of the same subsection;
- (v)



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*Surveyors (Amendment).*

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- (v) by inserting next after the same subsection the following new subsections : —

(2A) Nothing in this section shall authorise the board to impose a fine—

- (a) in any case coming within paragraph (e) or (h) of subsection one of this section; or
- (b) where a surveyor has been convicted by a court as a result of his failure to comply with the particular provision of this Act or the regulations made thereunder in respect of which a charge has been made pursuant to paragraph (g) of subsection one of this section.

(2B) In any case coming within paragraph (g) or (h) of subsection one of this section, no person shall be liable to have his name removed from the register or be suspended from practice if his failure to comply with the Act, regulation, by-law or ordinance concerned does not, either from its trivial nature or the circumstances under which it took place, render such person unfit in the public interest to practise surveying.

(2C) The board may suspend from practice any surveyor whose entitlement to practise in a reciprocating State is suspended under the law in force in the reciprocating State. The board shall not impose a period of suspension under this subsection which expires later than the period of suspension imposed by the Surveyors' Board or other competent authority of the reciprocating State.

- (vi) by inserting in subsection five of the same section after the word "Gazette" the words "and his name, if removed from the register, has been restored thereto";

(vii)



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*Surveyors (Amendment).*

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- (vii) by omitting from the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds, and a further penalty not exceeding ten pounds for every day during which the offence is continued";
- (l) (i) by inserting in subsection one of section fifteen Sec. 15. after the word "charge" where secondly occurring the words ", and shall, except where the (Charge against a surveyor.) charge is made by a person authorised in writing to make such charge by the council of the Institution or by an officer of any Government department or statutory authority constituted for public purposes, be accompanied by a deposit of ten pounds";
- (ii) by inserting in subsection two of the same section after the word "sent" the words "by certified or registered mail";
- (iii) by omitting from subsection three of the same section the words "or solicitor" and by inserting in lieu thereof the words ", solicitor or agent";
- (iv) by inserting next after the same subsection the following new subsection : —
- (4) Where the board is of the opinion that the charge is vexatious or frivolous it shall so declare and thereupon the sum deposited shall be forfeited. In the absence of any such declaration the sum so deposited shall be refunded to the complainant.
- (m) by inserting in subsection one of section sixteen Sec. 16. after the word "may" the words ", within three (Appeal.) months of such decision,";
- (n) by omitting from subsection two of section eighteen Sec. 18. the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds"; (Power to summon witnesses.)
- (o)



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*Surveyors (Amendment).*


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Sec. 23.  
(Regulations.)

- (o) (i) by omitting from paragraph (i) of subsection one of section twenty-three the words "indentures and contracts of apprenticeship" and by inserting in lieu thereof the word "articles";
- (ii) by omitting paragraph (l) of the same subsection and by inserting in lieu thereof the following paragraph :—
  - (1) the making and marking of surveys, and matters incidental to or consequent on the making and marking of surveys;
- (iii) by inserting next after paragraph (m) of the same subsection the following new paragraphs :—
  - (n) standards of measurement and accuracy to be adopted for the purpose of surveys;
  - (o) advertising by surveyors.
- (iv) by omitting from subsection two of the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";

Sec. 26.  
(Delivery of signed bill by surveyor.)

- (p) (i) by omitting from subsection two of section twenty-six the words "of Surveyors";
- (ii) by inserting next after subsection four of the same section the following new subsection :—
  - (5) In this section, "registrar" means registrar of the Land and Valuation Court.

New secs.  
27-29.

- (q) by inserting next after section twenty-six the following new sections :—

Surveyor to produce field book, etc.

27. (1) The board may order a surveyor to produce or make available for its inspection any document in his possession, custody or control relating to the making of any survey or to any matter arising under this Act or the regulations made



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*Surveyors (Amendment).*

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made thereunder, and any member of the board or the registrar may make extracts therefrom or copies thereof.

(2) Any such document shall be retained by the board only for such period as may reasonably be required for the purpose of inspection and making extracts or copies or, if its production is ordered during the conduct and for the purposes of an inquiry under section fourteen of this Act, until the completion of the inquiry.

(3) Except as provided in subsection four of this section, no information contained in any document produced or made available pursuant to subsection one of this section or any extract therefrom or copy thereof shall be disclosed by the members of the board or the registrar to any other person without the permission of the surveyor producing the document or making it available.

(4) Information contained in a document produced or made available pursuant to this section during the conduct of and for the purposes of an inquiry under section fourteen of this Act may be disclosed by the board in the course of the inquiry if it is relevant to the charge being investigated, but if the nature of the document is such that it is not possible to obtain relevant information therefrom without disclosing other information, that other information may be disclosed to the extent that it is necessary to obtain relevant information.

(5) Any order made by the board pursuant to this section shall be in or to the effect of the form prescribed and a copy of the order under the hand of the registrar shall be delivered to the surveyor personally or sent to him by letter sent by certified or registered mail addressed to his last-known postal address.

(6)



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*Surveyors (Amendment).*

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(6) The surveyor to whom the order refers shall comply with the terms thereof within seven days of its receipt or such further time as the board may allow.

(7) In this section, "document" includes any field book, field notes, plan or record.

Continuation of name of deceased surveyor.

28. Notwithstanding any other provision in this Act, upon the death of a surveyor the board may authorise his executor, administrator or trustee to carry on, for such period as the board may determine and in the name of such deceased surveyor, the practice formerly carried on by him provided the practice is so carried on under the personal supervision of a surveyor, who may be such executor, administrator or trustee, and provided the name of such supervising surveyor is registered with the board as superintendent of the practice.

Protection of board and members and others from liability.

29. No matter or thing done or suffered by the board, or any member of the board, or the registrar, or any person duly authorised under any provision of this Act, bona fide in the execution or intended execution of such Act, or the exercise or discharge or intended exercise or discharge of any of its or his powers, authorities, duties or functions, shall subject the board or any member of the board, or the registrar, or such person, or the Crown, to any liability in respect thereof.

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964



*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

ALLAN PICKERING,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 18 November, 1964.*

## New South Wales



ANNO TERTIO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 46, 1964.**

An Act to make further provision with respect to the constitution and the powers, authorities, duties and functions of the Board of Surveyors of New South Wales, the registration of surveyors of land and the rights of surveyors to enter on land; to extend the circumstances in which surveyors may be suspended from practice or have their registration cancelled; for these and other purposes to amend the Surveyors Act, 1929-1946; and for purposes connected therewith. [Assented to, 27th November, 1964.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

HOWARD T. FOWLES,  
*Chairman of Committees of the Legislative Assembly.*



*Surveyors (Amendment).*

**BE** it enacted by the Queen'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 :—

Short title,  
citation  
and com-  
mencement.

1. (1) This Act may be cited as the "Surveyors (Amendment) Act, 1964".

(2) The Surveyors Act, 1929, as amended by subsequent Acts and by this Act, may be cited as the Surveyors Act, 1929-1964.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment  
of Act No.  
3, 1929.

2. The Surveyors Act, 1929-1946, is amended—

Sec. 2.  
(Parts of  
Act.)

(a) (i) by omitting from the matter relating to Part III in section two the letters and figures "ss. 8, 9." and by inserting in lieu thereof the letters and figures "ss. 8-9B.";

(ii) by omitting from the matter relating to Part V in the same section the letters and figures "ss. 17-26." and by inserting in lieu thereof the letters and figures "ss. 17-29.";

Sec. 3.  
(Interpre-  
tation.)

(b) (i) by inserting in section three immediately before the definition of "Board" the following new definition :—

"Articles" means an indenture or writing containing a contract or an agreement whereby a surveyor agrees to give instruction and provide experience in the principles and practice of surveying to a person who in consideration of such instruction and experience binds himself to serve the surveyor for the term of the contract or agreement.

(ii)



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*Surveyors (Amendment).*

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- (ii) by omitting from the same section the definition of "Institution" and by inserting in lieu thereof the following definition :—

"Institution" means Institution of Surveyors, New South Wales, Incorporated, or its successors.

- (iii) by omitting from the definition of "Practise" in the same section the words "as a principal for fee or reward, or as an officer of the Public Service of New South Wales or as an employee of any statutory authority constituted for public purposes" and by inserting in lieu thereof the words "for fee or reward";

- (iv) by omitting from the same section the definition of "Reciprocating State" and by inserting in lieu thereof the following definition :—

"Reciprocating State" means any country, as defined in section eleven of this Act, with the Surveyors' Board or other competent authority of which reciprocal arrangements have been made pursuant to that section.

- (v) by omitting from the same section the definition of "Survey" and by inserting in lieu thereof the following definitions :—

"Registrar" means registrar of the board.

"Survey" means a measurement or delimitation of land authorised or required—

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

(b)



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*Surveyors (Amendment).*


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- (b) subject to section twenty-five of this Act, under any Act dealing with mining; or
- (c) by the Crown, the proprietor, lessee or mortgagee of the land or a prospective proprietor, lessee or mortgagee thereof; or
- (d) in connection with the dedication, reservation, resumption or disposal thereof for any purpose under the authority of any Act,

and includes all matters prescribed which are incidental to or consequent upon such measurement or delimitation, and "surveying" has a meaning corresponding with that of "survey".

Sec. 5.  
(Nomination  
and appoint-  
ment of  
members.)

- (c) (i) by omitting from section five the words "Within three months after the commencement of this Act and in the month of January in every year thereafter" and by inserting in lieu thereof the words "In the month of January following the commencement of the Surveyors (Amendment) Act, 1964, and in the month of January in every second year thereafter";
- (ii) by omitting from the same section the word "licensed" wherever occurring;
- (iii) by omitting from the same section the words "The persons to be nominated by the council of the Institution shall be elected, in the manner prescribed, to the first board by persons who hold subsisting licenses to survey issued before the commencement of this Act, and to the second and subsequent boards by surveyors registered under this Act.";

(d)



*Surveyors (Amendment).*

(d) (i) by omitting from subsection four of section six the words "in the manner hereinbefore indicated by";

Sec. 6.  
(Tenure of  
office by  
members  
and  
quorum.)

(ii) by omitting from subsection six of the same section the words "a fee of two guineas for each sitting of the board which he has attended: provided that the fees paid in respect of such sittings to any member during any year shall not exceed fifty guineas" and by inserting in lieu thereof the words "such fees as the Governor may from time to time determine";

(iii) by inserting at the end of the same section the following new subsections :—

(8) A resolution signed by all members of the board holding office for the time being shall be as valid and effective as if it had been passed at a meeting of the board and any such resolution shall be recorded in the minutes of the board's proceedings.

(9) (a) The board may from time to time by resolution delegate to the president of the board such of the powers, authorities, duties and functions of the board (other than this power of delegation) as may be prescribed by the regulations and as are specified in the resolution.

(b) Any such delegation—

(i) may be revoked by the board by resolution;

(ii) shall not preclude the board from exercising the powers, authorities, duties or functions delegated; and

(iii) may be made either generally or for any particular case or class of cases.

(c)



*Surveyors (Amendment).*

(c) When acting within the scope of any such delegation to him, the president of the board shall be deemed to be the board.

Sec. 8.  
(Board to  
keep a  
register.)

(e) by inserting in subsection one of section eight after the word "matters" the words "as the board may think fit or";

Subst.  
sec. 9,  
new secs.  
9A, 9B.

Removal  
from  
register.

(f) by omitting section nine and by inserting in lieu thereof the following sections :—

9. The board may remove from the register the name of any person—

(a) who dies; or

(b) who becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts; or

(c) who notifies the registrar that he desires that his name be removed; or

(d) whose entitlement to practise as a surveyor in some place outside the State of New South Wales is revoked or cancelled in accordance with the law in force in that place except where such revocation or cancellation is at his own request.

Amendment  
of entry.

9A. The board may remove or amend any entry in the register if the entry is proved to its satisfaction to have been fraudulently made or procured or to be incorrect.

Restoration  
of name  
removed  
from  
register.

9B. (1) The board—

(a) may, if it thinks fit, in any case; and

(b) shall, where the surveyor affected has been reinstated pursuant to subsection four of section fourteen of this Act,

restore



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*Surveyors (Amendment).*

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restore to the register any name removed therefrom and such restoration may be made without payment of a fee or on payment of such fee, not exceeding the prescribed roll fee, as the board may direct.

(2) Nothing in subsection one of this section shall affect the provisions of subsection six of section ten of this Act.

(g) by omitting subsections five and six of section ten and by inserting in lieu thereof the following subsections : —

Sec. 10.  
(Persons  
entitled  
to be  
registered.)

(5) If any surveyor does not pay the prescribed roll fee before or in the month of July in any year, the board shall notify him, by letter addressed to him at the address appearing in the register, that if the fee is not paid before the thirty-first day of October next following his name will be removed from the register. If any surveyor who has been so notified fails to pay such fee before the said thirty-first day of October, the board shall remove his name from the register.

(6) If the name of any surveyor is removed from the register under this section, the board shall restore his name to the register upon payment of such fees as are prescribed.

(7) A surveyor who changes his address as appearing in the register shall, within three months thereafter, notify the board of his new address and the board shall thereupon alter the entry in the register relating to that surveyor accordingly.

(8) A surveyor who fails to comply with the provisions of subsection seven of this section shall be liable to a penalty not exceeding five pounds.

(h)



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*Surveyors (Amendment).*

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Sec. 11.  
(Reciprocal  
arrange-  
ment by  
board  
with other  
States, etc.)

(h) (i) by omitting from subsection one of section eleven the words "State, Colony, or Dominion within His Majesty's Dominions" and by inserting in lieu thereof the word "country";

(ii) by omitting from the same subsection the words "State, Colony, or Dominion" where secondly occurring and by inserting in lieu thereof the word "country";

(iii) by inserting next after subsection two of the same section the following new subsections : —

(3) Any reciprocal arrangement entered into by the board for the purposes specified in subsection one of this section and subsisting immediately before the commencement of the Surveyors (Amendment) Act, 1964, shall be deemed to have been entered into pursuant to the provisions of that subsection.

(4) In this section "country" means the United Kingdom of Great Britain and Northern Ireland, the Dominion of New Zealand, any State or Territory of the Commonwealth of Australia and any other prescribed country, state, territory or place.

Sec. 12.  
(Right to  
make  
surveys.)

(i) (i) by omitting subsection one of section twelve and by inserting in lieu thereof the following subsection : —

(1) No person, unless registered under this Act, shall practise as a surveyor.

(ii) by omitting from subsection two of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";

(iii)



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*Surveyors (Amendment).*

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(iii) by inserting next after subsection two of the same section the following new subsection :—

(3) This section shall not extend to—

(a) a pupil who, under the supervision of a surveyor, is receiving instruction or acting in the course of his duties, as required by his articles; or

(b) a surveyor's assistant or draftsman acting in the course of the duties usually performed by surveyors' assistants or draftsmen, as the case may be.

(j) (i) by inserting in subsection one of section Sec. 13. thirteen after the word "fence" the words (Power of entry upon lands.)  
"may insert any survey mark and may enter any building for the purpose of determining the position of a wall or for defining a boundary which is otherwise inaccessible";

(ii) by omitting from subsection two of the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";

(k) (i) by inserting at the end of paragraph (f) of Sec. 14. subsection one of section fourteen the follow- (Power of board to deal with offences.)  
ing word and new paragraphs :—

"; or

(g) he has failed to comply with any of the provisions of this Act or the regulations made thereunder; or

(h) he has been convicted of an offence relating to the duties and functions of surveyors, the carrying out of surveys or matters incidental to or consequent

upon



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*Surveyors (Amendment).*

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upon surveys, under any Act or regulation, other than this Act and the regulations made thereunder, or under any ordinance or by-law; or

(i) he has been guilty of misconduct in a professional respect;";

(ii) by inserting next after the same subsection the following new subsection :—

(1A) Without limiting the meaning of the expression "misconduct in a professional respect" in paragraph (i) of subsection one of this section, a surveyor shall be deemed guilty of such misconduct if—

(a) after the expiration of twelve months from the commencement of the Surveyors (Amendment) Act, 1964, and except where this Act otherwise provides or the board permits, he practises surveying—

(i) on his own account under a name other than his own name; or

(ii) in partnership or association under a name other than his own name and the name of each other person in partnership or association with whom he is so practising;

(b) in connection with the practice of surveying he uses or allows the use of his name at premises at or from which, in the opinion of the board, he or his partners or associates, if any, do not regularly practise surveying;

(c)



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*Surveyors (Amendment).*

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- (c) without the permission of the board, he allows his name to be joined in connection with the practice of surveying with the name of a person not registered under this Act, except where the name is that of a deceased or retired partner who was a surveyor at the time of his death or retirement, and the registrar has been so notified;
  - (d) he uses or publishes, or allows the use or publication of, any title, name, words, or letters which are capable of being understood to indicate that he is qualified in surveying, or as a surveyor, other than such title, name, words, or letters as truly indicate a qualification in surveying or as a surveyor which he in fact holds or possesses; or
  - (e) he directly or indirectly gives or offers, or agrees to give or offer, any person any commission, gratuity, service or other consideration whatever for securing or attempting to secure for him any instructions to make surveys or any work in connection with surveys.
- (iii) by omitting from paragraph (a) of subsection two of the same section the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";
  - (iv) by omitting paragraph (e) of the same subsection;

(v)



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*Surveyors (Amendment).*

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(v) by inserting next after the same subsection the following new subsections : —

(2A) Nothing in this section shall authorise the board to impose a fine—

(a) in any case coming within paragraph (e) or (h) of subsection one of this section; or

(b) where a surveyor has been convicted by a court as a result of his failure to comply with the particular provision of this Act or the regulations made thereunder in respect of which a charge has been made pursuant to paragraph (g) of subsection one of this section.

(2B) In any case coming within paragraph (g) or (h) of subsection one of this section, no person shall be liable to have his name removed from the register or be suspended from practice if his failure to comply with the Act, regulation, by-law or ordinance concerned does not, either from its trivial nature or the circumstances under which it took place, render such person unfit in the public interest to practise surveying.

(2C) The board may suspend from practice any surveyor whose entitlement to practise in a reciprocating State is suspended under the law in force in the reciprocating State. The board shall not impose a period of suspension under this subsection which expires later than the period of suspension imposed by the Surveyors' Board or other competent authority of the reciprocating State.

(vi) by inserting in subsection five of the same section after the word "Gazette" the words "and his name, if removed from the register, has been restored thereto";

(vii)



*Surveyors (Amendment).*

- (vii) by omitting from the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds, and a further penalty not exceeding ten pounds for every day during which the offence is continued";
- (1) (i) by inserting in subsection one of section fifteen Sec. 15.  
after the word "charge" where secondly occurring the words "and shall, except where the charge is made by a person authorised in writing to make such charge by the council of the Institution or by an officer of any Government department or statutory authority constituted for public purposes, be accompanied by a deposit of ten pounds"; (Charge against a surveyor.)
- (ii) by inserting in subsection two of the same section after the word "sent" the words "by certified or registered mail";
- (iii) by omitting from subsection three of the same section the words "or solicitor" and by inserting in lieu thereof the words "solicitor or agent";
- (iv) by inserting next after the same subsection the following new subsection :—  
(4) Where the board is of the opinion that the charge is vexatious or frivolous it shall so declare and thereupon the sum deposited shall be forfeited. In the absence of any such declaration the sum so deposited shall be refunded to the complainant.
- (m) by inserting in subsection one of section sixteen Sec. 16.  
after the word "may" the words "within three months of such decision,"; (Appeal.)
- (n) by omitting from subsection two of section eighteen Sec. 18.  
the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds"; (Power to summon witnesses.)
- (o)



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*Surveyors (Amendment).*


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Sec. 23.  
(Regulations.)

- (o) (i) by omitting from paragraph (i) of subsection one of section twenty-three the words "indentures and contracts of apprenticeship" and by inserting in lieu thereof the word "articles";
- (ii) by omitting paragraph (l) of the same subsection and by inserting in lieu thereof the following paragraph :—
  - (l) the making and marking of surveys, and matters incidental to or consequent on the making and marking of surveys;
- (iii) by inserting next after paragraph (m) of the same subsection the following new paragraphs :—
  - (n) standards of measurement and accuracy to be adopted for the purpose of surveys;
  - (o) advertising by surveyors.
- (iv) by omitting from subsection two of the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";

Sec. 26.  
(Delivery of signed bill by surveyor.)

- (p) (i) by omitting from subsection two of section twenty-six the words "of Surveyors";
- (ii) by inserting next after subsection four of the same section the following new subsection :—
  - (5) In this section, "registrar" means registrar of the Land and Valuation Court.

New secs.  
27-29.

Surveyor to produce field book, etc.

- (q) by inserting next after section twenty-six the following new sections :—
  - 27. (1) The board may order a surveyor to produce or make available for its inspection any document in his possession, custody or control relating to the making of any survey or to any matter arising under this Act or the regulations made



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*Surveyors (Amendment).*

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made thereunder, and any member of the board or the registrar may make extracts therefrom or copies thereof.

(2) Any such document shall be retained by the board only for such period as may reasonably be required for the purpose of inspection and making extracts or copies or, if its production is ordered during the conduct and for the purposes of an inquiry under section fourteen of this Act, until the completion of the inquiry.

(3) Except as provided in subsection four of this section, no information contained in any document produced or made available pursuant to subsection one of this section or any extract therefrom or copy thereof shall be disclosed by the members of the board or the registrar to any other person without the permission of the surveyor producing the document or making it available.

(4) Information contained in a document produced or made available pursuant to this section during the conduct of and for the purposes of an inquiry under section fourteen of this Act may be disclosed by the board in the course of the inquiry if it is relevant to the charge being investigated, but if the nature of the document is such that it is not possible to obtain relevant information therefrom without disclosing other information, that other information may be disclosed to the extent that it is necessary to obtain relevant information.

(5) Any order made by the board pursuant to this section shall be in or to the effect of the form prescribed and a copy of the order under the hand of the registrar shall be delivered to the surveyor personally or sent to him by letter sent by certified or registered mail addressed to his last-known postal address.

(6)



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*Surveyors (Amendment).*

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(6) The surveyor to whom the order refers shall comply with the terms thereof within seven days of its receipt or such further time as the board may allow.

(7) In this section, "document" includes any field book, field notes, plan or record.

Continuation of name of deceased surveyor.

28. Notwithstanding any other provision in this Act, upon the death of a surveyor the board may authorise his executor, administrator or trustee to carry on, for such period as the board may determine and in the name of such deceased surveyor, the practice formerly carried on by him provided the practice is so carried on under the personal supervision of a surveyor, who may be such executor, administrator or trustee, and provided the name of such supervising surveyor is registered with the board as superintendent of the practice.

Protection of board and members and others from liability.

29. No matter or thing done or suffered by the board, or any member of the board, or the registrar, or any person duly authorised under any provision of this Act, bona fide in the execution or intended execution of such Act, or the exercise or discharge or intended exercise or discharge of any of its or his powers, authorities, duties or functions, shall subject the board or any member of the board, or the registrar, or such person, or the Crown, to any liability in respect thereof.

*In the name and on behalf of Her Majesty I assent to this Act.*

E. W. WOODWARD,  
*Governor.*

*Government House,  
Sydney, 27th November, 1964.*