

Examination Rules: Gaz. 1929 p. 2737
 Scale of Charges: Gaz. 1925 p. 3843
 Conduct of Appeals: Gaz. 1931 p. 382.

New Zealand.



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Rules for conducting Surveys of Ld:
 Gaz. 1923 p. 1798. Amd: Gaz.
 1925 p. 1349 and Gaz. 1929 p. 637.

1928, No. 6.

AN ACT to make Better Provision with respect to the Examination and Registration of Surveyors, and the Practice of the Profession of Surveying. Title.

[13th September, 1928.]

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

1. This Act may be cited as the Surveyors Registration Act, 1928, and shall come into operation on the first day of January, nineteen hundred and twenty-nine. Short Title and commencement.

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

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

“Minister” means the Minister of Lands:

“Prescribed” means prescribed by this Act, or by regulations under this Act, or by rules made by the Board in accordance with this Act:

“Registrar” means the Registrar of Surveyors appointed in accordance with this Act:

“Secretary” means the Secretary of the Survey Board:

“Surveyor-General” means the person for the time being holding office as Surveyor-General under the Land Act, 1924, and includes his deputy:

Interpretation.

“Surveyors’ Institute” means the Surveyors’ Institute incorporated under the Surveyors’ Institute Act, 1908 :

“Surveyors’ Institute Act, 1908,” means the Act passed and heretofore known as the Surveyors’ Institute and Board of Examiners Act, 1908, the title of that Act being amended by the Surveyors’ Institute Amendment Act, 1928.

Survey Board.

3. (1) There is hereby established a Board to be known as the Survey Board. The said Board shall be deemed to be identical with the Surveyors’ Board constituted under the Surveyors’ Institute Act, 1908.

(2) The Board shall consist of—

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

(b) Four other members (being registered surveyors) to be appointed by the Minister, of whom two shall be appointed on the recommendation of the Surveyors’ Institute.

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

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

(5) If any member of the Board dies, retires, or otherwise vacates his office the vacancy so created shall within two months after the occurrence thereof be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall hold office for the residue of the term for which his predecessor was appointed. Except as provided in this subsection, every member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

(6) At every meeting of the Board three members shall form a quorum, and no business shall be transacted at any meeting of the Board unless a quorum is present.

(7) At every meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting-vote.

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

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

(10) Save as provided in the last preceding subsection, no member of the Board shall be entitled to receive any remuneration or other payment out of the funds of the Board.

4. (1) The Board may from time to time as required appoint a Secretary and such other officers and servants (if any) as it may require. The Secretary of the Board in office at the commencement of this Act shall continue in office as if he had been appointed under this section.

(2) The Secretary of the Board shall be the Registrar of Surveyors for the purposes of this Act.

Registration of Surveyors, and Cancellation or Suspension of Registration.

5. The Registrar shall keep in his office a Register of Surveyors in which shall be entered the names of all persons registered under this Act, the qualifications by virtue of which they are so registered, and such other particulars in relation thereto as may from time to time be prescribed by the Board.

Register of Surveyors.

6. (1) Every person shall on payment of the prescribed fee and subject to the provisions of this Act be entitled to be registered under this Act as a surveyor who—

Qualification of applicants for registration as surveyors.

(a) Obtains a certificate of competency as a surveyor after examination in accordance with the rules of the Board; or

(b) Holds a recognized certificate as hereinafter defined granted out of New Zealand, and who satisfies the Board that he has had such experience in New Zealand of the duties of a surveyor as may be prescribed by the rules of the Board.

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

7. Every person who at the commencement of this Act is registered as a licensed surveyor in accordance with the provisions of the Surveyors' Institute Act, 1908, shall, without payment of any fee, be entitled on application to be registered as a surveyor under this Act and to receive a certificate of registration under the hand of the Registrar.

Saving of existing rights.

8. (1) Every application for registration under this Act shall be in writing addressed to the Secretary, and, except in cases to which the last preceding section applies, all the facts set forth in the application shall be verified by statutory declaration made by the applicant.

Applications for registration to be verified.

(2) No entry shall be made in the register of the name of any person except pursuant to a resolution of the Board.

9. (1) No person shall be registered as a surveyor under this Act who is less than twenty-one years of age.

Limitations as to age and character.

(2) The Board shall not direct the registration under section six of this Act of any applicant who is not in the opinion of the Board of good character and reputation:

Provided that on any appeal as hereinafter provided against a refusal to register on the ground stated in this subsection the matter shall be determined according to the opinion formed by the Board of Appeal of the character and reputation of the applicant.

10. (1) Every person registered as a surveyor under this Act pursuant to the provisions of section six hereof shall on payment of the prescribed fee be entitled to receive a certificate of registration under the hand of the Registrar.

Certificate of registration.

(2) Upon proof to the satisfaction of the Registrar that any certificate of registration has been lost or destroyed, he shall on application by the person entitled thereto and on payment of the prescribed fee issue a duplicate of such certificate.

11. Every person who wilfully makes or causes to be made any false entry in or falsification of the register, or procures or attempts

Penalty for wrongfully procuring registration.

to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent representations or declarations either verbally or in writing, and every person who aids or assists therein, is liable to a fine not exceeding fifty pounds for each offence.

12. (1) The Board may cause to be removed from the register the name of every person who has been registered under this Act in error, or who is convicted of any offence punishable by imprisonment or dishonouring him in the public estimation, or who has been guilty of such improper conduct as renders him in the opinion of the Board unfit to be registered under this Act.

(2) The Board may also cause to be removed from the register the name of any person registered pursuant to paragraph (b) of subsection one of section six hereof, by virtue of a certificate granted out of New Zealand and recognized as provided in the said section, if it is satisfied that such certificate has been cancelled by the authority that granted the same.

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

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

13. (1) In addition to the powers conferred by the last preceding section the Board may cause the name of any surveyor to be removed from the register, or may suspend his registration for such period as it thinks fit, not exceeding three years, if it is satisfied after inquiry as hereinafter provided but not otherwise—

(a) That he has certified to the accuracy of any survey or of any plan in relation to a survey not having personally carried out or supervised such survey and the field operations connected therewith, or not having checked the accuracy of the entries in any field-book and the accuracy of all calculations, working-plans, and other survey records that may have been made by any other person employed by him in connection therewith :

(b) That he has certified to the accuracy of any survey carried out by him or under his personal supervision if the operations of pegging and ground-marking, and all other requirements of the survey, have not been carried out in accordance with the rules of the Board for the time being in force relating to the conduct of surveys and the operations incidental thereto :

(c) That he has certified to the accuracy of any survey or plan knowing the same to be defective :

(d) That, by reason of negligence or incompetence, he has habitually made defective surveys, or has habitually made surveys to which he has not applied adequate checks :

Cancellation of registration.

Further powers as to cancellation or suspension of registration after inquiry by the Board.

- (e) That he has made any entry in any field-book or copy of a field-book or other survey record which purports to have been derived from actual observation or measurement in the field if in fact it has not been so derived :
- (f) That he has supplied to the Surveyor-General any erroneous information in relation to any survey, land-boundaries, or survey-pegs, knowing such information to be erroneous in any material particular.

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

14. (1) If the Board has reason to believe that any person registered as a surveyor has been guilty of any of the breaches of duty specified in the last preceding section it may, if it thinks fit, hold an inquiry into the matter, and shall give to the person concerned not less than seven days' notice in writing of its intention to hold such inquiry, and of the time and place of hearing, and of the nature of the charges to be inquired into. Such notice may be served personally, or by registered letter addressed to the person concerned at his last known place of business or abode.

Board may hold inquiry into charges relating to defective surveys, &c.

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

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

15. (1) Every person whose application for registration has been declined by the Board or whose name has been removed from the register or whose registration has been suspended, as hereinbefore provided, may, within three months after notice of such refusal, or removal, or suspension has been communicated to him by the Registrar, give notice of appeal in the prescribed manner to the Registrar.

Appeals from Board.

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

(3) The Board of Appeal so constituted shall as soon as practicable hear the appeal, and may confirm the decision of the Board, or may

order the registration of the appellant or the restoration of his name to the register or the determination of the order of suspension, or may make such other order as the case may require.

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

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

16. Upon the cancellation or suspension of the registration of any surveyor under this Act the Surveyor-General shall cancel or shall suspend for a like period any license issued by him to such surveyor for the purposes of the Land Transfer Act, 1915.

Offences.

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

- (a) Uses or causes to be used any words, titles, initials, or abbreviations of words, titles, or initials, intended to cause or which may reasonably cause any other person to believe that he is so registered :
- (b) Performs or executes or undertakes to perform or execute any surface-survey intended to form the basis of any plan or diagram appertaining to any instrument registered or intended to be registered under the Land Transfer Act, 1915, or the Deeds Registration Act, 1908, whether the plan or diagram is itself intended for registration :
- (c) Performs or executes or undertakes to perform or execute any survey affecting the delimitation of boundaries or the location of survey-pegs in connection with any land for the purposes of the registration of any instrument under the Land Transfer Act, 1915, or the Deeds Registration Act, 1908 :
- (d) Places in position in relation to any land any peg or other mark which not being a survey-peg or survey-mark may reasonably be mistaken by any person for a survey-peg or survey-mark placed in such position by a surveyor for the purposes of any survey.

(2) In every prosecution for an offence against this section the burden of proving that the defendant at any material time was registered under this Act shall lie upon the defendant.

(3) No proceedings for an offence against this section shall be commenced except on the information of the Secretary or other officer of the Board, or of a member of the Board, in every case acting pursuant to a resolution of the Board.

Publication of Register.

18. (1) The Board shall in the month of January in every year, or as soon thereafter as practicable, furnish to the Minister a copy of

Cancellation of certificate under Land Transfer Act.

Improper use of words, initials, &c., implying registration.

Copy of register to be gazetted.

the register as at the thirty-first day of December then last past, and the Minister shall cause the same to be published in the *Gazette*.

(2) Notice of the registration of any person as a surveyor, or of the removal of the name of any person from the register for an offence against this Act, or of the suspension of his registration, shall be likewise published in the *Gazette* within one month after the date of such registration, or removal, or suspension, as the case may be.

(3) The *Gazette* containing a copy of the register as aforesaid shall unless the contrary is proved be sufficient evidence in all judicial proceedings to prove that on the thirty-first day of December immediately preceding the date of the *Gazette* every person whose name appears therein as a registered surveyor was duly registered as such by virtue of the qualifications therein set forth, and also that every such person continued to be so registered at all times after the said thirty-first day of December and before the date of the next annual publication in the *Gazette* of the list of registered persons; and shall also be evidence as aforesaid that no person is at any time so registered whose name does not appear as a registered surveyor in the annual list then last published.

(4) A certificate under the hand of the Registrar to the effect that any person is or is not registered as a surveyor under this Act, or that any person was or was not so registered at any time specified in such certificate, shall be conclusive evidence of the matters therein certified to.

Financial Provisions.

19. (1) All fees payable under this Act shall be payable to and shall form part of the funds of the Board.

Application of fees received by the Board.

(2) All moneys received by the Board shall be forthwith paid into a bank approved by the Board to the credit of an account to be called the Survey Board Account, and may be applied by the Board as follows:—

(a) In payment of the expenses incurred by the Board in respect of this Act, including the remuneration of the Secretary and other officers and servants of the Board, and the cost of the audit of its accounts:

(b) In payment of any fees payable in accordance with this Act to members of the Board:

(c) In payment of the expenses in whole or in part of not more than two delegates appointed to represent the Board at any conference in New Zealand or the Commonwealth of Australia of persons engaged or qualified to engage in the profession of surveying:

(d) In the purchase of books or other publications relating to surveying, or the purchase of any instruments or materials deemed necessary by the Board for carrying out its duties under this Act:

(e) Otherwise for the payment of any expenditure lawfully incurred by the Board.

(3) The Board may from time to time, as it thinks fit, invest any moneys not for the time being required for any of the purposes mentioned in the last preceding subsection by depositing the same in the

Post Office Savings-bank, or with any bank or other institution or authority authorized to receive moneys on deposit.

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

Rules.

20. (1) The Board may from time to time make rules for all or any of the following purposes or matters, namely:—

- (a) Prescribing forms of application for and certificates of registration under this Act:
- (b) Prescribing the fees payable in respect of examination and of registration under this Act for the issue of certificates of registration and for copies of such certificates and for inspections of the register:
- (c) Prescribing the subject-matter of examinations to be conducted by the Board, the standards required to be attained by successful candidates, the times when examinations will be held, and the conditions governing the grant of exemptions from any of the requirements of the rules or of the Board in relation either to examinations or to professional experience:
- (d) Prescribing the form of register to be kept and the particulars to be entered therein:
- (e) The conditions governing the employment and training by registered surveyors of indentured apprentices or cadets:
- (f) The conduct of surveys, including provisions for ensuring the accuracy of plans and surveys under any Act relating to or affecting surveys of land, except fundamental or basic surveys carried out under the direction of the Surveyor-General for standard, topographical, geodesical, or other scientific purposes:
- (g) Generally providing such other matters as may be necessary for the efficient discharge by the Board of its duties and functions under this Act.

(2) No rules shall be made by the Board for any of the purposes specified in paragraph (f) of the last preceding subsection except at a meeting at which the Surveyor-General is personally present.

(3) The Surveyor-General may from time to time make rules with respect to the conduct and control of fundamental or basic surveys to be made for standard, topographical, geodesical, or other scientific purposes.

(4) The rules made by the Board or the Surveyor-General as aforesaid shall be submitted for the approval of the Governor-General in Council, and shall come into force on a date to be specified by notice published in the *Gazette* notifying that the approval of the Governor-General in Council has been given.

Regulations.

21. The Governor-General may from time to time by Order in Council make regulations with respect to the appointment of assessors and the conduct of appeals under section fifteen hereof, and generally for such other matters as may in his opinion be necessary for the purpose of giving full effect to the provisions of this Act.

Subject-matters in respect of which the Board may make rules.

Rules of Board to be subject to approval of Governor-General in Council.

Governor-General may make regulations.