

# Survey Act 1986

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## Contents

	Page
Title	4
1 Short Title and commencement	4
2 Interpretation	4
3 Department of Survey and Land Information established	5
4 Purposes of Act	5

### Part I

#### Administration

##### *Director-General, Surveyor-General, and Other Officers*

5 Director-General	6
6 Deputy Director-General	6
7 Surveyor-General	6
8 Deputy Surveyor-General	6
9 Chief Surveyors	7
10 Other officers and employees	7
11 Functions and duties of Surveyor-General	7
12 Delegation of Surveyor-General's functions, duties, and powers	9

##### *Survey Board of New Zealand*

13 Constitution of Board	9
14 Functions and duties of Board	10
15 Servicing of Board	10
16 Extraordinary vacancies	11
17 Meetings of Board	11
18 Substitute for members	12

19	Committees	12
20	Fees and allowances	12
21	Annual report	13

*New Zealand Institute of Surveyors*

22	Constitution of New Zealand Institute of Surveyors	13
23	Functions of Institute	13
24	Membership of Institute	14
25	Board may exempt person from membership on conscientious grounds	14
26	Council of Institute	15
27	Rules of Institute	15
28	Appeal against imposition of fine under rules of Institute	17
29	Other powers of Council	17
30	Officers and employees	18
31	Proof of rules	18
32	Powers of Institute	18
33	Contracts of Institute	18
34	Registered office of Institute	19

**Part II  
Registration**

35	Register of surveyors	19
36	Person registered under Surveyors Act 1966 to be entitled to retain registration	19
37	Qualifications of applicants for registration	19
38	Character of applicant	20
39	Applications for registration	20
40	Institute may comment on applications for registration	20
41	Applications, comments, and objections to be considered by Board	20
42	Registration	21
43	Surveyor to notify change of address	21
44	Revision of register	21
45	Amendment of register on change of name and removal of name on request	22
46	Offences relating to registration	22
47	Annual practising certificates for registered surveyors	22

**Part III  
Discipline**

48	Professional misconduct defined	23
49	Complaints of professional misconduct by registered surveyor	24
50	Procedure of Board in disciplinary matters	25
51	Disciplinary powers of Board	27
52	Powers and rights of Board and persons involved in proceedings of Board	28

53	Appeals from decisions of Board	28
54	Suspensions and conditions to be entered in register	29
55	Surrender of certificates	29
56	Publication of orders	30

**Part IV**  
**Conduct of Surveys**

57	Measures of length and area	30
58	Duties of surveyors in relation to certain surveys	30
59	Surveyor responsible for ensuring duties performed	31
60	Surveyor required to examine information	31
61	Powers of entry for survey purposes	31
62	Correction of errors in survey	32
63	Disputes may be referred to Surveyor-General	32
64	Chief Surveyor may dispense with survey	32
65	Copies and other documents may be accepted as survey plans	32

**Part V**  
**Offences and Penalties**

66	Obstruction of surveyor	33
67	Interference with survey marks	33
68	Liability for interference with survey mark where no offence alleged	33
69	False survey marks	34
70	Unregistered persons not to act as registered surveyors	34
71	Improper use of terms implying registration, or membership of Institute	35

**Part VI**  
**Miscellaneous Provisions**

72	Reports to House of Representatives	36
73	Certification of plans and descriptions	36
74	Certificate by Secretary to be evidence of registration, etc.	36
75	Records	36
76	Application of fees received by Board	36
77	Accounts	37
78	Unauthorised expenditure	37
79	Institute to contribute to Board funds	37
80	Regulations	38
81	Consequential amendments and repeals	39

**First Schedule** 40  
**Enactments Amended**

**Second Schedule** 41  
**Enactments Repealed**

**An Act to consolidate and amend the Surveyors Act 1966 and the law relating to survey and mapping organisation and activities and the profession of surveying in New Zealand**

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

**1 Short Title and commencement**

- (1) This Act may be cited as the Survey Act 1986.
- (2) This Act shall come into force on the 1st day of April 1987.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

“Aerial photography” means photographic or remote sensing imagery exposed from above the earth’s surface:

“Board” means the Survey Board of New Zealand constituted under section 13 of this Act:

“Chief Surveyor” means the Chief Surveyor of a district, and, in relation to any lands or any subject-matter affecting any lands, means the Chief Surveyor of the district in which those lands are situated; and includes the deputy of a Chief Surveyor:

“Council” means the Council of the Institute:

“Department” means the Department of Survey and Land Information:

“Director-General” means the Director-General appointed in accordance with section 5 of this Act; and includes the Deputy Director-General:

“District” means a land district constituted under the Land Act 1948:

“District Land Registrar” means an officer appointed under section 4 of the Land Transfer Act 1952:

“Document” has the same meaning as in the Official Information Act 1982:

“Institute” means the New Zealand Institute of Surveyors:

“Land” includes subsoil, airspace, and water and marine areas; and includes interests in or over land:

“Map” means a representation at a scale or projection of the features (whether natural or artificial or both) or other information relating to a part or the whole of the earth in a graphical, photographic, or digital form or a combination of those forms:

“Minister” means the Minister of Survey and Land Information:

“New Zealand Geographic Board” means the Board of that name established under the New Zealand Geographic Board Act 1946:

“Plan” means a graphical representation of any survey or surveys:

“Reciprocating country” means any country, State, or other territory—

- (a) In which, in the opinion of the Board, the profession of surveying is established on a basis similar to that in New Zealand and satisfactory official control is exercised over the profession; and
- (b) Which recognises, to such extent as the Board considers reasonable, the qualifications of New Zealand surveyors:

“Recognised certificate” means a certificate, diploma, degree, or licence granted by a university, college, board, or other authority and recognised by the Board as sufficient evidence of the possession by its holder of the requisite knowledge and skill for the efficient practice of the profession of surveying in New Zealand:

“Registered surveyor” or “surveyor” means a person registered as a surveyor under Part II of this Act, or deemed to be registered under this Act by virtue of section 36 of this Act:

“Secretary” means the Secretary to the Board:

“Survey” means the determination for boundary purposes of the form, contour, position, area, shape, height, depth, or nature of any part of the earth or of any natural or artificial features, and the position, length, and direction of bounding lines on, below, or above any part of the earth; and includes the making of a plan or plans of any matter so determined:

“Survey mark” means any survey monument or reference or boundary mark or peg fixed or placed in accordance with this Act or any regulations made under this Act, and includes any mark or beacon fixed or placed for the National Survey Control System:

“Surveyor-General” means the Surveyor-General appointed in accordance with section 7 of this Act; and includes the Deputy Surveyor-General:

“Tenure” means the kind of right or title by which land is held:

“Topographic”, in relation to any information or map, means information or a map relating to the horizontal and vertical positions of natural or artificial features on, below, or above the earth’s surface.

### **3 Department of Survey and Land Information established**

- (1) There is hereby established a department of State to be called the Department of Survey and Land Information.
- (2) The Department shall be under the control of the Minister.

### **4 Purposes of Act**

The purposes of this Act are:

- (a) To provide for the efficient administration of the Department:
- (b) To facilitate the issue of title to Crown land:

- (c) To authorise, integrate, and extend the survey and mapping systems supporting secure tenure:
- (d) To ensure the provisions of topographic, cadastral, and other land data bases to adequate standards for the efficient administration, enjoyment, and development of the resources of New Zealand:
- (e) To ensure that the profession of surveying in New Zealand is so organised as to achieve the above purposes.

## **Part I**

### **Administration**

#### *Director-General, Surveyor-General, and Other Officers*

#### **5 Director-General**

There shall from time to time be appointed under the State Services Act 1962 a Director-General who shall be the administrative head of the Department and who shall advise and assist the Minister in the performance of the Minister's functions.

#### **6 Deputy Director-General**

- (1) There shall from time to time be appointed under the State Services Act 1962 a Deputy Director-General who, subject to the control of the Director-General, shall have and may exercise all the functions, duties, and powers of the Director-General.
- (2) On the occurrence from any cause of a vacancy in the office of Director-General, or in the absence from duty of the Director-General, for any reason, and so long as the vacancy or absence continues, the Deputy Director-General shall have and may exercise all the functions, duties, and powers of the Director-General.

#### **7 Surveyor-General**

- (1) There shall from time to time be appointed under the State Services Act 1962 a registered surveyor as the Surveyor-General.
- (2) The office of Surveyor-General may be held in conjunction with the office of Director-General.

Compare: 1948, No. 64, s. 6(1), (2); 1981, No. 44, s. 2(1)

#### **8 Deputy Surveyor-General**

- (1) There shall from time to time be appointed under the State Services Act 1962 a registered surveyor as the Deputy Surveyor-General who, subject to the control of the Surveyor-General, shall have and may exercise all the functions, duties, and powers of the Surveyor-General.

- (2) On the occurrence from any cause of a vacancy in the office of Surveyor-General, or in the absence from duty of the Surveyor-General for any reason, and so long as the vacancy or absence continues, the Deputy Surveyor-General shall have and may exercise all the functions, duties, and powers of the Surveyor-General.
- (3) The office of Deputy Surveyor-General may be held in conjunction with the office of Deputy Director-General.

## **9 Chief Surveyors**

There shall from time to time be appointed under the State Services Act 1962, for each district, a registered surveyor as the Chief Surveyor.

Compare: 1948, No. 64, s. 9; 1981, No. 44, s. 2(1)

## **10 Other officers and employees**

There shall from time to time be appointed under the State Services Act 1962 such officers and employees of the Department as may be necessary for the efficient carrying out of the functions, duties, and powers of the Department and persons holding office under this Act.

Compare: 1948, No. 64, ss. 10, 11; 1981, No. 44, s. 2(1)

## **11 Functions and duties of Surveyor-General**

The functions and duties of the Surveyor-General shall be—

- (a) To administer, co-ordinate, maintain, and extend geodetic control networks and traverses, precise levelling or other precision measurements forming the National Survey Control System, and to maintain the salient permanent reference marks governing or providing subsidiary controls for title surveys:
- (b) To implement and administer such examination and approval procedures as are necessary—
  - (i) To ensure the maintenance of adequate accuracy and standards in surveys for land title, leases, or tenure purposes under any Act; and
  - (ii) To facilitate the integration of surveys within the survey system; and
  - (iii) To ensure the integrity of cadastral survey records:
- (c) To maintain in suitable format cadastral survey documents and systems of cadastral survey documents and to produce cadastral record maps portraying surveyed boundaries, land parcels, and appellations providing a comprehensive base for integration of land information data and the establishment of geographic based sub-systems:
- (d) To produce and maintain topographic maps, photogrammetric data and mapping derived from cadastral and topographic information including

related thematic and special purpose mapping, aeronautical charting, and digital records:

- (e) To facilitate the co-ordination of aerial photography required for government purposes and capable of being used in the production of maps:
- (f) To promote the integration of mapping, geographically based information, and land related information with land information system requirements:
- (g) To specify requirements for and, where appropriate, to arrange surveys for the issue of title or affecting tenure or disposition of Maori land or Crown land:
- (h) Subject to section 167 of the Land Transfer Act 1952, to receive, hold, distribute, reproduce, and sell, topographic, cadastral, and derived maps, aerial photographs, and other survey and mapping documents resulting from activities under this Act and required for government or public use:
- (i) Subject to the Copyright Act 1962, and as directed by the Minister, to authorise and, where appropriate, charge for the use or reproduction of survey and mapping information recorded by the Department in written, graphic, or digital form:
- (j) To provide survey, mapping, land information, and related services:
- (k) To co-ordinate as necessary with overseas agencies on the exchange of survey, mapping, and land information data:
- (l) To investigate the status of and title to lands of the Crown as required to enable disposal, reservation, reversion, or allocation for government purposes:
- (m) To advise the Maori Land Court on survey, land tenure, and related matters, and to undertake investigations and surveys in relation to Maori land:
- (n) To provide administrative and technical support services to the New Zealand Geographic Board and other bodies as directed by the Minister:
- (o) To receive requests, investigate status of land, and co-ordinate proposals for relevant legislation:
- (p) To report to the Minister on land issues and the effects of proposed legislation dealing with land:
- (q) To conduct research in respect of matters relating to his functions and duties:
- (r) To advise the Minister on surveying, mapping, and related matters:
- (s) To perform such other functions and duties as may be conferred upon him by or under this or any other Act, or by the Minister.

Compare: 1948, No. 64, s. 6(3); 1981, No. 44, s. 2(1)

**12 Delegation of Surveyor-General's functions, duties, and powers**

- (1) The Surveyor-General may from time to time delegate any of his functions, duties, and powers under this Act (except this power of delegation) to any officer or officers of the Department specified by him, either in respect of matters within his jurisdiction generally, or in respect of any particular case or matter, or any particular class of cases or matters.
- (2) The officer or officers referred to in subsection (1) of this section may be an officer or officers referred to by name or the officer or officers who for the time being and from time to time hold specified positions in the Department.
- (3) Subject to any general or special directions given or conditions attached by the Surveyor-General, any officer to whom any function, duty, or power has been so delegated may perform that function or duty or exercise that power in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.
- (4) Every officer purporting to act under any delegation under this section shall, in the absence of evidence to the contrary, be presumed to be acting in accordance with the terms of that delegation.
- (5) Any such delegation may at any time be revoked by the Surveyor-General in whole or in part, but that revocation shall not affect in any way anything done under the delegated authority before the revocation.
- (6) No such delegation shall prevent the exercise by the Surveyor-General himself of any of the functions, duties, and powers conferred on him by this Act.

*Survey Board of New Zealand***13 Constitution of Board**

- (1) There is hereby constituted a Board to be known as the Survey Board of New Zealand, which shall be the same Board as that continued by section 3(1) of the Surveyors Act 1966.
- (2) The Board shall hereafter consist of—
  - (a) The Surveyor-General, who shall be the Chairman; and
  - (b) Four members of the Institute, of whom—
    - (i) At least 3 shall be registered surveyors; and
    - (ii) At least 2 shall be appointed on the recommendation of the Institute; and
  - (c) One person who shall not be or be eligible to be a registered surveyor or a member of the Institute, and who shall be a member of the Board only when the Board is dealing with any matter under Part III of this Act.
- (3) The members of the Board specified in paragraphs (b) and (c) of subsection (2) of this section shall be appointed—

- (a) By the Minister by notice published in the *Gazette*, and shall take office from the date of such notice or such later date as may be specified in the notice:
- (b) For a term of 3 years or such lesser term as may be specified in the notice of appointment, and may be reappointed from time to time.
- (4) Notwithstanding that his term of appointment may have expired, every member shall, unless he sooner vacates his office under section 16 of this Act, continue in office until his successor comes into office.
- (5) The powers of the Board shall not be affected by any vacancy in its membership.

Compare: 1966, No. 15, s. 3(1), (2), (3), (4), (7)

#### **14 Functions and duties of Board**

The functions and duties of the Board shall be—

- (a) To advise and make recommendations to the Minister on standards and procedures relating to surveys for land title and tenures and administration of survey matters:
- (b) To receive applications for registration under this Act and to authorise registration in proper cases:
- (c) To set and conduct examinations of applicants for registration under this Act:
- (d) To recognise academic and professional qualifications in surveying, establish practical experience requirements, and conduct examinations and professional interviews of candidates for qualification as surveyors and issue certificates of competency for the qualification of surveyors:
- (e) To promote and maintain high standards of professional education and conduct among persons engaged in the profession of surveying in New Zealand:
- (f) To negotiate and administer reciprocal arrangements with survey boards or other similar authorities of other countries for the purpose of securing uniformity and reciprocity in the education, training, and recognition of persons engaged in surveying:
- (g) To consider and suggest amendments to the law relating to surveys and surveying:
- (h) To perform such functions or duties as may be conferred on it by this Act or any other enactment.

#### **15 Servicing of Board**

The Board shall be serviced by the Department by the provision of a Secretary and such other staff and facilities as the Minister may from time to time direct.

Compare: 1966, No. 15, s. 6

**16 Extraordinary vacancies**

- (1) Any member of the Board appointed under paragraph (b) or paragraph (c) of section 13(2) of this Act and any substitute member of the Board appointed under section 18 of this Act may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may resign his office by writing addressed to the Secretary.
- (2) If a member or substitute member dies, resigns, or is removed from office,—
  - (a) The vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made; and
  - (b) The person appointed to fill the vacancy shall be appointed for the residue of the term for which his predecessor was appointed.

Compare: 1966, No. 15, s. 3(5), (6)

**17 Meetings of Board**

- (1) Meetings of the Board shall be held at such times and places as the Chairman from time to time appoints.
- (2) Any 2 members of the Board may require the Chairman to appoint a time and place for the holding of a meeting of the Board within 14 days of the giving to him of notice of that requirement.
- (3) At every meeting of the Board the quorum necessary for the transaction of business shall be 3 members except when the Board is considering any matter under Part III of this Act, in which case the quorum shall be 4 members and shall include the member appointed under section 13(2)(c) of this Act.
- (4) Every question before any meeting of the Board shall be determined by a majority of the votes of the members present at the meeting of the Board.
- (5) No member of the Board shall be entitled to be present or vote or otherwise participate in his capacity as a member of the Board at any part of a meeting of the Board where any matter relating to his registration, suspension, or discipline under this Act is being considered.
- (6) The Chairman shall have a deliberative vote, and in the case of an equality of votes, shall also have a casting vote.
- (7) The Chairman shall preside at all meetings of the Board at which he is present.
- (8) In the absence of the Chairman from any meeting of the Board, the members present shall elect one of their number to preside at that meeting, and the member presiding shall have all the powers of the Chairman for the purposes of that meeting.
- (9) Subject to the provisions of this Act and any regulations made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

Compare: 1966, No. 15, s. 4

**18 Substitute for members**

- (1) The Minister may appoint, for a term not exceeding 3 years, one registered surveyor as a substitute member of the Board, who shall be entitled, in the absence from any meeting of the Board of a member appointed under section 13(2)(b) of this Act, to attend the meeting in his stead.
- (2) The Minister may appoint, for a term not exceeding 3 years, a suitably qualified person as a substitute member of the Board, who shall be entitled, in the absence from any meeting of the Board of a member appointed under section 13(2)(c) of this Act, to attend the meeting in his stead.
- (3) Where any person appointed under this section attends a meeting of the Board, he shall be deemed for the purposes of this Act to be a member of the Board, except that he shall not act as Chairman of the Board.

**19 Committees**

- (1) The Board may from time to time appoint committees, consisting of 2 or more members of the Board and such other persons (if any) as the Board thinks fit, to inquire into and report to the Board on such matters within the scope of its functions as are referred to them by the Board, or to exercise on behalf of the Board any of its functions or powers, and may from time to time delegate to any such committee any such function or power, other than the functions and powers conferred on the Board by Parts II and III of this Act (which relate to registration and discipline).
- (2) Every committee appointed under this section shall be subject in all things to the control of the Board, and may at any time be discharged, altered, or reconstituted by the Board.
- (3) Subject to any general or special directions given or conditions imposed by the Board, any committee to which any function or power is delegated under this section may exercise that function or power in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.
- (4) Every committee purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the delegation.
- (5) Any delegation under this section may be revoked at any time.
- (6) No delegation under this section shall prevent the exercise of any function or power by the Board.

**20 Fees and allowances**

- (1) The Board and every committee appointed by the Board are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

- (2) There may be paid out of the funds of the Board to members of the Board and any committee appointed by the Board, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

Compare: 1966, No. 15, s. 5

## **21 Annual report**

- (1) The Board shall in each year make a report to the Minister on the performance of its functions and duties and the exercise of its powers.
- (2) A copy of the annual report shall be laid before Parliament as soon as practicable after it has been received by the Minister.

### *New Zealand Institute of Surveyors*

## **22 Constitution of New Zealand Institute of Surveyors**

- (1) There shall continue to be a body to be known as the New Zealand Institute of Surveyors, which shall be the same Institute as that continued by section 26(1) of the Surveyors Act 1966.
- (2) The Institute shall be a body corporate with perpetual succession and a common seal, and with power to sue and be sued and to hold real and personal property and to do and suffer all that bodies corporate may do and suffer.

Compare: 1966, No. 15, s. 26

## **23 Functions of Institute**

The functions of the Institute shall be—

- (a) To protect and promote the interests of the profession of surveying and the interests of the public in relation to surveys and surveying:
- (b) To promote and encourage proper conduct and suppress illegal, dishonourable, or improper practices by members of the Institute:
- (c) To preserve and maintain the integrity and status of the profession of surveying:
- (d) To provide opportunities for the acquisition and communication of knowledge in relation to surveying and related matters:
- (e) To consider and suggest amendments to the law relating to land, surveys, and surveying:
- (f) To provide means for the amicable settlement of professional differences:
- (g) To arrange completion of outstanding title surveys or other related work in the event of default or incapacity of a registered surveyor.

Compare: 1966, No. 15, s. 27

**24 Membership of Institute**

- (1) Except as provided in section 25 of this Act, every registered surveyor who holds a current annual practising certificate issued under section 47 of this Act shall be a member of the Institute whether or not he applies for membership.
- (2) Any person who is not a member of the Institute by virtue of subsection (1) of this section may be admitted as a member of the Institute in accordance with the rules of the Institute.
- (3) Every surveyor who—
  - (a) Ceases to be registered under this Act; or
  - (b) Ceases to hold a current annual practising certificate issued under this Act—

shall, unless the rules of the Institute otherwise provide, cease to be a member of the Institute.

- (4) Every member of the Institute shall have his category of membership determined in accordance with the rules of the Institute.

Compare: 1966, No. 15, s. 28; 1976, No. 68, s. 8

**25 Board may exempt person from membership on conscientious grounds**

- (1) In this section the expression “conscientious belief” means an objection on the grounds of conscience or other deeply held personal conviction.
- (2) If any person objects on the grounds of conscientious belief to being a member of the Institute, he may apply to the Board for exemption from membership of the Institute.
- (3) If, after giving the applicant a reasonable opportunity to be heard or to make representations, the Board is satisfied that the applicant’s conscientious belief is genuine, it may exempt him from membership of the Institute subject to such conditions, whether as to the observance of any of the Institute’s rules or otherwise, as the Board thinks fit; and, while any such exemption continues and all conditions governing it are complied with, the person to whom it is granted shall not be a member of the Institute.
- (4) In granting any exemption under this section the Board may also grant an exemption from the requirements of section 47 of this Act relating to the holding of an annual practising certificate.
- (5) All the rules of the Institute shall apply to any person to whom an exemption is granted under this section so far as those rules are not excluded by the conditions of the exemption.
- (6) The granting of any such exemption shall not relieve the person exempted from—
  - (a) Any liability to make any payment to the Board or the Institute that he would be liable to pay if he were a member of the Institute; or

- (b) Liability to any penalty for a breach of the rules of the Institute, so far as those rules are not excluded by the conditions of the exemption.
- (7) Where a registered surveyor has been exempted from membership of the Institute under the Surveyors Act 1966, the Board may from time to time impose in respect of that exemption such conditions as it thinks fit.
- (8) The Board shall give to the person concerned notice in writing of the reasons for its decision in any case where an application under this section is not granted.

Compare: 1966, No. 15, s. 28(5); 1976, No. 68, s. 8

## **26 Council of Institute**

- (1) There shall be a Council of the Institute consisting of—
  - (a) A President, 2 Vice-Presidents, and the Immediate Past President:
  - (b) Not less than 7 nor more than 9 councillors, as shall be determined by the rules of the Institute.
- (2) The President, the Vice-Presidents, and all but one of the councillors shall be elected by such of the members of the Institute as are entitled under the rules of the Institute to participate in the election, and the election shall be conducted in accordance with the rules of the Institute.
- (3) One councillor shall be appointed by the Surveyor-General, and that appointment shall be notified by the Surveyor-General to the Institute before the annual general meeting of the Institute.
- (4) The term of office of the councillor appointed by the Surveyor-General shall be 1 year, and any appointee shall be eligible for reappointment.

Compare: 1966, No. 15, s. 29; 1972, No. 106, s. 2; 1976, No. 68, s. 9

## **27 Rules of Institute**

- (1) The Institute may, from time to time, in accordance with the procedures specified in its rules, make, amend, or rescind rules that are not inconsistent with this Act or any regulations in force under this Act providing for the regulation and good government of the Institute.
- (2) Without prejudice to subsection (1) of this section, the Institute may make, amend, or rescind rules relating to the following matters—
  - (a) The election and term of office of the President, Vice-Presidents, and councillors, and the filling of extraordinary vacancies in the Council:
  - (b) The convening and holding of ordinary and special meetings of the Council and of the Institute, the quorum and procedure at such meetings, and the representation of the classes of membership on the Council:
  - (c) The election or appointment of an executive committee and other committees, and the delegation to them of the functions and the powers of the Council and the Institute:

- (d) The manner of voting at any meeting of the Council or of the Institute, and at any election:
- (e) The classes of membership of the Institute and the voting and other rights, duties, and privileges relating to each class:
- (f) The admission to and retention in the classes of membership of the Institute of persons, and their removal therefrom; including persons who do not hold current annual practising certificates under this Act, and who are not registered surveyors:
- (g) The conferring of fellowships, honorary memberships, and other distinctions:
- (h) The fees or payments, annual or otherwise, to be paid by the classes of membership, the amounts of the fees or other payments by each class of membership, and the exemption of any particular member or class or classes of members from payment of any particular fee or other payment:
- (i) The issue of annual practising certificates, and the fees payable in respect of them:
- (j) The use and custody of the common seal of the Institute:
- (k) The custody, investment, and expenditure of the funds of the Institute:
- (l) The establishment of scholarships and prizes:
- (m) The form and content of the memoranda and articles of association of companies that provide surveying services and the members of which include at least one member of the Institute; and prohibiting members of the Institute from being members of any such company unless the memorandum and articles of association are in accordance with the rules of the Institute:
- (n) Regulating the audit of the accounts of the Institute and the appointment of auditors and prescribing their qualifications:
- (o) Conferring upon the Council power to impose a fine not exceeding \$2,000 on any member of the Institute for charging excessive fees, and the power to order repayment of any such fees paid to any surveyor:
- (p) Conferring upon the Council power to administer any rule made under this section relating to ethics, advertising, or professional conduct, and conferring upon the Council power to impose a fine not exceeding \$2,000 on any member of the Institute for breach of any such rule; but not in respect of any matter or conduct for which the person has been, is being, or may be subject to disciplinary proceedings under Part III of this Act:
- (q) Conferring upon the Council power to require a member to pay the reasonable costs incurred by the Council in investigating and hearing any matter concerning the charging of excessive fees or the breach of

any rule of the Institute relating to ethics, advertising, or professional conduct in any case where the Council finds that it could impose a fine under its rules, whether or not it imposes any such fine:

- (r) Providing for such matters as may be necessary or desirable for the administration of the affairs of the Institute and generally for carrying into full effect the functions and objects of the Institute.
- (3) No rules made under this section shall come into force until they are approved by the Minister.
- (4) Subject to subsection (5) of this section, any fine imposed on any member of the Institute under any rule made under this section shall be recoverable as a debt due from the member to the Institute.
- (5) No such fine shall be recoverable while an appeal against the decision imposing the fine has not been finally determined.

Compare: 1966, No. 15, s. 32; 1971, No. 135, s. 3; 1976, No. 68, s. 10(3)

## **28 Appeal against imposition of fine under rules of Institute**

- (1) Any person on whom a fine has been imposed under any rule made under section 27 of this Act or against whom any order for repayment of fees or payment of costs has been made may, within 1 month after the date on which written notice of the imposition of the fine or the order and the reasons for it has been communicated to him, appeal to the Board against the imposition of the fine or the order.
- (2) The appellant shall give written notice of the appeal to the Institute and the Board.
- (3) The Board shall at the hearing of the appeal observe the rules of natural justice and, subject to those rules, may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectually with the matter before it, whether or not it would be admissible as evidence in a Court of law.
- (4) After hearing the appeal, the Board may make an order confirming, modifying, or reversing the decision appealed against.

Compare: 1966, No. 15, s. 32a; 1976, No. 68, s. 11

## **29 Other powers of Council**

- (1) The Council shall transact the ordinary business of the Institute, and shall cause proper minutes of its proceedings to be kept.
- (2) The Council may from time to time appoint committees, and may delegate to them such of its functions and powers as it considers appropriate, other than any power to impose a fine; and any person may be appointed to any committee, whether or not he is a registered surveyor.

- (3) Any member of the Institute may be appointed to any such committee, irrespective of whether or not he is a member of the Council or a registered surveyor.
- (4) Subject to this Act and any rules of the Institute, the Council may regulate its own procedure.

Compare: 1966, No. 15, s. 30(1), (2), (3)

### **30 Officers and employees**

The Council may from time to time appoint a Secretary and such other officers and employees as it considers necessary.

Compare: 1966, No. 15, s. 31

### **31 Proof of rules**

In any proceedings the production of any document purporting to be a copy of any rules made by the Institute and to be sealed with the seal of the Institute shall, until the contrary is proved, be sufficient proof that those rules have been duly made and are then in force.

### **32 Powers of Institute**

The Institute may—

- (a) Acquire, lease, sell, exchange, or mortgage, for the purposes of the Institute, any real or personal property:
- (b) Borrow money for such of the purposes of the Institute as the Council considers desirable:
- (c) Invest any money in any form of investment that is authorised as a trustee investment by or under section 4 of the Trustee Act 1956:
- (d) Do all things that are reasonably necessary to carry out the purposes of the Institute.

### **33 Contracts of Institute**

Contracts on behalf of the Institute may be made as follows:

- (a) A contract that, if made by private persons would be required by law to be by deed, may be made on behalf of the Institute in writing under the common seal of the Institute:
- (b) A contract that, if made between private persons would be required by law to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Institute in writing signed by any person acting under its authority:
- (c) A contract that, if made between private persons would by law be valid although made orally and not put into writing, may be made orally on behalf of the Institute by any person acting under its authority.

**34 Registered office of Institute**

- (1) The Institute shall at all times have a registered office, and notice of its situation and of any change in its situation shall be given by the Council to the Registrar of Incorporated Societies at Wellington and shall be registered by him.
- (2) All writs, notices, or other documents required or authorised to be served on or delivered or sent to the Institute or the Council shall be deemed to be duly served, delivered, or sent if left at the registered office.

## **Part II Registration**

**35 Register of surveyors**

- (1) The Board shall continue to maintain a register of surveyors registered under this Act.
- (2) The Secretary shall enter in the register the name, qualifications by virtue of which he is registered, and address of every person registered under this Act and make such other entries as may be required, permitted, or directed to be entered by or under this Act.
- (3) The Secretary shall keep the register open for public inspection, without fee, during ordinary office hours at his office in Wellington.
- (4) The Secretary shall, on payment of the prescribed fee (if any), supply a certified copy of any entry in the register to any person requesting it.
- (5) The Board may from time to time cause the register or any part of it to be published in such form, whether abbreviated or otherwise, as it thinks fit, and may charge any person who wishes to purchase a copy of the register or part of the register such reasonable fee as it determines.

Compare: 1966, No. 15, s. 12

**36 Person registered under Surveyors Act 1966 to be entitled to retain registration**

Every person who was registered under the Surveyors Act 1966 immediately before the coming into force of this Act shall, notwithstanding sections 37 and 38 of this Act, be entitled to remain on the register, and shall be deemed to be registered under this Act.

**37 Qualifications of applicants for registration**

Except as otherwise provided in this Act, every person shall, on payment of the prescribed fee, be entitled to be registered as a surveyor if he satisfies the Board—

- (a) That he has obtained a certificate of competency as a surveyor in accordance with regulations made under this Act, the Surveyors Act 1938, or the Surveyors Act 1966; or
- (b) That he has obtained a recognised certificate that was granted in a reciprocating country; or
- (c) That he has obtained a recognised certificate that was granted in a country that is not a reciprocating country, and that he has had sufficient experience in New Zealand of the duties of a surveyor to enable him to carry out those duties in a full and proper manner.

Compare: 1966, No. 15, s. 7(1); 1976, No. 68, s. 2(1)

### **38 Character of applicant**

No person shall be registered under this Act unless the Board is satisfied that the person is of good character and reputation and is a fit and proper person to be so registered.

### **39 Applications for registration**

Every application for registration under this Act shall be made to the Secretary and shall—

- (a) Specify the full name, qualifications, and relevant experience of the applicant; and
- (b) Specify an address to which notices under this Act may be sent to the applicant; and
- (c) Be accompanied by the prescribed application fee (if any).

Compare: 1966, No. 15, s. 8

### **40 Institute may comment on applications for registration**

- (1) The Secretary shall, as soon as practicable after receiving an application for registration, notify the Institute of the application.
- (2) The Institute shall be entitled to make such written comments on the application as it thinks fit, and may, within 28 days after receiving the notification of the application, advise the Board that it objects to the registration of the applicant on grounds stated in the objection.

Compare: 1966, No. 15, s. 9

### **41 Applications, comments, and objections to be considered by Board**

- (1) As soon as practicable after the receipt of an application for registration and any comments on or objections to the application, the Board shall consider the application, and shall give such directions to the Secretary in respect of it as it thinks fit and as are authorised by or under this Act.
- (2) Before giving any such directions the Board may, if it thinks fit, examine on oath or otherwise the person making application or any person who has

made comments on or objections to it, or any other person, in respect of the application; and for the purposes of any such examination the Chairman may administer an oath to any person.

- (3) The Board may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him in respect of any application before the Board or any comment on or objection to any such application.
- (4) The Board shall not decline an application for registration without first giving the applicant—
  - (a) A copy of any information on which the Board relies in proposing to decline the application; and
  - (b) A reasonable opportunity to comment on that information and to be heard either personally or by his representative in support of his application.

Compare: 1966, No. 15, s. 10

#### **42 Registration**

- (1) If the Board, after considering any application in accordance with section 41 of this Act, considers that the applicant is entitled to be registered under this Act, it shall so direct, and the Secretary shall thereupon register that person and notify him accordingly.
- (2) If the Board, after considering any application in accordance with section 41 of this Act, considers that the applicant is not entitled to be registered under this Act it shall direct accordingly, and shall direct the Secretary to notify the applicant in writing of the reasons for its direction and the applicant's rights of appeal against the direction.
- (3) Every registered surveyor shall, on payment of the prescribed fee (if any), be entitled to receive a certificate of registration issued by or under the authority of the Board.

Compare: 1966, No. 15, ss. 12, 13

#### **43 Surveyor to notify change of address**

Every registered surveyor who at any time changes his address appearing in the register shall, within 3 months thereafter, send to the Secretary a notice of his new address, and the Secretary shall accordingly amend the entry in the register relating to that person.

Compare: 1966, No. 15, s. 16

#### **44 Revision of register**

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

- (2) If no reply is received to the letter within 6 months after it has been posted, or if the letter is not delivered and is returned to the Secretary, the Board may direct the Secretary to remove from the register the name of the registered surveyor to whom the letter was sent.
- (3) If the Board has reason to believe that any surveyor has died, it may direct the Secretary to remove the name of that person from the register.
- (4) Any person whose name has been removed from the register under this section may apply to the Board to have his name restored to the register; and the Board shall direct the Secretary to restore to the register the name of that person.

Compare: 1966, No. 15, ss. 15, 17

#### **45 Amendment of register on change of name and removal of name on request**

- (1) Where the Board is satisfied that a registered surveyor has changed his name or that the name or qualification of any registered surveyor is incorrectly stated in the register, the Board shall direct the Secretary to correct any entry in the register relating to that surveyor accordingly.
- (2) The Board may at any time, if it thinks fit, on the written application of any registered surveyor direct the Secretary to remove the name of that surveyor from the register.

Compare: 1966, No. 15, s. 19(2)

#### **46 Offences relating to registration**

Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, for the purpose of obtaining any certificate under this Part of this Act (either for himself or for any other person),—

- (a) Either orally or in writing makes any declaration or representation that to his knowledge is false or misleading in a material particular; or
- (b) Produces to the Board or makes use of any document knowing it to contain any such declaration or representation; or
- (c) Produces to the Board or makes use of any document knowing that it is not genuine.

#### **47 Annual practising certificates for registered surveyors**

- (1) In this section the term “year” means the period of 12 months beginning on the 1st day of July in any year and ending with the close of the 30th day of June in the following year.
- (2) No registered surveyor shall be entitled to practise as a surveyor in any year unless he is the holder of an annual practising certificate issued in respect of that year.

- (3) Every registered surveyor commits an offence and is liable on summary conviction to a fine not exceeding \$200 who practises as a surveyor in contravention of subsection (2) of this section.
- (4) The Secretary of the Institute, on application made for the purpose by any registered surveyor, and on payment of the appropriate fee, shall issue to the surveyor an annual practising certificate which shall, subject to subsection (5) of this section, be in force during the year in respect of which it is issued.
- (5) If at any time during the currency of any such certificate its holder ceases to be registered under this Act, his annual practising certificate shall be deemed to be cancelled.
- (6) Every person who is entitled to receive an annual practising certificate under this section shall be deemed to have obtained that certificate when he has duly applied for it to the Secretary of the Institute and has paid the prescribed fee.
- (7) The Secretary of the Institute shall keep a register of the names and addresses of all persons to whom annual practising certificates have been issued under this section.
- (8) Nothing in this section shall apply to any registered surveyor who is exempted under section 25 of this Act from the requirement to hold an annual practising certificate and who has complied with subsection (6)(a) of that section in respect of the year in which he is practising as a surveyor.

Compare: 1966, No. 15, s. 33; 1976, No. 68, s. 12

### **Part III Discipline**

#### **48 Professional misconduct defined**

- (1) For the purposes of this Part of this Act a registered surveyor shall be guilty of professional misconduct if he is found in any proceedings or appeal under this Part of this Act—
  - (a) To have been negligent in the conduct of or failure to conduct any survey:
  - (b) To have certified to the accuracy of any survey or any plan in relation to a survey without having personally carried out or supervised that survey and the related field operations:
  - (c) To have certified to the accuracy of any survey or of any plan in relation to a survey without having carried out sufficient checks to ensure 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 person employed by him in relation to the survey:
  - (d) To have 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 any regulations for the time being in force under this Act relating to the conduct of surveys and related operations:

- (e) To have certified to the accuracy of any survey or plan knowing it to be defective:
  - (f) To have made any entry in any field book or other record that purports to have been derived from actual observation or measurement in the field, if in fact it has not been so derived:
  - (g) To have supplied to the Surveyor-General or any Chief Surveyor any erroneous information in relation to any survey, survey mark, or boundary, knowing that information to be erroneous in any material particular:
  - (h) To have been convicted of any offence against section 46 or paragraph (c) or paragraph (d) of section 71 of this Act:
  - (i) To have failed to comply with any conditions imposed by the Board under subsection (2)(c) or subsection (9) of section 51 of this Act or the High Court on any appeal against an order under section 51 of this Act:
  - (j) To have failed to comply with any duty imposed on him by section 58 of this Act:
  - (k) To have persistently exercised the powers of entry conferred by section 61 of this Act in an unreasonable manner:
  - (l) To have failed, without reasonable cause, to perform any duty imposed on registered surveyors under any regulation made for any of the purposes specified in section 80(g) of this Act.
- (2) For the purposes of determining whether or not any registered surveyor is guilty of professional misconduct the fact that any survey or plan may have been approved by or on behalf of the Surveyor-General or any Chief Surveyor shall not be relevant.

Compare: 1966, No. 15, s. 21; 1976, No. 68, s. 4

#### **49 Complaints of professional misconduct by registered surveyor**

- (1) Every person who seeks to complain to the Board concerning the conduct of a registered surveyor shall make the complaint to the Secretary.
- (2) Without limiting subsection (1) of this section, a complaint may be made under this section by any member of the Board, the Council, or the Institute, or any person in the service of the Crown acting in his official capacity.
- (3) Where a complaint is made by a Chief Surveyor,—
  - (a) The Secretary shall forthwith inform the registered surveyor in respect of whom the complaint has been made of the general nature of the complaint; and

- (b) Subsections (4) to (7) of this section shall not apply, and the Secretary shall forthwith refer the complaint to the Board.
- (4) Except in the case of a complaint to which subsection (3) of this section applies, the Secretary shall forthwith inform the registered surveyor in respect of whom a complaint has been made of the general nature of the complaint and the name of the Chief Surveyor to whom it has been or is to be referred under subsection (5) of this section.
- (5) Except in the case of a complaint to which subsection (3) of this section applies, the Secretary shall forthwith refer the complaint to the Chief Surveyor of the district in which the misconduct is alleged to have taken place, or, if the complaint has been made in relation to that Chief Surveyor or, that Chief Surveyor is a member of the Board, to the Chief Surveyor of an adjoining district.
- (6) The Chief Surveyor to whom a complaint is referred under subsection (5) of this section shall investigate the complaint and determine whether or not in his opinion the matter should be considered by the Board under this Part of this Act.
- (7) The Chief Surveyor shall report his findings to the Chairman who shall refer the report to the Board which shall decide whether or not to consider the matter with a view to exercising its disciplinary powers under and in accordance with this Part of this Act.
- (8) Where the Board decides not to exercise its disciplinary powers, the Secretary shall forthwith inform the complainant, the surveyor concerned, and any Chief Surveyor who investigated the complaint, of that decision.

Compare: 1966, No. 15, s. 22(1), (2); 1976, No. 68, s. 5(1), (2)

## **50 Procedure of Board in disciplinary matters**

- (1) Before the Board exercises its powers under section 51 of this Act, the Chairman shall cause to be served on the surveyor concerned a notice—
- (a) Stating that the Board or a Chief Surveyor has reason to believe that a ground exists entitling it to exercise its powers under section 51 of this Act; and
- (b) Containing such particulars as will clearly inform the surveyor of the substance of the grounds believed to exist; and
- (c) Specifying a date, being not less than 28 days after the date of service of the notice, on which the Board intends to hear the matter.
- (2) The notice under subsection (1) of this section may require the person to whom the notice is addressed to notify the Board in writing, not later than a specified date before the date proposed for the hearing of the matter, as to whether or not he intends to appear before the Board at the hearing of the matter.

- (3) If he fails to so notify his intention, he shall, notwithstanding subsection (6) of this section and section 52(3) of this Act, be entitled to appear and be heard only on such conditions as to the payment of costs and expenses or otherwise as the Board thinks fit.
- (4) In the case of proceedings relating to a surveyor employed in any branch of the State services the Board shall advise the employing authority of the fact that it is conducting disciplinary proceedings in relation to that surveyor, and shall give the employing authority a reasonable opportunity to make a submission to the Board.
- (5) If any university or institution, having granted to any person a qualification that may be entered on the register under this Act, exercises any power conferred by law of removing the name of that person from any register in which the qualification is recorded, or any registering authority in any other country has removed the name of any registered surveyor from any register of surveyors maintained by it, and in either case the university, institution, or registering authority has notified the Board of the fact of the removal,—
  - (a) The Secretary shall make a note of the fact in the register; and
  - (b) If the university, institution, or registering authority notifies to the Board the findings of fact on which the decision to remove the name was based, the findings may, if the Board thinks fit and so orders, be treated for the purposes of any proceedings under this Part of this Act as conclusive evidence of the facts found.
- (6) In all proceedings under this section, the Board shall observe the rules of natural justice and, subject to those rules, may receive evidence notwithstanding that it would not be admissible in a Court of law.
- (7) Where a Chief Surveyor has conducted an investigation under section 49(6) of this Act, that Chief Surveyor shall be entitled to appear and be heard in any proceedings relating to the complaint that he investigated.
- (8) Where a member of the Board has made a complaint under section 49 of this Act that member of the Board shall not be entitled to be a member of the Board for the purposes of any proceedings under this Part of this Act in respect of the complaint.
- (9) The decision of a majority of the members present at any proceedings held under this section shall be the decision of the Board.
- (10) Unless the Board otherwise directs, proceedings held under this section shall not be open to the general public.
- (11) Every order of the Board under section 51 of this Act shall—
  - (a) Be committed to writing; and
  - (b) Contain a statement of the reasons on which it is based; and

- (c) Contain a clear statement of the person's right to appeal against the order, and the time within which notice of such appeal must be given; and
  - (d) Be signed by the Chairman.
- (12) A copy of every order of the Board under section 51 of this Act shall be served by the Secretary on the surveyor in respect of whom it was made, and shall take effect from the day on which such service was effected, or such later date as may be specified in the order or determination.
- (13) A copy of every order of the Board under section 51(2) of this Act shall be sent by the Secretary to every Chief Surveyor and to the Institute.

Compare: 1966, No. 15, ss. 20, 22(2), (3), (4), (5), (7)

### **51 Disciplinary powers of Board**

- (1) If the Board, after conducting a hearing in accordance with this Part of this Act, is satisfied that a registered surveyor—
- (a) Has been convicted, whether before or after he became registered, by any Court in New Zealand or overseas of any offence punishable by imprisonment, and his conviction reflects on his fitness to practise as a surveyor or tends to bring the profession into disrepute; or
  - (b) Has been guilty of professional misconduct—
- the Board may, subject to subsections (3) and (6) of this section, do any one of the things authorised by subsection (2) of this section.
- (2) In any case to which subsection (1) of this section applies, the Board may—
- (a) Order that the name of the surveyor be removed from the register:
  - (b) Order that the registration of the surveyor be suspended for a period not exceeding 3 years:
  - (c) Order that the surveyor may, for a period not exceeding 3 years, practise only subject to such conditions as to employment, supervision, or otherwise as the Board may specify in the order:
  - (d) Order the surveyor to pay a fine not exceeding \$5,000:
  - (e) Order that the surveyor be censured.
- (3) Where the Board makes an order under paragraph (b), paragraph (c), or paragraph (e) of subsection (2) of this section, it may in addition impose a fine under paragraph (d) of that subsection.
- (4) Where the Board is dealing with any matter that constitutes an offence for which the person has been convicted by a Court, the Board shall not impose a fine pursuant to subsection (2)(d) or subsection (3) of this section.
- (5) In any case to which subsection (1) of this section applies the Board may order the surveyor concerned to pay any costs and expenses of and incidental to the hearing or any investigation conducted under section 49(6) of this Act in

relation to a complaint forming the subject of any hearing; including the costs of any field inspections undertaken for the purpose of testing the accuracy of any survey and the costs of remedying any defect in any such survey.

- (6) The Board shall not exercise any authority conferred by this section in respect of any offence committed by any person before the date of his registration, if at that date the Board was aware of his conviction in respect of the offence.
- (7) While any order of suspension of registration under this section remains in force, the person shall be deemed for the purpose of this Act not to be registered; but forthwith on the expiry of the order his rights and privileges as a registered surveyor shall be revived as from the date of the expiry.
- (8) In any order under this section directing the name of any person to be removed from the register, or in any subsequent order of the Board, the Board may fix a time after which the person whose name is so removed may apply to have his name restored to the register.
- (9) The Board, on hearing the application may order that the name of the applicant be restored to the register, and may order that the person may, for a period not exceeding 3 years, practise only subject to such conditions as to employment, supervision, or otherwise as the Board may specify in the order.
- (10) Every fine imposed, and all costs and expenses payable under this section shall be recoverable as a debt due to the Board.

Compare: 1966, No. 15, ss. 21, 22(6), 23; 1976, No. 68, ss. 4, 5(4)

## **52 Powers and rights of Board and persons involved in proceedings of Board**

- (1) The Board shall, for the purposes of any hearing under section 50 of this Act, have the same powers as are conferred on Commissions of Inquiry by section 4 and sections 4b to 9 of the Commissions of Inquiry Act 1908.
- (2) Section 4 and sections 4b to 9 of the Commissions of Inquiry Act 1908 shall apply to all persons involved in any capacity in any hearing under section 50 of this Act as if it were an inquiry conducted by a Commission under that Act.
- (3) Every surveyor in respect of whom a hearing is conducted under section 50 of this Act shall be entitled to appear and be heard, either personally or by his representative, at the hearing.
- (4) The Board shall have, in relation to any hearing under section 50 of this Act, and any decision or order made on any such hearing, the same immunities and privileges as are possessed by a District Court Judge in the exercise of his civil jurisdiction.

## **53 Appeals from decisions of Board**

- (1) Every person who is dissatisfied with the whole or any part of—
  - (a) Any decision of the Board relating to an application by him for registration:

- (b) Any decision of the Board relating to an application by him under section 25 of this Act for an exemption from membership of the Institute:
- (c) Any order of the Board under section 28 of this Act relating to him:
- (d) Any order of the Board under section 50(5)(b) or section 51 of this Act relating to him—

may, within 28 days after notice of the decision or order has been communicated to him by the Secretary or within such further time as the High Court may allow on application made before or after the expiration of that period, appeal to the High Court against the decision or order, as the case may be.

- (2) Every appeal under this section shall be heard and determined by the Administrative Division of the High Court in accordance with rules of Court and this section.
- (3) The Court shall, as soon as practicable, hear the appeal, and may confirm, reverse, or modify the decision of the Board, or may refer the matter back to the Board in accordance with rules of Court, and may give any decision that the Board could have given in respect of the matter.
- (4) Nothing in this section shall give the Court power to review any part of the Board's decision other than the part against which the appellant has appealed.
- (5) Subject to any order of the Court, every decision or order of the Board against which an appeal is lodged shall continue in force and have effect according to its tenor pending the determination of the appeal.
- (6) On any appeal under this section, the Court may make an order for the payment by the Board, or by the appellant, of the costs incurred in respect of the appeal by the other party to the appeal.

Compare: 1966, No. 15, s. 24; 1976, No. 68, s. 7

#### **54 Suspensions and conditions to be entered in register**

- (1) The Secretary shall enter in the register at the entry for the appropriate surveyor the fact that any suspension or condition of practice has been imposed upon him under section 51 of this Act and the terms of the suspension or condition.
- (2) Every entry made in the register under subsection (1) of this section shall be removed on the expiry of the period of suspension, or the lifting of the suspension by the Board or the High Court.

#### **55 Surrender of certificates**

- (1) Any person whose name is removed from the register or whose registration is suspended under this Part of this Act shall, within 14 days after the date on which written notice of the removal or suspension has been given to him, deliver to the Secretary every current certificate that has been issued to him under this Act and has not been so delivered before that date.

- (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who wilfully fails to comply with subsection (1) of this section.

#### **56 Publication of orders**

Where—

- (a) A decision or order has been made by the Board under section 28 or section 51 of this Act in respect of any registered surveyor and no appeal has been brought against the decision or order; or
- (b) An order has been made by any Court in respect of any appeal under section 53 of this Act by a registered surveyor—

the Secretary shall, if the Board in its discretion so directs, cause a notice stating the effect of the order to be published in the *Gazette* and such other publications as may be directed by the Board.

### **Part IV Conduct of Surveys**

#### **57 Measures of length and area**

- (1) All measurements of length in surveys and on plans of land affecting titles under the Land Transfer Act 1952 or titles or tenures under any other Act and all measurements of length in surveys made under or in accordance with regulations made pursuant to this Act shall be expressed in metres and decimals of metres.
- (2) All measurements of area in surveys and on plans of land affecting titles under the Land Transfer Act 1952 or titles or tenures under any other Act and all measurements of area in surveys made under or in accordance with regulations made pursuant to this Act shall be expressed in hectares and decimals of a hectare, or, where the area is less than 1 hectare, shall be expressed in square metres.

Compare: 1948, No. 64, s. 35(1); 1972, No. 73, s. 2

#### **58 Duties of surveyors in relation to certain surveys**

- (1) Except to the extent of any dispensation granted under section 167 of the Land Transfer Act 1952 or section 64 of this Act, every surveyor conducting any survey affecting any title under the Land Transfer Act 1952 or any title or tenure under any other Act shall—
- (a) Conduct the survey with such equipment and by such methods as will attain the prescribed standards of accuracy and shall apply such checks and tests to the survey work as may be necessary to obtain those standards:

- (b) Locate sufficient old survey marks necessary to prove the accuracy of the survey and connect the survey to those marks:
  - (c) Supply to the Chief Surveyor and the District Land Registrar all relevant information obtained by him in relation to the survey:
  - (d) Report to the Chief Surveyor any disturbance or the likelihood of any disturbance to trigonometrical stations or other control survey marks encountered in the conduct of the survey:
  - (e) Have regard to the consequences of any inaccuracies in the survey.
- (2) Every plan of a survey to which subsection (1) of this section applies shall be signed personally by the surveyor who is responsible for the survey.

### **59 Surveyor responsible for ensuring duties performed**

Where any survey is conducted under the direction of a surveyor it shall be the responsibility of the surveyor under whose direction the survey is conducted to ensure that all the duties imposed by this Act or any regulations made under this Act on surveyors conducting surveys have been performed either by himself or the person or persons working under his direction.

### **60 Surveyor required to examine information**

- (1) When conducting any survey affecting any title under the Land Transfer Act 1952 or any title or tenure under any other Act, the surveyor shall examine all relevant documents relating to the land to be surveyed and all land adjacent to the land to be surveyed from the offices of the District Land Registrar, Chief Surveyor, and Maori Land Court, as appropriate.
- (2) No information so obtained shall be used in any way that infringes the copyright of the Crown or any other person.

### **61 Powers of entry for survey purposes**

- (1) Any surveyor authorised either generally or specifically by the Surveyor-General may, for the purpose of conducting any survey under or for the purposes of this or any other Act, or the installation of any survey mark—
- (a) Enter and re-enter any land at reasonable times, with or without such assistants, aircraft, boats, vehicles, appliances, machinery, and equipment as are reasonably necessary for the conduct of the survey or to install the survey mark; and
  - (b) On any land, do all things necessary or required of him for the proper conduct of the survey or the installation of the survey mark.
- (2) Before exercising any of the powers conferred by subsection (1) of this section in respect of any land that is not a road the person doing so shall, where practicable, give reasonable notice to the occupier of the land of the intention to exercise those powers.

- (3) Nothing in subsection (1) of this section shall confer on any person the power to enter any dwellinghouse or other building unless the entry is authorised by a warrant given by a judicial officer on written application on oath, which shall not be granted unless the judicial officer is satisfied that reasonable efforts have been made to obtain consent to the entry.
- (4) Any person exercising any power under subsection (1) of this section shall produce evidence of his identity and authority to exercise the powers conferred by this section—
  - (a) If practicable on first entering the land or premises; and
  - (b) Whenever subsequently reasonably requested to do so.

## **62 Correction of errors in survey**

- (1) Where an error is found in any survey (whether or not the survey has been approved by a Chief Surveyor) affecting any title under the Land Transfer Act 1952 or any title or tenure under any other Act, the Chief Surveyor may, in writing, require the surveyor responsible for the error to undertake such work as may be necessary to correct the error.
- (2) Nothing in subsection (1) of this section shall limit—
  - (a) The powers granted in sections 7 and 46 of the Crown Grants Act 1908;
  - (b) The powers of a District Land Registrar under sections 80 and 81 of the Land Transfer Act 1952, or the provisions of section 170 of that Act;
  - (c) The powers of any Court under any enactment.

## **63 Disputes may be referred to Surveyor-General**

Any surveyor who is involved in a dispute with a Chief Surveyor relating to the application of this Act or any regulations made under this Act in respect of any survey may require that the dispute be referred to the Surveyor-General, who shall inquire into it and communicate his decision to the surveyor and Chief Surveyor concerned.

## **64 Chief Surveyor may dispense with survey**

Without limiting section 167 of the Land Transfer Act 1952, where the Chief Surveyor is of the opinion that survey in terms of regulations made under this Act is impractical or unreasonable in the circumstances, he may instead require the lodgment for approval of such other documents that he considers sufficient to define the land in relation to existing surveys.

## **65 Copies and other documents may be accepted as survey plans**

The Surveyor-General may accept copies or other documents as if they were original survey plans.

## **Part V**

### **Offences and Penalties**

#### **66 Obstruction of surveyor**

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who wilfully obstructs or hinders any surveyor, or any person assisting a surveyor in the performance of his functions or duties in relation to any survey conducted under or for the purposes of this Act or any other Act or the ascertaining or marking out of any boundary or survey lines, or the fixing, placing, restoring, repairing, or setting up of any survey mark.

#### **67 Interference with survey marks**

- (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who knowingly or recklessly takes, destroys, or alters the position of or markings on any survey mark that has been placed or set up for the control of surveys or for the purposes of any survey conducted under or for the purposes of this Act or any other Act.
- (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who having taken, destroyed, or altered the position of or markings on any survey mark that has been placed or set up for the control of surveys or for the purposes of any survey required by or under any Act, fails to notify the taking, destruction, or alteration to the Chief Surveyor as soon as practicable after he becomes aware of the taking, destruction, or alteration of the survey mark.
- (3) Every person who is convicted of an offence against subsection (1) or subsection (2) of this section shall, in addition to any penalty for which he may be liable for the offence, be liable to pay the cost (including associated survey costs) of repairing, replacing, or restoring to its proper position any survey mark or restoring the markings on any survey mark that is the subject of the offence for which he is convicted.
- (4) For the purposes of subsection (3) of this section, the cost of repairing, replacing, or restoring any survey mark shall be assessed by the District Court Judge, and shall be recoverable as if it were a fine.
- (5) Nothing in this section shall apply in respect of any person acting in accordance with an exemption granted under section 243 of the Local Government Act 1974.

#### **68 Liability for interference with survey mark where no offence alleged**

- (1) Where it is alleged that any person has taken, destroyed, or altered the position of or markings on any survey mark that has been placed or set up for the control of surveys or for the purposes of any survey conducted under or for the purposes of this Act or any other Act, and it is not alleged that the person has committed any offence against section 67 of this Act, the person shall

nevertheless be liable to pay the costs (including associated survey costs) of repairing, replacing, or restoring to its proper position any survey mark, or restoring the markings on any survey mark that he has taken, destroyed, or altered.

- (2) Where subsection (1) of this section applies, proceedings for the recovery of any amount claimed to be payable under that subsection shall be by way of complaint under the Summary Proceedings Act 1957 by any person authorised in that behalf by the Surveyor-General.
- (3) Where any person is liable to pay any amount under this section by reason of any act or omission arising within the scope and in the course of his employment, the employer of that person shall also be liable to pay the appropriate costs which may be recovered in the same way as if the act or omission were that of the employer.
- (4) Notwithstanding subsection (3) of this section, section 17 of the Law Reform Act 1936 shall apply in any such case as if the damage was suffered as the result of a tort.
- (5) For the purposes of this section the cost of repairing, replacing, or restoring any survey mark or restoring the markings on any survey mark shall be assessed by the District Court Judge who deals with the complaint.
- (6) Nothing in this section shall apply where the act or omission complained of was in accordance with an exemption granted under section 243 of the Local Government Act 1974.

#### **69 False survey marks**

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who places in position in relation to any land any peg or other mark, not being a survey mark properly placed, that is intended to cause or may reasonably cause any person to believe that it is a survey mark placed in that position for the purposes of any cadastral survey.

#### **70 Unregistered persons not to act as registered surveyors**

- (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, not being a registered surveyor or a person acting under the direction of a registered surveyor,—
  - (a) Performs or executes, or undertakes to perform or execute, any survey intended to form the basis of any plan or diagram relating to any instrument registered, deposited, recorded, or intended to be deposited, recorded, or registered under the Deeds Registration Act 1908, the Land Transfer Act 1952, or the Unit Titles Act 1972:
  - (b) Performs or executes, or undertakes to perform or execute, any survey affecting the delimitation of boundaries or the placement of survey marks in connection with any land for the purposes of the deposit,

recording, or registration of any instrument under the Deeds Registration Act 1908, the Land Transfer Act 1952, or the Unit Titles Act 1972:

- (c) Performs or executes, or undertakes to perform or execute, any cadastral survey of any Crown land within the meaning of the Land Act 1948 that is intended to form the basis of any plan or diagram:
  - (d) Performs or executes, or undertakes to perform or execute, any survey involving the placing of any survey mark:
  - (e) Performs or executes, or undertakes to perform or execute, any survey of any Maori land within the meaning of the Maori Affairs Act 1953 that—
    - (i) Is intended to form the basis of any plan or diagram to be attached to or form part of any order of the Maori Land Court; or
    - (ii) Affects the delimitation of cadastral boundaries or the placement of survey marks for the purposes of any such order:
  - (f) Performs or executes, or undertakes to perform or execute, any survey or inspection of any land that is intended to form the basis of any plan or diagram to be used for the purposes of any mining licence under the Mining Act 1971 or any coal mining licence under the Coal Mines Act 1979, or any application for a mining licence or coal mining licence, or which affects the delimitation of boundaries or the placement of survey marks for the purposes of any such mining licence, coal mining licence, or application.
- (2) Notwithstanding subsection (1) of this section, a person who does any act referred to in that subsection shall not commit an offence under that subsection if pursuant to the provisions of any other enactment, whether expressed or implied, that act may be done by persons who are not registered surveyors.

Compare: 1966, No. 15, s. 39; 1976, No. 68, s. 15

## **71 Improper use of terms implying registration, or membership of Institute**

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who,—

- (a) Not being a registered surveyor, uses, or causes or permits to be used, any written words, titles, or initials, or any abbreviation of any words, titles, or initials, that are intended to cause or may reasonably cause any person to believe that the person using them is a registered surveyor or is qualified to act as such:
- (b) Not being a member of the Institute, uses, or causes or permits to be used, any written words, titles, or initials, or any abbreviations of any words, titles, or initials, that are intended to cause or may reasonably cause any person to believe that the person using them is a member of the Institute:

- (c) Knowing that some other person is not registered under this Act, and with intent to deceive, makes any statement or does any act calculated to suggest that such other person is a surveyor or is registered under this Act; or
- (d) With intent to deceive, makes use of any certificate of registration issued to him or to any other person under this Act.

Compare: 1966, No. 15, s. 40; 1976, No. 68, s. 16

## **Part VI**

### **Miscellaneous Provisions**

#### **72 Reports to House of Representatives**

As soon as practicable after the close of each financial year there shall be prepared and laid before the House of Representatives a report on the operations of the Department under this Act during that financial year.

#### **73 Certification of plans and descriptions**

Where a certified survey plan or description is required for any purpose, any survey plan or description bearing a statement that it has been certified for that purpose by a Chief Surveyor and bearing a signature appearing to be that of a Chief Surveyor shall, in the absence of proof to the contrary, be sufficient evidence that the plan or description has been certified by a Chief Surveyor.

#### **74 Certificate by Secretary to be evidence of registration, etc.**

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

Compare: 1966, No. 15, s. 25

#### **75 Records**

The Director-General shall as from the 1st day of April 1987 be responsible for the custody, care, and maintenance of those records of the former Department of Lands and Survey as are agreed upon between the Director-General, the Director-General of Conservation, and the Chief Executive of Land Corporation Limited.

#### **76 Application of fees received by Board**

- (1) All fees, monetary penalties, and other money payable to the Board under this Act shall be paid to the Secretary who shall forthwith pay them into such bank account as the Board shall determine.

- (2) The fees, penalties, and other money referred to in subsection (1) of this section may be applied only—
- (a) In payments under section 20 of this Act of any fees, salaries, or allowances, travelling allowances, or expenses payable in accordance with that section to members of the Board:
  - (b) In payment, with the consent of the Minister, of the whole or part of the expenses of delegates appointed to represent the Board at any conference in New Zealand or overseas of persons engaged or qualified to engage in the profession of surveying:
  - (c) In the purchase of books or other publications or the purchase of any instruments or materials considered necessary by the Board for carrying out its functions under this Act:
  - (d) For the payment of any other expenditure incurred by the Board in the performance of its functions and duties or the exercise of its powers.
- (3) The Board may invest any money for the time being not required for any of the purposes referred to in subsection (2) of this section, in any form of investment that is authorised as a trustee investment by or under section 4 of the Trustee Act 1956.

Compare: 1966, No. 15, s. 34

#### **77 Accounts**

- (1) The Board shall keep full and true accounts of all money received and expended by it.
- (2) The accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all the powers that it has under the Public Finance Act 1977 in respect of public money and the audit of the accounts of local authorities.
- (3) As soon as practicable after the end of each financial year ending with the 30th day of June the Board shall cause to be prepared and submitted to the Audit Office full and true statements and accounts of all its income and expenditure in that year and of its assets and liabilities at the end of that year.

Compare: 1966, No. 15, s. 35

#### **78 Unauthorised expenditure**

The Board may, in any financial year, expend for purposes not authorised by any Act or law any sum or sums not amounting in total to more than \$500.

#### **79 Institute to contribute to Board funds**

- (1) The Board may, by written notice to the Institute, require the Institute to pay to the Board such sums as are necessary to enable the Board to perform its functions and duties and exercise its powers.

- (2) If any dispute arises as to the amount to be paid by the Institute to the Board, the dispute shall be resolved by arbitration in accordance with the Arbitration Act 1908.

Compare: 1966, No. 15, s. 38; 1976, No. 68, s. 14

## **80 Regulations**

- (1) The Governor-General may from time to time by Order in Council, on the advice of the Minister given on the recommendation of the Board, make regulations for all or any of the following purposes:
- (a) Prescribing the form of and the method of keeping the register:
  - (b) Prescribing or permitting the Surveyor-General, the Board, or the Institute to prescribe the form of applications, certificates, and other documents required under this Act:
  - (c) Prescribing the matters in respect of which fees are payable to the Board, and prescribing the amounts of those fees:
  - (d) Prescribing the requirements that a person must fulfil in order to obtain a certificate of competency:
  - (e) Prescribing or permitting the Board to prescribe the matters to be included in examinations conducted by the Board:
  - (f) Providing that exemptions and dispensations from any of the requirements of the regulations or of the Board in relation to certificates of competency, examinations, or professional experience may be granted on such conditions (if any) as are specified in the regulations:
  - (g) Generally regulating the conduct of surveys and preparation of related plans affecting land under or for the purposes of any Act, including—
    - (i) Provisions to ensure the accuracy of surveys carried out and plans prepared by surveyors (including provisions that plans shall be drawn to a standard acceptable to a Chief Surveyor and that survey marks shall be made of materials approved by a Chief Surveyor):
    - (ii) Different provisions for specified types of such surveys and plans:
    - (iii) Requirements that all plans prepared by surveyors and all related documents and sources of information used in their preparation shall be submitted to a Chief Surveyor for examination and approval before they are used for any purpose or specified purposes:
    - (iv) Provision that alterations to plans prepared by registered surveyors shall be made in accordance with appropriate requisitions made by a Chief Surveyor or any other person authorised by the regulations or otherwise to make such requisitions:
    - (v) Provision for the delivery of plans, information, and other documents to a Chief Surveyor or other person authorised by a Chief

Surveyor to receive them; and the custody and retention of plans, information, and other documents, prepared or used by surveyors in conducting surveys:

- (h) Providing for such other matters as may be necessary for the efficient discharge by the Board of its functions and duties under this Act:
  - (i) Providing for the taxation or review by the Council or a committee of the Council, or by a District Court Judge, of charges made by any registered surveyor or any member of the Institute for survey work:
  - (j) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act; and prescribing the fines, not exceeding \$1,000 that may be imposed in respect of any such offence.
- (2) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) Setting charges for surveys or other related services rendered or survey documents or related certificates supplied by officers of the Department, and for the preparation of documents issued under this Act:
  - (b) Providing, subject to the Land Transfer Act 1952 and any regulations made under that Act, for the lodging and checking of plans required to be deposited, recorded, or registered under the Land Transfer Act 1952 or lodged with or checked by any officer of the Department under any other enactment, and the searching by members of the public of any such plans held by the Department; and prescribing fees payable in respect of such lodging and checking and searches and copies of such plans:
  - (c) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.
- (3) Regulations made under subsection (2)(a) of this section may prescribe different fees for the supply of survey documents under this Act according to the uses to which the documents are to be put.

Compare: 1966, No. 15, s. 41; 1976, No. 68, s. 17

## **81 Consequential amendments and repeals**

- (1) The Acts specified in the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.
- (2) The amendment to section 171 of the Transport Act 1962 specified in the First Schedule to this Act shall expire with the close of the 31st day of October 1986, and is hereby deemed to be repealed as from the close of that day.
- (3) The enactments specified in the Second Schedule to this Act are hereby repealed.



Act Amended	Amendment
1950, No. 34—The Harbours Act 1950 (R.S. Vol. 2, p. 551)	By omitting the definition of the term “Surveyor-General” (as inserted by section 2(2) of the Land Amendment Act 1981), and substituting the following definition: “‘Surveyor-General’ means the Surveyor-General appointed in accordance with section 7 of the Survey Act 1986; and includes the Deputy Surveyor-General.” By omitting from section 184(2)(a) the words “surveys or other”.
1962, No. 135—The Transport Act 1962 (Reprinted 1974, Vol. 3, p. 2489)	By omitting from subsection (2) and subsection (4) of section 175b (as substituted by section 38(1) of the Harbours Amendment Act 1977) the expression “Surveyors Act 1966”, and substituting in both cases the expression “Survey Act 1986”. By omitting from section 171(1)(f) (as substituted by section 18 of the Transport Amendment Act (No. 2) 1983) the words “appointed under the Land Act 1984”, and substituting the words “within the meaning of the Survey Act 1986”.
1971, No. 25—The Mining Act 1971	By omitting from section 73(2) the expression “Surveyors Act 1966”, and substituting the expression “Survey Act 1986”.
1972, No. 15—The Unit Titles Act 1972	By omitting from section 4(1) the expression “Surveyors Act 1966”, and substituting the expression “Survey Act 1986”.
1979, No. 21—The Coal Mines Act 1979	By omitting from section 44(2) the expression “Surveyors Act 1966”, and substituting the expression “Survey Act 1986”.
1981, No. 35—The Public Works Act 1981	By omitting from section 110(1) the expression “Surveyors Act 1966”, and substituting the expression “Survey Act 1986”.

## Second Schedule

### Enactments Repealed

Section 81(3)

1948, No. 64—The Land Act 1948: Sections 33, 34, 35, 37, 38, and 184(2)(aa) (Reprinted 1972, Vol. 2, p. 1557).

1952, No. 52—The Land Transfer Act 1952: Section 171 (Reprinted 1970, Vol. 3, p. 1991).

1953, No. 94—The Maori Affairs Act 1953: Section 407 (R.S. Vol. 8, p. 13).

1966, No. 15—The Surveyors Act 1966 (R.S. Vol. 13, p. 675).

1971, No. 135—The Surveyors Amendment Act 1971 (R.S. Vol. 13, p. 702).

1972, No. 73—The Land Amendment Act 1972: Section 2 (Reprinted 1972, Vol. 2, p. 1747).

1972, No. 106—The Surveyors Amendment Act 1972 (R.S. Vol. 13, p. 702).

1976, No. 68—The Surveyors Amendment Act 1976 (R.S. Vol. 13, p. 703).

This Act is administered in the Department of Survey and Land Information.