

South Australia

## Survey Act 1992

An Act to provide for the licensing and registration of surveyors and to make provisions relating to surveying and land boundaries; and for other purposes.

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### **The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Survey Act 1992*.

### **4—Interpretation**

- (1) In this Act, unless the contrary intention appears—

*beneficiary* includes an object of a discretionary trust;

*cadastral survey* means any process of determining the boundaries of land by the measurement of distances and angles (including measurement by means of an electronic device) or by photogrammetry;

*course* includes a lecture, seminar, tutorial or workshop;

*Court* means the Administrative and Disciplinary Division of the District Court;

*designated survey area*—see Part 5 Division 1;

*director* of a body corporate means a member of the board or committee of management of the body corporate, whether validly appointed or not;

*equipment* includes instruments or appliances used in, or for the purposes of, carrying out a survey;

*Institution of Surveyors* means the Institution of Surveyors, Australia, South Australia Division Incorporated;

***interfere*** with a survey mark includes disturb, damage, remove or destroy the survey mark;

***land*** includes—

- (a) submerged land;
- (b) an interest in land;

***licensed surveyor*** means a person who holds a licence as a surveyor under Part 3 Division 2;

***permanent survey mark*** means a mark or peg included in the network of survey marks established under Part 5 Division 1;

***provide***, in relation to surveying services, means provide surveying services personally or through the instrumentality of another, and includes offer to provide;

***record*** means—

- (a) a documentary record; or
- (b) a record made by an electronic, electro-magnetic, photographic or optical process; or
- (c) any other kind of record;

***registered surveyor*** means a person registered as a surveyor under Part 3 Division 2;

***Registrar*** means the person for the time being appointed to, or acting in, the position of Registrar established by the Institution of Surveyors pursuant to Part 2 Division 3;

***survey*** means—

- (a) a cadastral survey; or
- (b) any process of determining—
  - (i) the form of land; or
  - (ii) the position of a point, object, structure or feature on or in land, by the measurement of distances and angles (including measurement by means of an electronic device) or by photogrammetry;

***Survey Advisory Committee*** means the Survey Advisory Committee established under Part 2 Division 2;

***surveying services provider*** means a person (not being a surveyor) who provides surveying services through the instrumentality of a surveyor;

***survey instructions***—see Part 4 Division 1;

***survey mark*** means—

- (a) a mark or peg of a kind specified in survey instructions in force under this Act that is placed on or in land for the purposes of defining a boundary of the land; or
- (b) a permanent survey mark;

***surveyor*** means a licensed or registered surveyor;

***Surveyor-General*** means the person for the time being appointed or acting as the Surveyor-General;

**trust** —a trust is considered for the purposes of this Act as a single entity consisting of the trustees and the beneficiaries;

**trust or corporate entity** means a trust or a body corporate.

- (2) A person who holds a licence under this Act will be taken to be registered under this Act.
- (3) A reference in an instrument (whether of a statutory nature or not)—
  - (a) to a licensed surveyor is to be taken to be a reference to a licensed surveyor within the meaning of this Act;
  - (b) to a registered surveyor is to be taken to be a reference to a licensed or registered surveyor within the meaning of this Act.
- (4) For the purposes of this Act, a surveyor whose licence or registration is under suspension will be taken not to hold a licence or not to be registered (as the case may require).
- (5) Without limiting the generality of the expression, a person who is not a surveyor will, unless exempted by the regulations, be taken to **provide surveying services through the instrumentality of a surveyor if the person**, in the course of carrying on a business, provides services to the surveyor for which the person is entitled to receive a share in the profits or income of the surveyor's practice.
- (6) For the purposes of this Act, a person **occupies a position of authority in a trust or corporate entity** if the person—
  - (a) in the case of a body corporate—
    - (i) is a director of the body corporate; or
    - (ii) exercises, or is in a position to exercise, control or substantial influence over the body corporate in the conduct of its affairs; or
    - (iii) manages, or is to manage, the business of the body corporate that consists of the provision of surveying services; or
    - (iv) where the body corporate is a proprietary company—is a shareholder in the body corporate; or
  - (b) in the case of a trust—is a trustee or beneficiary of the trust.
- (7) However—
  - (a) a minor who is a shareholder in a proprietary company, or a beneficiary under a trust, is not, for that reason, to be regarded as a person occupying a position of authority; and
  - (b) a charitable organisation that is a beneficiary of a trust is not, for that reason, to be regarded as occupying a position of authority in the trust.
- (8) For the purposes of this Act, a person who holds more than 10 per cent of the issued share capital of a public company will be regarded as a person **occupying a position of authority** in that company.

**Note—**

For definition of divisional penalties (and expiation fees) see Appendix.

## Part 2—Administration

### Division 1—Surveyor-General

#### 5—Surveyor-General

- (1) There will be a Surveyor-General.
- (2) The Surveyor-General must be a person who is eligible to be licensed or registered under this Act.

#### 6—Delegation

- (1) The Surveyor-General may delegate to any person any of the Surveyor-General's functions or powers under this or any other Act.
- (2) A delegation under this section—
  - (a) may be made subject to such conditions as the Surveyor-General thinks fit; and
  - (b) is revocable at will; and
  - (c) does not derogate from the power of the Surveyor-General to act in any matter.

#### 7—Surveyor-General's right to enter etc

The Surveyor-General, or a person authorised in writing by the Surveyor-General, may—

- (a) at any reasonable time, enter any land for the purposes of performing the functions assigned to the Surveyor-General under this Act; and
- (b) take such action as is necessary to enable those functions to be carried out effectively (including excavating or breaking the surface of land to the extent necessary to uncover or place a survey mark).

### Division 2—Survey Advisory Committee

#### 8—Committee

- (1) The *Survey Advisory Committee* is established.
- (2) The Committee is to consist of the following members:
  - (a) the person for the time being holding or acting in the office of the Surveyor-General (the presiding member);
  - (b) the person for the time being holding or acting in the office of the Registrar-General;
  - (c) three persons appointed by the Minister of whom two must be persons nominated by the Surveyor-General and one must be a person who is not a surveyor;
  - (d) five persons appointed by the Minister on the nomination of the Institution of Surveyors.

- (3) At least one member of the Committee must be a woman and one a man.
- (4) A member of the Committee appointed by the Minister holds office on such conditions and for such term as the Minister determines.
- (5) Subject to this Act and the directions of the Minister, the Committee may conduct its business in such manner as it thinks fit.

## **9—Functions of Committee**

The *Survey Advisory Committee* is responsible for—

- (a) monitoring the operation of this Act and the law relating to surveying and making recommendations to the Minister with respect to those matters;
- (b) exercising a general oversight over surveying, and the keeping of survey records, in this State and making recommendations to the Minister with respect to those matters;
- (c) monitoring the operation of survey instructions in force under this Act and making recommendations to the Minister with respect to those instructions;
- (d) carrying out such other functions as are assigned to it by the Minister.

## **9A—Conflict of interest under Public Sector (Honesty and Accountability) Act**

A member of the Survey Advisory Committee will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with surveying generally, or a substantial section of those engaged in or associated with surveying.

## **Division 3—Institution of Surveyors**

### **10—Functions of Institution of Surveyors under this Act**

- (1) The Institution of Surveyors is responsible for—
  - (a) exercising a general oversight over the professional practice of surveyors; and
  - (b) monitoring the standards of courses of instruction and training available to—
    - (i) those seeking licensing or registration as surveyors; and
    - (ii) surveyors seeking to maintain or improve their skills in surveying practice; and
  - (c) consulting with educational authorities in relation to the establishment, maintenance or improvement of courses referred to in paragraph (b); and
  - (d) making recommendations to the Minister with respect to the matters referred to in paragraphs (a), (b) and (c); and
  - (da) providing financial and other assistance for the conduct by a university of, or participation of a student in, a course of instruction and training that provides qualifications for licensing or registration as a surveyor, and otherwise promoting surveying as a career, as agreed with the Minister; and
  - (e) carrying out such other functions as are assigned to it by this Act.

- (2) The Institution of Surveyors must carry out its functions under this Act with a view to promoting and maintaining high standards of competence and conduct in surveying practice.

## **11—Administrative arrangements**

The Institution of Surveyors must, after consulting with the Minister—

- (a) establish the position of Registrar and ensure that a person is appointed to, or acting in, that position at all times; and
- (b) establish and maintain a register of surveyors and ensure—
  - (i) that the register is accurate; and
  - (ii) that the register is available for inspection by or on behalf of the Surveyor-General without charge and by any other person on payment of the fee fixed by the Institution of Surveyors with the approval of the Minister; and
- (c) make administrative arrangements for receiving, considering and investigating complaints against surveyors; and
- (d) establish and maintain a system for collecting the levies payable under this Act on lodgment of survey plans; and
- (e) establish and maintain such other administrative arrangements as are necessary for the performance of the functions assigned to it by this Act.

## **12—Fees and levies**

- (1) The Institution of Surveyors—
  - (a) must keep separate accounts of fees and levies received under this Act; and
  - (b) must prepare a statement of those accounts in respect of each financial year and have the statement audited by a registered company auditor.
- (2) Fees and levies received by the Institution of Surveyors under this Act may only be used in carrying out the functions assigned to the Institution by this Act.

## **13—Annual report**

- (1) The Institution of Surveyors must, on or before 30 September in each year, deliver to the Minister a report on the performance of its functions under this Act during the financial year that ended on the preceding 30 June.
- (2) The report must include, in respect of the financial year to which it relates—
  - (a) statistics relating to licences, registrations and renewals granted under this Act, complaints against surveyors received under this Act and investigations carried out under this Act; and
  - (b) the audited statement of accounts of fees and levies.
- (3) The Minister must, within 12 sitting days after receipt of the report, cause a copy of the report to be laid before each House of Parliament.

### **13A—Delegations**

- (1) The Institution of Surveyors may, by instrument in writing, delegate any of its functions or powers under this Act other than this power of delegation.
- (2) A delegation—
  - (a) may be made—
    - (i) to a member of the Institution of Surveyors; or
    - (ii) to a committee established by the Institution of Surveyors; and
  - (b) may be made subject to conditions and limitations specified in the instrument of delegation; and
  - (c) is revocable at will and does not derogate from the power of the Institution of Surveyors to act in a matter.

## **Part 3—Licensing and registration**

### **Division 1—The practice of surveying**

#### **14—Obligation to be licensed to place survey mark**

A person must not personally place a survey mark on or in land unless—

- (a) he or she is a licensed surveyor; or
- (b) he or she is acting under the supervision of a licensed surveyor; or
- (c) the survey mark is placed in the course of a survey carried out as part of a course of training approved by the Institution of Surveyors.

Penalty: Division 5 fine.

#### **15—Obligation to be licensed to carry out cadastral survey for fee or reward**

A person must not carry out a cadastral survey for fee or reward unless—

- (a) he or she is a licensed surveyor; or
- (b) he or she is acting under the supervision of a licensed surveyor; or
- (ba) the survey is carried out through the instrumentality of a licensed surveyor or a person acting under the supervision of a licensed surveyor; or
- (c) the survey is carried out as part of a course of training approved by the Institution of Surveyors.

Penalty: Division 5 fine.

#### **16—Illegal holding out as being licensed**

- (1) A person who is not a licensed surveyor must not—
  - (a) hold himself or herself out as holding a licence under this Act; or
  - (b) permit another person to do so.

Penalty: Division 5 fine.

- (2) A person must not hold out another as being licensed under this Act unless the other person is a licensed surveyor.

Penalty: Division 5 fine.

### **17—Illegal holding out as being registered**

- (1) A person who is not a registered surveyor must not hold himself or herself out as being registered under this Act or permit another person to do so.

Penalty: Division 5 fine.

- (2) A person must not hold out another as being registered under this Act unless the other person is a registered surveyor.

Penalty: Division 5 fine.

### **18—Limitation on use of certain expressions**

- (1) A person who is not a licensed surveyor must not use the expression "licensed surveyor" or any of its derivatives, or any expression reserved in the regulations for use by licensed surveyors, to describe himself or herself.

Penalty: Division 5 fine.

- (2) A person who is not a registered surveyor must not use the expression "registered surveyor" or any of its derivatives, or any expression reserved in the regulations for use by registered surveyors, to describe himself or herself.

Penalty: Division 5 fine.

- (3) A person must not, in the course of advertising or promoting a service that the person provides, use an expression reserved in this section or the regulations for use by licensed or registered surveyors, or any derivative of such an expression, to describe a person who is engaged in the provision of the service but who is not licensed or registered under this Act (as the case may require).

Penalty: Division 5 fine.

- (4) The regulations may exempt (conditionally or unconditionally) persons of a specified class from the provisions, or any specified provisions, of this section.

### **19—Indemnity against loss**

- (1) A surveyor must not practise surveying unless—

(a) an agreement is in force between the surveyor and a person approved by the Institution of Surveyors; and

(b) the Institution of Surveyors is satisfied that, by virtue of that agreement, the surveyor will be compensated to the extent required by the Institution of Surveyors in the event that he or she suffers loss by reason of civil liability incurred in the practice of surveying.

Penalty: Division 5 fine.

- (2) The Institution of Surveyors may, on such conditions as it thinks fit, exempt a person or a class of persons from the requirements of this section and may, whenever it thinks fit, revoke an exemption or vary the conditions under which an exemption operates.

## **20—Disqualification for breach of this Division**

A court finding a person guilty of an offence against this Division may, in addition to imposing a fine, order that the person be disqualified from being licensed or registered under this Act permanently, for a specified period, until fulfilment of stipulated conditions or until further order.

## **Division 2—Licences and registrations**

### **21—Applications**

- (1) An application for a licence or registration, or for renewal of a licence or registration, under this Act—
  - (a) must be made to the Institution of Surveyors; and
  - (b) must, in the case of an application for renewal, be delivered to the Registrar not earlier than 3 months and not later than 1 month preceding the end of the period of the current licence or registration; and
  - (c) must conform to the requirements of the Institution of Surveyors as to its form, contents and the manner in which it is made; and
  - (d) must be accompanied by the fee fixed by the Institution of Surveyors with the approval of the Minister.
- (2) An applicant must furnish the Institution of Surveyors with such information or records as it reasonably requires.
- (3) The Institution of Surveyors may, if it thinks fit, determine an application for renewal of a licence or registration despite the fact that it is delivered out of time or that the period of the licence or registration has expired.

### **22—Grant of licence or registration**

- (1) Where a natural person applies for a licence or registration under this Act, the Institution of Surveyors must grant the application if satisfied that the applicant—
  - (a) is a fit and proper person to be licensed or registered under this Act (as the case may require); and
  - (b) has the qualifications required by the regulations or has qualifications, or qualifications together with experience, accredited as being equivalent to those qualifications by a body or authority specified in the regulations; and
  - (c) has the experience required by the regulations; and
  - (d) fulfils all other requirements set out in the regulations.
- (3) The Institution of Surveyors may, with the approval of the Minister, grant an application for a licence or registration under this Act to an applicant who does not comply with any one or more of the requirements of this section if satisfied that the lack of compliance would not adversely affect the ability of the applicant to practise surveying.

### **23—Conditional licence**

- (1) The Institution of Surveyors may grant an application for a licence under this Act to an applicant who does not comply with any one or more of the requirements for eligibility for a licence in order to enable the person to do whatever is necessary to become eligible for a full licence.
- (2) The Institution of Surveyors may impose conditions on a licence granted under this section, including conditions—
  - (a) restricting the places and times at which the applicant may practise cadastral surveying;
  - (b) limiting the areas of cadastral surveying in which the applicant may practise;
  - (c) requiring cadastral surveys undertaken by the applicant to be submitted for consideration by the Institution of Surveyors;
  - (d) limiting the period during which the licence remains in force.

### **24—Duration and renewal**

- (1) Subject to this Act, a licence or registration (not being a licence for a limited period) remains in force until 30 June following the grant of the licence or registration and may be renewed for successive periods of one year expiring on 30 June.
- (2) Subject to this Act, where application is made in accordance with this Act for renewal of a licence or registration, the Institution of Surveyors must renew the licence or registration.

### **25—Licences or certificates**

- (1) The Registrar must, on the licensing or registration of a surveyor or the renewal of the licence or registration of a surveyor, issue a licence or certificate of registration (as the case may require) to the surveyor.
- (2) The Registrar may, on request by a surveyor and payment of the fee fixed by the Institution of Surveyors with the approval of the Minister, issue a duplicate licence or certificate of registration.

### **26—Continuing education**

- (1) The Institution of Surveyors may require surveyors to attend specified courses, to gain specified experience, or to take other specified action, within a specified period for the purpose of encouraging surveyors to maintain or improve their skills in surveying practice.
- (2) If the Institution of Surveyors is not satisfied that an applicant for renewal of a licence or registration has complied with requirements specified under subsection (1), the Institution of Surveyors may—
  - (a) renew the licence or registration subject to specified conditions; or
  - (b) refuse to renew the licence or registration until specified conditions are fulfilled; or
  - (c) refuse to renew the licence or registration.
- (3) The Institution of Surveyors may, on application by a surveyor, vary or revoke a condition imposed under this section.

- (4) If the Institution of Surveyors refuses to renew a licence or registration until specified conditions are fulfilled, the licence or registration is, on the fulfilment of those conditions, renewed for the period expiring on the following 30 June.
- (5) The Institution of Surveyors may charge such fees as are approved by the Minister in relation to the provision of courses or other services for the purposes of this section.

### **27—Breach of conditions**

A surveyor who contravenes or fails to comply with a condition imposed under this Act on the surveyor's licence or registration is guilty of an offence.

Penalty: Division 5 fine.

## **Division 3—Special provisions relating to surveying services providers**

### **28—Improper directions etc to surveyor by surveying services provider**

- (1) If a person who provides surveying services through the instrumentality of a surveyor directs or pressures the surveyor to act unlawfully, improperly, negligently or unfairly in relation to the provision of surveying services, the person is guilty of an offence.  
Penalty: Division 4 fine.
- (2) If a person who occupies a position of authority in a trust or corporate entity that provides surveying services through the instrumentality of a surveyor directs or pressures the surveyor to act unlawfully, improperly, negligently or unfairly in relation to the provision of surveying services, the person and the entity are each guilty of an offence.  
Penalty: Division 4 fine.

## **Division 4—Discipline**

### **34—Proper cause for disciplinary action**

- (1) A surveyor is liable to be disciplined if the surveyor—
  - (a) has been guilty of conduct that constitutes a breach of this Act or has contravened or failed to comply with survey instructions in force under this Act; or
  - (b) has obtained a licence or registration under this Act improperly; or
  - (c) has failed to exercise proper care in carrying out a survey, establishing survey marks or in the preparation of a plan or record of a survey; or
  - (d) has, in the course of surveying practice—
    - (i) been guilty of conduct that constitutes a breach of any other Act or law punishable by imprisonment for a period of one year or more; or
    - (ii) been guilty of improper or unethical conduct, incompetence or negligence.
- (2) A surveying services provider is liable to be disciplined if—
  - (a) the provider has contravened or failed to comply with a provision of this Act;  
or

- (b) in the case of a surveying services provider that is a trust or corporate entity—the occupier of a position of authority in the trust or corporate entity has contravened or failed to comply with a provision of this Act.
- (3) The occupier of a position of authority in a trust or corporate entity that is a surveying services provider is liable to be disciplined if—
  - (a) the person has contravened or failed to comply with a provision of this Act; or
  - (b) the trust or corporate entity has contravened or failed to comply with a provision of this Act (unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the offence by the entity).
- (4) Disciplinary action may be taken under this Division against—
  - (a) a person who was licensed or registered as a surveyor when the cause for disciplinary action arose but has since ceased to be licensed or registered as a surveyor; or
  - (b) a surveying services provider who was a provider when the cause for disciplinary action arose but has since ceased to be a surveying services provider; or
  - (c) the occupier of a position of authority in a trust or corporate entity that is a surveying services provider who was the occupier of the position of authority when the cause for disciplinary action arose but has since ceased to be the occupier of the position.

### **35—Complaints**

- (1) Any person may lodge with the Institution of Surveyors a complaint against—
  - (a) a surveyor or former surveyor; or
  - (b) a surveying services provider or former surveying services provider; or
  - (c) the occupier, or former occupier, of a position of authority in a trust or corporate entity that is a surveying services provider.
- (2) The Institution of Surveyors must, wherever practicable, attempt to resolve the subject matter of a complaint by conciliation.

### **36—Investigations by Institution of Surveyors**

- (1) The Institution of Surveyors must at the direction of the Surveyor-General, and may in any other case, investigate a complaint made against a person under this Division.
- (2) The Institution of Surveyors may appoint a suitable person to conduct an investigation.
- (3) The Institution of Surveyors must provide a person so appointed with a certificate of appointment.
- (4) For the purposes of an investigation, a person appointed by the Institution of Surveyors under this section—
  - (a) may require a person who is in a position to do so, to provide the name and address of—

- 
- (i) any person who personally, or through the instrumentality of another, provided the services the subject of the complaint; or
  - (ii) if the services the subject of the complaint were provided by a surveying services provider that is a trust or corporate entity, the persons occupying positions of authority in the trust or corporate entity; and
- (ab) may require any person who is in a position to provide other information relevant to the matter under investigation to answer any question put to him or her in relation to the matter; and
  - (ac) may require any person who has possession of records or equipment relevant to the matter under investigation to produce those records or equipment for inspection, including written records that reproduce in a readily understandable form information kept by computer, microfilm or other process; and
  - (b) may inspect the records or equipment, make copies of the records or their contents or test the equipment and, where reasonably necessary for those purposes, seize and retain the records or equipment.
- (5) A person appointed under this section must, at the request of a person in relation to whom he or she has exercised, or intends to exercise, powers under this section, produce his or her certificate of appointment.
  - (6) Where an investigation is conducted at the direction of the Surveyor-General, the Institution of Surveyors must report to the Surveyor-General on the results of the investigation.

### **37—Consequence of investigation by Institution of Surveyors**

- (1) After conducting an investigation under this Division, the Institution of Surveyors may lodge with the Court a complaint against the person setting out matters that are alleged to constitute proper cause for disciplinary action.
- (3) Where the Institution of Surveyors lodges a complaint with the Court, it must report the matter to the Surveyor-General.
- (4) If, after conducting an investigation under this Division, the Institution of Surveyors is satisfied that there are reasonable grounds to suspect that a person has committed an offence against this Act, it must—
  - (a) report the matter to the Surveyor-General; and
  - (b) at the request of the Surveyor-General, furnish the Surveyor-General with copies of any material in its possession relevant to the investigation or prosecution of the suspected offence.

### **38—Disciplinary powers of Court**

- (1) The Surveyor-General, the Institution of Surveyors or any other person may lodge with the Court a complaint setting out matters that are alleged to constitute grounds for disciplinary action under this Division.
- (2) On the lodging of a complaint under this Act, the Court may conduct a hearing for the purpose of determining whether the matters alleged in the complaint constitute grounds for disciplinary action under this Part.

- (3) Without limiting the usual powers of the Court, the Court may during the hearing—
- (a) allow an adjournment to enable the Surveyor-General or the Institution of Surveyors to investigate or further investigate matters to which the complaint relates; and
  - (b) allow the modification of the complaint or additional allegations to be included in the complaint subject to any conditions as to adjournment and notice to parties and other conditions that the Court may think fit to impose.
- (6) If, after conducting a hearing under this section, the Court is satisfied that proper cause exists for disciplinary action against the respondent, it may exercise any one or more of the following powers:
- (a) it may reprimand the respondent;
  - (b) it may impose a fine not exceeding a division 5 fine on the respondent;
  - (c) it may impose conditions on the respondent's licence or registration restricting the right of the respondent to practise surveying;
  - (d) it may suspend the respondent's licence or registration for a specified period, until fulfilment of stipulated conditions or until further order;
  - (e) it may cancel the respondent's licence or registration;
  - (f) it may disqualify the respondent from being licensed or registered under this Act permanently, for a specified period, until fulfilment of stipulated conditions or until further order;
  - (g) it may prohibit the respondent from carrying on business as a surveying services provider;
  - (h) it may prohibit the respondent from occupying a position of authority in a trust or corporate entity that is a surveying services provider.
- (7) A person who has been convicted of, or has expiated, an offence is not liable to a fine under this section in respect of the act or activity comprising the offence.
- (8) If the Court takes disciplinary action against the respondent, it may stipulate that the action is to have effect at a future time specified by the Court.
- (9) The Court may, on application by a surveyor, vary or revoke a condition imposed under this section.

### **38A—Participation of assessors in disciplinary proceedings**

In any proceedings under this Division, the Court will, if a judicial officer of the Court so determines, sit with assessors selected in accordance with Schedule 1.

### **39—Return of licence or certificate of registration**

Where a person's licence or registration under this Act is suspended or cancelled, the person must, at the direction of the Court, return the licence or certificate of registration to the Registrar.

Penalty: Division 8 fine.

#### **40—Restrictions on disqualified persons**

- (1) A disqualified person must not, without the prior approval of the Court, undertake any work in connection with a survey.  
Penalty: Division 5 fine.
- (2) Where a person is known to a surveyor, or to a surveying services provider, to be a disqualified person, and the surveyor or surveying services provider employs or engages that person in connection with a survey without the prior approval of the Court, the surveyor or surveying services provider is guilty of an offence.  
Penalty: Division 5 fine.
- (3) The Court may, on application by a disqualified person or a person who wishes to employ or engage a disqualified person, approve the disqualified person's employment or engagement in connection with a survey subject to such conditions (if any) as the Court thinks fit.
- (4) Where an approval has been granted under this section, the Court may, on application by the Surveyor-General, the Institution of Surveyors, the disqualified person to whom the approval relates or a person who employs or engages the disqualified person—
  - (a) vary or revoke a condition of the approval or impose a further condition; or
  - (b) revoke the approval.
- (5) A person who contravenes or fails to comply with a condition imposed under this section is guilty of an offence.  
Penalty: Division 5 fine.
- (6) In this section—  
*disqualified person* means a person whose licence or registration under this Act is suspended or cancelled.

#### **41—Consequences of action against surveyor in other jurisdictions**

- (1) Where, in consequence of action taken against a surveyor in another State or a Territory, of the Commonwealth, or in New Zealand a surveyor's right to practise surveying in that State, Territory or country is suspended or cancelled, the registration or licence of the surveyor under the Act is, unless the Court otherwise determines, automatically suspended or cancelled.
- (2) Where such a surveyor is reinstated on the register in that other State, Territory or country, the surveyor is, unless the Court otherwise determines, automatically reinstated on the register in this State.

### **Division 5—Appeal to Court**

#### **42—Appeal to Court**

- (1) An appeal lies to the Court in the following cases:
  - (a) an applicant for a licence or registration under this Act may appeal against a decision of the Institution of Surveyors to grant a conditional licence or to refuse to grant the licence or registration;

- (b) an applicant for renewal of a licence or registration under this Act may appeal against a decision of the Institution of Surveyors to grant a conditional renewal or to refuse to grant the renewal (whether or not until fulfilment of specified conditions);
  - (c) a person who is reprimanded by the Institution of Surveyors under this Act may appeal against the reprimand.
- (2) The appeal must be instituted within one month of the making of the decision appealed against.
- (5) Where the Court quashes a decision of the Institution of Surveyors to reprimand a person, the Institution of Surveyors must—
  - (a) withdraw the reprimand; and
  - (b) publish the withdrawal to the same extent and in the same manner as the reprimand was published (if at all).
- (6) The Institution of Surveyors must, if so required by a person affected by a decision made by it, state in writing the reasons for its decision.
- (7) If the reasons of the Institution of Surveyors are not given in writing at the time of making a decision and the person affected by the decision, within one month of the making of the decision, requires the Institution to state its reasons in writing, the time for instituting an appeal runs from the time when the person receives the written statement of those reasons.
- (8) Where the Institution of Surveyors or the Court is satisfied that an applicant for renewal of a licence or registration under this Act has instituted or intends to institute an appeal under this section, it may extend the period of the licence or registration until the determination of the appeal and impose such conditions on the licence or registration as it thinks fit.

## **Part 4—Surveying**

### **Division 1—Survey instructions**

#### **43—Survey instructions**

- (1) The Governor may, by regulation, issue survey instructions in relation to cadastral surveys and records of cadastral surveys.
- (2) Without limiting the generality of subsection (1), survey instructions may—
  - (a) regulate the manner in which cadastral surveys are to be carried out (including the records to be kept in relation to cadastral surveys);
  - (b) provide for tolerances in relation to the accuracy of cadastral surveys;
  - (c) regulate the standard of equipment to be used in cadastral surveys;
  - (d) regulate the form, establishment, custody, maintenance, removal or reinstatement of survey marks;
  - (e) regulate the form or certification of plans or other records of cadastral surveys;

- (f) regulate the manner in which cadastral surveys are to be carried out in designated survey areas with a view to those areas forming part of the coordinated cadastre under this Act.
- (3) Survey instructions may—
  - (a) vary in their operation according to time, place or circumstance;
  - (b) confer discretionary powers on the Surveyor-General.
- (4) The *Survey Advisory Committee* must be consulted before survey instructions are promulgated.
- (5) The Registrar-General must be consulted before survey instructions are promulgated under subsection (2)(e) in relation to plans or other records to be lodged in the Lands Titles Registration Office.

## **Division 2—Rectification of surveys**

### **44—Investigations by Surveyor-General**

- (1) The Surveyor-General may, on his or her own initiative or on complaint received from any person, conduct an investigation in order to determine—
  - (a) whether a cadastral survey or a record or plan prepared in connection with a cadastral survey and lodged in the Lands Titles Registration Office or other public registry or office is defective in any respect; or
  - (b) whether in relation to a cadastral survey there has been a breach of, or non-compliance with, this Act or survey instructions in force under this Act.
- (2) The Surveyor-General may appoint a suitable person to conduct an investigation.
- (3) The Surveyor-General must provide a person so appointed with a certificate of appointment.
- (4) For the purposes of an investigation, the Surveyor-General, or a person appointed by the Surveyor-General under this section, may—
  - (a) require a person who is in a position to do so, to provide the name and address of—
    - (i) any person who personally, or through the instrumentality of another, provided the services the subject of the complaint; or
    - (ii) if the services the subject of the complaint were provided by a surveying services provider that is a trust or corporate entity, the persons occupying positions of authority in the trust or corporate entity; and
  - (ab) require any person who is in a position to provide other information relevant to the matter under investigation to answer any question put to him or her in relation to the matter; and
  - (ac) require any person who has possession of records or equipment relevant to the matter under investigation to produce those records or equipment for inspection, including written records that reproduce in a readily understandable form information kept by computer, microfilm or other process; and

- (b) inspect the records or equipment, make copies of the records or their contents or test the equipment and, where reasonably necessary for those purposes, seize and retain the records or equipment.
- (5) A person appointed under this section must, at the request of a person in relation to whom he or she has exercised, or intends to exercise, powers under this section, produce his or her certificate of appointment.

#### **45—Rectification**

- (1) If, after an investigation under this Division has been conducted, the Surveyor-General is satisfied that a cadastral survey or a record or plan is defective in some respect, the Surveyor-General may, in order to rectify that defect, require the licensed surveyor responsible for the survey to do any one or more of the following:
  - (a) to carry out additional work in connection with the survey within a specified period;
  - (b) to amend any record or plan prepared in connection with the survey within a specified period;
  - (c) to prepare any further record or plan in connection with the survey within a specified period.
- (2) Before the Surveyor-General exercises a power conferred by subsection (1), the Surveyor-General—
  - (a) must allow the person concerned a reasonable opportunity to make representations orally or in writing; and
  - (b) must, if that person so requests, refer the matter to the Institution of Surveyors for advice.
- (3) A surveyor who, without reasonable excuse, refuses or fails to comply with a requirement under subsection (1) is guilty of an offence.  
Penalty: Division 7 fine.
- (4) If a surveyor refuses or fails to comply with a requirement under subsection (1), the Surveyor-General may carry out such work as is necessary to rectify the defect and may recover the costs of that work as a debt owed by the surveyor.
- (5) If a surveyor of whom a requirement under subsection (1) would have been made has died, the Surveyor-General may carry out such work as is necessary to rectify the defect.

#### **Division 3—Miscellaneous**

##### **46—Right to enter etc**

A surveyor, or a person authorised in writing by a surveyor, may—

- (a) at any reasonable time, enter any land for the purposes of carrying out work in connection with a survey; and
- (b) take such action as is necessary to enable the survey to be carried out effectively (including excavating or breaking the surface of land to the extent necessary to uncover or place a survey mark).

**47—Certification of plans**

- (1) A plan or other document required by law to be signed or certified by a surveyor must be signed or certified by a surveyor who is a natural person.
- (2) A surveyor who certifies as correct a plan prepared in connection with a survey that the surveyor did not carry out or supervise is guilty of an offence.

Penalty: Division 5 fine.

**48—Liability of surveyor for acts or omissions of employees**

For the purposes of this Act, an act or omission of a person employed by a surveyor in carrying out a survey (whether under a contract of service or otherwise) is to be taken to be an act or omission of the surveyor unless the surveyor proves that the person was not acting in the course of the employment.

**Part 5—Establishment of land boundaries****Division 1—Coordinated cadastre****49—Coordinated cadastre**

- (1) The Surveyor-General is responsible for establishing a coordinated cadastre for the State and may, for that purpose—
  - (a) establish and maintain a network of permanent survey marks with recorded coordinates for use in surveying, mapping or related practice; and
  - (b) declare, by notice in the Gazette, specified areas of the State to be designated survey areas, being areas of land in respect of which cadastral surveys must be carried out by reference to permanent survey marks in accordance with survey instructions in force under this Act, and for which coordinates must be determined in accordance with those instructions; and
  - (c) record the coordinates of the boundaries of land within each designated survey area as determined by surveys carried out in the area (whether before or after the declaration of the area as a designated survey area), compare the coordinates recorded in relation to all allotments of land within the area and make any necessary adjustments to the recorded coordinates; and
  - (d) where the coordinates for all allotments of land within a designated survey area have been so recorded, compared and adjusted—
    - (i) declare, by notice in the Gazette, that part of the State to be within the coordinated cadastre; and
    - (ii) lodge with the Registrar-General for filing in the Lands Titles Registration Office a plan delineating the boundaries of those allotments on the basis of those coordinates.
- (2) A plan may be lodged under subsection (1)(d) by means of lodging a hard copy of the plan or by the electronic transfer of information.
- (3) The Surveyor-General may, by notice in the Gazette, declare a mark or peg of a specified class to be a survey mark that may be used in the network of permanent survey marks under subsection (1).

- (4) A notice under subsection (3) may be varied or revoked by subsequent notice in the Gazette.

## **Division 2—Confused land boundaries**

### **50—Confused Boundary Areas**

- (1) Subject to subsection (2), the Surveyor-General may, by notice in the Gazette, declare that a specified area within the State is a Confused Boundary Area.
- (1a) The Surveyor-General may make a declaration under subsection (1)—
- (a) on the application of—
    - (i) the Registrar-General; or
    - (ii) the Commissioner for Highways; or
    - (iii) a council; or
  - (b) on his or her own motion.
- (2) However, a declaration under subsection (1) may only be made if the Surveyor-General is satisfied that, generally, the occupation of land within the area does not accord to a substantial extent with the boundaries of land as shown in records or plans kept in the Lands Titles Registration Office.
- (3) A notice under this section may be varied or revoked by subsequent notice in the Gazette.

### **51—Surveys within Confused Boundary Area**

- (1) Where a cadastral survey of land within a Confused Boundary Area is carried out by a surveyor, the boundaries of the land must (instead of being determined in accordance with accepted surveying practice and the provisions of this Act) be determined on the basis of what is fair and equitable having regard to—
- (a) existing physical boundaries; and
  - (b) the length of time that those boundaries have departed from the boundaries as shown in any public records of survey or as marked by existing survey marks; and
  - (c) all other relevant factors.
- (2) Where a plan of the boundaries of land within a Confused Boundary Area is lodged in the Lands Titles Registration Office, it must be accompanied by a statement that—
- (a) sets out the basis on which the boundaries were determined; and
  - (b) is signed by the surveyor who certifies the plan.
- (3) The Registrar-General must examine a plan lodged under subsection (2) and then forward a copy of the plan to the Surveyor-General for approval under this section.
- (4) As soon as practicable after a plan of the boundaries of land within a Confused Boundary Area is forwarded to the Surveyor-General under this section, the Surveyor-General must give notice in accordance with this section—
- (a) to all persons with a registered interest in the land; and

- (b) to all persons with a registered interest in land adjoining the land; and
  - (c) to all other persons who have a registered interest in land that is likely, in the opinion of the Surveyor-General, to be directly or indirectly affected; and
  - (d) to the council for the area in which the land is situated.
- (5) A notice under subsection (4)—
- (a) must specify a place at which the plan may be viewed during normal office hours; and
  - (b) must specify a period (not less than 28 days after the date of the notice) within which objections relating to the determination of the land boundaries will be received by the Surveyor-General.
- (5a) The Surveyor-General must, in considering any objections received under this section, consult with the Registrar-General.
- (6) On consideration of a plan and any objections received under this section, the Surveyor-General may—
- (a) approve the plan with or without modification; and
  - (b) carry out such further work as is necessary in view of the terms of the approval.
- (7) The Surveyor-General must give notice of the terms of an approval and, if a plan is approved with modification, a brief description of the reasons for the decision as to those terms, to—
- (a) the surveyor responsible for the survey; and
  - (b) all persons who were entitled to be notified under subsection (4) and who continue to hold the registered interest in land by reason of which they were so entitled; and
  - (c) all persons who have since the date of that notification acquired a registered interest in land by reason of which they would have been entitled to be notified if they had held that interest at that date.
- (8) Any person entitled to receive a notice under subsection (7) may, within 14 days after receipt of the notice, appeal against the decision of the Surveyor-General to the Land and Valuation Court.
- (9) The Land and Valuation Court may, on the hearing of an appeal, hear such evidence as it thinks fit, whether or not the evidence was produced before the Surveyor-General.
- (10) The Land and Valuation Court may, on the hearing of an appeal, exercise any one or more of the following powers:
- (a) affirm or vary the decision appealed against, or make in addition any decision that should have been made in the first instance;
  - (b) quash the decision appealed against and substitute any decision that should have been made in the first instance;
  - (c) remit the subject matter of the appeal to the Surveyor-General for further consideration;

- (d) make any further or other order as to costs or any other matter that the case requires.
- (11) If no appeal is lodged under this section against the approval of a plan by the Surveyor-General, the Registrar-General may deposit that plan in the Lands Titles Registration Office.
- (12) If an appeal is lodged under this section and the Land and Valuation Court on appeal approves a plan, the Registrar-General may deposit that plan in the Lands Titles Registration Office.
- (13) This section is in addition to and does not derogate from the *Real Property Act 1886*.

## **Part 6—Miscellaneous**

### **52—Interference with survey marks**

- (1) Subject to this section, a person must not, without the approval of the Surveyor-General, interfere with a survey mark.  
Penalty: Division 7 fine.
- (2) This section does not apply—
  - (a) in relation to interference with a survey mark (other than a permanent survey mark) in the course of the erection or maintenance of a fence or other permanent improvement on the boundary defined by that survey mark; or
  - (b) in relation to interference with a survey mark (other than a permanent survey mark) by a licensed surveyor, or a person acting under the supervision of a licensed surveyor, in the course of a survey if, as soon as reasonably practicable after the interference, the surveyor or other person reinstates the survey mark; or
  - (c) in relation to interference with a survey mark (other than a permanent survey mark) in the course of works for the provision of roads, drains or other services in association with the division of land.
- (3) Where a person has contravened subsection (1) and the survey mark interfered with has been reinstated, the cost of that reinstatement may be recovered as a debt by the person who reinstated the survey mark from the person who contravened subsection (1).

### **53—Offence to hinder or obstruct**

- (1) A person must not, without reasonable excuse, hinder or obstruct a person in the exercise of a power conferred by this Act.  
Penalty: Division 6 fine.
- (2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement made by a person for the purposes of an investigation under this Act.  
Penalty: Division 6 fine.

#### 54—False or misleading information

A person must not, in furnishing information required under this Act, make a statement that is false or misleading in a material particular.

Penalty: Division 7 fine.

#### 55—Confidentiality

A person must not divulge information obtained in the course of an investigation under this Act except—

- (a) as authorised by or under this Act; or
- (b) with the consent of the person from whom the information was obtained or to whom the information relates; or
- (c) in connection with the administration of this Act; or
- (d) for the purpose of legal proceedings arising out of the administration of this Act.

Penalty: Division 5 fine.

#### 55A—Victimisation

- (1) A person commits an act of victimisation against another person (the victim) if he or she causes detriment to the victim on the ground, or substantially on the ground, that the victim—
  - (a) has disclosed or intends to disclose information; or
  - (b) has made or intends to make an allegation,that has given rise, or could give rise, to proceedings against the person under this Act.
- (2) An act of victimisation under this Act may be dealt with—
  - (a) as a tort; or
  - (b) as if it were an act of victimisation under the *Equal Opportunity Act 1984*, but, if the victim commences proceedings in a court seeking a remedy in tort, he or she cannot subsequently lodge a complaint under the *Equal Opportunity Act 1984* and, conversely, if the victim lodges a complaint under that Act, he or she cannot subsequently commence proceedings in a court seeking a remedy in tort.
- (3) Where a complaint alleging an act of victimisation under this Act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.
- (4) In this section—

**detriment** includes—

  - (a) injury, damage or loss; or
  - (b) intimidation or harassment; or
  - (c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; or

- (d) threats of reprisal.

### **56—General defence**

It is a defence to a charge of an offence against this Act if the defendant proves that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

### **57—Punishment of conduct that constitutes offence**

Subject to this Act, where conduct constitutes an offence and is also a ground for disciplinary action under this Act, the taking of disciplinary action under this Act is not a bar to conviction and punishment for the offence, nor is conviction and punishment for the offence a bar to disciplinary action under this Act.

### **58—Levy on lodgment of plans**

The Institution of Surveyors may charge a levy of an amount approved by the Minister on each plan certified as correct by a licensed surveyor and lodged in the Lands Titles Registration Office.

### **59—Approvals**

An approval of the Minister, the Surveyor-General or the Institution of Surveyors under this Act—

- (a) must be in writing; and
- (b) may be absolute or conditional.

### **59A—Parties to proceedings before Court**

- (1) The Surveyor-General and the Institution of Surveyors are entitled to be joined as parties to any proceedings of the Court under this Act.
- (2) The Surveyor-General may appear personally in any such proceedings or may be represented at any proceedings by counsel or a person employed in the Public Service.

### **60—Evidentiary provision**

In any legal proceedings, a certificate, purporting to be under the hand of the Registrar, that any person was or was not licensed or registered under this Act at a specified date or as to any other information contained in the register of surveyors established under this Act is, in the absence of proof to the contrary, proof of the information so certified.

### **61—Summary offences**

- (1) Proceedings for a summary offence against this Act must be commenced—
  - (a) in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*;
  - (b) in any other case—within 2 years of the date on which the offence is alleged to have been committed or such other period as the Minister may, in a particular case, authorise.

- (3) A document apparently signed by the Minister and stating that the Minister authorises a specified extension of the period for commencing a particular prosecution is to be accepted, in the absence of proof to the contrary, as proof of the fact so stated.

## **62—Service of notices**

- (1) A notice to be given under this Act may be given—
  - (a) by personal service on the person or agent of the person; or
  - (b) by leaving it for the person at the person's place of residence or business with someone apparently over the age of 16 years; or
  - (c) by sending it by post to the person or agent of the person at the person's last known address, or by leaving it in the letterbox to which it would have been delivered if so posted.
- (2) Where a notice is to be given under this Act to a person with a registered interest in land and it is not reasonably practicable for it to be given in accordance with subsection (1), the notice may be given by leaving it in a conspicuous position on the land.

## **63—Regulations**

- (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may regulate company names, business names or trading names that may be used by surveyors or require that such names be approved by the Institution of Surveyors.
- (3) The regulations may—
  - (a) prescribe fines not exceeding a division 7 fine for contravention of any regulation;
  - (b) apply, adopt or incorporate, with or without modification, any code, standard or other document prepared or approved by a body or authority referred to in the regulation as in force from time to time or as in force at a specified time.
- (4) Where a code, standard or other document is applied, adopted or incorporated in regulations—
  - (a) a copy of the code, standard or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at the office of the Surveyor-General; and
  - (b) in any legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code, standard or other document.

## **Schedule 1—Appointment and selection of assessors for District Court**

- (1) The Minister must establish a panel of persons who may sit as assessors consisting of persons representative of surveyors.

- (2) The Minister must establish a panel of persons who may sit as assessors consisting of persons representative of members of the public who deal with surveyors.
- (3) A member of a panel is to be appointed by the Minister for a term of office not exceeding three years and on conditions determined by the Minister and specified in the instrument of appointment.
- (4) A member of a panel is, on the expiration of a term of office, eligible for reappointment.
- (5) Subject to subclause (6), if assessors are to sit with the District Court in proceedings under Division 4 of Part 3, a judicial officer of the Court must select one member from each of the panels to sit with the Court in the proceedings.
- (6) A member of a panel who has a personal or a direct or indirect pecuniary interest in a matter before the District Court is disqualified from participating in the hearing of the matter.
- (7) If an assessor dies or is for any reason unable to continue with any proceedings, the District Court constituted of the judicial officer who is presiding at the proceedings and the other assessor may, if the judicial officer so determines, continue and complete the proceedings.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation repealed by principal Act

The *Survey Act 1992* repealed the following:

*Surveyors Act 1975*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1992	10	<i>Survey Act 1992</i>	16.4.1992	1.1.1993 ( <i>Gazette 10.12.1992 p1752</i> )
1995	82	<i>Statutes Repeal and Amendment (Commercial Tribunal) Act 1995</i>	30.11.1995	Pt 5 and Sch 1—10.3.1997 ( <i>Gazette 6.3.1997 p1114</i> )
1999	64	<i>Local Government (Implementation) Act 1999</i>	18.11.1999	s 10—1.1.2000 ( <i>Gazette 9.12.1999 p3113</i> )
2000	4	<i>District Court (Administrative and Disciplinary Division) Amendment Act 2000</i>	20.4.2000	Sch 1 cl 43—1.6.2000 ( <i>Gazette 18.5.2000 p2554</i> )
2003	61	<i>Survey (Miscellaneous) Amendment Act 2003</i>	11.12.2003	1.4.2004 ( <i>Gazette 26.2.2004 p613</i> )
2009	12	<i>Survey (Funding and Promotion of Surveying Qualifications) Amendment Act 2009</i>	16.4.2009	16.4.2009
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 155 (ss 352 & 353)—1.2.2010 ( <i>Gazette 28.1.2010 p320</i> )
<b>2011</b>	<b>36</b>	<b><i>Statutes Amendment (Directors' Liability) Act 2011</i></b>	<b>22.9.2011</b>	<b>Pt 22 (s 29)—1.1.2012 (<i>Gazette 15.12.2011 p4988</i>)</b>

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 61/2003 Sch 2	1.4.2004
Pt 1		

**Survey Act 1992—1.1.2012 to 14.3.2017**

Legislative history

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<i>ss 2 and 3</i>	<i>deleted by 61/2003 Sch 2</i>	<i>1.4.2004</i>
s 4		
s 4(1)		
beneficiary	inserted by 61/2003 s 4(1)	1.4.2004
<i>company</i>	<i>deleted by 61/2003 s 4(2)</i>	<i>1.4.2004</i>
Court	inserted by 82/1995 s 17(a)	10.3.1997
director	substituted by 61/2003 s 4(3)	1.4.2004
<i>prescribed relative</i>	<i>deleted by 61/2003 s 4(4)</i>	<i>1.4.2004</i>
provide	inserted by 61/2003 s 4(4)	1.4.2004
<i>putative spouse</i>	<i>deleted by 61/2003 s 4(4)</i>	<i>1.4.2004</i>
<i>share</i>	<i>deleted by 61/2003 s 4(5)</i>	<i>1.4.2004</i>
surveying services provider	inserted by 61/2003 s 4(6)	1.4.2004
<i>Tribunal</i>	<i>deleted by 82/1995 s 17(b)</i>	<i>10.3.1997</i>
trust	inserted by 61/2003 s 4(7)	1.4.2004
trust or corporate entity	inserted by 61/2003 s 4(7)	1.4.2004
s 4(5)—(8)	inserted by 61/2003 s 4(8)	1.4.2004
Pt 2		
s 9A	inserted by 84/2009 s 352	1.2.2010
s 10		
s 10(1)	amended by 12/2009 s 3	16.4.2009
s 12		
s 12(1)	amended by 61/2003 s 5	1.4.2004
s 13		
s 13(1)	substituted by 61/2003 s 6(1)	1.4.2004
s 13(2)	amended by 61/2003 s 6(2)	1.4.2004
s 13A	inserted by 61/2003 s 7	1.4.2004
Pt 3		
Pt 3 Div 1		
s 14	amended by 61/2003 s 8	1.4.2004
s 15	amended by 61/2003 s 9	1.4.2004
Pt 3 Div 2		
s 21		
s 21(1)	amended by 61/2003 s 10	1.4.2004
s 21(3)	amended by 61/2003 Sch 2	1.4.2004
s 22		
s 22(2)	<i>deleted by 61/2003 s 11</i>	<i>1.4.2004</i>
s 24		
s 24(1)	amended by 61/2003 s 12	1.4.2004
s 26		
s 26(4)	amended by 61/2003 s 13	1.4.2004
Pt 3 Div 3	substituted by 61/2003 s 14	1.4.2004

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Pt 3 Div 4		
s 34		
s 34(1)	amended by 61/2003 s 15(1)	1.4.2004
s 34(2)	substituted by 61/2003 s 15(2)	1.4.2004
s 34(3) and (4)	inserted by 61/2003 s 15(2)	1.4.2004
s 35		
s 35(1)	substituted by 61/2003 s 16	1.4.2004
s 36		
s 36(1)	amended by 82/1995 s 18(a)	10.3.1997
	amended by 61/2003 s 17(1)	1.4.2004
s 36(4)	amended by 61/2003 s 17(2)	1.4.2004
s 36(6)	amended by 82/1995 s 18(b)	10.3.1997
s 37		
s 37(1)	amended by 82/1995 s 19	10.3.1997
	substituted by 61/2003 s 18(1)	1.4.2004
s 37(2)	<i>deleted by 61/2003 s 18(1)</i>	<i>1.4.2004</i>
s 37(3)	amended by 61/2003 s 18(2)	1.4.2004
s 38		
s 38(1)	amended by 82/1995 s 20(a)	10.3.1997
	amended by 61/2003 s 19(1)	1.4.2004
s 38(2) and (3)	substituted by 82/1995 s 20(b)	10.3.1997
s 38(4) and (5)	<i>deleted by 82/1995 s 20(b)</i>	<i>10.3.1997</i>
s 38(6)	amended by 82/1995 s 20(c)	10.3.1997
	amended by 61/2003 s 19(2)	1.4.2004
s 38(8)	amended by 82/1995 s 20(d)	10.3.1997
s 38(9)	amended by 82/1995 s 20(e)	10.3.1997
s 38A	inserted by 82/1995 s 21	10.3.1997
	amended by 4/2000 s 9(1) (Sch 1 cl 43(a))	1.6.2000
s 39	amended by 82/1995 s 22	10.3.1997
s 40		
s 40(1)	amended by 82/1995 s 23(a)	10.3.1997
s 40(2)	amended by 82/1995 s 23(b)	10.3.1997
	substituted by 61/2003 s 20	1.4.2004
s 40(3)	amended by 82/1995 s 23(c)	10.3.1997
s 40(4)	amended by 82/1995 s 23(d)	10.3.1997
s 41		
s 41(1)	amended by 82/1995 s 24(a)	10.3.1997
s 41(2)	amended by 82/1995 s 24(b)	10.3.1997
Pt 3 Div 5	heading amended by 82/1995 s 25	10.3.1997
s 42		
s 42(1)	amended by 82/1995 s 26(a)	10.3.1997
s 42(2)	amended by 82/1995 s 26(b)	10.3.1997
	amended by 4/2000 s 9(1) (Sch 1 cl 43(b))	1.6.2000

## Survey Act 1992—1.1.2012 to 14.3.2017

### Legislative history

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<i>s 42(3)</i>	<i>amended by 82/1995 s 26(c)</i>	10.3.1997
	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 43(c))</i>	1.6.2000
<i>s 42(4)</i>	<i>amended by 82/1995 s 26(d)</i>	10.3.1997
	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 43(d))</i>	1.6.2000
<i>s 42(5)</i>	<i>amended by 82/1995 s 26(e)</i>	10.3.1997
<i>s 42(8)</i>	<i>amended by 82/1995 s 26(f)</i>	10.3.1997
Pt 4		
<i>s 44</i>		
<i>s 44(1)</i>	<i>amended by 82/1995 s 27</i>	10.3.1997
	<i>amended by 84/2009 s 353</i>	1.2.2010
<i>s 44(4)</i>	<i>amended by 61/2003 s 21</i>	1.4.2004
Pt 5		
<i>s 50</i>		
<i>s 50(1a)</i>	<i>inserted by 64/1999 s 10(a)</i>	1.1.2000
<i>s 50(2)</i>	<i>amended by 64/1999 s 10(b)</i>	1.1.2000
<i>s 50(4)</i>	<i>deleted by 64/1999 s 10(c)</i>	1.1.2000
<i>s 51</i>		
<i>s 51(3)</i>	<i>amended by 64/1999 s 10(d)</i>	1.1.2000
<i>s 51(4)</i>	<i>amended by 64/1999 s 10(e)</i>	1.1.2000
<i>s 51(5a)</i>	<i>inserted by 64/1999 s 10(f)</i>	1.1.2000
Pt 6		
<i>s 55A</i>	<i>inserted by 61/2003 s 22</i>	1.4.2004
<i>s 55B</i>	<i>inserted by 61/2003 s 22</i>	1.4.2004
	<b><i>deleted by 36/2011 s 29</i></b>	<b>1.1.2012</b>
<i>s 59A</i>	<i>inserted by 82/1995 s 28</i>	10.3.1997
<i>s 61</i>		
<i>s 61(1)</i>	<i>substituted by 61/2003 s 23</i>	1.4.2004
<i>s 61(2)</i>	<i>deleted by 61/2003 s 23</i>	1.4.2004
Sch 1	<i>inserted by 82/1995 s 29 (Sch 1)</i>	10.3.1997
<i>scl (5)</i>	<i>amended by 4/2000 s 9(1) (Sch 1 cl 43(e))</i>	1.6.2000
<i>Sch 2</i>	<i>Sch redesignated as Sch 2 by 82/1995 s 29</i>	10.3.1997
	<i>deleted by 61/2003 Sch 2</i>	1.4.2004

## Transitional etc provisions associated with Act or amendments

### *Statutes Repeal and Amendment (Commercial Tribunal) Act 1995*

#### 30—Transitional provision

Where an order is in force under Division 4 of Part 3 of the principal Act immediately before the commencement of this section—

- (a) imposing conditions on a person's licence or registration to practice surveying; or
- (b) suspending a person's licence or registration to practice surveying; or

(c) disqualifying a person from being licensed or registered to practice surveying, the order has effect as if it were an order of the Administrative and Disciplinary Division of the District Court under that Division of the principal Act as amended by this Act.

### ***Survey (Miscellaneous) Amendment Act 2003, Sch 1—Transitional provisions***

#### **1—Companies**

A company that was, immediately before the commencement of this section, licensed or registered as a surveyor under the principal Act will be taken to have been removed from the register of surveyors.

#### **2—Licences and registrations**

A licence or registration in force immediately before the commencement of this section remains in force until next 31 December and may then be renewed for a period of either 6 or 18 months to end on 30 June.

#### **3—Annual reports**

The first annual report required to be delivered to the Minister by the Institution of Surveyors after the commencement of this section must be in relation to the period since the last annual report, being a period of either 6 or 18 months ending on 30 June.

### **Historical versions**

Reprint No 1—10.3.1997

Reprint No 2—1.1.2000

Reprint No 3—1.6.2000

1.4.2004

16.4.2009

1.2.2010

### **Appendix—Divisional penalties and expiation fees**

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

<b>Division</b>	<b>Maximum imprisonment</b>	<b>Maximum fine</b>	<b>Expiation fee</b>
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100

**Survey Act 1992—1.1.2012 to 14.3.2017**  
Appendix—Divisional penalties and expiation fees

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<b>Division</b>	<b>Maximum imprisonment</b>	<b>Maximum fine</b>	<b>Expiation fee</b>
10	–	\$200	\$75
11	–	\$100	\$50
12	–	\$50	\$25

*Note: This appendix is provided for convenience of reference only.*