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No. , 1914.

A BILL

To provide for the registration of surveyors; to authorise registered surveyors to enter any land; to regulate the practice of surveyors; to amend the Real Property Act, 1900, and certain other Acts; and for purposes of and incidental to the above objects.

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

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1. This Act shall commence on the _____ day Short title.
of _____, one thousand nine hundred and fourteen,
and may be cited as the "Land Surveyors Act, 1914."

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Act is repealed to the extent therein indicated.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

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

Wherever in any enactment reference is made to a
licensed surveyor, such reference shall be deemed to mean
a surveyor authorised by registration under this Act.

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

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

- (a) under any Act dealing with the alienation,
leasing, or occupation of Crown lands or
mining, or affecting titles to land; or
- (b) by any person having any estate or
interest in land for the purpose of any
dealing with such land.

"Board"—The Surveyors Board, constituted under Board.
this Act.

"Co-operating State"—Any Dominion, State, or Co-operating
Colony within His Majesty's Dominions as to State.
which reciprocal arrangements for the recog-
nition of the status of surveyors have been
made by the board.

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

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

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

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

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

"Surveyor"

“ Surveyor ”—A surveyor authorised by registration under this Act. Surveyor.

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

“ This Act ”—This Act and any regulations made thereunder. This Act.

The Surveyors Board.

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

5. Within three months after the commencement of this Act, and in the month of January in every third year after the year one thousand nine hundred and fifteen, the Surveyor-General may nominate to the Minister for his approval any two persons, being surveyors holding office under the Government, and the council of the Institution of Surveyors may so nominate two persons, being full members of such institution, to be members of the board, and the Minister, as soon as practicable after the receipt of such nominations, shall if he approves, recommend to the Governor the appointment of such persons as members of the board. But if the full number have not been so nominated, the Minister shall recommend to the Governor the appointment of such other persons as will complete the number of four persons to be appointed members of the board : Nomination and appointment of members.

Provided that the persons nominated by the Surveyor-General within three months after the commencement of this Act shall be persons entitled to be registered as surveyors under this Act.

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The Governor shall, by notification in the Gazette, appoint the persons so recommended to be members of the board.

6. (1) Subject to the provisions of this Act, the members of the board appointed as aforesaid shall hold office from their appointment until new members are appointed as hereinbefore provided, and no longer. Tenure of office by members.

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

(3) The Governor may, by notice in the Gazette, remove any person appointed as aforesaid from the board, and such person shall cease to be a member of the board from such date as may be mentioned in such notice. Member may be removed.

(4) The Governor may fill up any vacancy caused by such resignation or removal, or by the death of any member of the board, by the appointment by notice in the Gazette of any person nominated by the Surveyor-General or nominated by the council of the Institution of Surveyors, and approved by the Minister, according as the person whose place is to be filled was nominated by the Surveyor-General or such council; or if no person is so nominated within twenty-eight days from the resignation, removal, or death of a member, by the appointment of any person recommended by the Minister. Appointment of new members.

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

Registration of surveyors.

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

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

(b)

- (b) holds a license to survey issued before the commencement of this Act by the Surveyor-General or the Chief Surveyor of the Department of Lands; or
- (c) has obtained the prescribed certificate of competency after the prescribed examination; or
- (d) is qualified to practise as a surveyor in any co-operating State, and has otherwise complied with any conditions authorised by this Act; or
- (e) has passed in any country outside New South Wales, not being a co-operating State, an examination recognised by the board as being equivalent to the prescribed examination, and has also passed such further examination or has completed such field service with a surveyor in New South Wales, or both of these, as the board may require; and
- (f) has made a declaration before a justice of the peace in the form of the Second Schedule to this Act: Schedule.

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

No fee for registration shall be payable by any person who holds a license to survey issued before the commencement of this Act by the Surveyor-General or the Chief Surveyor of the Department of Lands.

8. (1) The board may require the attendance of any person who applies for registration, and of any other person, and may examine or question any such persons or any witnesses who may attend before the board, upon oath, affirmation, or otherwise, and for any such purposes the president may administer an oath or affirmation. Board may require attendance of any person.

(2) Every summons issued by the board requiring the attendance of any person or the production of any documents shall have the same effect as a subpoena issued

issued by the Supreme Court in a civil action; and the obedience thereto may be enforced or the non-observance thereof may be punished by a judge of the said court sitting in chambers in the same manner as in the case of the disobedience or non-observance of a subpoena issued by the said court.

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

Examinations.

Reciprocal arrangements.

10. The board may enter into a reciprocal arrangement with the Surveyors Board or other competent authority of any Dominion, State, or Colony within His Majesty's Dominions for the recognition of the status of any person authorised by such board or other authority to practise as a surveyor in such Dominion, State, or Colony, and the registration of such person as a surveyor under this Act.

Reciprocity.

Any such arrangement may contain a condition that any such person applying to be registered under this Act shall furnish additional satisfactory evidence of character and competency.

The register of surveyors.

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

Board shall keep a register.

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

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

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

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12. The board shall from time to time erase any entry in the register which is proved to their satisfaction to have been fraudulently or incorrectly made or procured. Certain entries to be erased.

Powers and duties of registered surveyors.

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

(2) After the expiration of twelve months from the commencement of this Act, no person who is not registered under this Act, or who is under suspension from practice as a surveyor, shall practise as a surveyor, or make any authorised survey. Surveys by surveyors.

(3) Any person who practises as a surveyor, or makes or attempts to make any authorised survey, contrary to this section shall be liable to a penalty not exceeding *fifty* pounds.

14. In making any authorised survey or for any purpose relating thereto, a surveyor, with his assistants, may enter any land, and for that purpose may open any fence. Surveyor may enter upon lands to survey.

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

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

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

Charges

Charges against surveyors.

16. Upon a charge duly made and after inquiry, if it is shown with respect to any surveyor that—

Power of board to deal with offences.

- (a) he has certified to the accuracy of any authorised survey, knowing the same to be inaccurate, or has negligently certified as aforesaid, without having taken reasonable precautions to verify the accuracy thereof; or
- (b) he wilfully or by culpable negligence has made, or caused to be made under his immediate supervision, any authorised survey which is so inaccurate or defective as to be unreliable; or
- (c) his certificate of competency has been obtained by fraud; or
- (d) after registration, he has been convicted of any misdemeanour or crime; or
- (e) he has been guilty of such improper conduct as in the opinion of the board renders him unfit to practise as a surveyor; or
- (f) his certificate, license, or registration in any co-operating State has been suspended or cancelled in such State;

the board may—

- (i) erase the name of such surveyor from the register; or
- (ii) suspend such surveyor from practice as a surveyor for any period not exceeding three years, and the details of such suspension shall be entered in the register; or
- (iii) caution such surveyor and order him to pay the cost of the correction of an error due to his negligence or omission.

The board may reinstate a surveyor whose name has been erased from the register, or who has been suspended from practice.

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

17. (1) Every charge against a surveyor under the last preceding section shall be submitted to the board in writing

Charge against a surveyor to be made in writing.

writing, signed by the person making the charge; and, if it appears to the board that the charge is one into which an inquiry should be held, the board shall fix a time and place for that purpose.

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

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

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

18. (1) Any person dissatisfied with any decision of the board upon any question other than a question of law may address a memorial to the Governor stating the grounds of his complaint; and the Governor may, after due inquiry, make such order in the matter as to him seems just; and any such order shall be final and without appeal, and shall be observed by the board and every person concerned. Appeal.

(2) An appeal shall lie from every decision of the board to the Supreme Court on any question of law.

The appellant shall serve notice of appeal, stating the grounds thereof, upon the board not later than thirty days after the pronouncing of the decision, and at least thirty days before the date of the appeal.

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

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

General

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General and supplemental.

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

Board may sue.

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

Recovery of penalties, &c.

20. The Minister, on the recommendation of the board, may appoint examiners and such officers and persons as may be necessary for carrying out the provisions of this Act.

Ministers appoint examiners and other officers.

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

Payment of salaries and fees.

21. All moneys received by the board shall be paid into the Treasury to the account of the Consolidated Revenue Fund.

Fees to be paid into Consolidated Revenue.

22. The board shall furnish to the Minister such reports, accounts, vouchers, and documents relating to any matter intrusted to or performed by the board, as the Minister may require.

Board to furnish accounts.

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

Board may make regulations.

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

Preliminary conditions of examination.

(b) Regulating the meetings and proceedings of the board and the conduct of the business thereof; the election of a member to perform the duties of the president during the absence of the president.

Meetings, &c.

(c) Regulating the manner of keeping the register.

Register.

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

Forms.

(e)

- (e) Determining the evidence to be produced and conditions to be fulfilled by any person applying for registration under this Act. Applications for registration.
- (f) Regulating the granting of certificates of competency. Certificates.
- (g) Prescribing what certificates, diplomas, memberships, degrees, licenses, letters, testimonial, or other titles, status, or documents, will be recognised by the board as qualifying persons holding them or any of them to be registered as surveyors, whether immediately or after further examination or field service, or both. Recognised certificates.
- (h) Prescribing fees to be paid in respect of any application, examination, registration, certificate, inspection, or other proceeding, act, or thing provided or required under this Act. Fees.
- (i) Requiring and regulating the registration of all contracts and articles of apprenticeship or pupilage under which apprentices or pupils in surveying are serving. Apprenticeship.
- (j) Regulating the conduct of proceedings in connection with charges against surveyors. Complaints.
- (k) For the direction and guidance of surveyors in carrying out surveys, and matters incidental to or consequent on surveys, under the provisions of the Acts relating to Crown Lands, Mining, and Real Property, or required for the purpose of any dealings with land. Information and guidance.
- (l) Generally for carrying into effect the objects of this Act. General.

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

(3) Any regulations affecting the survey of lands for the purpose of the Real Property Act, 1900, shall be submitted to the Registrar-General, who may report to the Minister.

(4) All such regulations upon being so approved shall be published in the Gazette, and shall thereupon have the force of law, and shall be judicially noticed.

(5) Any such regulation may be rescinded at any time by the Governor by notification in the Gazette.

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24. (1) The production of a copy of the Gazette purporting to contain any notification required to be published therein relating to any appointment, register, registration, erasure, suspension, reinstatement, regulations, or any other matter under or for the purposes of this Act shall be received in all courts as prima facie evidence of the facts therein published. Evidence.

(2) Every court shall take judicial notice of the signature of the President of the board.

(3) In any proceeding by or on behalf of the board, it shall not be necessary to prove the appointment of the members or president.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

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

SECOND SCHEDULE.

Section 7.

I, A.B., do hereby solemnly and sincerely declare that I will, to the best of my ability, and without partiality, favour, or affection, correctly survey, delineate, and mark in accordance with the regulations under the Land Surveyors Act, 1914, the boundaries of any lands I may be instructed or employed to survey.

Declared day of , 19 , before me,
A.B.
J.K., Justice of the Peace.