



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 36 of 1969

An Act to provide for the Licensing of Land Valuers,
and for other purposes.

[Assented to 6th November, 1969.]

BE IT ENACTED by the Governor of the State of South
Australia, with the advice and consent of the Parliament
thereof, as follows :

1. This Act may be cited as the "Land Valuers Licensing Act, 1969". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. In this Act, unless the contrary intention appears— Interpretation.
 - "the board" means the Land Valuers Licensing Board :
 - "legal practitioner" means a person whose name is on the roll of practitioners of the Supreme Court of South Australia :
 - "licensed valuer" means a person who holds a licence granted under section 10 of this Act.
4. (1) There shall be a board entitled the "Land Valuers Licensing Board". Constitution of board.
 - (2) The board shall consist of five persons appointed by the Governor of whom—
 - (a) three shall be persons nominated by the Minister of whom one, who shall be appointed by the Governor to be chairman of the board, shall be a legal practitioner of not less than seven years' standing ;

(b) one shall be a person experienced in the valuation of land, who has been nominated by the Commonwealth Institute of Valuers Incorporated South Australian Division ;

and

(c) one shall be a person experienced in the valuation of land, who is a member of the Valuers' Division of the Real Estate Institute of South Australia Incorporated and has been nominated by that Institute.

(3) Whenever a nomination is required for the appointment of a member of the board, the Minister may, by written notice addressed to the body required to make the nomination and served personally or by post upon it, request it to make the nomination within twenty-one days of the date of the notice, or such longer period as is specified in the notice, and if no nomination is made in accordance with that request, the Governor may appoint a person nominated by the Minister to be a member of the board in lieu of a nominee of the body requested to make the nomination, and a person so appointed shall, for all purposes, be deemed to have been duly appointed upon the nomination of that body.

(4) The Governor may appoint a member of the board to be secretary of the board.

Conditions of membership.

5. (1) Subject to this Act, a member of the board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) If a member of the board is unable to act because of illness or any other cause, the Governor may appoint a suitable person to be a deputy of the member, and such a person, while so acting, shall be deemed to be a member of the board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(3) The Governor may remove a member of the board from office for—

(a) mental or physical incapacity ;

(b) neglect of duty ;

(c) dishonourable conduct ;

or

(d) any other cause deemed sufficient by the Governor.

(4) The office of a member of the board shall become vacant if—

- (a) he dies ;
- (b) his term of office expires ;
- (c) he resigns by written notice given to the Minister ;
- (d) he is removed from office by the Governor pursuant to subsection (3) of this section ;
- (e) he is absent without leave of the Governor from four consecutive meetings of the board ;

or

- (f) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, or compounds with his creditors for less than one hundred cents in the dollar.

(5) Upon the office of a member of the board becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member of the board becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall hold office only for the balance of the term of his predecessor.

6. (1) Three members of the board (including at least one of the members referred to in paragraphs (b) and (c) of subsection (2) of section 4 of this Act) shall constitute a quorum of the board and no business shall be transacted at a meeting of the board unless a quorum is present. Quorum, etc.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the board, shall be a decision of the board.

(3) The chairman shall preside at a meeting of the board, and in addition to a deliberative vote, shall, in the event of an equality of votes, have a second or casting vote.

(4) In the absence of the chairman from a meeting of the board, the members present shall elect one of their number to be chairman for that meeting, and, a member so elected shall perform and discharge the functions and obligations of chairman at that meeting.

7. (1) An act or proceeding of the board shall not be invalid by reason only of a vacancy in its membership, and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly nominated or appointed. Act or proceeding not to be invalid, etc.

(2) No liability shall attach to a member of the board for any act or omission by him, or by the board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act.

Allowances
and expenses.

8. The members of the board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

Board may
employ persons
to assist it.

9. With the approval of the Minister, the board may employ legal practitioners and other persons to assist it in the performance and discharge of its functions and duties.

Licensing.

10. (1) The board may grant a licence under this Act to any person who satisfies the board, by such evidence as it may require, that he is a person of good character and repute and is competent to carry out the duties of a licensed valuer and who—

(a) applies for a licence within twelve months after the commencement of this Act and has had, in the opinion of the board, within the period of ten years immediately preceding the date of his application, not less than five years' satisfactory practical experience in the valuation of land ;

or

(b) applies for a licence within five years after the commencement of this Act, has passed the examinations conducted by the board, and has had, in the opinion of the board, within the period of ten years immediately preceding the date of his application, not less than four years' satisfactory practical experience in the valuation of land ;

or

(c) is the holder of a prescribed qualification certificate or diploma and has had, in the opinion of the board, within the period of ten years immediately preceding the date of his application, not less than four years' satisfactory practical experience in the valuation of land.

(2) The board may conduct, or cause to be conducted, such examinations of persons desiring to be licensed under this Act as the board thinks necessary.

(3) The board may, with the approval of the Minister, appoint such examiners as it thinks necessary for the purposes of this section and a person so appointed shall be entitled to such remuneration, allowances and expenses as may be determined by the board and approved by the Minister.

(4) A person may in the prescribed manner and form, object to the grant of a licence.

(5) The board shall, before granting a licence consider all objections duly made to the grant of the licence and may cause such enquiries to be made as to the applicant for the licence as it thinks fit.

11. Neither the board nor any of its members shall be debarred from hearing and determining any application by reason of the fact that the board or any member has authorized or taken part in an investigation in connection with the application.

Members of board taking part in investigation.

12. (1) Subject to this Act, a licence shall remain in force until the thirtieth day of June next ensuing after the day on which it was granted.

Expiry and surrender of licence.

(2) Upon application in the prescribed manner and form being made by the holder of a licence not later than the first day of June preceding the date of expiry of the licence and payment of the prescribed fee, the board shall renew the licence for a further period of twelve months.

(3) A licensed valuer may, with the consent of the board, surrender his licence and the licence shall thereupon become and be void and of no effect.

13. A person who is required to hold a licence for the purpose of his employment in the Public Service of the State, or by the Government of the State, shall be exempt from payment of fees for the grant or renewal of a licence under this Act.

Valuers in employ of Government exempt from fees.

14. A licensed valuer shall be exempt from the provisions of the Appraisers Act, 1934-1961.

Exemption.

15. A person who has applied for, and is qualified to hold a licence under this Act shall, before being granted any such licence, make on oath a declaration in the prescribed form that he will make every valuation impartially.

Declaration by land valuer.

16. (1) The board shall keep, or cause to be kept, a register of persons licensed under this Act.

Register.

(2) The register shall contain the names and addresses of persons licensed under this Act, and such information in relation to their qualifications as the board thinks fit.

(3) The name of any person who ceases to hold a licence under this Act shall be removed from the register.

Lists.

17. (1) A list of the names and descriptions of all persons holding licences under this Act as on a date to be therein specified, together with such of the relevant particulars appearing in the register as the board thinks fit, shall be published in the *Gazette* at least once in each year.

(2) The board may cause such supplementary lists to be published in the *Gazette* as it thinks fit.

(3) The production of copies of the *Gazette* containing the list and all supplementary lists for any year shall, until the contrary is proved, be evidence in all judicial proceedings of the contents of the register in that year and the absence of the name of any person from the list and supplementary lists for any year shall, until the contrary is proved, be sufficient evidence that that person was not licensed in that year.

(4) A certificate under the hand of the secretary certifying that any person is or is not licensed at the date of the certificate, or as to any other matter concerning the contents of the register shall, in all judicial proceedings, be sufficient evidence of the fact or facts therein certified, and judicial notice shall be taken of the signature of the secretary.

(5) The secretary shall, upon receipt of a request in writing by any person and payment of the prescribed fee, issue a certificate as to whether a person is or is not licensed under this Act, or as to any other matter concerning the contents of the register.

Inquiries.

18. (1) The board may, of its own motion, or pursuant to a complaint made to it by any person concerning the conduct of a licensed valuer, inquire into the conduct of the licensed valuer.

(2) At any such inquiry the licensed valuer shall be entitled to appear personally or by counsel or representative, and the board may be assisted by counsel.

(3) If so requested by the licensed valuer the board shall, or if the board thinks fit it may, permit members of the public to have access to the inquiry.

(4) The board may conduct the inquiry in such manner as it thinks fit.

(5) If the board finds on any inquiry that a licensed valuer has been guilty of negligence or incompetence in making a valuation, is mentally or physically unfit to perform the functions of a licensed valuer, is guilty or has been convicted of any offence punishable by imprisonment, has obtained his licence by fraud or in any other improper manner, or is guilty of any conduct discreditable to a licensed valuer the board may do one or more of the following—

- (a) reprimand the licensed valuer ;
- (b) order the licensed valuer to pay the costs of and incidental to the inquiry ;
- (c) impose a fine, not exceeding one hundred dollars on the licensed valuer ;
- (d) disqualify the licensed valuer from holding a licence either temporarily or permanently, or until the fulfilment of a condition imposed by the board, or until the further order of the board ;

or

- (e) cancel the licence.

(6) A person who is aggrieved by a determination of the board may, within one month after the date of the determination, or within such further period as a judge of the Supreme Court may allow, appeal therefrom to a judge of the Supreme Court.

(7) Any such appeal shall be by way of a re-hearing and the judge may make such order thereupon as he deems just.

(8) The procedure upon the hearing of an appeal shall conform as nearly as possible to the procedure upon the hearing of an appeal under the Justices Act, 1921-1965.

(9) If the board imposes any penalty pursuant to this section, it shall, if so required by the person penalized, state in writing its reasons for imposing that penalty.

(10) The board may, upon application by a person whose licence has been cancelled pursuant to this section, if it considers that proper cause exists for so doing, revoke the cancellation of the licence and grant to that person a new licence under this Act.

19. (1) Where the board has made an order for the payment of a fine or costs against a licensed valuer and the fine or costs is or are not paid within the time fixed by the board, the board may suspend the licence of that person until the fine or costs is or are paid, or for such period as the board thinks fit.

Recovery of
fines and costs.

(2) A record of the suspension of a licence shall be made in the register, and the holder of the licence shall, while the licence remains suspended, be deemed to be unlicensed.

(3) Where the board has made an order for the payment of a fine or costs, the fine or costs shall be recoverable summarily.

Powers of
board to
summon
witnesses, etc.

20. (1) For the purpose of hearing and determining any application or inquiry under this Act, the board may—

- (a) by summons signed on behalf of the board by a member of the board, require the attendance before the board of any person whom the board thinks fit to call before it ;
- (b) by notice in writing signed on behalf of the board by a member of the board, require the production of any books, papers or documents ;
- (c) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make any copies of them or of any of their contents ;
- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him relevant to any matter being inquired into by the board, which oath or affirmation may be administered by any member of the board ;

or

- (e) require any person appearing before the board, whether upon summons or otherwise, to answer any relevant questions put to him by any member of the board, or by any person appearing before the board.

(2) If a person—

- (a) who has been served with a summons to attend before the board, does not attend in obedience to the summons ;
- (b) who has been served with a notice to produce books, papers or documents, refuses or fails to comply with the notice ;
- (c) when required by the board to take an oath or affirmation, refuses to do so ;
- (d) when required by the board to answer any relevant question put to him, refuses to do so ;
- (e) wilfully insults the board or any member thereof ;
- (f) misbehaves himself before the board ;

or

(g) interrupts the proceedings of the board,
he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

21. (1) After the expiration of twelve months from the commencement of this Act, a person shall not carry on business or by any means hold himself out, as a valuer of land or real estate or of any estate or interest therein unless he is licensed under this Act. Offence.

Penalty : Two hundred dollars.

(2) This section does not prevent the employment of a student undertaking a prescribed course of study in the valuation of land and real estate, in performing and discharging under the supervision of the licensed valuer, functions and duties connected with the valuation of land and real estate.

22. (1) In any legal proceedings, the production of a document purporting to be a licence granted by the board to any person and purporting to be or to have been in force during any period, shall be *prima facie* evidence that that person was a licensed valuer at any time during that period. Evidence.

(2) An allegation in a complaint that a person named therein was not licensed under this Act at any time specified in the complaint shall be *prima facie* evidence of that fact.

23. Proceedings for offences against this Act shall be disposed of summarily. Summary disposal of offences.

24. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes. Financial provision.

25. The Governor may make such regulations as he deems necessary or expedient for the purposes of this Act, and, without limiting the generality of the foregoing, regulations— Regulations.

- (a) prescribing the times and places at which examinations shall be held under section 10 of this Act, and the manner in which those examinations shall be conducted ;
- (b) prescribing the subjects of examination ;
- (c) prescribing, and providing for the payment of, fees by candidates for examination ;
- (d) prescribing the manner and form in which application for a licence and the renewal of a licence under this Act shall be made, and providing that an application for a licence shall be advertised and prescribing the manner and form in which it shall be advertised ;
- (e) prescribing the manner and form in which an objection to the grant of a licence may be made ;

- (f) prescribing, and providing for the payment of, fees for a licence and the renewal of a licence under this Act ;
 - (g) prescribing qualifications, certificates and diplomas for the purposes of section 10 of this Act ;
 - (h) prescribing a code of ethics to be observed and obeyed by all licensed valuers, and providing that a breach or non-observance of the code shall constitute conduct discreditable to a licensed valuer ;
 - (i) prescribing various maximum rates of charges that may be made by licensed valuers for services of various kinds defined in the regulations ;
- and
- (j) prescribing the penalties (recoverable summarily) not exceeding two hundred dollars for breach of, or non-compliance with, the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. W. HARRISON, Governor.