

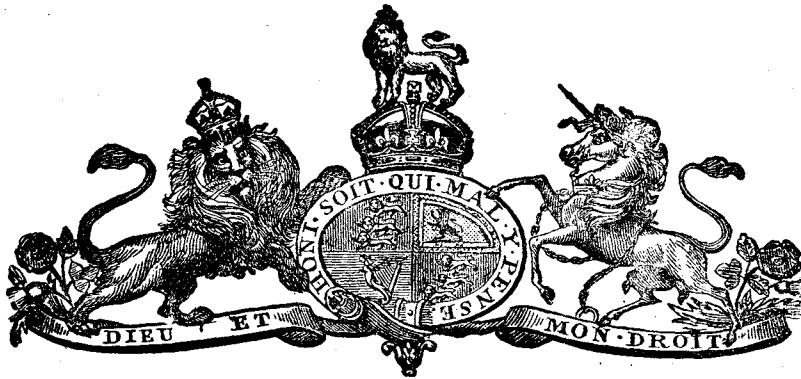
# THE LAND SURVEYORS ACT, 1903.

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T A S M A N I A.

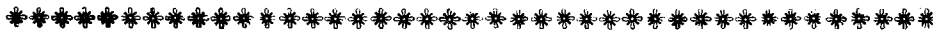


1909.

ANNO NONO

EDWARDI VII. REGIS,

No. 45.



AN ACT to provide for the Registration of <sup>A.D.</sup> 1909.  
Land Surveyors, to Control the Practice of  
such Surveyors, and for other purposes.  
[30 December, 1909.]

**BE** it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

**1** This Act may be cited as “The Land Surveyors Act, 1909,” and shall commence and take effect on and from the First day of *January*, One thousand nine hundred and ten. Short title and commencement of Act.

**2** Sections Thirteen and Fourteen, and Paragraph One of Sub-section (1) of Section One hundred and eighty-seven of “The Crown Lands Act, 1903,” are repealed. Repeal. 3 Ed. VII. No. 39, ss. 13 & 14, & par. 1 of subsec. (1) of s. 187.

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

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Interpretation.

"Authorised survey."

"Board."

"Co-operating State."

"Institution."

"Minister."

"Published."

"Register."

"Surveyor."

"Surveyor-General."

"This Act."

Constitution of Surveyors' Board.

**3** In this Act, unless the context otherwise indicates—

"Authorised survey" means a survey of land authorised or required—

i. Under any Act dealing with the sale, alienation, leasing, disposal, and occupation of Crown lands, or relating to mines or mining, or affecting titles to land, or relating to transfer and encumbrance of interests in land ;

ii. By the proprietor, lessee, encumbrancee or mortgagee under any Act affecting titles to land, or relating to transfer and encumbrance of interests in land :

"Board" means the Surveyors' Board, constituted under this Act :

"Co-operating State" means and includes any State or colony within His Majesty's dominions with which reciprocal arrangements have been made by the Board for the recognition of the status of surveyors :

"Institution" means the Institution of Surveyors, *Tasmania* (Incorporated):

"Minister" means the Minister of Lands and Works or other Minister of the Crown for the time being charged with the administration of this Act :

"Published" means published in such manner, whether by advertisement or otherwise, as the Board thinks expedient :

"Register" means the Register of Surveyors directed by this Act to be kept :

"Surveyor" means a surveyor authorised by registration under this Act :

"Surveyor-General" means the person for the time being holding the office of Surveyor-General under "The Crown Lands Act, 1903 :"

"This Act" means and includes this Act and any by-laws made thereunder.

**4**—(1) For the effectual execution of this Act there shall be constituted a Board, consisting of Seven persons, being surveyors, which shall be called "The Surveyors' Board."(2.) The Surveyor-General shall always be *ex officio* a member of the Board and the President thereof.

(3.) Three members of the Board shall be appointed by the Governor.

(4.) Three members of the Board shall be appointed by the Governor on the nomination of the Institution.

(5.) The first appointments of members of the Board shall be made in the month of *January*, One thousand nine hundred and ten. The members so appointed shall be persons entitled to be registered as surveyors under this Act, and shall hold office until Twelve o'clock noon of the day on which their successors are gazetted as appointed.

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The names of the first members of the Board shall be published in the *Gazette*, and thereupon the Board shall be deemed to be duly constituted under this Act. A.D. 1909.

(6.) Appointments of members of the Board shall thereafter be made in the month of *January* in every succeeding Third year.

(7.) All persons who may become members of the Board, other than the *ex officio* member, shall vacate office at Twelve o'clock noon of the day on which their successors are gazetted as appointed.

(8.) Every member of the Board going out of office shall, unless otherwise ineligible, be eligible for reappointment.

(9.) If in any year the Institution fails in the nomination of any person or persons to be a member or members before the Seventh day of *January*, an appointment or appointments shall be made by the Governor without nomination.

(10.) If any member of the Board—

- i. Fails to obtain registration under this Act, or ceases to be registered : or
- ii. Is suspended from practice as a surveyor : or
- iii. Dies : or
- iv. Resigns : or
- v. Ceases to reside in the State : or
- vi. Becomes insolvent : or
- vii. Becomes insane : or
- viii. Absents himself from Three consecutive meetings of the Board without leave obtained from the Board in that behalf : or
- ix. Is declared by resolution of an absolute majority in number of the members of the Board to be unfit to remain a member of the Board—

his seat shall become vacant, and the Governor shall fill up the vacancy by the appointment of some surveyor.

(11.) Every appointment of a member or members shall be notified in the *Gazette*.

**5** The rules set forth in the First Schedule to this Act shall apply to the business, conduct, and proceedings of the Board, and shall be observed. Rules for conduct of the Board. First Schedule.

**6** The Board—

- i. May from time to time appoint a secretary and such examiners as it thinks necessary for giving effect to this Act : and
  - ii. May out of the funds at its disposal pay to the secretary such salary as it thinks fit, and to such examiners such fees as may be prescribed.
- Board may appoint secretary and examiners.

All such persons shall hold office during the pleasure of the Board.  
No member of the Board shall receive payment for his services in the capacity of such member.

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Nothing in this Act shall be construed to prevent the Board from—

- i. Appointing one of its members to be the secretary, or one or more of its members to be an examiner or examiners: or
- ii. Paying any member so appointed for his services.

Persons entitled  
to be registered.  
Second Schedule.

**7—(1.)** Subject to this Act, every 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—

- i. Has attained the age of Twenty-one years, and is of good fame and character: and
- ii. Holds a surveyor's certificate from the Commissioner of Crown Lands granted before the commencement of this Act, or has been gazetted a surveyor before the commencement of this Act: or
- iii. Has obtained the prescribed certificate of competency after the prescribed examination: or
- iv. Is qualified to practise as a surveyor in any co-operating State, and has otherwise complied with any conditions authorised by this Act: or
- v. Has passed in any country outside *Tasmania*, 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 *Tasmania*, or both of these, as the Board may require: and
- vi. Has made a declaration before a justice in the form of the Second Schedule to this Act.

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

(2.) Every person entitled to be registered as a surveyor shall pay to the Board upon or prior to registration, and thereafter annually, such fee, not exceeding One Pound One Shilling, as the by-laws prescribe.

Board may  
require attend-  
ance of any  
person.

**8—(1.)** The Board may require the attendance of any person who applies for registration or for an annual certificate, 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 Chairman may administer an oath or affirmation.

(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 by the Supreme Court in a civil action; and the obedience thereto or non-observance thereof may be enforced and 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.



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**9**—(1.) 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.

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— —  
Examinations.

(2.) No person shall be admitted to the final qualifying examination unless he has attained the age of Twenty years and has fulfilled all the conditions prescribed.

(3.) The Board, instead of requiring any person to pass an examination in all the prescribed subjects, may accept in substitution for the whole or any part thereof a certificate of examination in any subject or subjects, granted by any university established within the Commonwealth, or by any public educational institution now or hereafter to be established in *Tasmania*.

Examination by  
university, &c.

Such certificate of examination shall have the like force and effect as if such examination had been held by the Board.

**10** The Board may enter into a reciprocal arrangement with the Surveyors' Board or other competent authority of any 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 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.

**11**—(1.) The Board shall upon registration, and thereafter annually upon payment therefor of the prescribed fees, issue to every surveyor entitled to practise, and applying for the same, a certificate in the form in the Third Schedule to this Act.

Board to issue  
certificates.

Third Schedule.

(2.) Such certificate shall be in force until and inclusive of the Thirty-first day of *December* next after the issue thereof.

(3.) Any certificate, if it purports to be signed by the President and Secretary of the Board, shall be evidence of the matters stated therein, without proof of the signatures or of the official character of the persons appearing to have signed the same.

Evidence.

**12**—(1.) The Board shall cause an official register to be kept, which shall contain the names, addresses, and qualifications of all surveyors entitled to practise as such, and the respective dates on which they were registered, or on which certificates were issued to them under this Act.

Board shall keep  
a register.

(2.) The register shall at all times be open to inspection by any person on payment of the prescribed fee.

(3.) A list shall be published annually by the Board containing the names and address of every surveyor who at the time of such publication is entitled to practise, and also the date of the issue to him of his certificate for the current year.

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Copy of register,  
&c., evidence.

(4.) A copy of or extract from the register or from the minutes of the Board, purporting to be certified as a true copy or extract, shall in all proceedings whatsoever be *prima facie* evidence of the matters mentioned or referred to in such copy or extract, without proof being required of the handwriting or official position of the person certifying.

Certain entries to  
be erased.

**13**—(1.) The Board shall from time to time erase any entry in the register which is proved to its satisfaction to have been fraudulently or incorrectly made.

(2.) The Secretary shall from time to time erase the names of all surveyors who have died, and shall make such alterations and amendments in the register as the Board may from time to time direct, for the purpose of making the same an accurate record of the names, addresses, and qualifications of the surveyors for the time being.

(3.) The Board may erase from the register the name of any surveyor who is in arrear for Three months in the payment of any fees payable by him under this Act, provided that a demand for payment of such fees has been made to the satisfaction of the Board.

(4.) Any name erased from the register under this section may be restored by the Board.

Powers of  
surveyor.

**14**—(1.) Subject to this Act, a surveyor who holds a certificate issued to him and in force under this Act shall be entitled to practise as a surveyor and to make authorised surveys.

Surveys by  
surveyors.

(2.) After the expiration of Six months from the commencement of this Act, no person—

I. Who is not the holder of a certificate issued to him and in force under this Act : or

II. Who is under suspension from practice as a surveyor—  
shall practise as a surveyor, or make or attempt to make any authorised survey.

Penalty : Fifty Pounds.

Surveyor may  
enter upon lands  
to survey.

**15** In making any authorised survey, or for any purpose relating thereto, a surveyor, with his assistants, may open any fence and may enter upon any land.

Provided that in the case of occupied land Twenty-four hours' notice in writing shall be given to the occupier thereof before entering thereon.

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 obstructing a surveyor or his assistants in the exercise of the powers hereby conferred shall be liable on conviction in a summary way to a penalty not exceeding Ten Pounds, which shall be considered to accrue from day to day while such obstruction lasts.



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**16** Every surveyor who makes an error in any authorised survey shall, at the request of the Surveyor-General, 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.

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Surveyors to correct errors at their own expense.

Provided that, in all cases where a mining lease has been issued in respect of a mining tenement and any error is subsequently discovered in connection with the survey of such tenement, the lessee shall be entitled to the whole of the land as originally surveyed notwithstanding such error, unless by reason of such error an encroachment may have been caused upon any other mining tenement held under a mining lease, and in that case the lessee of the tenement which was first surveyed shall be entitled to the portion of land in question.

**17** It shall be unlawful for any surveyor, directly or indirectly, to acquire any interest in any Crown land open for occupation under any Act relating to mining or to the sale, alienation, leasing, disposal, and occupation of Crown lands, if he has been or is concerned in the survey thereof.

Surveyor not to be interested in Crown land which he surveys.

**18** 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.

- i. 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
- ii. 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
- iii. His certificate of competency has been obtained by fraud: or
- iv. After registration, he has been convicted of any misdemeanour or crime: or
- v. He has been guilty of a contravention, or attempted contravention, of the last preceding section of this Act: or
- vi. He has been guilty of such conduct as in the opinion of the Board renders him unfit to practise as a surveyor: or
- vii. His certificate, licence, or registration in any other State of the Commonwealth or *New Zealand* 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 any correction of an error.

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 published by the Board.

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Charge against  
a surveyor to be  
made in writing.

Notice of inquiry.

Surveyor entitled  
to be heard in  
defence.Appeal to  
Supreme Court.Judges to make  
rules.  
19 Vict. No. 10.Apprentices to  
be permitted to  
conform to  
by-laws.

Board may sue.

**19**—(1.) Every charge against a surveyor under the last preceding section shall be submitted to the Board in 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 by the secretary 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.

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

**20**—(1.) Any person dissatisfied with any decision of the Board upon any question may appeal therefrom to the Supreme Court stating the grounds of his complaint.

The court may make such order in the matter as to the court seems just.

Any such order shall be final and without appeal, and shall be observed by the Board and every person concerned.

(2.) After any such person has lodged his notice of appeal, a judge of the Supreme Court sitting in chambers may, if he thinks fit, on application being made to him by such person, make an order entitling him to practise as a surveyor and to make authorised surveys during such period as the judge thinks fit, or until the appeal has been disposed of, and upon such terms and conditions as the judge thinks proper.

(3.) Every appeal to the Supreme Court may be heard by one judge.

(4.) The judges of the Supreme Court may from time to time make, alter, suspend, and rescind rules or orders to regulate the practice and procedure of the Supreme Court under this Act, and until such rules or orders are made, and so far as any such rules or orders when made do not apply, the provisions of "The Appeals Regulation Act," as to appeals from justices, shall, with the necessary alterations, apply to appeals under this Act.

**21** Every surveyor who has an apprentice or pupil shall permit such apprentice or pupil a reasonable time for the purpose of attending any lectures or gaining any practice which may be prescribed as part of the course of study of persons desirous of being registered as surveyors.

The provisions of this section shall be deemed to be included in all contracts or articles of apprenticeship or pupilage, and any failure or refusal to conform therewith shall be a breach of such contract or articles.

**22**—(1.) The Board may, by the Secretary or 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 for proceeding whatsoever.

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(2.) All penalties for offences against this Act, and all fees payable, may be recovered by the Board by complaint before a police magistrate or any Two or more justices of the peace. A.D. 1900.

(3.) All penalties recovered and all fees received or recovered by the Board under this Act shall be paid to the Board, and shall form part of the funds of the Board.

Recovery of penalties, &c.

**23**—(1.) The funds of the Board shall be applied by it towards the payment of all expenses necessarily incurred in carrying this Act into execution, and in doing and performing any acts and things which the Board is by this Act empowered or required to do or perform. Application of funds.

(2.) The Board may pay out of its funds any sum due under an agreement lawfully made for the purposes of this Act, and any sum recovered against the Board by process of law.

**24**—(1.) The Board, with the approval of the Governor, may from time to time make by-laws for all or any of following purposes, namely:— Board may make by-laws.

- i. 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 and act as Deputy-President during the illness or absence of the President : Meetings, &c.
- ii. Prescribing the duties of the Secretary and other officers of the Board : Officers.
- iii. Regulating the manner of keeping the register : Register.
- iv. Prescribing forms to be used for the purposes of this Act : Forms.
- v. Determining the evidence to be produced and conditions to be fulfilled by any person applying for registration under this Act : Applications for registration.
- vi. Prescribing the course of study, professional practice, conditions of service, and training and examination of persons desirous of obtaining certificates of competency entitling them to be registered as surveyors : Course of study, &c.
- vii. Regulating the granting of certificates of competency : Certificates.
- viii. Prescribing what certificates of examinations will be recognised by the Board as a substitute for the examinations of the Board : Certificates exempting from examination.
- ix. Prescribing what certificates, diplomas, memberships, degrees, licences, 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.
- x. Prescribing a scale of fees to be charged and paid in respect of any application, examination, registration, certificate, inspection, or other proceeding, act, or thing provided or required under this Act; prescribing the fees payable to examiners : Fees.

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- A.D. 1909.  
Apprenticeship. XI. Requiring and regulating the registration in the office of the Secretary of all contracts and articles of apprenticeship or pupilage under which apprentices or pupils in surveying are serving :
- Complaints. XII. Regulating the conduct of proceedings in connection with charges against surveyors :
- Information and guidance. XIII. For the direction and guidance of surveyors in carrying out the provisions of the Acts relating to Crown lands, mineral lands, and real property :
- Generally. XIV. Generally for carrying into effect the objects of this Act.  
(2.) A by-law 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.) All such by-laws upon being so approved shall be published in the *Gazette*, and shall thereupon have the force of law, and shall be judicially noticed.  
(4.) Any such by-law may be rescinded at any time by the Governor by notification in the *Gazette*.
- Procedure.  
19 Vict. No. 8. **25** All offences against the provisions of this Act and all penalties, and sums of money under the provisions of this Act may be prosecuted and recovered in a summary way by and before a police magistrate or any Two or more justices in the mode prescribed by "The Magistrates Summary Procedure Act," the provisions of which Act shall apply.
- Copy of *Gazette* evidence. **26**—(1.) The production of a copy of the *Gazette* purporting to contain any notification relating to any appointment, register, registration, erasure, suspension, reinstatement, by-laws, or any other matter under or for the purposes of this Act shall be received in all courts and in all proceedings whatsoever as *prima facie* evidence of the facts therein published.
- Judicial notice. (2.) Every court shall take judicial notice of the signatures of the President and of the Secretary 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, President, or Secretary.

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**FIRST SCHEDULE.**


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**RULES FOR THE CONDUCT OF THE BUSINESS OF THE BOARD.**

- Section 5.
- Executive officer. 1. The President shall be the executive officer of the Board.
- Authentication of documents. 2. Every appointment and every order, notice, certificate, or other document of the Board relating to the execution of this Act shall be sufficiently authenticated if signed by the President or any Two members of the Board.
- Meetings :  
Quorum. 3. No business shall be transacted at any meeting of the Board unless at least Three of the members are present when such business is transacted.



