

# CLERKS OF WORKS BILL

## EXPLANATORY MEMORANDUM

THE purpose of this Bill is to give to qualified clerks of works the right to be registered. It is similar in form to the Surveyors Act, 1938. It establishes a Registration Board, which is also given certain disciplinary powers over registered clerks of works. The Bill also establishes a New Zealand Institute of Clerks of Works, whose main functions are to promote the competent supervision of building operations, and to assist in the training of clerks of works and generally to promote their interests.

Registration is not to be compulsory, but it will carry with it membership of the Institute. Unregistered clerks of works who have had certain experience may become associates of the Institute without enjoying full membership.

### NOTES ON CLAUSES

*Clause 1:* Short Title and commencement.

*Clause 2:* Interpretation.

#### *Clerks of Works Registration Board*

*Clause 3:* This clause establishes a Registration Board consisting of the Engineer-in-Chief of the Public Works Department, and five others appointed by the Minister, of whom *one* is to represent the New Zealand Institute of Architects and *three* are to represent the New Zealand Institute of Clerks of Works.

*Clauses 4 to 8:* These clauses deal with the procedure at meetings of the Board, the appointment of officers, and incidental matters.

#### *New Zealand Institute of Clerks of Works*

*Clause 9:* This clause establishes a New Zealand Institute of Clerks of Works as a body corporate, taking the place of the existing Clerk of Works Association of New Zealand, Incorporated.

*Clause 10:* This clause sets out the general functions of the Institute.

*Clause 11:* The effect of this clause is that every registered clerk of works is also a member of the Institute. Conversely, on ceasing to be registered, he ceases to be a member.

*Clause 12:* Under this clause, any person not less than *thirty* years of age and possessing sufficient practical experience may become an associate of the Institute. Associates of the existing Association remain as associates of the Institute.

*Clause 13:* This clause provides for membership fees to be paid to the Institute.

*Clauses 14 to 18:* These clauses provide for the management of the Institute's affairs by a Council, whose members (except for one to be appointed in each year by the Minister from among the members of the Institute) are to be elected; the appointment of officers; the making of rules for the management of the Institute's affairs; and the temporary management of those affairs until the Council is elected.

### *Registration of Clerks of Works*

*Clause 19:* This clause sets out the qualifications and experience required for registration. Special provision is made, in certain cases, as to the registration of servicemen whose service with the Forces might otherwise prevent them from qualifying.

In *subclause (1)* provision is made for the registration of—

- (i) Members of the existing Association;
- (ii) Persons attaining the age of thirty years and possessing certain qualifications; and
- (iii) Persons who are now not less than thirty-five years of age, and persons who are now not less than forty-five years of age, with certain past experience as clerks of works.

Under *subclauses (2) to (5)* architects, architectural draughtsmen, and builders' foremen may become registered under certain conditions.

*Clauses 20 to 34:* These clauses set out the procedure for registration and for the keeping and correction of the register. The provisions are those common to Acts of this nature. The Board may consider objections by the Institute to any person's registration (*clause 22*).

### *Disciplinary Powers of Board*

*Clauses 35 to 37:* These clauses contain the usual provisions for inquiries by the Board into misconduct, with consequent cancellation or suspension of registration, or the imposition of a penalty. The Board's decisions are subject to appeals under *clause 41*.

### *Financial Provisions*

*Clauses 38 and 39:* These clauses provide for the receipt of registration and other fees by the Board, and of membership fees by the Institute. *Clause 38 (3)* authorizes certain expenditure by the Board.

*Clause 40:* The effect of this clause is that the Institute will pay to the Board any moneys required for the Board's expenditure in excess of the moneys available to the Board from other sources.

### *Miscellaneous*

*Clause 41:* This clause gives a right of appeal to a Magistrate and two assessors against any decision of the Board relating to registration or to the imposition on any person of a penalty.

*Clause 42:* This clause provides for the conduct of examinations for certificates of competency required by persons desiring to register.

*Clauses 43 and 44:* These clauses provide for a certificate of the Board's Secretary as to an entry in the register or other matters being evidence of its contents, and for notification being given to the Institute of entries in the register.

*Clause 45:* This clause protects registered clerks of works and associates of the Institute by making it an offence for unauthorized persons to use words or initials, &c., implying registration or membership of the Institute. *Subclause (4)* protects the right of a clerk of works to describe himself as a "clerk of works" although he is neither registered nor an associate of the Institute.

*Clause 46:* This clause provides for offences to be dealt with summarily.

*Clause 47:* This clause provides for the making of regulations necessary for the administration of the Act.

*Hon. Mr. Webb*

## CLERKS OF WORKS

### ANALYSIS

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## A BILL INTITULED

**Title.** AN ACT to make Provision for the Registration of Clerks of Works.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority 5 of the same, as follows:—

**Short Title and commencement.** 1. This Act may be cited as the Clerks of Works Act, 1944, and shall come into force on the *first day of April*, nineteen hundred and forty-*five*.

**Interpretation.** 2. In this Act, unless the context otherwise 10 requires,—

“ Association ” means the Clerk of Works Association of New Zealand, Incorporated, as existing at the commencement of this Act:

“ Board ” means the Clerks of Works Registra- 15 tion Board constituted under this Act:

“ Clerk of works ” includes any superintendent of works, supervisor of works, inspector of works, or other person usually engaged in performing the duties of a clerk of works; 20 but does not include any person employed by a builder or by a contractor:

“ Council ” means the Council of the New Zealand Institute of Clerks of Works constituted under this Act: 25

“ Institute ” means the New Zealand Institute of Clerks of Works constituted under this Act:

“ Minister ” means the Minister of Labour:

“ Prescribed ” means prescribed by this Act, or by rules or regulations made under this Act: 30

“ Register ” means the Register of Clerks of Works kept under this Act:

“Registered clerk of works” means any clerk of works for the time being registered under this Act:

“Secretary” means the Secretary of the Board.

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CLERKS OF WORKS REGISTRATION BOARD

3. (1) There is hereby established a Board, to be known as the Clerks of Works Registration Board. Constitution of Board.

(2) The Board shall consist of—

10 (a) The Engineer-in-Chief of the Public Works Department; and

(b) Five persons appointed by the Minister, of whom one shall be appointed on the recommendation of the New Zealand Institute of Architects, and three shall be appointed on the recommendation of the New Zealand Institute of Clerks of Works.

15 (3) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(4) Except as provided in the *next succeeding* subsection, every appointed member of the Board shall be appointed for a term of one year, but may from time to time be reappointed, or may be at any time removed from office by the Minister for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Secretary.

20 (5) If any appointed member of the Board dies, or is removed from office, or resigns, the vacancy so created shall within two months after the occurrence thereof be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

30 (6) Unless he sooner vacates his office as provided in the *last preceding* subsection, every member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

40 (7) In the event of the incapacity of any member of the Board (not being an officer of any Department of the Public Service) by reason of illness or absence or any other cause the Minister may, in the manner in which the original appointment was made, appoint some other person to act in the place of that member.

Every person so appointed shall while the incapacity continues be deemed for all purposes to be a member of the Board.

Meetings  
of Board.

4. (1) Meetings of the Board shall be held at such times and places as the Board or the Chairman from 5 time to time determines.

(2) At every meeting of the Board *four* members shall form a quorum.

(3) Every question before the Board shall be determined by a majority of the votes of the members 10 present at a meeting of the Board.

(4) In the absence from any meeting of any member being an officer of any Department of the Public Service, he may authorize any other officer of that Department to attend the meeting in his stead. While 15 any person is attending any meeting of the Board pursuant to this subsection he shall be deemed for all purposes to be a member of the Board.

Chairman and  
Deputy  
Chairman  
of Board.

5. (1) The Board shall from time to time appoint from among its members a Chairman and a Deputy 20 Chairman of the Board. During any vacancy in the office of Chairman or whenever the Chairman is unable to act, whether by reason of absence or otherwise, the Deputy Chairman may exercise and perform all the powers and duties of the Chairman. 25

(2) The Chairman shall preside at every meeting of the Board at which he is present. In the absence of the Chairman and the Deputy Chairman from any meeting of the Board the members present shall select one of their number to be the Chairman for the purposes 30 of that meeting.

(3) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

Procedure  
of Board.

6. Except as expressly provided in this Act or in 35 regulations made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

Fees and  
allowances of  
members.

7. (1) There may from time to time be paid to the members of the Board out of its funds such fees, allowances, and travelling-expenses as may from time 40 to time be prescribed.

(2) Except as provided in this section, no member of the Board shall be entitled to receive any remuneration or other payment out of the funds of the Board.

8. The Board may from time to time appoint a Secretary and such other officers and servants as it may require.

Officers  
of Board.

NEW ZEALAND INSTITUTE OF CLERKS OF WORKS

5 9. (1) There is hereby established a body, to be known as the New Zealand Institute of Clerks of Works, which shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.

Incorporation  
of  
New Zealand  
Institute of  
Clerks of  
Works.

10 (2) The Institute constituted under this section is hereby declared to be the same body corporate as the body incorporated under the provisions of the Incorporated Societies Act, 1908, and heretofore known as the Clerk of Works Association of New Zealand, Incorporated.

See Reprint  
of Statutes,  
Vol. III, p.922

15 (3) The Registrar of Incorporated Societies shall, as soon as practicable after the commencement of this Act, remove the name of the Association from the register of incorporated societies kept under the Incorporated Societies Act, 1908, and nothing in that Act shall, as from the commencement of this Act, apply to the Institute.

20 10. The general functions of the Institute shall be to promote and encourage proper conduct among clerks of works; to suppress illegal, dishonourable, improper, and objectionable practices; to preserve and maintain the integrity and status of clerks of works generally; to provide opportunities for the acquisition and diffusion of knowledge in relation to the supervision of building and structural operations and kindred subjects; to consider and suggest amendments in the law relating to building and structural operations and the supervision thereof; to provide means for the amicable settlement of differences affecting clerks of works in the practice of their calling; to promote the education and training of clerks of works; to assist clerks of works in obtaining employment; to establish and administer benevolent funds for the assistance and benefit of persons who are or have been at any time registered clerks of works or for the assistance and benefit of the dependants of any such persons; to promote the competent supervision of

Functions  
of Institute.

building and structural operations and ensure compliance with building regulations; and generally to protect and promote the interests of clerks of works and the interests of the public in relation to the supervision of building and structural operations. 5

Membership  
of Institute.

**11.** (1) Every person who is for the time being registered as a clerk of works under this Act shall be a member of the Institute, whether or not he applies for membership thereof.

(2) Every member of the Institute who ceases to be registered under this Act shall thereupon cease to be a member of the Institute. 10

Associates of  
Institute.

**12.** (1) Every person who on the commencement of this Act is an associate of the Association shall be an associate of the Institute. 15

(2) Any person who is not for the time being registered under this Act may, in accordance with the rules of the Institute, be admitted as an associate of the Institute who satisfies the Council—

(a) That he is not less than *thirty* years of age; 20  
and

(b) That he has had such practical experience in building or structural operations, whether in New Zealand or elsewhere, and possesses such general knowledge of building or structural operations in New Zealand, as in the opinion of the Council fits him to be an associate of the Institute. 25

Membership  
fees.

**13.** There shall be payable to the Institute by every registered clerk of works an annual membership fee of such amount as may be prescribed, which shall be due on the *first* day of April in each year, except that the membership fee payable by a clerk of works for the year in which he is registered under this Act shall be due on the date of his registration. 30

Council of  
the Institute.

**14.** (1) The affairs of the Institute shall be managed by a Council consisting of a President, two Vice-Presidents, and not less than seven other members, of whom one shall be a member of the Institute appointed by the Minister before each annual general meeting of the Institute. All the members of the Council other 35 40

than the member appointed by the Minister shall be elected by the members of the Institute by ballot from among their number.

(2) In addition to the members provided for by the 5 *last preceding* subsection the Council may, on the retirement of the President, appoint him to be a member of the Council, to hold office as such until the next annual election of members of the Council.

(3) The President shall hold office for two years. 10 The member of the Council appointed by the Minister shall hold office for one year. In every year one of the Vice-Presidents and two of the elected members of the Council shall retire from office. The Vice-President who has held office longer as such shall retire 15 before the other, and the elected members of the Council who have held office longest as such shall retire before the other elected members. In every case where a question arises as to which of two or more members who have held office for the same period should retire 20 the question shall be determined by lot. Every retiring President, Vice-President, or other member of the Council shall be eligible for re-election or reappointment to the office from which he retires or to any other office.

(4) At every meeting of the Council five members, 25 or such other number as may from time to time be prescribed by the rules of the Institute, shall form a quorum.

15. The Council shall transact all the ordinary business of the Institute, and shall cause to be kept 30 proper minutes of its proceedings; and may appoint committees with such delegated powers as the Council thinks fit. Except as otherwise provided in this Act or in any rules or regulations made under this Act, the Council may regulate its procedure in such manner as 35 it thinks fit.

Powers of Council.

16. (1) The Council may from time to time appoint such officers and servants as it deems necessary for the efficient exercise of its functions.

Officers of Institute.

(2) Any person may hold office concurrently as an 40 officer of the Board and as an officer of the Institute.

17. (1) The Institute may, at a meeting at which not less than *fifteen* members are present, and of which notice has been duly given in accordance with

Rules of Institute.

the rules of the Association in force on the commencement of this Act, make rules (not inconsistent with this Act) for all or any of the following purposes:—

- (a) For the regulation and good government of the Institute and of the members and affairs thereof; and regulating the election of the President, Vice-Presidents, and other members of the Council, and the filling of extraordinary vacancies in the Council: 5
- (b) Providing for and regulating the control and management of the funds of the Institute, including any benevolent funds that may be established by the Institute, and the investment of any moneys not for the time being required for the general purposes of the Institute or, as the case may be, for the purposes for which any benevolent funds are so established: 10 15
- (c) Regulating the audit of the accounts of the Institute and the appointment of auditors, and prescribing their qualifications: 20
- (d) Regulating the admission of associates of the Institute and defining their privileges; and prescribing the conditions under which they may cease to be associates of the Institute: 25
- (e) Providing for and regulating the granting of certificates of membership:
- (f) Providing for the convening of ordinary and special meetings of the Institute and of the Council, and regulating the quorum, the representation of members, and the procedure thereat: 30
- (g) Providing for the conferring of fellowships, honorary memberships, and other distinctions:
- (h) Prescribing the fees or other payments, annual or otherwise, to be paid by members and by associates of the Institute: 35
- (i) Regulating the conduct of members and associates of the Institute in the practice of their calling: 40
- (j) Imposing a fine not exceeding *five* pounds upon any member or associate of the Institute for the breach of any rule made under this section:

(k) Generally for carrying into full effect the objects for which the Institute is formed.

(2) Rules may be so made under this section that different fees or other payments are prescribed for 5 different classes of members or associates, and that any class of members or associates is exempted from any fee or other payment.

(3) No rules made under this section shall come into force unless and until they are approved by the Minister.

10 (4) Any rules made under this section may from time to time in like manner be amended, revoked, or added to. No such amendment, revocation, or addition shall come into force unless and until it is approved by the Minister.

15 (5) Any fine imposed upon any member or associate under any rule made under this section shall be deemed to be a debt due from the member or associate, as the case may be, to the Institute, and shall be recoverable accordingly in any Court of competent jurisdiction.

20 18. (1) Until the Council is constituted in accordance with this Act the affairs of the Institute shall be managed by the persons who on the commencement of this Act are officers of the Association. On the constitution of the Council the said officers shall cease 25 to act.

Affairs of Institute to be managed temporarily by officers of the Association.

(2) Until the approval by the Minister of rules made by the Institute under this Act the rules of the Association in force on the commencement of this Act shall, so far as they are applicable and are not inconsistent with 30 this Act, be deemed to be the rules of the Institute.

REGISTRATION OF CLERKS OF WORKS

19. (1) Subject to the provisions of this section, every person shall be entitled to be registered under this Act who satisfies the Board—

Qualifications for registration.

35 (a) That on the commencement of this Act he is a member of the Association, or, in the case of any person who during the whole of any period immediately preceding the commencement of this Act has been a member of any 40 of His Majesty's Forces, that on the commencement of his service as a member of His Majesty's Forces he was a member of the Association; or

- (b) That he is not less than *thirty* years of age and has obtained a certificate of competency as a clerk of works after passing the prescribed examinations, and has had such practical experience in building or structural operations, in New Zealand or elsewhere, as in the opinion of the Board will enable him to perform efficiently the duties of a clerk of works; or 5
- (c) That he is not less than *thirty* years of age and is the holder of a recognized certificate (as hereinafter defined) granted out of New Zealand, and has had such practical experience in building or structural operations in New Zealand as in the opinion of the Board will enable him to perform efficiently the duties of a clerk of works; or 10 15
- (d) That he is not less than *thirty-five* years of age and has had in the aggregate at least *three* years' experience in New Zealand as a clerk of works during the period of *five* years immediately preceding the commencement of this Act, and possesses such general knowledge of building or structural operations as in the opinion of the Board will enable him to perform efficiently the duties of a clerk of works; or 20 25
- (e) That he is not less than *forty-five* years of age and that since he attained the age of *thirty* years he has had in the aggregate at least *five* years' experience in New Zealand as a clerk of works, and possesses such general knowledge of building or structural operations as in the opinion of the Board will enable him to perform efficiently the duties of a clerk of works. 30 35

(2) Subject to the provisions of this section, every person shall be entitled to be registered under this Act who satisfies the Board—

- (a) That he is a member of the New Zealand Institute of Architects; or 40
- (b) That he is practising as an architect; or

(c) That he is employed by an architect as an architectural draughtsman, or by a builder or a contractor as a general foreman, and has been so employed during the whole of the period of *three* years immediately preceding the commencement of this Act or, in the case of any person who has at any time, whether before or after the commencement of this Act, been a member of any of His Majesty's Forces, during the whole of the period of *three* years immediately preceding the commencement of his service as such member.

(3) No person applying for registration upon the grounds specified in paragraph (d) or paragraph (e) of subsection one of this section, or upon any of the grounds specified in the *last preceding* subsection, shall be entitled to be registered unless the application is made within one year after the commencement of this Act or, in the case of any person who has at any time, whether before or after the commencement of this Act, been a member of any of His Majesty's Forces, within one year after the date when he received notice of his discharge therefrom, whichever is the later:

Provided that the Board may in its discretion accept and consider any application that is not made within the period aforesaid if the applicant proves to the satisfaction of the Board that his failure to make application within that period was due to circumstances beyond his control.

(4) Every application under subsection two of this section shall be accompanied by a written recommendation, signed by at least three persons who are either architects or builders or contractors, stating that in the opinion of those persons the applicant is able to perform efficiently the duties of a clerk of works.

(5) Where any person is registered under subsection two of this section, that person's name shall be removed from the register at the expiration of one year after the date of his registration, unless within that year he satisfies the Board that he has obtained a certificate of competency as a clerk of works after passing the prescribed examinations or that he is the holder of a recognized certificate (as hereinafter defined) granted out of New Zealand.

(6) For the purposes of this section, the expression "recognized certificate" means a certificate, diploma, degree, or license granted by a university, college, board, or other authority and recognized by the Board as furnishing sufficient evidence of the possession by the holder thereof of the requisite knowledge for the efficient performance of the duties of a clerk of works. 5

(7) Subject to the provisions of section *forty-one* of this Act as to appeals, no person shall be registered under this Act if, in the opinion of the Board, he is not a fit person to be registered by reason of the fact that he is not of good character and reputation. 10

Application for registration.

**20.** (1) Application for registration as a clerk of works under this Act shall be made in writing addressed to the Secretary of the Board. Every such application shall be accompanied by the prescribed fee. 15

(2) Every application for registration shall be accompanied by a copy thereof, which shall, on receipt by the Secretary, be forthwith sent by him to the Institute. 20

Applications to be considered by Board.

**21.** (1) As soon as practicable after the receipt of any application for registration the Board shall consider the application and shall give such directions in respect thereof as it thinks fit and as are hereinafter authorized. 25

(2) Before giving any such directions the Board may, if it thinks fit, examine on oath or otherwise the applicant, or any person objecting to the application, or any other person, with respect to the application; and for the purposes of this subsection the Chairman of the Board may administer an oath to any person. 30

(3) The Board may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application, or with respect to any objection to an application. 35

Objections by Institute.

**22.** (1) Within one month after the receipt by the Institute of a copy of any application as aforesaid the Institute may give notice in writing to the Secretary of the Board of its desire to object to the registration of the applicant, and of the grounds of the objection. A copy of the notice shall forthwith be sent by the Institute to the applicant. 40

(2) The Board shall appoint a convenient time and place for hearing the objection, and shall give notice thereof in writing to the applicant and to the Secretary of the Institute at least *seven* clear days before the time so appointed.

(3) Both the applicant and the Institute shall be entitled to be present and to be heard, and may be represented by counsel or otherwise at the hearing of the objection.

10 **23.** (1) If the Board, after considering any application as aforesaid, is of opinion that the applicant is entitled to be registered under this Act, it shall so direct, and the Secretary shall thereupon register the applicant, and shall notify him accordingly.

Secretary to observe directions of Board.

15 (2) If the Board, after considering any application as aforesaid, is of opinion that the applicant is not entitled to be so registered it shall direct accordingly, and the Secretary shall thereupon refuse to register the applicant, and shall notify him accordingly.

20 **24.** (1) Registration under this Act shall be effected by the entry in the Register of Clerks of Works (which shall be kept by the Secretary) of the name and address of the applicant, of the qualifications by virtue of which he is registered, and of such other particulars as may  
25 be prescribed.

Register of Clerks of Works.

(2) The Register of Clerks of Works shall be open to inspection by the public during ordinary office hours on payment of the prescribed fee.

30 **25.** The Secretary shall, on application in that behalf made to him at any time by a registered clerk of works and on payment of the prescribed fee, issue to that clerk of works a certificate of registration.

Certificate of registration.

35 **26.** Every person who wilfully makes or causes to be made any false entry in or falsification of the register, or procures or attempts to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, commits an offence and  
40 is liable to imprisonment for a term not exceeding *three* months or to a fine not exceeding *fifty* pounds.

Penalty for wrongfully procuring registration.

Registrars  
to notify  
Secretary of  
deaths of  
clerks of works.

27. Every Registrar of Births and Deaths in New Zealand, on receiving notice of the death of any clerk of works, shall forthwith transmit by post to the Secretary a notification under his hand of that death, with particulars of the time and place of death; and on the receipt of that notification the Secretary shall, if the name of the deceased clerk of works appears on the register, remove the name from the register. 5

Registered  
clerks of works  
to notify  
changes of  
address.

28. (1) Every registered clerk of works who at any time changes his address as appearing on the register shall, within three months thereafter, send to the Secretary a notice of his new address, and the Secretary shall thereupon correct the entry in the register relating to that clerk of works accordingly. 10

(2) Every clerk of works who fails to comply with the provisions of this section commits an offence and is liable to a fine not exceeding *five* pounds. 15

Name to be  
removed from  
register if  
clerk of works  
cannot be found,  
&c.

29. (1) The Secretary may at any time, and shall if the Board so directs, send to any clerk of works, by registered letter addressed to him at his address as appearing on the register, an inquiry as to whether or not he desires to have his name retained on the register. 20

(2) If no reply is received to that letter within six months from the posting thereof, or if the letter is not delivered and is returned to the Secretary, the Secretary shall, if the Board so directs, remove from the register the name of the clerk of works to whom the letter was sent. 25

(3) Any person whose name has been removed from the register under this section may apply to the Secretary to have his name restored to the register, and on payment of the prescribed fee his name shall be restored to the register accordingly. 30

Additional  
certificates, &c.,  
may be entered  
in register.

30. Any registered clerk of works who obtains any approved certificate, diploma, degree, or license, other than that by virtue of which he is registered, may apply to the Board to amend the register so far as it relates to the qualifications of that clerk of works; and on such application the Board, if satisfied that the applicant is entitled to the certificate, diploma, degree, or license in respect of which the application is made and that it is one of a kind approved by the Board for the purposes 35 40

of this section, shall direct the Secretary to amend the register accordingly, and the Secretary shall thereupon insert in the register particulars as to the certificate, diploma, degree, or license.

5     **31.** (1) If any person has been registered under this Act by reason of any false or fraudulent representation or declaration, made either verbally or in writing, or if any person not entitled to be registered under this Act has been so registered, the Board shall cause the  
10 name of that person to be removed from the register, and the fact of the removal shall be notified by the Secretary in the *Gazette*.

Correction of register.

(2) If any particulars appearing in the register in respect of the qualifications of any clerk of works are  
15 proved to the satisfaction of the Board to be, or are to the knowledge of the Board, false or erroneous in any respect, the Board shall direct the Secretary to erase those particulars from the register, or otherwise to amend the register, and the Secretary shall thereupon  
20 amend the register accordingly.

(3) The provisions of the *last preceding* subsection shall apply, notwithstanding the fact that at the time when the entry in the register was made the clerk of works was actually possessed of the qualifications  
25 particulars of which appear in the register, or that at that time the entry was otherwise correct.

**32.** (1) If any clerk of works applies to the Secretary to have his name removed from the register the Secretary shall, if the Board so directs, remove his name  
30 from the register accordingly.

Voluntary removal of name from register.

(2) Any person whose name is removed from the register under this section may apply to have his name restored to the register, and on payment of the prescribed fee his name shall, if the Board so directs, be  
35 restored to the register accordingly.

**33.** (1) If any membership fee payable to the Institute by a registered clerk of works under this Act is not paid within *three* months after it is due, the Institute may apply to the Secretary to remove the  
40 name of the clerk of works from the register, and the Secretary shall, if the Board so directs, remove that name accordingly.

Removal of name from register on non-payment of membership fee.

(2) Any person whose name is removed from the register under this section may apply to the Secretary to have his name restored to the register. If the applicant satisfies the Secretary that all membership fees payable by him as aforesaid have been paid, the Secretary shall, on payment of the prescribed fee, restore the name to the register accordingly. 5

Removal of name from register or suspension where similar action taken outside New Zealand.

**34.** (1) The Board may cause to be removed from the register the name of any person registered under paragraph (c) of subsection one of section *nineteen* of this Act, or retaining his registration under subsection five of that section, by virtue of a certificate granted out of New Zealand and recognized as provided in that section, if the Board is satisfied that the certificate has been revoked or cancelled by the authority that granted it. 10 15

(2) If the Board is satisfied that any certificate recognized as aforesaid has been suspended for any period by the authority that granted it, the Board may suspend the registration under this Act of the holder of the certificate for the same period or for any unexpired portion of that period. 20

(3) If any person registered under paragraph (b) of subsection one of section *nineteen* of this Act, or retaining his registration under subsection five of that section, by virtue of a certificate of competency granted in New Zealand, has been authorized by any competent authority to practise his calling as a clerk of works out of New Zealand and his right so to practise is thereafter suspended for any period, the Board may if it thinks fit suspend his registration under this Act for the same period or for any unexpired portion of that period. 25 30

#### DISCIPLINARY POWERS OF BOARD

Removal of name from register if clerk of works incompetent or guilty of an indictable offence or grave misconduct.

**35.** The Board may cause the name of any clerk of works to be removed from the register if it is satisfied, after inquiry as provided in section *thirty-six* hereof, but not otherwise, that he is incompetent, or that he has been guilty of gross negligence in the performance of duties as a clerk of works or of such improper conduct as in the opinion of the Board renders him unfit to be registered under this Act, or that he has 35 40

been convicted (either before or after his registration) of an indictable offence punishable by imprisonment for a term of *two* years or upwards:

5 Provided that the name of any clerk of works shall not be removed from the register under this section by reason of an offence committed before the date of his registration if at that date the Board was aware of his conviction in respect of that offence.

10 **36.** (1) Where any complaint is made to the Board that any registered clerk of works is incompetent or has been guilty of any act or default specified in the *last preceding* section the Board shall, unless it is satisfied that there is no reasonable ground for the complaint, hold an inquiry into the matter.

Inquiry by Board into charges of misconduct.

15 (2) The Board shall cause to be given to the clerk of works concerned not less than *thirty* clear days' notice in writing of its intention to hold the inquiry, and of the time and place of hearing, and of the nature of the charge to be inquired into. The notice may be served  
20 personally or by registered letter addressed to the clerk of works concerned at his last known place of business or abode.

(3) At the inquiry the clerk of works concerned shall be entitled to be present and to be heard, and may, if he  
25 thinks fit, be represented by counsel or otherwise.

(4) The Institute may be heard and may be represented by counsel or otherwise at any inquiry held under this section. Where the complaint is made in the first instance by the Institute the complaint shall be  
30 prosecuted at the inquiry by the Institute.

**37.** (1) After any inquiry made as provided in section *thirty-six* of this Act into a complaint against any registered clerk of works the Board may, by writing under the hand of the Chairman, impose a penalty upon  
35 the clerk of works not exceeding *fifty* pounds, or suspend his registration for a period not exceeding *twelve* months.

Disciplinary powers of Board.

(2) Every monetary penalty imposed by the Board under this section shall be recoverable as a debt due to  
40 the Board by proceedings taken by the Secretary in his own name on behalf of the Board.

(3) While any order of suspension under this section remains in force the clerk of works shall be deemed not to be a registered clerk of works, but forthwith on the

expiry of the order his rights and privileges as a registered clerk of works shall be revived as from the date of the expiry of the order.

(4) An order of suspension shall not take effect in any case until the expiration of *twenty-one* clear days after the notification by the Board to the clerk of works of the making of the order. If within that period the clerk of works gives due notice of appeal under section *forty-one* of this Act, the order shall not take effect unless and until it is confirmed by the Board of Appeal or the appeal is for any reason dismissed by that Board:

Provided that, unless the Board of Appeal otherwise orders, the period of suspension specified in the order shall commence on the day when the order commences to have effect.

(5) The powers conferred on the Clerks of Works Registration Board by this section are in addition to its powers under sections *thirty-four* and *thirty-five* of this Act.

#### FINANCIAL PROVISIONS

Application of  
fees, &c.,  
received by  
the Board.

**38.** (1) The Secretary of the Board shall take and receive the fees prescribed by regulations made under this Act as payable to the Board in respect of the matters specified in the regulations.

(2) Until the prescribed fee has been paid the Secretary may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable.

(3) All fees, monetary penalties, and other moneys received on behalf of the Board under this Act shall be forthwith paid into a bank approved by the Board to the credit of an account to be called the Clerks of Works Registration Board Account, and may be applied by the Board as follows:—

(a) In payment of the expenses incurred by the Board in respect of this Act, including the remuneration of the Secretary and other officers and servants of the Board, and the cost of the audit of its accounts;

- (b) In payment of any fees, allowances, or travelling-expenses payable in accordance with this Act to members of the Board:
- 5 (c) In payment of any fees payable to assessors on appeals, as prescribed by regulations under this Act:
- (d) In the purchase of books or other publications relating to the erection of buildings and other structures, or the purchase of any instruments or materials deemed necessary by the Board for carrying out its duties under this Act:
- 10 (e) Otherwise for the payment of any expenditure lawfully incurred by the Board.
- (4) The Board may from time to time, as it thinks  
15 fit, invest any moneys not for the time being required for any of the purposes mentioned in the *last preceding* subsection by depositing them in the Post Office Savings-bank or with any bank or other institution authorized to receive moneys on deposit.
- 20 (5) The accounts of the Board shall be audited by the Audit Office in the same manner as if the funds of the Board were public moneys.
- 39.** (1) The Secretary of the Institute shall take and receive the fees prescribed by the rules of the  
25 Institute as payable to the Institute in respect of the matters specified in the rules.
- (2) Until the prescribed fee has been paid the Secretary of the Institute may decline to do any act, or to permit any act to be done, or to receive any  
30 document in respect of which that fee is payable.
- 40.** (1) The Council shall from time to time pay to the Board out of the moneys of the Institute such sums as may, with the moneys of the Board, be required for payment of the expenditure lawfully incurred by the  
35 Board at any time, including any expenditure lawfully incurred for the purposes of the Board before the commencement of this Act.
- (2) If any question arises as to the amount to be paid by the Institute under this section at any time it  
40 shall be determined by the Minister, whose decision shall be final.

Fees payable to Institute.

Institute to contribute to Board's funds.

## MISCELLANEOUS

Appeals from  
decisions of  
Board.

41. (1) Every person who is dissatisfied with any decision of the Board relating to an application by him for registration, or to the removal of his name from the register otherwise than pursuant to section *thirty-three* of this Act, or to the suspension of his registration, or to the imposition on him of any penalty, may, within *three* months after notice of the decision has been given to him by the Secretary, give notice of appeal in the prescribed manner to the Secretary.

(2) Upon receipt of the notice of appeal the Secretary shall forthwith inform the Minister who shall thereupon take all steps necessary for the constitution of a Board of Appeal, consisting of a Magistrate and two assessors. The assessors shall be appointed in accordance with regulations under this Act to represent the Board and the appellant respectively.

(3) The Board of Appeal so constituted shall as soon as practicable hear the appeal, and may confirm the decision of the Board, or may order the registration of the appellant or the restoration of his name to the register or the determination of the order of suspension, or the remission of the whole or any part of any monetary penalty imposed on him, or may make such other order as the case may require.

(4) On any appeal under this section the decision of not less than two members of the Board of Appeal shall be the decision of that Board, and that decision shall be final and conclusive.

(5) On any appeal under this section the Board of Appeal may make an order for the payment by the Clerks of Works Registration Board, the Institute, or the appellant, as the case may be, of the costs incurred in respect of the appeal by any other party to the appeal, and in any such case the costs so awarded may be recovered in any Court of competent jurisdiction as a debt due by the party against whom they have been awarded to the party in whose favour they have been awarded.

42. The Board may conduct and control all examinations for certificates of competency prescribed by regulations under this Act, or may make such other arrangements as it thinks fit for the conduct and control  
5 of such examinations.

Conduct of  
examinations  
for certificates  
of competency.

43. A certificate under the hand of the Secretary to the effect that any person was or was not registered as a clerk of works under this Act at any time or during  
10 any period specified in the certificate, or as to any entry in the Register of Clerks of Works or as to any act or proceeding of the Board, shall, until the contrary is proved, be sufficient evidence of the matters therein specified.

Certificate by  
Secretary to be  
evidence of  
registration, &c.

44. As soon as practicable after the entry in the  
15 register of any person's name, or after the removal of any person's name therefrom, or after the suspension of any registration, the Secretary shall give notice in writing to the Institute of the entry, removal, or suspension, as the case may be, together with all  
20 relevant particulars.

Secretary to  
notify Institute  
of entries in  
register.

45. (1) Every person commits an offence who, not being registered under this Act, uses or causes or permits to be used any written words, titles, or initials,  
25 or any abbreviation of any words, titles, or initials, which are intended to cause or may reasonably cause any person to believe that he is registered under this Act.

Improper use  
of words,  
initials, &c.,  
implying  
registration or  
membership of  
Institute.

(2) Every person commits an offence who, not being  
30 a member or an associate of the Institute, uses or causes or permits to be used any written words, titles, or initials, or any abbreviation of any words, titles, or initials, which are intended to cause or may reasonably cause any person to believe that he is a member or an associate of the Institute.

35 (3) Every person who commits an offence against this section is liable to a fine not exceeding *twenty* pounds, and (if the offence is a continuing one) to a further fine not exceeding *five* pounds for every day during which the offence continues.

40 (4) Nothing in this section shall prevent or be deemed to prevent any person from being employed as a clerk of works or from using in connection with his occupation the words "clerk of works".

Offences  
punishable  
summarily.

See Reprint  
of Statutes,  
Vol. II, p. 351

Regulations.

46. (1) All proceedings in respect of offences against this Act or against any regulations made under this Act shall be taken in a summary way under the Justices of the Peace Act, 1927.

(2) All fines recovered in any such proceedings shall be paid into the Public Account to the credit of the Consolidated Fund. 5

47. (1) The Governor-General may from time to time, on the recommendation of the Board, make by Order in Council all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof. 10

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:— 15

(a) Prescribing the form of and the method of keeping the Register of Clerks of Works:

(b) Prescribing the forms of applications, certificates, and other documents required under this Act: 20

(c) Prescribing the fees payable to the Board or otherwise in respect of examination and of registration under this Act and in respect of the restoration of names after their removal from the register and in respect of any other alteration of or addition to the register; and also prescribing fees for the issue of certificates of registration and other certificates, and for copies of certificates, and for inspections of the register: 25 30

(d) Prescribing the subject-matter of examinations to be conducted by or on behalf of the Board, the standards required to be attained by successful candidates, the times when examinations will be held, and the conditions governing the grant of exemptions from any of the requirements of the regulations or of the Board in relation either to examinations or to practical experience: 35 40

(e) Regulating the procedure of the Board:

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- (f) Providing such other matters as may be necessary for the efficient discharge by the Board of its duties and functions under this Act:
- 5 (g) Providing for the appointment of assessors and regulating the conduct of appeals under section *forty-one* of this Act, and prescribing the fees that may be paid to assessors:
- 10 (h) Prescribing fines, not exceeding fifty pounds, for the breach of any regulation made under this section.
- (3) All regulations made under this section shall be laid before Parliament within fourteen days after the making thereof if Parliament is then in session, and, if
- 15 not, then within fourteen days after the commencement of the next ensuing session.