

Cadastral Survey Bill

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Land Transfer and Cadastral Survey Legislation Bill as reported from the Primary Production Committee. The committee of the whole House has further amended the bill and has divided it as follows:

- The Land Transfer (Computer Registers and Electronic Lodgement) Amendment Bill, comprising clauses 1 and 2, Part 1, and Schedules 1 to 4
 - This Bill, comprising Part 2, and Schedules 5 to 8.
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Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

As reported from the committee of the whole House

New

Subject to this Act,

Text inserted

((Subject to this Act,))

Words struck out

Subject to this Act,

Words inserted

Hon Matt Robson

Cadastral Survey Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Cadastral Survey Act **2002**.

Part 1
Preliminary provisions

2 Commencement

This Act comes into force on **1 June 2002**.

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71 Purpose

The purpose of this Part is—

- (a) to promote and maintain the accuracy of the cadastre by—
- (i) requiring cadastral surveys to be done by, or under the direction of, licensed cadastral surveyors; and
- (ii) requiring cadastral surveyors to meet standards of competence to be licensed; and

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- (iii) providing for the setting of standards for cadastral surveys and cadastral survey data; and
- (b) to provide, either on an optional or mandatory basis, for the electronic lodging and processing of cadastral surveys; and
- (c) to provide for a national geodetic system and a national survey control system to be maintained.

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72 Interpretation

In this Part, unless the context otherwise requires,—

Board means the Cadastral Surveyors Licensing Board of New Zealand established by **section 78**

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cadastral survey means the determination and description of the spatial extent (including boundaries) of interests under a tenure system

cadastral survey data—

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- (a) means information in or derived from cadastral surveys, and related information; and
- (b) includes survey system information and tenure system information

cadastral survey dataset means the set of cadastral survey data necessary to integrate a cadastral survey into the cadastre

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cadastral survey mark means a mark placed for the purposes of a cadastral survey

cadastre means all the cadastral survey data held by or for the Crown and Crown agencies

25

chief executive means the chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the administration of this Part

digital cadastral survey dataset means cadastral survey dataset in digital form

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document has the same meaning as in the Official Information Act 1982

Struck out (unanimous)

geodetic system means a system that describes the position of points on the Earth by reference to a mathematical model that describes the size and shape of the Earth

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New (unanimous)

geodetic system means a system that enables positions on the surface of the Earth to be determined by reference to a mathematical model that describes the size and shape of the Earth

land includes—

- (a) subsoil, airspace, and water and marine areas; and 5
- (b) interests in or over land

licensed cadastral surveyor or **cadastral surveyor** means a person—

- (a) licensed as a cadastral surveyor under **subpart 3** of this Part; or 10
- (b) deemed to be licensed as a cadastral surveyor under that subpart

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Part 15

national survey control system means a system used to determine the position of points, features, and boundaries in cadastral surveys, other surveys, and land information systems 20

plan means a graphical representation of 1 or more cadastral surveys

Struck out (unanimous)

Surveyor-General means the Surveyor-General appointed under **section 73**

survey mark means a cadastral survey mark or a mark used for a national survey control system 25

survey-system information means information derived from, or relating to, survey observations in cadastral surveys

New (unanimous)

Surveyor-General means the Surveyor-General appointed under **section 73** 30

tenure means the kind of right or title by which land is held

tenure system means a system that provides for the creation and transfer of interests in land

tenure-system information means the information necessary to enable the creation or transfer of interests under a tenure system. 5

Subpart 2—Administration

Surveyor-General

73 Surveyor-General

- (1) A person must be appointed under the State Sector Act 1988 to hold office as the Surveyor-General. 10
- (2) No person may be appointed to hold office as Surveyor-General, and no person may be directed under section 62(1) of the State Sector Act 1988 to exercise or perform any power, act, or duty of the Surveyor-General, unless the person is 15
(qualified because of his or her skills and experience to exercise or perform the powers and duties of that office) or has been—

New (unanimous)

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|--|----|
| <p>(a) a licensed cadastral surveyor; or</p> <p>(b) a registered surveyor under the Survey Act 1986; or</p> <p>(c) entitled to practise cadastral surveying outside New Zealand.</p> | 20 |
|--|----|

- (3) The office of Surveyor-General may be held in conjunction with the office of chief executive.
- (4) However, a chief executive who has, at any time, been appointed to the office of chief executive in accordance with a direction given under section 35(11)(a) of the State Sector Act 1988 may not, at any time, hold the office of Surveyor-General in conjunction with the office of chief executive. 25

Compare: 1986 No 123 s 7 30

74 Deputy Surveyor-General

- (1) A person must be appointed under the State Sector Act 1988 to hold office as the Deputy Surveyor-General.

- (2) The Deputy Surveyor-General has and may exercise, subject to the control of the Surveyor-General, all the functions, duties, and powers of the Surveyor-General.
- (3) The Deputy Surveyor-General has and may exercise all the functions, duties, and powers of the Surveyor-General while— 5
- (a) there is a vacancy in the office of the Surveyor-General;
 - or
 - (b) the Surveyor-General is absent from duty.

Struck out (unanimous)

- (4) The office of Deputy Surveyor-General may be held in conjunction with the office of the chief executive. 10

Compare: 1986 No 123 s 8

75 Functions and duties of Surveyor-General

- (1) The functions and duties of the Surveyor-General are— 15
- (a) to maintain a national geodetic system:
 - (b) to maintain a national survey control system:
 - (c) to determine how the spatial extent (including boundaries) of interests under a tenure system must be defined and described, by setting standards under **section 116**:
 - (d) to advise the Board of any significant failures by cadastral surveyors to comply with the standards referred to in **paragraph (c)**: 20
 - (e) to set standards for integrating new cadastral surveys into the cadastre by the chief executive:
 - (f) to set standards for the structure, storage, and provision of cadastral survey data by the chief executive: 25
 - (g) to set standards for determining when cadastral survey datasets may be used to define interests under tenure systems:
 - (h) to provide advice to agencies or officers responsible under any enactment for tenure systems on matters relating to the spatial definition of interests under those systems: 30
 - (i) to undertake research and liaise with persons and organisations for the purposes of his or her functions: 35
 - (j) *(auditing)* to audit compliance by cadastral surveyors with the standards referred to in **paragraph (c)**:

Struck out (unanimous)

- (k) auditing the application by the chief executive of the standards referred to in **paragraphs (e) and (f)**:

New (unanimous)

- (k) to audit the exercise of the chief executive's functions under **section 77(a), (ca), and (cb)**:

- (l) to perform any other functions conferred on him or her by this Part, any other enactment, or the Minister. 5
- (2) In exercising his or her functions, the Surveyor-General must have regard to—
- (a) the risks to the Crown and owners of interests in land of inaccuracies in cadastral surveys; and 10
- (b) the efficiency and effectiveness of measures to manage risks to the accuracy of cadastral surveys; and
- (c) (how) the efficiency with which the costs and benefits of those measures (should be distributed) will be allocated among the Crown, cadastral surveyors, (and) current and future owners of land, and other parties; and 15
- (d) the use of cadastral survey data for purposes other than cadastral surveys.

Compare: 1986 No 123 s 11

- 76 Delegation of Surveyor-General's functions, duties, and powers** 20
- (1) The Surveyor-General may delegate any of his or her functions, duties, and powers under this Part (except this power of delegation) to any employee of the chief executive or to any other suitable person. 25
- (2) A delegation may be made to a specified person or to persons of a specified class, or to the holder or holders of a specified office.
- (3) A delegation is revocable in writing at any time.
- (4) No delegation affects or prevents the exercise of any power or the performance of any duty by the Surveyor-General for the actions of a person acting under the delegation. 30

- (5) A delegation continues in force according to its tenor despite any change in the person holding office as the Surveyor-General.
- (6) Subject to any general or special directions given by the Surveyor-General, the person to whom any powers or duties are delegated may exercise those powers or perform those duties in the same manner and with the same effect as if they had been conferred on the person directly and not by delegation. 5
- (7) In the absence of proof to the contrary, a person purporting to act under a delegation under this section is presumed to be acting in accordance with its terms. 10

Compare: 1986 No 123 s 12

Chief executive

77 Functions of chief executive 15

For the purposes of this Part, the functions of the chief executive are—

- (a) to determine whether cadastral survey datasets and cadastral surveys comply with standards set under **section 75(1)(c)**: 20
- (b) to provide facilities to receive cadastral survey datasets:
- (c) to set conditions for the use of the facilities referred to in **paragraph (b)**(, *including payment for their use*):

New (unanimous)

- | | |
|--|--|
| <p>(ca) to integrate new cadastral surveys into the cadastre:</p> <p>(cb) to determine the structure of, and to store and provide access to, cadastral survey data: 25</p> <p>(cc) to audit compliance with conditions set under paragraph (c):</p> | |
|--|--|
- (d) to exercise any other functions conferred on the chief executive by this Part or the Minister. 30

Cadastral Surveyors Licensing Board of New Zealand

78 Cadastral Surveyors Licensing Board of New Zealand

- (1) The Cadastral Surveyors Licensing Board of New Zealand is established.

- (2) The Board is a body corporate with perpetual succession.

Compare: 1986 No 123 s 13(1)

79 Functions and duties of Board

- (1) The functions and duties of the Board are—
- (a) to maintain a register of cadastral surveyors licensed under this Part: 5
 - (b) to receive applications for licences under this Part as cadastral surveyors and to issue licences in proper cases:
 - (c) to set fees for the issue and renewal of licences under this Part: 10
 - (d) to issue and update standards that persons applying for licences, or the renewal of licences, under this Part must meet:
 - (e) to investigate complaints about cadastral surveyors and take disciplinary action in appropriate cases under this Part: 15
 - (f) to provide statistical information to the Minister about (*cadastral surveying and*) cadastral surveyors as requested by the Minister: 20
 - (g) to perform any other functions or duties conferred on it by this Part or any other enactment.
- (2) Fees set under **subsection (1)(c)** must be set to cover only the cost of the functions of the Board.
- (3) For the purposes of **subsection (1)(d)**,— 25
- (a) the standards must relate to the competencies required by cadastral surveyors to meet the standards set by the Surveyor-General under **section 75(1)(c)**:
 - (b) the standards must also relate to the legislative requirements for the subdivision of land to the extent that they are relevant to cadastral surveying: 30
 - (c) the standards must take into account any assignments for the Survey Board of New Zealand begun by applicants before the commencement of this Part for completion after the commencement of this Part: 35
 - (d) the Board may conduct, or arrange for the conduct of, examinations for the purpose of determining whether persons proposing to apply or applying for licences under this Part meet the standards set under **subsection (1)(d)**. 40

- (4) The Board must, from time to time, for the purpose of setting standards under **subsection (1)(d)**, consult the Surveyor-General about the competencies required by licensed cadastral surveyors to meet standards for cadastral surveying set by or under this Part. 5
- (5) For the purposes of **subsection (1)(d)**, the Board may, before issuing standards under that provision, adopt and apply the competencies that applied, immediately before the commencement of this Part, to the registration of surveyors.

Struck out (unanimous)

- (6) For the purposes of **subsection (5)**,— 10
- (a) members of the Survey Board of New Zealand must complete the assessments of applicants for registration under the Survey Act 1986 made but not determined before the commencement of this Part; and
- (b) those assessments must be accepted by the Cadastral Surveyors Licensing Board of New Zealand. 15

Compare: 1986 No 123 s 14

80 Powers of Board

- (1) For the purpose of performing its functions and duties, the Board— 20
- (a) has full capacity to undertake any activity, do any act, or enter into any transaction; and
- (b) for the purposes of **paragraph (a)**, has full rights, powers, and privileges.
- (2) **Subsection (1)** applies subject to this Part, any other enactment, and the general law. 25
- (3) The capacity, rights, powers, and privileges of the Board are not affected by a vacancy in its membership.

81 Membership of Board

- (1) The membership of the Board consists of— 30
- (a) 5 members appointed by the Minister in accordance with **subsection (2)**; and
- (b) the Surveyor-General.
- (2) The Minister must, by notice in the *Gazette*, appoint— 35
- (a) 2 persons, of whom—

- (i) at least 1 is or has been a licensed cadastral surveyor; and
- (ii) both have been nominated by a body or bodies representing licensed cadastral surveyors; and
- (b) 2 persons who are or have been licensed cadastral surveyors and who have not been nominated by a body or bodies representing licensed cadastral surveyors; and 5
- (c) 1 person who is not and never has been a licensed cadastral surveyor and who is not employed in, and does not represent, the surveying profession. 10
- (3) The Board must elect 1 of the persons appointed under **subsection (1)(a)** to be the chairperson of the Board.
- (4) In this section, **licensed cadastral surveyor** includes a person who, immediately before the commencement of this Part, was a registered surveyor under the Survey Act 1986. 15
- Compare: 1986 No 123 s 13(2)

82 Further provisions relating to Board and its members
Schedule 5 applies to the Board and its members

- 83 Liability of members and employees**
 No member or employee of the Board is personally liable for any— 20
- (a) liability of the Board; or
- (b) act done or omitted to be done by the Board, or any member or employee of the Board, in good faith in the performance or intended performance of the functions, duties, or powers of the Board. 25

84 Application of fees received by Board

- (1) All money paid to the Board under this Part must be paid into a bank account as determined by the Board.
- (2) The money may be applied only to the payment of any expenditure incurred by the Board in the performance of its functions and duties or the exercise of its powers. 30
- (3) The Board may invest any money for the time being not required for any of the purposes referred to in **subsection (2)** in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds. 35

Compare: 1986 No 123 s 76

- 85 Fees and allowances** 5
 There may be paid out of the funds of the Board to members of the Board and any committee appointed by the Board remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with (rules made by the Board) the framework determined by the Government for the remuneration of statutory and other bodies.
 Compare: 1986 No 123 s 20
- 86 Unauthorised expenditure** 10
 The Board may, in any financial year, expend for purposes not authorised by any Act or law any sum or sums not amounting in total to more than \$500.
 Compare: 1986 No 123 s 78
- 87 Accounts** 15
 (1) The Board must keep full and true accounts of all money received and expended by it.
 (2) As soon as practicable after the end of each financial year ending with 30 June, the Board must prepare and submit to a qualified auditor for auditing full and true statements and accounts of all its income and expenditure in that year and of its assets and liabilities at the end of that year. 20
 (3) In this section, **qualified auditor** means a person eligible to be appointed as an auditor under the Companies Act 1993.
 Compare: 1986 No 123 s 78
- 88 Annual report** 25
 (1) The Board must, in each year, make a report to the Minister on the performance of its functions and duties and the exercise of its powers.
 (2) The report must contain a copy of the board's audited accounts and the auditor's report on them. 30
- Struck out (unanimous)**
- (3) The Board must make a copy of its annual report available to all cadastral surveyors.

New (unanimous)

- (3) The Board must—
- (a) notify, in writing, all cadastral surveyors—
 - (i) that it has made its annual report to the Minister; and
 - (ii) specifying how they can obtain the annual report; and
 - (b) make a copy of its annual report available to all cadastral surveyors.
- (4) The Board complies with **subsection (3)(b)** if it publishes its annual report on the Internet.
- Compare: 1986 No 123 s 21

Subpart 3—Licensing of cadastral surveyors

89 Register of cadastral surveyors

- (1) The Board must maintain a register of cadastral surveyors who hold current licences issued under this Part.
- (2) The Board must enter in the register the name and address of every person who holds a current licence issued under this Part, and make any other entries that may be required, permitted, or directed to be entered by or under this Part.
- (3) The register must be open for public inspection during ordinary office hours at the place where it is kept.
- (4) The Board must, on payment of the prescribed fee (if any), supply—
- (a) a licence to a cadastral surveyor whose name is entered in the register; and
 - (b) a certified copy of any entry in the register to any person requesting it.
- (5) The Board may—
- (a) cause the register or any part of it to be published in the form, whether abbreviated or not, that it thinks fit; and
 - (b) charge any person who wishes to purchase a copy of the register or part of the register.
- (6) The fee charged under **subsection (5)(b)** must be not more than the fee that may be charged by a department of State for

providing information under the Official Information Act 1982.

Compare: 1986 No 123 s 35

Struck out (unanimous)

90 Transitional provision

- (1) Every person who, immediately before this Part comes into force, was registered under the Survey Act 1986 and held an annual practising certificate under that Act— 5
- (a) is to be treated as if he or she held a licence issued under this Part with an expiry date of 30 June 2003; and
- (b) must be entered in the register of cadastral surveyors; and 10
- (c) must pay to the Board, for the purposes of this section, the amount and at the time determined by the Board.
- (2) A person who does not pay the amount determined by the Board by the time determined by the Board is to be treated on and from that time as not holding a licence under **subsection (1)(a)**. 15

Compare: 1986 No 123 s 36

91 Entitlement of applicant for licence

- (1) A person, on payment of the prescribed fee, is entitled to be licensed as a cadastral surveyor if the person satisfies the Board— 20
- (a) that he or she meets the Board's standards for the licensing of cadastral surveyors; and
- (b) that he or she is not precluded from holding a licence because of an order made by the Board under **section 106**. 25

New (unanimous)

- (2) This section applies subject to **section 92**.

Compare: 1986 No 123 s 37

92 Character of applicant

- (1) A person must not be licensed under this Part if the person has, within 5 years before applying to be licensed under this 30

Part, been convicted of an offence under any of sections 217 to 281 of the Crimes Act 1961.

- (2) **Subsection (1)** does not apply if the District Court makes an order exempting the person from that subsection.
- (3) An order may be made on the terms and conditions (if any) that the court thinks fit. 5

93 Applications for licence

Every application for a licence under this Part must be made to the Board and must be in the form and contain the information required by the Board. 10

Compare: 1986 No 123 s 39

94 Board to consider applications

- (1) The Board must consider an application for a licence under this Part as soon as practicable after the Board receives the application. 15
- (2) In considering an application for a licence, the Board must—
 - (a) observe the rules of natural justice; and
 - (b) without limiting **paragraph (a)**, give the applicant—
 - (i) notice of any matter that might result in his or her application being declined; and 20
 - (ii) a reasonable opportunity to make submissions to the Board on the matter.

Compare: 1986 No 123 s 41

95 Board to license applicant or decline application

- (1) If, after considering an application, the Board is satisfied that the applicant is entitled to be licensed under this Part, the Board must— 25
 - (a) licence the applicant; and
 - (b) notify the applicant that he or she is licensed.
- (2) If, after considering an application, the Board is not satisfied that the applicant is entitled to be licensed as a cadastral surveyor, the Board must notify the applicant— 30
 - (a) of its decision and the reasons for it; and
 - (b) of the applicant's right to appeal against the decision.

96 Duration of licence

- (1) A licence must specify the date of its expiry. 35

- (2) The date of expiry must not be later than 3 years after the date of the issue or renewal of the licence.
- (3) A licence continues in force until the close of the date of its expiry unless sooner suspended or cancelled under this Part.
- 97 Renewal of licence** 5
- (1) A licensed cadastral surveyor, on payment of the fee set by the Board, is entitled to a renewal of his or her licence if the Board is satisfied that the cadastral surveyor complies with the current standards for cadastral surveyors issued by the Board.
- (2) An application for renewal of a licence must not be made earlier than 3 months before the licence's date of expiry. 10
- (3) If an application to renew a licence is made before the licence's expiry date but the licence has not been renewed before that date, the licence continues in force until the application is determined. 15
- 98 Cadastral surveyor to notify change of business address**
- (1) A licensed cadastral surveyor who changes his or her business address must, within 3 months after the change, notify the Board of his or her new address.
- (2) The Board must enter the new address in the register. 20
Compare: 1986 No 123 s 43
- 99 Amendment of register on change of name and removal of name on request**
- (1) If the Board is satisfied that a licensed cadastral surveyor has changed his or her name or that the name of a licensed cadastral surveyor is incorrectly stated in the register, the Board must correct any entry in the register relating to the cadastral surveyor. 25
- (2) The Board may at any time, if it thinks fit, on the written application of a licensed cadastral surveyor, remove the name of the cadastral surveyor from the register. 30
Compare: 1986 No 123 s 45
- 100 Offences relating to (*registration*) licences**
- Every person commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$5,000 who, for the purpose of 35

obtaining a licence or renewal of a licence under this Part (either for himself or herself, or for any other person),—

- (a) either orally or in writing, makes any declaration or representation that to his or her knowledge is false or misleading in a material particular; or 5
- (b) produces to the Board or makes use of any document, knowing it to contain any such declaration or representation; or
- (c) produces to the Board or makes use of any document, knowing that it is not genuine. 10

New

Compare: 1986 No 123 s 46

Struck out (unanimous)

Compare: 1986 No 123 s 46

New (unanimous)

100A Transitional provision: registered surveyors

- (1) Every person who, immediately before this Part comes into force, was registered under the Survey Act 1986 and held an annual practising certificate under that Act must— 15
 - (a) be treated as if he or she held a licence issued under this Part with an expiry date of 30 June 2003; and
 - (b) be entered in the register of cadastral surveyors; and
 - (c) pay to the Board, for the purposes of this section, the amount determined by the Board. 20
- (2) The amount determined by the Board under **subsection (1)(c)** must—
 - (a) be paid by a date determined by the Board; and
 - (b) not exceed the fee payable under section 47(4) of the Survey Act 1986 for the year 1 July 2001 to 30 June 2002. 25

New (unanimous)

- (3) A person who does not pay the amount determined by the Board by the date determined by the Board must be treated from that date as not holding a licence under **subsection (1)(a)**.

Compare: 1986 No 123 s 36

100B Transitional provision: applications to be registered surveyor	5
(1) This section applies to a person who, before the commencement of this Part,—	
(a) had qualified to sit the examinations specified in regulations 6 and 7(1)(b) of the Surveyors Professional Regulations 1977; and	10
(b) had applied to the Survey Board of New Zealand to sit the examinations.	
(2) The person may continue to sit the examinations and to complete, before 30 June 2003, the other requirements for a certificate of competency under the Surveyors Professional Regulations 1977.	15
(3) The members of the Survey Board of New Zealand holding office at the commencement of this Part must—	
(a) conduct the examinations referred to in subsection (1) , and do everything else necessary to determine whether a certificate of competency should be issued to the person; and	20
(b) issue a certificate of competency to the person if the person satisfies the members about the matters specified in regulation 3 of the Surveyors Professional Regulations 1977; and	25
(c) advise the Cadastral Surveyors Licensing Board of New Zealand accordingly.	
(4) On receiving advice under subsection (3) , the Cadastral Surveyors Licensing Board of New Zealand must—	30
(a) enter the name of the person concerned in the register of cadastral surveyors; and	
(b) issue a licence to the person.	
(5) This section applies subject to section 92 .	35

New (unanimous)

- (6) For the purposes of this section, the Surveyors Professional Regulations 1977 continue to apply as if they had not been revoked by this Part.

Subpart 4—Discipline**101 Professional misconduct**

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For the purposes of this subpart, **professional misconduct** means the professional misconduct described in **Schedule 6**.

Compare: 1986 No 123 s 48

102 Complaints of professional misconduct**Struck out (unanimous)**

- (1) The Board may receive complaints about— 10
- (a) the conduct of a licensed cadastral surveyor in carrying out a cadastral survey;
 - (b) the suitability of a licensed cadastral surveyor to carry out cadastral surveys.

New (unanimous)

- (1) The Board may receive complaints alleging that— 15
- (a) a licensed cadastral surveyor has been guilty of professional misconduct;
 - (b) a licensed cadastral surveyor is not entitled to be a licensed cadastral surveyor.
- (2) Any person may make a complaint, including— 20
- (a) any member of the Board;
 - (b) any person in the service of the Crown acting in his or her official capacity.
- (3) On receipt of a complaint, the Board— 25
- (a) must inform the cadastral surveyor concerned of the complaint; and
 - (b) may proceed to investigate the complaint.

- (4) For the purposes of an investigation, the Surveyor-General must provide to the Board any information he or she holds that is relevant to the complaint.
- (5) As soon as practicable after receiving the complaint or completing an investigation of the complaint, as the case may be, the Board must decide whether to accept or decline the complaint. 5
- (6) The Board must, immediately after making a decision under **subsection (5)**, give written notice of the decision to the person who made the complaint and the cadastral surveyor concerned. 10

Compare: 1986 No 123 s 49

103 Vexatious or trivial complaints

The Board is not required to investigate, and may decline to accept, a complaint that the Board considers vexatious or trivial. 15

104 Procedure if Board accepts complaint

- (1) If the Board accepts a complaint, the Board must, in the notice to the cadastral surveyor concerned given under **section 102(6)**,— 20
- (a) state that the Board has reason to believe that 1 or more grounds exist entitling it to exercise its disciplinary powers under **section 106**; and
- (b) provide particulars that will clearly inform the cadastral surveyor of the ground or grounds; and 25
- (c) specify a date, being not less than 28 days after the service of the notice, on which the board intends to hear the matter.
- (2) The notice may also require the cadastral surveyor to notify the board in writing, not later than 14 days before the date proposed for the hearing, whether or not he or she intends to appear before the Board at the hearing. 30
- (3) If the cadastral surveyor fails to notify his or her intention under **subsection (2)**, the cadastral surveyor is entitled to appear and be heard only on any conditions as to the payment of costs and expenses or otherwise as the Board thinks fit. 35

Compare: 1986 No 123 s 50(1) to (4)

105 Hearing of complaint

- (1) In hearing a complaint against a licensed cadastral surveyor, the Board—
- (a) must observe the rules of natural justice; and
 - (b) may receive evidence even though it would not be admissible in a court of law. 5
- (2) A member of the Board must not act as a member of the Board when it is hearing a complaint if the member—
- (a) made the complaint; or
 - (b) has a conflict of interest; or 10
 - (c) is the Surveyor-General.
- (3) The hearing of the complaint is not open to the public unless the Board otherwise directs.
- (4) The Board's decision on the hearing of the complaint is the decision of the majority of members present at the hearing. 15
- (5) An order of the Board made under **section 106** must—
- (a) be recorded in writing; and
 - (b) contain a statement of the reasons on which the order is based; and
 - (c) contain a clear statement— 20
 - (i) of the cadastral surveyor's right to appeal against the order; and
 - (ii) the time within which notice of an appeal must be given; and
 - (d) be signed by the Chairperson. 25
- (6) An order made in accordance with **subsection (5)**—
- (a) must be served on the cadastral surveyor; and
 - (b) takes effect from— 30
 - (i) the date it is served on the cadastral surveyor; or
 - (ii) a later date (if any) specified by the Board in the order.

Compare: 1986 No 123 s 50(6) to (12)

106 Disciplinary powers of Board

- (1) This section applies if the Board, after conducting a hearing in accordance with this subpart, is satisfied that a licensed cadastral surveyor— 35
- (a) has been convicted, whether before or after the cadastral surveyor became licensed, by any court in New Zealand of an offence against any of sections 217 to 281

- of the Crimes Act 1961, or by any court overseas against similar provisions; or
- (b) has been guilty of professional misconduct.
- (2) The Board may do 1 or more of the following:
- (a) order that the cadastral surveyor's licence be cancelled and the name of the cadastral surveyor be removed from the register: 5
- (b) order that the cadastral surveyor's licence, and his or her entitlement to obtain a renewal of the licence, be suspended for a period not exceeding 3 years: 10
- (c) order that the cadastral surveyor may, for a period not exceeding 3 years, practise but only subject to any conditions as to employment, supervision, relevant training or education, or otherwise that the Board may specify in the order. 15
- (3) The Board may order the cadastral surveyor concerned to pay any costs and expenses of, and incidental to, the hearing or any investigation conducted under **section 102** in relation to a complaint forming the subject of any hearing, including the costs of any field inspections undertaken for the purpose of testing the accuracy of any cadastral survey and the costs of remedying any defect in any such cadastral survey. 20
- (4) The Board must not make an order in respect of any offence committed by any person before the date on which he or she became licensed if, at that date, the Board was aware of his or her conviction in respect of the offence. 25
- (5) While any order of suspension of a licence remains in force, the person is to be treated for the purpose of this Part as not being licensed but, on the expiry of the order, the person's rights and privileges as a licensed cadastral surveyor are revived as from the date of expiry. 30
- (6) In an order under this section directing the name of any person to be removed from the register, or in any subsequent order of the Board, the Board may fix a time after which the person whose name has been removed may apply for a licence. 35
- (7) The Board, on hearing the application, may order that the name of the applicant be restored to the register, and may order that the person may, for a period not exceeding 3 years, practise but only subject to any conditions as to employment, supervision, or otherwise that the Board may specify in the order. 40

- (8) All costs and expenses payable, under this section are recoverable as debts due to the Board.

Compare: 1986 No 123 s 51

107 Powers and rights of Board and persons involved in proceedings of Board

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- (1) The Board has and may exercise, for the purposes of any hearing under **section 105**, the same powers as are conferred on Commissions of Inquiry by sections 4, 4B, and 4D to 8 of the Commissions of Inquiry Act 1908.
- (2) Sections 4, 4B, and 4D to 8 of the Commissions of Inquiry Act 1908 apply to all persons involved in any capacity in any hearing under **section 105** as if it were an inquiry conducted by a Commission under that Act. 10
- (3) A cadastral surveyor in respect of whom a hearing is conducted under **section 105** is entitled to appear and be heard, either personally or by his or her representative, at the hearing. 15
- (4) The Board has, in relation to any hearing under **section 105**, and any decision or order made on any such hearing, the same immunities and privileges as a District Court Judge has in the exercise of his or her civil jurisdiction. 20

Compare: 1986 No 123 s 52

108 Appeals from decisions of Board

- (1) This section applies to a person who is dissatisfied with the whole or any part of—
- (a) any decision of the Board relating to an application by the person for a licence: 25
- (b) any decision by the Board under **section 102** or **section 103** to decline to accept a complaint:
- (c) any order of the Board under **section 106** relating to him or her. 30
- (2) The person may, within 28 days after notice of the decision or order has been communicated to him or her by the Board or within any further time that the District Court may allow on application made before or after the expiration of that period, appeal to the District Court against the decision or order, as the case may be. 35
- (3) The Court must, as soon as practicable, hear the appeal, and may confirm, reverse, or modify the decision of the Board, or

may refer the matter back to the Board in accordance with rules of Court, and may give any decision that the Board could have given in respect of the matter.

- (4) This section does not give the Court power to review any part of the Board's decision other than the part against which the appellant has appealed. 5
- (5) Subject to any order of the Court, every decision or order of the Board against which an appeal is lodged continues in force and has effect according to its tenor pending the determination of the appeal. 10
- (6) On any appeal under this section, the Court may make an order for the payment by the Board, or by the appellant, of the costs incurred in respect of the appeal by the other party to the appeal.
- (7) The decision of the District Court on any such appeal is final. 15
Compare: 1986 No 123 s 53

109 Suspensions and conditions must be entered in register

- (1) The Board must enter in the register at the entry for the appropriate cadastral surveyor the fact that any suspension or condition of practice has been imposed upon him or her under **section 106** and the terms of the suspension or condition. 20
- (2) An entry made in the register under **subsection (1)** must be removed on the expiry of the period of suspension or the lifting of the suspension by the Board or the District Court. 25
Compare: 1986 No 123 s 54

110 Surrender of licences

- (1) A cadastral surveyor whose licence is cancelled or suspended under this subpart must, within 14 days after the date on which written notice of the cancellation or suspension has been given to him or her, deliver to the Board the current licence issued to him or her under this Part. 30
- (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who wilfully fails to comply with **subsection (1)**.

111 Publication of orders

- (1) This section applies to— 35

- (a) a decision or order made by the board under **section 106** in respect of any licensed cadastral surveyor and no appeal has been brought against the decision or order:
- (b) an order made by any court in respect of any appeal under **section 108** by a licensed cadastral surveyor. 5
- (2) The Board may publish a notice stating the effect of the decision or order in the *Gazette* and any other publications as the Board thinks fit.
- Compare: 1986 No 123 s 56
- 112 Copies of rules and procedures to be made available on request** 10
- The Board must, if requested by any person, provide to the person a copy of the rules and procedures relating to disciplinary matters under this subpart.
- 113 Transitional provision** 15
- Complaints, investigations, hearings, proceedings, and other matters begun but not completed under the Survey Act 1986 before the commencement of this Part may be continued and completed by the Board as if the Survey Act 1986 had not been repealed by this Part. 20
- Subpart 5—Conduct of cadastral surveys
- 114 General duties in relation to cadastral surveys**
- (1) A cadastral survey must be conducted by a cadastral surveyor or a person acting under the direction of a cadastral surveyor.
- (2) In conducting a cadastral survey, a cadastral surveyor or a person acting under his or her direction must comply with this Part and any regulations, standards, and rules made under it. 25
- (3) A cadastral surveyor is responsible for a cadastral survey conducted by a person acting under his or her direction.
- (4) **Subsection (2)** applies subject to **subsection (5)** and section 167 of the Land Transfer Act 1952. 30
- (5) If the Surveyor-General considers in a particular case that compliance with the requirements of any standards or rules under this Part is impractical or unreasonable, the Surveyor-General may— 35
- (a) grant an exemption from the requirements; or
- (b) specify alternative requirements.

- (6) Compliance with alternative requirements must be treated as compliance with **subsection (2)**.

115 Regulations

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations requiring cadastral surveyors to provide cadastral survey datasets, or specified parts or classes of cadastral survey datasets, to the chief executive as digital cadastral survey datasets. 5

New (unanimous)

- (1A) The Minister must not make a recommendation under **subsection (1)** unless the Minister has consulted the body or bodies representing cadastral surveyors. 10

- (2) The Governor-General may, by Order in Council, make regulations prescribing—
- (a) the matters in respect of which fees or charges are payable for— 15
- (i) the exercise of the functions, duties, and powers of the Surveyor-General under this Part:

New (unanimous)

- (iia) the exercise of the functions, duties, and powers of the chief executive under this Part:

- (ii) *(the exercise of the functions of, or)* the provision of facilities and services *(provided)* by the chief executive in relation to the administration of this Part: 20
- (b) the amounts of those fees or charges, or the method or rates by which they are to be assessed: 25
- (c) the persons liable for payment of those fees or charges:
- (d) the circumstances in which the payment of the whole or any part of those fees or charges may be remitted or waived:
- (e) the manner in which the fees or charges are to be paid. 30

Struck out (unanimous)

- (3) The chief executive may set fees and charges for a function, facility, or service if a fee is not set for the function, facility, or service under this section.

New (unanimous)

- (3) The Survey (Departmental Fees and Charges) Regulations 1998, to the extent applicable,—
- (a) continue in force as if they had been made under **subsection (2)**; and
 - (b) may be amended or revoked as if they had been made under **subsection (2)**.

Compare: 1986 No 123 s 80

116 Surveyor-General may make rules about conduct of cadastral surveying

- (1) The Surveyor-General may, by notice in the *Gazette*, make rules specifying—
- (a) standards for the conduct of cadastral surveys (including the use of cadastral survey marks): 15
 - (b) standards for cadastral survey datasets.
- (2) Before making any rules under this section, the Surveyor-General must consult—
- (a) the Board in relation to rules that have implications for the standards set by the Board under **section 79(1)(d)**; and 20
 - (b) the body or bodies representing cadastral surveyors; and
 - (c) if the standards will affect a tenure system, the agency or officer responsible for the tenure system. 25
- (3) Before making rules under this section, the Surveyor-General must have regard to the following matters:
- (a) the extent to which the proposed standards will promote the purpose of any tenure system:
 - (b) the costs and benefits of consistency in standards relating to more than 1 tenure system: 30
 - (c) the costs and benefits of maintaining the accuracy of the cadastre:

- (d) the costs involved in cadastral surveys and cadastral survey datasets complying with the proposed standards:
- (e) maintaining public confidence in the cadastre.
- (4) Rules made under this section—
 - (a) apply subject to regulations made under this Part; and 5
 - (b) are regulations for the purposes of the Regulations (Disallowance) Act 1989 (*but not for the Acts and Regulations Publications Act 1989*).

Struck out (unanimous)

- (5) Rules made under this section must be publicly notified.
- (6) **Subsection (5)** is complied with if the rules are published on the Internet. 10

New (unanimous)

- (5) The Surveyor-General must—
 - (a) notify rules made under this section in a publication of a body referred to in **subsection (2)(b)**; and
 - (b) supply, on request for a reasonable fee, a copy of rules made under this section. 15

116A Transitional provision: Surveyor-General's rules

- (1) On and from the commencement of this Part, the provisions specified in **subsection (2)**—
 - (a) have effect as if they— 20
 - (i) were rules made under **section 116**; and
 - (ii) had been amended in the manner specified in **Schedule 6A**; and
 - (b) may be amended or replaced under **section 116**.
- (2) The provisions are— 25
 - (a) sections 57, 58, and 60 of the Survey Act 1986; and
 - (b) the Survey Regulations 1998.

116B Expiry of section 116A

Section 116A expires at the end of 12 months after the commencement of this Part. 30

- 117 Correction of errors in survey**
- (1) If an error is found in a cadastral survey dataset affecting any title under the Land Transfer Act 1952 or any title or tenure under any other Act, the Surveyor-General may, in writing, require the cadastral surveyor responsible for the error to undertake the work necessary to correct the error. 5
- (2) **Subsection (1)** does not limit—
- (a) the powers granted in sections 7 and 46 of the Crown Grants Act 1908:
- (b) the powers of the Registrar under sections 80 and 81 of the Land Transfer Act 1952, or the provisions of section 170 of that Act: 10
- (c) the powers of any court under any enactment.
- 118 Powers of entry for cadastral survey purposes**
- (1) A cadastral surveyor authorised either generally or specifically by the Surveyor-General may, for the purpose of conducting a cadastral survey or the installation of a survey mark,— 15
- (a) enter and re-enter any land at reasonable times, with or without any assistants, aircraft, boats, vehicles, appliances, machinery, and equipment that are reasonably necessary for the conduct of the cadastral survey or to install the survey mark; and 20
- (b) on any land, do all things necessary or required of him or her for the proper conduct of the cadastral survey or the installation of the survey mark. 25
- (2) Before exercising any of the powers conferred by **subsection (1)** in respect of any land that is not a road, the person doing so must, if practicable, give reasonable notice to the occupier of the land of the intention to exercise those powers. 30
- (3) **Subsection (1)** does not confer on any person the power to enter any dwellinghouse or other building unless the entry is authorised by a warrant given by a District Court Judge on written application on oath, which must not be granted unless the Judge is satisfied that reasonable efforts have been made to obtain consent to the entry and that the entry is necessary for the purpose of conducting a cadastral survey. 35
- (4) A person exercising any power under **subsection (1)** must produce evidence of his or her identity and authority to exercise the powers conferred by this section— 40

- (a) if practicable on first entering the land or premises; and
- (b) whenever subsequently reasonably requested to do so.

Compare: 1986 No 123 s 61

Subpart 6—Offences and penalties

- 119 Obstruction of cadastral surveyor** 5
- Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who knowingly obstructs or hinders a cadastral surveyor, or a person assisting a cadastral surveyor, in—
- (a) performing the cadastral surveyor's duties and functions in relation to a cadastral survey; or 10
 - (b) ascertaining or marking out a boundary or cadastral survey line; or
 - (c) fixing, placing, restoring, repairing, or setting up a cadastral survey mark. 15
- Compare: 1986 No 123 s 66
- 120 Interference with cadastral survey marks**
- (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who knowingly or recklessly takes, destroys, or alters the position of, or markings on, a survey mark that has been placed or set up— 20
 - (a) for the control of cadastral surveys; or
 - (b) for the purposes of any cadastral survey conducted under, or for the purposes of, this Part or another Act.
 - (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who (having taken, destroyed, or altered the position of, or markings on, a survey mark) fails to notify the taking, destruction, or alteration to the Surveyor-General as soon as practicable after doing so. 25
 - (3) Every person who is convicted of an offence against **subsection (1) or subsection (2)** is also liable to pay the costs (including any associated cadastral survey costs) of repairing, replacing, or restoring to its proper position, or restoring the markings on, the cadastral survey mark concerned. 30
 - (4) The costs in **subsection (3)** are— 35
 - (a) the costs as assessed by a District Court Judge; and
 - (b) recoverable as if they were a fine.

- (5) This section does not apply to anything done with the prior written approval of the Surveyor-General.

New (unanimous)

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|---|---|
| <p>(6) The Surveyor-General may give approval under subsection (5) subject to any terms and conditions that the Surveyor-General thinks fit relating to—</p> <p style="margin-left: 20px;">(a) repairing, replacing, or restoring to its proper position, or restoring the markings on, a cadastral survey mark; or</p> <p style="margin-left: 20px;">(b) making payment for any of those things to be done.</p> | 5 |
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Compare: 1986 No 123 s 67

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121 False cadastral survey marks

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who places in position in relation to any land a peg or mark—

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|---|----|
| <p>(a) that is not a cadastral survey mark properly placed; and</p> <p>(b) with the intention of causing any person to believe that it is a cadastral survey mark placed in that position for the purposes of a cadastral survey.</p> | 15 |
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Compare: 1986 No 123 s 69

122 Unlicensed persons not to act as licensed cadastral surveyors

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| <p>(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, not being a licensed cadastral surveyor or a person acting under the direction of a licensed cadastral surveyor, performs or executes, or undertakes to perform or execute, anything for the purposes of a cadastral survey.</p> | 25 |
|--|----|

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|--|----|
| <p>(2) However, subsection (1) does not apply to anything done under the authority of another enactment by a person who is not a licensed cadastral surveyor.</p> | 30 |
|--|----|

Compare: 1986 No 123 s 70

123 Offences relating to terms implying person is licensed cadastral surveyor

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who,—

- (a) not being a licensed cadastral surveyor, uses, or causes or permits to be used, written words, titles, or initials, or an abbreviation of words, titles, or initials, that are intended to cause or may reasonably cause a person to believe that the person using them is a licensed cadastral surveyor or is qualified to act as a licensed cadastral surveyor: 5
10
- (b) knowing that another person is not licensed under this Part, and with intent to deceive, makes a statement or does an act calculated to suggest that the other person is a cadastral surveyor or is licensed under this Part; or 15
- (c) with intent to deceive, makes use of a licence issued to him or her or to another person under this Part.

Compare: 1986 No 123 s 71

Infringement offences

- 124 Infringement offences** 20
- In **sections 125 to 128**,—
- infringement fee**, in relation to an infringement offence, means \$200
- infringement offence** means an offence under any of **sections 119 to 122**. 25

125 Commission of infringement offence

If any person is alleged to have committed an infringement offence, the person may either—

- (a) be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or 30
- (b) be served with an infringement notice under **section 126**.

126 Infringement notices

- (1) If the chief executive has reasonable cause to believe that a person has committed an infringement offence, an infringement notice in respect of the offence may be served on the person. 35
- (2) An infringement notice may be served—

- (a) by delivering it personally to the person who appears to have committed the infringement offence; or
 - (b) by sending it by post addressed to the person at the person's last known place of residence or business.
- (3) For the purposes of the Summary Proceedings Act 1957, an infringement notice sent to a person under **subsection (2)(b)** is to be treated as having been served on the person when it was so posted. 5
- (4) An infringement notice must be in the prescribed form and must contain the following particulars: 10
- (a) such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and
 - (b) the amount of the infringement fee; and
 - (c) the address of the place at which the infringement fee may be paid; and 15
 - (d) the time within which the infringement fee must be paid; and
 - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and 20
 - (f) a statement that the person served with the notice has a right to request a hearing; and
 - (g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing; and 25
 - (h) any other particulars that are prescribed.
- (5) If an infringement notice has been issued under this section, proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957; and, in that case, the provisions of that section apply with all necessary modifications. 30

127 Payment of infringement fees

All infringement fees paid in respect of infringement offences must be paid into the Crown Bank Account. 35

128 Regulations

The Governor-General may, by Order in Council, make regulations prescribing the form of infringement notices, and any other particulars to be contained in infringement notices.

Subpart 7—Dissolution of Survey Board of New Zealand and New Zealand Institute of Surveyors

129 Dissolution of Survey Board of New Zealand

- (1) In this section,—
- new Board** means the Cadastral Surveyors Licensing Board of New Zealand established by **section 78** 5
- old Board** means the Survey Board of New Zealand constituted by the Survey Act 1986.
- (2) On and from the commencement of this Part,—
- (a) the old Board is dissolved: 10
- (b) all property belonging to the old Board vests in the new Board:
- (c) all money payable to or by the old Board becomes payable to or by the new Board:
- (d) all liabilities, contracts, engagements, rights, and authorities of the old Board become the liabilities, contracts, engagements, rights, and authorities of the new Board: 15
- (e) all proceedings by or against the old Board may be continued, completed, or enforced by or against the new Board. 20

130 Dissolution of New Zealand Institute of Surveyors

- (1) Despite **section 133(2)**, the New Zealand Institute of Surveyors (the **Institute**) continues in existence for the purposes of this section. 25
- (2) The Institute must, as soon as practicable after this Part comes into force, nominate, by notice in the *Gazette*, for the purposes of this section, a society (the **society**) registered under the Incorporated Societies Act 1908, whether registered before or after the commencement of this section. 30
- (3) On a date appointed by the Governor-General by Order in Council,—
- (a) the Institute is dissolved:
- (b) all property belonging to the Institute vests in the society: 35
- (c) all money payable to or by the Institute becomes payable to or by the society:

- (d) all liabilities, contracts, engagements, rights, and authorities of the Institute become the liabilities, contracts, engagements, rights, and authorities of the society:
- (e) every employee of the Institute becomes an employee of the society on the same terms and conditions as applied immediately before becoming an employee of the society: 5
- (f) all proceedings by or against the Institute may be continued, completed, or enforced by or against the society. 10
- (4) The employment agreement of an employee who becomes an employee of the society under **subsection (3)(e)** is to be treated as not having been broken, and the employee is not entitled to any payment or benefit because the employee becomes an employee of the society under that provision. 15
- (5) In this section, **property**—
- (a) means every type of property; and
- (b) includes—
- (i) every type of estate and interest in property; and
- (ii) money. 20

Subpart 8—Miscellaneous

131 **Certification of plans and descriptions**

If a certified cadastral survey dataset or description is required for any purpose, a cadastral survey dataset or description containing a statement that it has been certified for that purpose by the Surveyor-General and authenticated by the Surveyor-General is, in the absence of proof to the contrary, sufficient evidence that the cadastral survey dataset or description has been certified by the Surveyor-General. 25

Compare: 1986 No 123 s 73 30

132 **Certificate by or on behalf of Board to be evidence of (registration) being licensed, etc**

A certificate given by or on behalf of the Board to the effect that a person was or was not a licensed cadastral surveyor under this Part or under any previous Act at any time or during any period specified in the certificate, or as to any entry in the register of cadastral surveyors or as to any act or proceeding 35

of the Board, is sufficient evidence of the matters specified in it, in the absence of evidence to the contrary.

Compare: 1986 No 123 s 74

133 Consequential amendments and repeals

- (1) The Acts specified in **Schedule 7** are amended in the manner indicated in that schedule. 5
- (2) The enactments specified in **Part 1 of Schedule 8** are repealed.

New (unanimous)

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|-----|---|----|
| (3) | The regulations specified in Part 2 of Schedule 8 are revoked. | |
| (4) | All surveys, matters, and proceedings commenced under the Survey Regulations 1998 that were pending or in progress on the commencement of this Part— | 10 |
| | (a) may be continued, dealt with, and completed under those regulations as if they had not been revoked; and | |
| | (b) may be enforced under rules made under section 116 , or under provisions that have effect as if they were rules made under that section, as if continued, dealt with, and completed under those rules. | 15 |

134 References in other enactments

- (1) A reference in another enactment to a chief surveyor in the context of cadastral surveys or an interest under a tenure system is to be read as a reference to the Surveyor-General. 20
- (2) A reference in another enactment to a plan that **subsection (3)** applies to is to be read as including a digital cadastral survey dataset.
- (3) This subsection applies to the following references: 25
 - (a) a reference to a survey plan:
 - (b) a reference to a plan approved by a chief surveyor or the Surveyor-General:
 - (c) a reference to a plan deposited under the Land Transfer Act 1952: 30

s 82

Schedule 5**Further provisions applying to Board****1 Term of appointment**

- (1) A member of the Board appointed by the Minister holds office for the term, not exceeding 3 years, specified in his or her notice of appointment. 5
- (2) A member of the Board appointed by the Minister may be reappointed to the Board.
- (3) Even though a member's term of appointment may have expired, the member continues in office until his or her successor is appointed. 10

Compare: 1986 No 123 s 13(3) and (4)

2 Extraordinary vacancies

- (1) This section applies to—
- (a) any member of the Board appointed by the Minister; 15
 - and
 - (b) the substitute member of the Board appointed under **clause 4**.
- (2) A member may—
- (a) be removed from office by the Minister for inability to perform the duties of office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister; or 20
 - (b) resign his or her office by notice in writing delivered to the Minister. 25
- (3) If a member or substitute member dies, resigns, or is removed from office,—
- (a) the vacancy so created must be filled in the manner in which the appointment to the vacant office was originally made; and 30
 - (b) the person appointed to fill the vacancy must be appointed for the residue of the term for which his or her predecessor was appointed.

Compare: 1986 No 123 s 16

3 Meetings of Board 35

- (1) Meetings of the Board are to be held at the times and places the chairperson appoints.

- (2) Any 2 members of the Board may require the chairperson to appoint a time and place for the holding of a meeting of the Board within 14 days after the giving to him or her of notice of that requirement.
- (3) At every meeting of the Board, the quorum necessary for the transaction of business is 3 members. 5
- (4) However, the quorum is 4 members and must include the member appointed under **section 81(2)(c)** if the Board is considering any matter under **subpart 4 of Part 2**.
- (5) Every question before a meeting of the Board must be determined by a majority of the votes of the members present at the meeting of the Board. 10
- (6) No member of the Board is entitled to be present or vote or otherwise participate in his capacity as a member of the Board at any part of a meeting of the Board if the member has a conflict of interest. 15
- (7) The chairperson has a deliberative vote and, in the case of an equality of votes, also has a casting vote.
- (8) The chairperson must preside at all meetings of the Board at which he or she is present. 20
- (9) In the absence of the chairperson from any meeting of the Board, the members present must elect 1 of their number to preside at the meeting, and the member presiding has all the powers of the chairperson for the purposes of the meeting.
- (10) Subject to **Part 2** and any regulations made under that Part, the Board may regulate its procedure as it thinks fit. 25

Compare: 1985 No 123 s 17

4 Substitute for members

- (1) The Minister may appoint, for a term not exceeding 3 years, 1 licensed cadastral surveyor as a substitute member of the Board, who is entitled, in the absence from any meeting of the Board of a member appointed under **section 81(2)(a) or (b)**, to attend the meeting in his or her place. 30
- (2) The Minister may appoint, for a term not exceeding 3 years, a suitably qualified person as a substitute member of the Board, who is entitled, in the absence from any meeting of the Board of a member appointed under **section 81(2)(c)**, to attend the meeting in his or her place. 35

- (3) A person appointed under this clause who attends a meeting of the Board is to be treated for the purposes of **Part 2** as a member of the Board, except that he or she must not act as chairperson of the Board. 5
- Compare: 1986 No 123 s 18
- 5 Committees**
- (1) The Board may appoint committees, consisting of 2 or more members of the Board and any other persons as the Board thinks fit,—
- (a) to inquire into and report to the Board on matters within the scope of its functions that are referred to them by the Board; or 10
- (b) to exercise on behalf of the Board any of its functions or powers and may, from time to time, delegate to any such committee any such function or power, other than the functions and powers conferred on the Board by **subparts 3 and 4 of Part 2** (which relate to licensing and discipline). 15
- (2) A committee appointed under this section—
- (a) is subject to the control of the Board; and 20
- (b) may, at any time, be discharged, altered, or reconstituted by the Board.
- (3) Subject to any general or special directions given or conditions imposed by the Board, a committee may exercise a function or power, delegated to it under this clause, in the same manner and with the same effect as if it had been conferred directly by **Part 2** and not by delegation. 25
- (4) A committee appearing to act under a delegation must, in the absence of proof to the contrary, be presumed to be acting in accordance with the delegation. 30
- (5) A delegation may be revoked at any time.
- (6) No delegation prevents the exercise of any function or power by the Board.
- Compare: 1986 No 123 s 19
-

Schedule 6

Professional misconduct

s 101

- 1 A licensed cadastral surveyor is guilty of professional misconduct if the cadastral surveyor is found in any proceedings or appeal under **subpart 4 of Part 2**— 5
- (a) to have been negligent in the conduct of, or failure to conduct, any cadastral survey: 5
 - (b) to have certified to the accuracy of any cadastral survey or cadastral survey dataset without having personally carried out or directed the cadastral survey and the related field operations: 10
 - (c) to have certified to the accuracy of any cadastral survey or cadastral survey dataset without having carried out sufficient checks to ensure the accuracy of the entries in any field book and the accuracy of all calculations, working plans, and other cadastral survey records that may have been made by any person employed by him or her in relation to the cadastral survey: 15
 - (d) to have certified to the accuracy of any cadastral survey carried out by the cadastral surveyor or under his or her personal direction if the operation of pegging and ground marking, and all other requirements of the cadastral survey, have not been carried out in accordance with standards set under **subpart 5 of Part 2**: 20
 - (e) to have certified to the accuracy of any cadastral survey or cadastral survey dataset, knowing it to be defective: 25
 - (f) to have made any entry in any field book or other record that purports to have been derived from actual observation or measurement in the field, if in fact it has not been so derived: 30
 - (g) to have supplied to the Surveyor-General any erroneous information in relation to any cadastral survey, cadastral survey mark, or boundary, knowing the information to be erroneous in any material particular: 35
 - (h) to have been convicted of any offence against **section 100 or section 123(b) or (c)**: 35
 - (i) to have failed to comply with any conditions imposed by the Board under **section 106(2)(c) or (7)** or the High Court on any appeal against an order under **section 106**: 35

- (j) to have failed to comply with any requirement imposed under **section 117**:
- (k) to have persistently exercised the powers of entry conferred by **section 118** in an unreasonable manner:
- (l) to have failed, without reasonable cause, to perform any duty imposed on licensed cadastral surveyors by standards set by rules made under **section 116**. 5
- 2 For the purposes of determining whether or not a licensed cadastral surveyor is guilty of professional misconduct, the fact that a cadastral survey or cadastral survey dataset may have been approved by or on behalf of the Surveyor-General or (approved by or on behalf of the Surveyor-General) the subject of a determination by the chief executive that it complies with standards specified in rules made under **section 116** is not relevant. 10
15
-

New (unanimous)

Schedule 6A s 116A(1)(a)(ii)
**Amendments to Survey Act 1986 and Survey
Regulations 1998 for purposes of section
116A(1)(a)(ii)**

Part 1

5

Amendments to Survey Act 1986

Section 57

Repeal and substitute:

“57 Measures of length and area

“(1) All measurements of length in cadastral surveys and cadastral survey datasets must be expressed in metres and decimals of metres. 10

“(2) All measurements of area in cadastral surveys and cadastral survey datasets must be expressed in hectares and decimals of a hectare, or, where the area is less than 1 hectare, must be expressed in square metres.” 15

Section 58

Omit from subsection (1) the words “or section 64 of this Act”.

Omit from subsection (1) the words “any survey affecting any title under the Land Transfer Act 1952 or any title or tenure under any other Act shall” and substitute the words “a cadastral survey must”. 20

Repeal subsection (1)(c) and substitute:

“(c) supply to the chief executive all relevant cadastral survey data obtained by him or her in relation to the survey:” 25

Omit from subsection (1)(d) the words “Chief Surveyor” and substitute the words “Surveyor-General”.

Repeal subsection (2) and substitute:

“(2) Every cadastral survey to which subsection (1) applies must be certified— 30

“(a) personally by the cadastral surveyor who is responsible for the survey; and

“(b) in a form specified by the Surveyor-General.”

Section 60

Repeal subsection (1) and substitute: 35

New (unanimous)

Part 1—*continued***Section 60**—*continued*

“(1) When conducting a cadastral survey, a cadastral surveyor must examine all relevant documents, from the sources specified in **subsection (1A)**, relating to the land to be surveyed and all land adjacent to the land to be surveyed.

“(1A) The sources are—

- “(a) cadastral survey data and other information held by the chief executive:
- “(b) information held by the Registrar-General of Land:
- “(c) information held by the Maori Land Court.”

5

Part 2

Amendments to Survey Regulations 1998

10

Regulation 2

New

Revoke the definition of **cadastral survey dataset** in subclause (1).

Omit from the definition of **the national survey control system** in **((subsection)) subclause (1)** the expression “section 11(a)” and substitute the expression “**section 72**”.

15

Omit from the definition of **the principal Act** in **((subsection)) subclause (1)** the words “the Survey Act 1986” and substitute the words “**Part 2 of the Land Transfer and Cadastral Survey Legislation Act 2001**”.

20

Revoke the definitions of **surveyor** and **survey-system information** in **((subsection)) subclause (1)** and substitute:

“**survey** means a cadastral survey as defined in **section 72 of the Land Transfer and Cadastral Survey Legislation Act 2001**

“**surveyor** means a licensed cadastral surveyor as defined in **section 72 of the Land Transfer and Cadastral Survey Legislation Act 2001**”.

25

New (unanimous)

Part 2—continued

Regulation 2—continued

New

Revoke the definition of **tenure-system information** in subclause (1).

Revoke subclause (2) and substitute:

“(2) Terms and expressions used but not defined in these regulations have the same meaning as in **Part 2 of the Land Transfer and Cadastral Survey legislation Act 2001**.” 5

Regulation 3

Omit.

Regulation 4

10

Revoke and substitute:

“4 **Cadastral survey datasets**

A cadastral survey dataset and any related cadastral survey data required by these regulations must be submitted to the chief executive before they can be incorporated in the cadastre.” 15

Regulation 18(2)(b)

Insert, after the word “surveyor”, the words “(or certified by the surveyor in a form approved by the Surveyor-General)”.

New

Regulation 26(1)

20

Omit the words “by section 58(1)(a) of the principal Act”.

Regulation 29

Omit the words “by section 58(1)(a) of the principal Act”.

Regulation 36(1)

Revoke paragraph (d).

25

Regulation 41(1)

Omit the words “with the Chief Surveyor for examination and approval” and substitute the words “for the purposes of **section 77(a) and (ca)** of the Act”.

New (unanimous)

Part 2—continued

New

Regulation 42

Omit from subclause (1) the words “with the Chief Surveyor for examination and approval” and substitute the words “for the purposes of **section 77(a) and (ca)** of the Act”. 5

Insert in subclause (2)(o), after the words “Chief Surveyor,”, the words “the chief executive,”.

Omit from subclause (2)(o) the word “either” and substitute the word “any”.

Regulation 43

Revoke subclause (1) and substitute the following subclauses: 10

“(1) The chief executive may require the record of field observations and measurements for a survey to be included in a CSD.

“(1A) The Surveyor-General may require a surveyor to produce the record of field observations and measurements for a survey for the purpose of the Surveyor-General’s function specified in **section 75(1)(j)** of the principal Act.” 15

Omit from subclause (2) the word “Surveyor-General” and substitute the words “chief executive”.

Regulation 46(2)

Omit the words “Chief Surveyor” and substitute the words “chief executive”. 20

Regulation 47

Omit the words “Chief Surveyor” in both places where they occur and substitute in each case the words “chief executive”. 25

Regulation 48(1)

Omit the words “Chief Surveyor” and substitute the words “chief executive”.

Schedule 7 Acts amended

s 133(1)

Foreshore and Seabed Endowment Revesting Act 1991 (1991 No 103)	5
Omit from section 9(1) the words “registered surveyor” and substitute the words “licensed cadastral surveyor”.	
Forestry Rights Registration Act 1983 (1983 No 42)	
Omit from section 5A(3) the words “registered surveyor” and substitute the words “licensed cadastral surveyor”.	
Forests Act 1949 (1949 No 19)	10
Omit from section 67K(4) the words “registered surveyor” and substitute the words “licensed cadastral surveyor”.	
Harbour Boards Dry Land Endowment Revesting Act 1991 (1991 No 104)	15
Omit from section 9(1) the words “registered surveyor” and substitute the words “licensed cadastral surveyor”.	
Land Act 1948 (1948 No 64)	20
Omit from the definition of the term Commissioner in section 2 the words “12A(1) of the Survey Act 1986” and substitute the expression “ 24AA ”.	
New (unanimous)	
Repeal the definition of department in section 2 and substitute: “ department means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.	
Omit from the definition of surveyor in section 2 the words “registered surveyor within the meaning of the Survey Act 1986” and substitute the words “licensed cadastral surveyor within the meaning of the Land Transfer and Cadastral Survey Legislation Act 2001 ”.	25
Insert, before section 24, the following sections:	
“ 24AA Commissioner of Crown Lands	30
“(1) A person must be appointed under the State Sector Act 1988 to hold office as the Commissioner of Crown Lands.	

Land Act 1948 (1948 No 64)—continued

“(2) The Commissioner must report directly to the Minister on the exercise and performance of the Commissioner’s statutory powers and functions.

Compare: 1986 No 123 s 12A

“**24AB Delegation of Commissioner’s functions, duties, and powers** 5

The Commissioner may, under section 41 of the State Sector Act 1988, delegate to the employees of the department, in the same manner and to the same extent as if the Commissioner were the chief executive of the department, any power— 10

“(a) conferred by statute on the Commissioner; or

“(b) delegated under statute to the Commissioner by a Minister of the Crown.

Compare: 1986 No 123 s 12B”.

Omit from section 184(2)(a) the words “Imposing reasonable charges for services rendered by officers of the Department, and”. 15

Insert, after section 184:

“**184A Regulations for fees**

“(1) The Governor-General may, by Order in Council, make regulations prescribing— 20

“(a) the matters in respect of which fees or charges are payable for functions of, or facilities or services provided by, the chief executive:

“(b) the amounts of those fees or charges, or the method or rates by which they are to be assessed: 25

“(c) the persons liable for payment of those fees or charges:

“(d) the circumstances in which the payment of the whole or any part of those fees or charges may be remitted or waived:

“(e) the manner in which the fees or charges are to be paid. 30

“(2) This section does not apply to functions of, or facilities or services provided by, the chief executive under *(the)* **Part 2 of the Land Transfer and Cadastral Survey Legislation Act 2001**.

Land Act 1948 (1948 No 64)—continued**Struck out (unanimous)**

“(3) The chief executive may set fees and charges for any function, facility, or service if a fee is not set for the function, facility, or service under this section.”

New (unanimous)

“(3) The Survey (Departmental Fees and Charges) Regulations 1998, to the extent applicable,— 5

“(a) continue in force as if they had been made under **subsection (1)**; and

“(b) may be amended or revoked as if they had been made under **subsection (1)**.” 10

Land Transfer Amendment Act 1963 (1963 No 61)

Omit from sections 14(2)(d) and 16(2)(a) the words “registered surveyor” and substitute in each case the words “licensed cadastral surveyor”.

Maori Affairs Restructuring Act 1989 (1989 No 68) 15

Omit from section 73(2) the words “registered surveyors” and substitute the words “licensed cadastral surveyors”.

Marine Farming Act 1971 (1971 No 29)

Omit from section 43(2) the words “registered surveyor” and substitute the words “licensed cadastral surveyor”. 20

Public Audit Act 2001 (2001 No 10)

Omit from Schedule 2 the words “Survey Board of New Zealand”.
Repeal so much of Schedule 4 as relates to the Survey Act 1986.

s 133(2), (3)

Schedule 8 Enactments repealed or revoked

New (unanimous)

Part 1 Enactments repealed

- | | |
|--|--------------------|
| <p>Crown Minerals Act 1991 (1991 No 70)
Repeal so much of the Third Schedule as relates to the Survey Act 1986.</p> <p>Survey Act 1986 (1986 No 123)</p> <p>Trustee Amendment Act 1988 (1988 No 119)
Repeal so much of the Second Schedule as relates to the Survey Act 1986.</p> | <p>5</p> <p>10</p> |
|--|--------------------|

New (unanimous)

Part 2 Regulations revoked

- | | |
|---|-----------|
| <p>Survey Regulations 1998 (SR 1998/441)</p> <p>Surveyors Professional Regulations 1977 (SR 1977/290)</p> | <p>15</p> |
|---|-----------|

Legislative history

2 May 2002

Divided from Land Transfer and Cadastral Survey
Legislation Bill (Bill 169-2) as Bill 169-3B