

SURVEYORS BILL

EXPLANATORY NOTE

This Bill consolidates and amends the Surveyors Act 1938. The term "registered surveyor" has been used throughout in place of the term "surveyor".

All clauses, except clauses 28, 32, 35, and 36, substantially re-enact existing provisions.

Clause 1 relates to the Short Title.

Clause 2 defines terms used in the Bill. The term "registered surveyor" replaces the term "surveyor".

In addition there is a new definition of "surveying". This is defined as land surveying.

Survey Board

Clause 3 constitutes a Survey Board consisting of the Surveyor-General and four registered surveyors. Provision is made for terms of office, removal from office, and filling of vacancies. The board is declared to be the same as that established by the Surveyors Act 1938.

Clause 4 sets out usual provisions governing meetings of the Board, and the quorum at a meeting.

Clause 5 makes normal provision for the payment to members of the Board of fees, salaries or allowances, and travelling allowances and expenses.

Clause 6 empowers the Board to appoint a Secretary and other officers and employees.

Registration of Surveyors

Clause 7 makes provision for the registration as a registered surveyor of any person who satisfies the Survey Board that he holds the prescribed qualifications.

Clause 8 governs the making of applications for registration.

Clause 9 provides that the New Zealand Institute of Surveyors may object to the registration of any applicant. On receiving any such objection the Board must hold a hearing at which the Institute and the applicant are entitled to be present and to be heard.

Clause 10 provides for the consideration of applications by the Board.

Clause 11 provides that any direction of the Board as to the granting or refusal of registration shall be observed by the Secretary.

Clause 12 specifies the mode of registration and provides for the register to be open to public inspection.

Clause 13 provides for the issue of certificates of registration.

Clause 14 makes it an offence to procure or attempt to procure registration by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration.

Clause 15 provides that Registrars of Births and Deaths are to notify the Survey Board's Secretary on receiving notice of the death of any registered surveyor.

Clause 16 provides for the recording of changes of address of registered surveyors.

Clause 17 makes provision for the removal from the register of the name of any registered surveyor who cannot be found, and for the restoration of any such name to the register.

Clause 18 empowers the Board to enter in the register additional qualifications of any registered surveyor.

Clause 19 provides for the correction of the register if a person is wrongfully registered, or if any particulars shown in the register are incorrect.

Clause 20 provides for the removal by the Survey Board of any registered surveyor's name from the register, or his suspension, where similar action has been taken by any other authority which granted to him the certificate of qualifications by virtue of which he is registered.

Clause 21 provides for the removal from the register of the name of any registered surveyor who is found guilty of grave misconduct after an inquiry has been made under *clause 22*.

Clause 22 makes provision for an inquiry by the Survey Board where a complaint has been made that a registered surveyor has been guilty of grave misconduct.

Clause 23 empowers the Survey Board to impose a penalty not exceeding £100 on any registered surveyor or to suspend his registration for any period not exceeding twelve months in any case where it has power to remove his name from the register under *clause 21*.

Clause 24 makes provision for an appeal from any decision of the Survey Board to a Board of Appeal consisting of a Magistrate and two assessors, of whom one shall represent the Survey Board and the other shall represent the appellants.

Clause 25 provides that a certificate by the Secretary of the Survey Board to the effect that any person was or was not a registered surveyor, or as to any entry in the register, or as to any act or proceeding of the Board, shall be sufficient evidence thereof in the absence of proof to the contrary.

New Zealand Institute of Surveyors

Clause 26 constitutes the New Zealand Institute of Surveyors. The Institute is declared to be the same as that established by the Surveyors Act 1938.

Clause 27 sets out the functions of the Institute.

Clause 28 amends the provisions relating to membership of the Institute. Membership is extended to include persons who, although not registered surveyors, are active in survey work. Members of the Institute will now be classified as corporate and non-corporate.

Corporate members will be registered surveyors and other persons qualified by the rules of the Institute, and will be further classified as Fellows or ordinary members.

Non-corporate members will be further classified as honorary, graduate, associate, or student members.

Positions on the Council of the Institute and voting and elective powers are restricted to corporate members.

Clause 29 relates to the Council of the Institute. The Council will consist of a President, two Vice-Presidents, and not less than seven councillors, all of whom must be corporate members of the Institute. One councillor is to be appointed by the Surveyor-General every year. All other members of the Council are to be elected by corporate members of the Institute by ballot.

Clause 30 sets out the powers of the Council.

Clause 31 empowers the Council to appoint a Secretary of the Institute and other officers and employees.

Clause 32 empowers the Institute to make, alter, and rescind rules. This power is extended to provide for the different classes of membership set out in *clause 28*.

Rules made under this clause will not come into force until they are approved by the Minister of Lands.

Annual Practising Certificates

Clause 33 provides for the issue of annual practising certificates to registered surveyors by the Institute.

Financial Provisions

Clause 34 provides for the receipt of fees and other money by the Survey Board, and sets out matters on which such money may be expended.

Clause 35 is a new provision requiring the Board to keep proper accounts and to have them audited by the Audit Office.

Clause 36 is a new provision which provides for unauthorised expenditure by the Board of up to £50 in any financial year.

Clause 37 provides for the receipt of fees by the Institute.

Clause 38 provides for the Institute to contribute towards the expenses of the Survey Board so far as the Board's funds are insufficient. This contribution shall not exceed £150 in any financial year.

Offences

Clause 39 makes it an offence for any person to act as a registered surveyor when he is not registered. The penalty on conviction is a fine not exceeding £100.

Clause 40 makes it an offence for any person to use or cause or permit to be used any term implying that he is a registered surveyor or a member of the Institute, when he is not in fact registered or a member of the Institute. The penalty on conviction is a fine not exceeding £100.

Regulations

Clause 41 contains detailed provision for the making of regulations for giving effect to the provisions of the legislation and for its due administration.

Repeals and Savings

Clause 42 consequentially repeals the Surveyors Act 1938 and its amendments.

In addition the clause provides that where the term "licensed surveyor", "authorised surveyor", or "registered surveyor" is used in any other Act, it shall, unless the context otherwise requires, be deemed to be a reference to a registered surveyor within the meaning of this Bill.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS REPEALED

THE SURVEYORS ACT 1938, No. 4 (1957 REPRINT, VOL. 15, p. 479)

Section of Act	Clause of Bill
	Short Title
1 2
2 3
3 4
4 5
5 6
6 26
7 (1), (2)	.. 27
7 (3)	.. 28
8 29
9 30
10 31
11 32
12 7
13 8
14 10
15 9
16 11
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THE SURVEYORS ACT 1938, No. 4 (1957 REPRINT, VOL. 15, p. 479)—*continued*

Section of Act	Clause of Bill
18 .. .. .	.. 12
19 .. .. .	.. 13
20 .. .. .	.. 14
21 .. .. .	.. 15
22 (1) .. .. .	.. 16
22 (2) .. .. .	.. Repealed
23 .. .. .	.. 17
24 .. .. .	.. 18
25 .. .. .	.. 19
26 .. .. .	.. 20
27 .. .. .	.. 21
28 .. .. .	.. 22
29, 30 .. .. .	.. 39
31 .. .. .	.. 40
32 .. .. .	.. 23
33 .. .. .	.. 33
34 (1)-(4) .. .. .	.. 34
34 (5) .. .. .	.. 35
35 .. .. .	.. 37
36 .. .. .	.. 38
37 .. .. .	.. 24
38 .. .. .	.. Repealed
39 .. .. .	.. 25
40 .. .. .	.. 41
41 .. .. .	.. 42

THE FEES AND TRAVELLING ALLOWANCES ACT 1951, No. 79

Portion of Act	Clause of Bill
Part Second Schedule .. .. .	.. 5

THE SURVEYORS AMENDMENT ACT 1960, No. 91

Section of Act	Clause of Bill
1 .. .. .	.. Short Title
2 .. .. .	.. 28(5)

THE SURVEYORS AMENDMENT ACT 1962, No. 105

Section of Act	Clause of Bill
1 Short Title
2 27
3 (1) 28 (8)
3 (2) 32 (1) (g)

Hon. Mr Gerard

SURVEYORS

ANALYSIS

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| Title | 23. Further disciplinary powers of Board |
| 1. Short Title | 24. Appeals from decisions of Board |
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| <i>Survey Board</i> | |
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| 8. Application for registration | 30. Powers of Council |
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| 10. Applications to be considered by Board | 32. Rules of Institute |
| 11. Secretary to observe directions of Board | <i>Annual Practising Certificates</i> |
| 12. Register of Surveyors | 33. Registered surveyors to have annual practising certificates |
| 13. Certificate of registration | <i>Financial Provisions</i> |
| 14. Penalty for wrongfully procuring registration | 34. Application of fees, etc., received by Board |
| 15. Registrars to notify Secretary of deaths of registered surveyors | 35. Accounts |
| 16. Registered surveyors to notify changes of address | 36. Unauthorised expenditure |
| 17. Name to be removed from register if registered surveyor cannot be found, etc. | 37. Fees payable to Institute |
| 18. Additional certificates, etc., may be entered in register | 38. Institute to contribute to Board's funds |
| 19. Correction of register | <i>Offences</i> |
| 20. Removal of name from register or suspension where similar action taken outside New Zealand | 39. Unregistered persons not to act as registered surveyors |
| 21. Removal of name from register if registered surveyor guilty of grave misconduct | 40. Improper use of terms implying registration, or membership of Institute |
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| | 41. Regulations |
| | <i>Repeals and Savings</i> |
| | 42. Repeals and savings |

A BILL INTITULED

**An Act to consolidate and amend the Surveyors Act 1938
and its amendments**

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

1. Short Title—This Act may be cited as the Surveyors Act
1966.

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

“Board” means the Survey Board constituted under this
Act:

“Council” means the Council of the New Zealand
Institute of Surveyors constituted under this Act:

“Chief Surveyor” means a Chief Surveyor appointed 15
under the Land Act 1948:

“Institute” means the New Zealand Institute of Sur-
veyors constituted under this Act:

“Minister” means the Minister of Lands:

“Prescribed” means prescribed by this Act, or by rules 20
or regulations for the time being in force under this
Act:

“Registered surveyor” means a person registered as a
surveyor under section 12 of this Act, or under the
corresponding provisions of any previous Act: 25

“Secretary” means the Secretary of the Board:

“Surveying” means land surveying; and “survey” and
“surveyor” have corresponding meanings:

“Surveyor-General” means the Surveyor-General ap-
pointed under the Land Act 1948, and includes his 30
deputy.

Cf. 1938, No. 4, s. 2

Survey Board

3. Survey Board constituted—(1) There shall continue to
be a Board, to be known as the Survey Board, which shall 35
be the same Board as that established by the Surveyors
Act 1938 and existing under the same name at the passing of
this Act.

(2) The Board shall consist of—

(a) The Surveyor-General, who shall be the Chairman; and

5 (b) Four registered surveyors appointed by the Minister,
of whom two shall be appointed on the recommenda-
tion of the Institute.

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

10 (4) Except as otherwise provided in this section, every
appointed member of the Board shall hold office for a term
of one year, and shall be eligible for reappointment from time
to time.

15 (5) Any appointed member of the Board may at any time
be removed from office by the Minister for disability, bank-
ruptcy, neglect of duty, or misconduct, proved to the satisfac-
tion of the Minister, or may at any time resign his office by
writing addressed to the Minister.

(6) When the office of any appointed member of the Board
becomes vacant by death, resignation, or removal from office,
20 the vacancy so created shall as soon as practicable be filled
in the manner in which the appointment to the vacant office
was originally made. Every person so appointed shall hold
office for the residue of the term for which his predecessor
would have held office if the vacancy had not occurred.

25 (7) Unless he sooner vacates his office as provided in
subsection (5) of this section, every member of the Board
shall continue in office until his successor comes into office,
notwithstanding that his term of office may have expired.

Cf. 1938, No. 4, s. 3

30 **4. Meetings of Board**—(1) At any meeting of the Board
three members shall form a quorum.

(2) Every question before any meeting of the Board shall
be determined by a majority of the votes of the members
present and voting thereon.

35 (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.

(4) Subject to the provisions of this Act and of any regula-
tions for the time being in force under this Act, the Board
may regulate its own procedure.

40 Cf. 1938, No. 4, s. 4

5. Remuneration and travelling allowances—(1) The Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid to members of the Board, out of the Survey Board Account, under section 34 of this Act, remuneration by way of fees, salaries or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

Cf. 1938, No. 4, s. 5

6. Officers and employees of Board—(1) The Board may from time to time appoint a Secretary and such other officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary, and, subject to any contract of service, may at any time remove the Secretary or any other such officer or employee from his office or employment.

(2) Before any officer or employee entrusted by the Board with the custody or control of money by virtue of his office or employment enters on the duties of his office or employment, the Board shall take sufficient security for the faithful execution of his office or employment.

Cf. 1938, No. 4, s. 6

Registration of Surveyors

7. Qualifications for registration—(1) Every person who is not less than twenty-one years of age shall be entitled to be registered under this Act if he satisfies the Board—

(a) That he has obtained a certificate of competency as a surveyor after examination in accordance with regulations for the time being in force under this Act; or

(b) That he is the holder of a recognised certificate (as hereinafter defined) granted out of New Zealand, and has such experience in New Zealand of the duties of a surveyor as may be prescribed by regulations for the time being in force under this Act.

(2) For the purposes of this section the term “recognised certificate” means a certificate, diploma, degree, or licence granted by a university, college, board, or other authority and recognised by the Board as furnishing sufficient evidence of the possession by its holder of the requisite knowledge and skill for the efficient practice of the profession of surveying.

(3) Notwithstanding anything in the foregoing provisions of this section, but subject to the provisions of section 24 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.

Cf. 1938, No. 4, s. 13

8. Application for registration—(1) Application for registration as a registered surveyor 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.

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

Cf. 1938, No. 4, s. 14

9. Objections by Institute—(1) Within twenty-eight days 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 at the same time be sent by the Institute to the applicant.

(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.

Cf. 1938, No. 4, s. 16

10. Applications to be considered by Board—(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 authorised.

(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. For the purposes of this subsection the Chairman of the Board may administer an oath to any person.

(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.

Cf. 1938, No. 4, s. 15

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11. Secretary to observe directions of Board—(1) If the Board, after considering any application and objection 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. 10

(2) If the Board, after considering any application and objection 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. 15

Cf. 1938, No. 4, s. 17

12. Register of Surveyors—(1) Registration under this Act shall be effected by the entry in the Register of Surveyors (which shall be kept by the Secretary) of the name and address of the applicant, the qualifications by virtue of which he is registered, the date of registration, and such other particulars as may be prescribed. 20

(2) The Register of Surveyors shall be open to inspection by the public at the office of the Board during ordinary office hours on payment of the prescribed fee. 25

Cf. 1938, No. 4, s. 18

13. Certificate of registration—The Secretary shall, on application in that behalf made to him at any time by a registered surveyor and on payment of the prescribed fee, issue to that registered surveyor a certificate of registration. 30

Cf. 1938, No. 4, s. 19

14. Penalty for wrongfully procuring registration—Every person commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds who— 35

(a) Wilfully makes or causes to be made any false entry in or falsification of the register; or

- (b) 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 orally or in writing.

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Cf. 1938, No. 4, s. 20

15. Registrars to notify Secretary of deaths of registered surveyors—Every Registrar of Births and Deaths in New Zealand, on receiving notice of the death of any registered surveyor, shall forthwith transmit by post to the Secretary a certificate under his hand of that death; and on the receipt of that certificate the Secretary shall remove the name of the deceased registered surveyor from the register.

Cf. 1938, No. 4, s. 21

16. Registered surveyors to notify changes of address—Every registered surveyor who at any time changes his address as appearing in the register shall, within one month thereafter, send to the Secretary a notice of his new address; and the Secretary shall thereupon alter the entry in the register relating to that registered surveyor accordingly.

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Cf. 1938, No. 4, s. 22

17. Name to be removed from register if registered surveyor cannot be found, etc.—(1) The Secretary may at any time, and shall if the Board so directs, send to any registered surveyor, 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.

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(2) If no reply to the letter is received within six months after it is posted, 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 registered surveyor to whom the letter was sent.

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(3) Any person whose name has been removed from the register pursuant to 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.

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Cf. 1938, No. 4, s. 23

18. Additional certificates, etc., may be entered in register—

(1) Every registered surveyor who obtains any approved certificate, diploma, degree, or licence, 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 his qualifications. 5

(2) On such application the Board, if satisfied that the applicant is entitled to the certificate, diploma, degree, or licence in respect of which the application is made and that it is one of a kind approved by the Board for the purposes of this section, shall direct the Secretary to amend the register accordingly; and the Secretary shall thereupon insert in the register particulars of the certificate, diploma, degree, or licence. 10

Cf. 1938, No. 4, s. 24

19. Correction of register—(1) If any person has been registered under this Act or under any previous Act by reason of any false or fraudulent representation or declaration, made either orally or in writing, or if any person not entitled to be registered under this Act or under any previous Act has been so registered, the Board shall cause the 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*. 15 20

(2) If any particulars appearing in the register in respect of the name, qualifications, or address of any registered surveyor are 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 amend the register accordingly. 25 30

(3) The provisions of subsection (2) of this section shall apply, notwithstanding the fact that at the time when the entry in the register was made the registered surveyor actually had the qualifications of which particulars appear in the register, or that at that time the entry was otherwise correct. 35

Cf. 1938, No. 4, s. 25

20. Removal of name from register or suspension where similar action taken outside New Zealand—(1) The Board may cause to be removed from the register the name of any person registered under paragraph (b) of subsection (1) of section 7 of this Act, or the corresponding provisions of any 40

previous Act, by virtue of a certificate granted out of New Zealand and recognised as provided in that section, if the Board is satisfied that the certificate has been revoked or cancelled by the authority that granted it.

5 (2) If the Board is satisfied that any certificate recognised 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.

10 (3) If any person registered under paragraph (a) of subsection (1) of section 7 of this Act, or the corresponding provisions of any previous Act, by virtue of a certificate of competency granted in New Zealand, has been authorised by any competent authority to practise his profession out of
15 New Zealand and his right to so 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.

Cf. 1938, No. 4, s. 26

20 **21. Removal of name from register if registered surveyor guilty of grave misconduct—**(1) The Board may cause the name of any registered surveyor to be removed from the register if it is satisfied, after inquiry as provided in section 22
of this Act, but not otherwise,—

25 (a) That either before or after his registration he has been convicted by any Court in New Zealand of any offence punishable by imprisonment for a term of two years or upwards:

30 (b) That he has been guilty of such improper conduct as renders him, in the opinion of the Board, unfit to be a registered surveyor:

35 (c) That he has certified to the accuracy of any survey or of any plan in relation to a survey without having personally carried out or supervised that survey and the field operations connected therewith, or without having checked the accuracy of the entries in any field book and the accuracy of all calculations, working plans, and other survey records that may
40 have been made by any other person employed by him in connection therewith:

- (d) That he has certified to the accuracy of any survey carried out by him or under his personal supervision if the operations of pegging and ground marking, and all other requirements of the survey, have not been carried out in accordance with the regulations for the time being in force under this Act relating to the conduct of surveys and the other operations incidental thereto: 5
- (e) That he has certified to the accuracy of any survey or plan knowing it to be defective: 10
- (f) That, by reason of negligence or incompetence, he has habitually made defective surveys, or has habitually made surveys to which he has not applied adequate checks:
- (g) That he has made any entry in any field book or copy of a field book or other survey record which purports to have been derived from actual observation or measurement in the field, if in fact it has not been so derived: 15
- (h) That he has supplied to the Surveyor-General any erroneous information in relation to any survey, land boundaries, or survey pegs knowing that information to be erroneous in any material particular: 20
- (i) That without reasonable cause he has failed to perform any duty imposed on registered surveyors under any regulation made for any of the purposes specified in paragraph (f) of section 41 of this Act. 25
- (2) The name of any registered surveyor shall not be removed from the register under paragraph (a) of subsection (1) of this section by reason of any offence committed before the date of his registration, if at that date the Board was aware of his conviction in respect of that offence. 30
- (3) Notwithstanding anything in subsection (1) of this section but subject to subsection (2) of this section, the Board may exercise the powers conferred on it by the said subsection (1) in relation to the conviction of any person on the receipt of and pursuant to a certificate of the conviction issued by the Registrar of the Court in which the person was convicted, whether or not a complaint has been made and whether or not a Chief Surveyor has investigated the matter. 35 40

(4) The fact that any survey or plan may have been approved by the Surveyor-General or by any other officer of the Survey Branch of the Department of Lands and Survey on behalf of the Surveyor-General shall be no defence to a charge under this section in relation to a defective survey or plan.

Cf. 1938, No. 4, s. 27

22. Inquiry by Board into charges of misconduct—

10 (1) Every complaint that any registered surveyor has been guilty of any act or default specified in subsection (1) of section 21 of this Act shall be referred to the Chief Surveyor of the district in which the act or default is alleged to have been done or made, and the Chief Surveyor shall investigate the matter and report thereon in writing to the Board.

15 (2) On receiving any such report from a Chief Surveyor, or on receiving any certificate of conviction under subsection (3) of section 21 of this Act, the Board shall hold an inquiry into the matter.

20 (3) The Board shall give to the registered surveyor 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 personally or by registered letter addressed to the registered surveyor concerned at his last
25 known place of business or abode.

(4) At the inquiry the registered surveyor concerned shall be entitled to be present and to be heard, and may be represented by counsel or otherwise.

30 (5) The Chief Surveyor who makes the investigation and report as aforesaid shall not be competent to act as a member of the Board for the purposes of the inquiry or of the deliberations of the Board thereon.

(6) At the inquiry the Board may determine that an amount to be specified by the Board, being the whole or any
35 portion of the cost of any field inspections undertaken by direction of the Surveyor-General for the purpose of testing the accuracy of any survey that is found to be defective, may be recovered from the registered surveyor concerned as a debt due to the Crown, and the amount so specified shall thereupon
40 become recoverable accordingly.

(7) Every complaint shall be prosecuted at the inquiry by the Chief Surveyor of the district in which the act or default complained of is alleged to have been done or made, or, failing him, by such other person as the Surveyor-General shall appoint, except where the complaint is made in the first instance by the Institute and is prosecuted by the Institute. The Chief Surveyor or his substitute and the Institute may be heard and may be represented by counsel or otherwise at the inquiry.

Cf. 1938, No. 4, s. 28

23. Further disciplinary powers of Board—(1) After any inquiry made under section 22 of this Act into a complaint against a registered surveyor, the Board may, by writing under the hand of the Chairman, impose on the registered surveyor a penalty not exceeding one hundred pounds, or suspend him from practice for any period not exceeding twelve months.

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

(3) While any order of suspension from practice under this section remains in force, the registered surveyor's registration shall be deemed to be suspended, but forthwith on the expiry of the order his rights and privileges as a registered surveyor shall be revived.

(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 registered surveyor of the making of the order. If within that period he gives due notice of appeal under section 24 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 takes effect.

(5) The powers conferred on the Survey Board by this section are in addition to its powers under sections 19, 20, 21, and 22 of this Act.

Cf. 1938, No. 4, s. 32

- 24. Appeals from decisions of Board—**(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, or to the suspension of his registration, or to his suspension from practice, or to the recovery from him of any money, or to the imposition on him of any penalty, may, within three months after notice of the decision has been communicated to him by the Secretary, give notice of appeal in the prescribed manner to the Secretary.
- 10 (2) On receipt of the notice of appeal the Secretary shall 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 for the time being in force under this Act to represent the
- 15 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
- 20 or any part of the amount recoverable from 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
- 25 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 Survey Board, the Crown, the Institute, or the appellant, as the case may
- 30 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 shall be recoverable as a debt due by the party against whom they have been awarded to the party in whose favour they have been awarded.
- 35 Cf. 1938, No. 4, s. 37

- 25. Certificate by Secretary to be evidence of registration, etc.—**A certificate under the hand of the Secretary to the effect that any person was or was not a registered surveyor under this Act or under any previous Act at any time or
- 40 during any period specified in the certificate, or as to any entry in the Register of Surveyors or as to any act or proceeding of the Board, shall be sufficient evidence of the matters therein specified, in the absence of proof to the contrary.

Cf. 1938, No. 4, s. 39

*New Zealand Institute of Surveyors***26. Constitution of New Zealand Institute of Surveyors—**

(1) There shall continue to be a body to be known as the New Zealand Institute of Surveyors, which shall be the same Institute as that established by the Surveyors Act 1938 and existing under the same name at the passing of this Act. 5

(2) The Institute shall be a body corporate with perpetual succession and a common seal, and may purchase or otherwise acquire, hold, dispose of, and alienate real and personal property, and sue and be sued, and do and suffer all such acts and things as bodies corporate may lawfully do and suffer. 10

Cf. 1938, No. 4, s. 7 (1), (2)

27. Functions of Institute—The functions of the Institute shall be— 15

- (a) To promote and encourage proper conduct amongst registered surveyors and all other persons who constitute the several classes of membership of the Institute:
- (b) To suppress illegal, dishonourable, improper, and objectionable practices amongst registered surveyors and all other persons who constitute the several classes of membership of the Institute: 20
- (c) To preserve and maintain the integrity and status of the profession of surveying: 25
- (d) To provide opportunities for the acquisition and diffusion of knowledge in relation to surveying and allied subjects:
- (e) To consider and suggest amendments in the law relating to surveys and surveying: 30
- (f) To provide means for the amicable settlement of professional differences:
- (g) Generally to protect and promote the interests of the profession of surveying and the interests of the public in relation to surveys and surveying. 35

Cf. 1938, No. 4, s. 7 (3); 1962, No. 105, s. 2

28. Membership of Institute—(1) The Institute shall consist of corporate members and non-corporate members.

(2) Every corporate member shall be classified as a Fellow or a member in accordance with the rules of the Institute. 40

(3) Every non-corporate member shall be classified as an honorary member or a graduate member or an associate member or a student member in accordance with the rules of the Institute.

5 (4) Every registered surveyor holding a current annual practising certificate under section 33 of this Act shall be a corporate member of the Institute, whether or not he applies for membership.

10 (5) If any registered surveyor satisfies the Council that he has conscientious objection to membership of the Institute, the Council may exempt him from membership. Such exemption shall not affect his right to hold an annual practising certificate, and the provisions of this Act and of rules for the time being in force under this Act relating to the conduct or
15 discipline of corporate members of the Institute or regulating charges shall apply to him as if he were a corporate member.

(6) Every registered surveyor who ceases to be registered under this Act shall thereupon cease to be a member of the Institute unless he retains his membership in accordance with
20 subsection (8) of this section.

(7) Every registered surveyor who ceases to hold a current annual practising certificate under this Act shall thereupon cease to be a member of the Institute unless he retains his corporate membership or is admitted to non-corporate mem-
25 bership in accordance with subsection (8) of this section.

(8) Any person, whether or not he is a registered surveyor, who is eligible according to the rules of the Institute, may be retained or admitted as a corporate or non-corporate member of the Institute, on the terms and conditions provided
30 in those rules.

Cf. 1938, No. 4, s. 8; 1960, No. 91, s. 2; 1962, No. 105, s. 3 (1)

29. Council of Institute—(1) The Institute shall be governed by a Council of corporate members.

35 (2) Subject to subsection (11) of this section, the Council shall consist of a President, two Vice-Presidents, and not less than seven councillors, of whom one shall be appointed by the Surveyor-General before each annual general meeting of the Institute.

40 (3) The President, the two Vice-Presidents, and the councillors, other than the councillor appointed by the Surveyor-General, shall be elected by the corporate members of the Institute by ballot from among their number.

(4) The President shall hold office for two years.

(5) The councillor appointed by the Surveyor-General shall hold office for one year.

(6) Immediately before the annual general meeting in every year, the Vice-President who has held office longer, since his last election as such, shall retire. In any case where the question arises as to which of two Vice-Presidents who have held office for the same period should retire, the question shall (unless they otherwise agree between themselves) be determined by lot.

(7) Notwithstanding anything to the contrary in subsection (6) of this section, every Vice-President who has been appointed to fill an extraordinary vacancy shall retire from office immediately before the first annual general meeting of the Institute held after his appointment to fill that vacancy. Where only one of the Vice-Presidents for the time being in office has been so appointed, the other shall not be required to retire in accordance with that subsection.

(8) Immediately before the annual general meeting in every year, the two elected councillors who have held office longest, since their last elections as such, shall retire. In any case where the question arises as to which of two or more councillors who have held office for the same period should retire, the question shall (unless they otherwise agree among themselves) be determined by lot.

(9) Notwithstanding anything to the contrary in subsection (8) of this section, every councillor who has been appointed to fill an extraordinary vacancy shall retire from office immediately before the first annual general meeting of the Institute held after his appointment to fill that vacancy. Where two or more councillors for the time being in office have been so appointed, no elected councillor shall be required to retire in accordance with that subsection. Where only one councillor for the time being in office has been so appointed, only one elected councillor shall be required to retire in accordance with that subsection.

(10) Notwithstanding anything in the foregoing provisions of this section, every member of the Council shall continue in office until his successor is elected or appointed, and shall be eligible for re-election, reappointment, election, or appointment, as the case may be, to the office previously held by him or to any other office.

(11) In any case where the President retires and is not re-elected or elected or appointed to that or any other office, the Council may appoint him as a councillor in addition to the councillors provided for by subsection (2) of this section.

5 Any person appointed as a councillor under this subsection shall hold office as such until the next annual election of councillors.

(12) The constitution or acts of the Council shall not be invalidated or questioned on the ground that the number of
10 the members of the Council is incomplete, or because of any error or irregularity in the election or appointment of any member.

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

Cf. 1938, No. 4, s. 9

30. Powers of Council—(1) The Council shall transact all the ordinary business of the Institute, and shall cause proper minutes of its proceedings to be kept.

20 (2) The Council may appoint committees with such delegated powers as the Council thinks fit.

(3) Subject to the provisions of this Act and of any rules or regulations for the time being in force under this Act, the Council may regulate its own procedure.

25 Cf. 1938, No. 4, s. 10

31. Officers and employees of Institute—(1) The Council may from time to time appoint a Secretary and such other officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the
30 efficient performance of its functions, and, subject to any contract of service, may at any time remove the Secretary or any other such officer or employee from his office or employment.

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

Cf. 1938, No. 4, s. 11

32. Rules of Institute—(1) The Institute may from time to time, at a general meeting of corporate members at which not less than thirty corporate members are present, make,
40 alter, and rescind rules, not inconsistent with this Act or with any regulations for the time being in force under this Act, for all or any of the following purposes:

- (a) For the regulation and good government of the Institute and its affairs:
- (b) For the regulation and good government of all persons who constitute the several classes of membership of the Institute: 5
- (c) Regulating the election of the President, Vice-Presidents, and councillors, and the filling of extraordinary vacancies in the Council:
- (d) Regulating the audit of the accounts of the Institute and the appointment of auditors, and prescribing their qualifications: 10
- (e) Providing for the issue of annual practising certificates, and prescribing the fees payable in respect thereof:
- (f) Providing for the several classes of membership of the Institute and the various rights, duties, and privileges attached thereto: 15
- (g) Regulating the admission to and retention in the several classes of membership of the Institute of persons, and their removal therefrom, including persons who do not hold current annual practising certificates under this Act, or who are not registered surveyors: 20
- (h) Providing for and regulating the granting of certificates relating to the several classes of membership of the Institute:
- (i) Providing for the convening of ordinary and special meetings of the Institute and of the Council, and regulating the quorum, the representation of the several classes of membership, and the procedure at such meetings: 25
- (j) Providing for the conferring of fellowships, honorary memberships, and other distinctions: 30
- (k) Prescribing the fees or payments, annual or otherwise, to be paid by the several classes of membership, and fixing the amounts of the fees or other payments payable by each class of membership and exempting any particular person or class or classes of membership from payment of any particular fee or other payment: 35
- (l) Regulating the charges or fees and prescribing the scales of charges that may be made or charged by registered surveyors or corporate or non-corporate members of the Institute for doing any survey work: 40

- (m) Regulating the professional conduct of all persons who constitute the several classes of membership of the Institute:
- 5 (n) Imposing a fine not exceeding ten pounds on any member of the Institute for the breach of any rule made under this section:
- 10 (o) Providing for such matters as may be necessary for the administration of the affairs of the Institute and generally for carrying into full effect the objects for which the Institute is formed.
- (2) No rules made under this section shall come into force until they are approved by the Minister. No rules made for any of the purposes referred to in paragraph (1) of subsection (1) of this section shall be approved by the Minister until they
- 15 are approved by the Board.
- (3) Any fine imposed on any member of the Institute under any rule made under this section shall be recoverable as a debt due from the member to the Institute.

Cf. 1938, No. 4, s. 12; 1962, No. 105, s. 3 (2)

20 *Annual Practising Certificates*

33. Registered surveyors to have annual practising certificates—(1) In this section "year" means a year ending with the thirtieth day of June.

25 (2) Notwithstanding anything to the contrary in this Act, no person shall be entitled to act as a registered surveyor unless he is the holder of an annual practising certificate issued in accordance with this section.

30 (3) Every person who acts as a registered surveyor in breach of subsection (2) of this section commits an offence and is liable on summary conviction to a fine not exceeding five pounds for every day during which the offence has continued.

(4) Subject to the payment of the prescribed fee, the Secretary of the Institute, on application in that behalf by any registered surveyor, shall issue to him an annual practising certificate. Any such certificate shall be in force during the

35 year in which it is issued:

Provided that if at any time during the currency of any such certificate the holder of it ceases to be a registered surveyor, the certificate shall be deemed to be cancelled.

(5) Every person entitled to receive an annual practising certificate under this section shall be deemed to have obtained that certificate when he has duly applied for it to the Secretary of the Institute and has paid the prescribed fee.

(6) The Secretary of the Institute shall keep a register of the names and addresses of all persons to whom annual practising certificates have been issued under this section. 5

Cf. 1938, No. 4, s. 33

Financial Provisions

34. Application of fees, etc., received by Board—(1) The Secretary shall take and receive the fees prescribed by regulations for the time being in force under this Act as payable to the Board in respect of the matters specified in the regulations. 10

(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. 15

(3) All fees, monetary penalties, and other money 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 Survey Board Account, and may be applied by the Board as follows: 20

(a) In payment of the expenses incurred by the Board in respect of its functions under this Act, including the remuneration of the Secretary and other officers and employees of the Board, and the cost of the audit of its accounts: 25

(b) In payment of any fees, salaries or allowances, travelling allowances, or expenses payable in accordance with this Act to members of the Board: 30

(c) In payment, at such rates as may from time to time be approved by the Minister of Finance, of the expenses in whole or in part of not more than two delegates appointed to represent the Board at any conference in New Zealand or Australia of persons engaged or qualified to engage in the profession of surveying: 35

(d) In the purchase of books or other publications relating to surveying, or the purchase of any instruments or materials deemed necessary by the Board for carrying out its functions under this Act: 40

(e) Otherwise for the payment of any expenditure lawfully incurred by the Board.

(4) No such money shall be withdrawn from the bank account except by cheque signed by any two of such members of the Board as are nominated for the purpose, or by one such member and the Secretary. All negotiable and other instruments requiring endorsement shall be endorsed by such person or persons as may from time to time be authorised in that behalf by the Board.

(5) Every payment of money by the Board shall be authorised by a prior resolution of the Board or shall be submitted to the Board for confirmation at its first ordinary meeting after the date of payment.

(6) The Board may from time to time, as it thinks fit, invest any money for the time being not required for any of the purposes referred to in subsection (3) of this section by depositing it in the Post Office Savings Bank or with any bank or other institution authorised to receive money on deposit.

Cf. 1938, No. 4, s. 34 (1)-(4)

35. Accounts—(1) The Board shall keep full and true accounts of all money received and expended by it.

(2) The accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all the powers that it has under the Public Revenues Act 1953 in respect of public money and the audit of the accounts of local authorities.

(3) As soon as practicable after the end of each financial year ending with the thirty-first day of March, the Board shall cause to be prepared and submitted to the Audit Office 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.

Cf. 1938, No. 4, s. 34 (5)

36. Unauthorised expenditure—The Board may in any financial year, out of its funds, expend for purposes not authorised by any Act or law for the time being in force any sum or sums not amounting in the whole to more than fifty pounds.

37. Fees payable to Institute—(1) The Secretary of the Institute shall take and receive the fees prescribed by the rules of the 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 document, in respect of which that fee is payable.

Cf. 1938, No. 4, s. 35

5

38. Institute to contribute to Board's funds—(1) The Council shall from time to time pay to the Board, out of the funds of the Institute, such sums, not exceeding one hundred and fifty pounds in any financial year ending with the thirty-first day of March, as may, with the money of the Board, be required for payment of the expenditure lawfully incurred by the Board at any time after the thirty-first day of March, nineteen hundred and sixty-six (whether before or after the passing of this Act). 10

(2) If any question arises as to the amount to be paid by the Institute under this section in any financial year, it shall be determined by the Minister, whose decision shall be final. 15

Cf. 1938, No. 4, s. 36

Offences

39. Unregistered persons not to act as registered surveyors— 20

(1) Every person, whether employed in the Public Service or not, commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds who, not being a registered surveyor,—

(a) Performs or executes, or undertakes to perform or execute, any surface survey intended to form the basis of any plan or diagram pertaining to any instrument registered or intended to be registered under the Land Transfer Act 1952 or the Deeds Registration Act 1908, whether or not the plan or diagram is itself intended for registration: 25 30

Provided that this paragraph shall not apply in any case where the District Land Registrar intimates in writing that he does not propose to exercise the power conferred on him by section 167 of the Land Transfer Act 1952 to require the deposit of a plan: 35

(b) Performs or executes, or undertakes to perform or execute, any survey affecting the delimitation of boundaries or the location of survey pegs in connection with any land for the purposes of the registration of any instrument under the Land Transfer Act 1952 or the Deeds Registration Act 1908: 40

- 5 (c) Performs or executes, or undertakes to perform or execute, any surface survey of any Crown land within the meaning of the Land Act 1948 which is intended to form the basis of any plan or diagram, or which affects the delimitation of boundaries or the location of survey pegs:
- 10 (d) Performs or executes, or undertakes to perform or execute, any surface survey of any Maori land within the meaning of the Maori Affairs Act 1953 which—
- (i) Is intended to form the basis of any plan or diagram to be attached to or form part of any order of the Maori Land Court; or
- (ii) Affects the delimitation of boundaries or the location of survey pegs for the purposes of any such order:
- 15 (e) Performs or executes, or undertakes to perform or execute, any surface survey or inspection of any land which is intended to form the basis of any plan or diagram to be used for the purposes of any coal mining right under the Coal Mines Act 1925 or any mining privilege under the Mining Act 1926, or any application for a coal mining right or mining privilege, or which affects the delimitation of boundaries or the location of survey pegs for the purposes of any such coal mining right, mining privilege, or application:
- 20 (f) Places in position in relation to any land any peg or other mark, not being a survey peg or survey mark, which may reasonably be mistaken by any person for a survey peg or survey mark placed in that position by a registered surveyor for the purposes of any survey:
- 25 (g) Being an officer of the Department of Lands and Survey, certifies to the correctness of any plan or diagram purporting to delineate or define the boundaries of any land, or purporting for the purposes of any easement over land to delineate or define any line or lines.
- 30 (2) Notwithstanding anything in subsection (1) of this
- 35 section, no person shall be deemed to have committed an offence under this section by reason of having done any act referred to in that subsection if, pursuant to the provisions of any other enactment, whether express or implied, that act may be done by persons who are not registered surveyors.
- 40

(3) No proceedings for an offence against this section shall be commenced except by information laid by the Secretary or some other officer of the Board or by a member of the Board, acting pursuant to a resolution of the Board. The laying of an information for an offence against this section shall be sufficient evidence that the requirements of this subsection have been complied with, in the absence of proof to the contrary. 5

Cf. 1938, No. 4, ss. 29, 30

40. Improper use of terms implying registration, or membership of Institute—(1) Every person commits an offence who, not being a registered surveyor, 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 the person using them is a registered surveyor or is qualified to act as such. 10 15

(2) Every person commits an offence who, not being a member 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 the person using them is a member of the Institute. 20

(3) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding one hundred pounds, and, if the offence is a continuing one, to a further fine not exceeding five pounds for every day during which the offence has continued. 25

Cf. 1938, No. 4, s. 31

Regulations

30

41. Regulations—The Governor-General may from time to time by Order in Council, on the advice of the Minister given on the recommendation of the Board, make regulations for all or any of the following purposes:

- (a) Prescribing the form of and the method of keeping the Register of Surveyors: 35
- (b) Prescribing the forms of applications, certificates, and other documents required under this Act:

- 5 (c) Prescribing the fees payable to the Board in respect of examinations, 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:
- 10 (d) Prescribing the subject-matter of examinations to be conducted by the Board, the standards required to be obtained 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
- 15 either to examinations or to professional experience:
- (e) Regulating the procedure of the Board:
- 20 (f) Regulating the conduct of surveys, including provisions for ensuring the accuracy of plans and surveys under any Act relating to or affecting surveys of land; and providing for amendments and additions to plans and diagrams in accordance with requisitions in that behalf made by a Chief Surveyor or other person authorised to make them, and for the custody and the delivery to a Chief Surveyor or other person authorised to receive them of plans and diagrams delivered to registered surveyors, whether for compliance with such requisitions or otherwise:
- 25 (g) Providing for such other matters as may be necessary for the efficient discharge by the Board of its duties and functions under this Act:
- 30 (h) Providing for the appointment of assessors and regulating the conduct of appeals under section 24 of this Act:
- 35 (i) Providing for the taxation or review by the Council or a committee thereof, or by a Magistrate, of charges made by any registered surveyor or any corporate or non-corporate member of the Institute for survey work:
- 40 (j) Prescribing fines, not exceeding one hundred pounds, for the breach of any regulation made under this section:
- (k) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.
- 45 Cf. 1938, No. 4, s. 40

Repeals and Savings

42. Repeals and savings—(1) The following enactments are hereby repealed:

- (a) The Surveyors Act 1938:
- (b) The Surveyors Amendment Act 1960: 5
- (c) The Surveyors Amendment Act 1962:
- (d) So much of the First Schedule to the Fees and Travelling Allowances Act 1951 as relates to the Survey Board, and so much of the Second Schedule to that Act as relates to the Surveyors Act 1938. 10

(2) All references in the Public Works Act 1928, the Land Transfer Act 1952, the Municipal Corporations Act 1954, or the Counties Act 1956, or in any other Act, to authorised surveyors or to licensed surveyors or to registered surveyors shall hereafter, unless the context otherwise requires, be read 15 as references to registered surveyors within the meaning of this Act.