

VALUERS REGISTRATION ACT.

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 92, 1975.

An Act to provide for the registration of real estate valuers; to regulate the qualifications for and the effect of such registration; to constitute a Real Estate Valuers Registration Board; and to amend the Local Government Act, 1919, in relation to valuations made for the purposes of that Act. [Assented to, 10th December, 1975.]

BE

Valuers Registration.

No. 92, 1975 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.**PRELIMINARY.**

Short title. 1. This Act may be cited as the "Valuers Registration Act, 1975".

Commencement. 2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Sections 5 (4) and 24 shall commence on such day (being a day that is at least six months after the day appointed under subsection (3)) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Except as provided in subsections (1) and (2), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division of Act. 3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—REAL ESTATE VALUERS REGISTRATION BOARD—ss. 5-11.

PART III.—REGISTRATION OF REAL ESTATE VALUERS—ss. 12-23.

PART IV.—GENERAL—ss. 24-30.

PART V.—AMENDMENT OF LOCAL GOVERNMENT ACT, 1919—s. 31.

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4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

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Interpre-
tation.

“appointed member” means a member of the board appointed under section 5 (2) (b);

“board” means the Real Estate Valuers Registration Board constituted under section 5 (1);

“member” means a person holding office as a member of the board;

“real estate valuer” means a person who values land—

- (a) for fee or reward; or
- (b) in the discharge of his duties as an employee or agent of the Crown or of a corporation, a firm or an individual;

“register” means the Register of Real Estate Valuers kept by the board under section 12;

“registered real estate valuer” means a person registered as a practising or non-practising real estate valuer under this Act;

“regulations” means regulations made under this Act;

“secretary” means the person appointed to be secretary to the board under section 10.

(2) A reference in this Act (section 12 excepted) to the name of a person in the register includes a reference to the other particulars in the register that relate to that person.

PART

PART II.

REAL ESTATE VALUERS REGISTRATION BOARD.

Constitu-
tion of
board.

5. (1) There is hereby constituted a board called the "Real Estate Valuers Registration Board" which shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this Act.

(2) The board shall consist of—

(a) the person for the time being holding the office of valuer-general pursuant to section 8 of the Valuation of Land Act, 1916, who shall be the chairman of the board; and

(b) four other members, appointed by the Governor, of whom—

(i) one shall be nominated by the Minister from a panel of three persons nominated by the Commonwealth Institute of Valuers (Incorporated), New South Wales Division;

(ii) one shall be nominated by the Minister from a panel of three persons nominated by the Real Estate Institute of New South Wales;

(iii) one shall be nominated by the Minister from a panel of three persons nominated by the Society of Real Estate Agents and Valuers Limited; and

(iv) one shall be nominated by the Minister and shall be—

(a) a barrister of not less than five years' standing;

(b) a solicitor of not less than five years' standing; or

(c)

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- (c) a barrister or solicitor of less than No. 92, 1975 five years' standing, where during a continuous period of not less than five years immediately preceding his nomination he was on the roll of barristers when he was not on the roll of solicitors or on the roll of solicitors when he was not on the roll of barristers.

(3) Where nominations to a panel for the purposes of subsection (2) (b) or section 7 (1) are not submitted within the time or in the manner specified by the Minister in a notice in writing given to the body entitled to submit nominations to that panel, the Governor may appoint a person, nominated by the Minister, to be a member instead of the member required to be appointed from that panel.

(4) A person is not eligible to be appointed as a member pursuant to subsection (2) (b) (i), (ii) or (iii) unless he is a registered real estate valuer.

(5) A person is not eligible to be appointed as an appointed member unless he is under the age of seventy years.

(6) An appointed member shall, subject to this Act, be appointed for such term not exceeding five years as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time for such term not exceeding five years as may be specified in the instrument of his re-appointment.

(7) The Minister may appoint a person to act as a member during the absence and in the place of any member who is on leave of absence granted by the board and that person while so acting—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions under this Act of the member in whose place he is appointed to act; and

(b)

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(b) shall be deemed to be the chairman of the board or a member other than the chairman, according to whether he is appointed to act in the place of the chairman or of another member.

(8) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act as a member in the place of another member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that member.

(9) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member.

(10) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(11) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of any member or to or in respect of any member in his capacity as a member during his term of office.

**Vacation
of office.**

6. (1) An appointed member shall be deemed to have vacated his office—

(a) if he dies;

(b) if he is absent from four consecutive meetings of the board of which reasonable notice has been given to him personally or in the ordinary course of post except on leave granted by the board, and is not, before the expiration of four weeks after the last of those meetings, excused by the board for his absence from those meetings;

(c)

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- (c) if he becomes bankrupt, applies to take the benefit No. 92,1975 of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
 - (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (e) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for a period of twelve months or more, or if he is convicted elsewhere than in New South Wales of a crime or offence which if committed in New South Wales would be a crime or offence so punishable;
 - (f) if he resigns his office by writing under his hand addressed to the Governor, and the Governor accepts his resignation;
 - (g) if he is removed from office by the Governor;
 - (h) on the day on which he attains the age of seventy years;
 - (i) if he is a member appointed pursuant to section 5 (2) (b) (i), (ii) or (iii) and—
 - (i) where he was so appointed before the day appointed under section 2 (2), he fails before that day to become a registered real estate valuer; or
 - (ii) being a registered real estate valuer, he ceases to be a registered real estate valuer; or
 - (j) if, being the member appointed pursuant to section 5 (2) (b) (iv), he ceases to be a barrister or solicitor.

(2) The Governor may, for any cause which appears to him sufficient, remove an appointed member from office.

No. 92, 1975 **7.** (1) On the occurrence of a vacancy in the office of an appointed member otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to the vacant office for the residue of his predecessor's term of office, being a person qualified and nominated under the same subparagraph of section 5 (2) (b) as his predecessor.

Filling
of casual
vacancies.

(2) A member appointed pursuant to subsection (1) is, if otherwise qualified, eligible for re-appointment.

**Proceedings
of the
board.** **8.** (1) The procedure for the calling of meetings of the board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the board.

(2) The chairman of the board shall preside at any meeting of the board but, if the chairman is absent from that meeting, a member elected by the members present shall preside at that meeting.

(3) Three members shall form a quorum and any duly convened meeting of the board at which a quorum is present shall be competent to transact any business of the board and shall have and may exercise and perform all the powers, authorities, duties and functions of the board.

(4) The person presiding at any meeting of the board shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

(5) A decision supported by a majority of members present at a meeting of the board at which a quorum is present shall be the decision of the board.

(6) The board shall cause full and accurate minutes to be kept of its proceedings at meetings.

9.

Valuers Registration.

9. Each member is entitled to receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him. No. 92, 1975
Remuneration of members.

10. The Governor may, under and subject to the Public Service Act, 1902, appoint and employ a secretary to the board and such other officers and employees as may be necessary for the purposes of this Act. Secretary, officers and employees.

11. No matter or thing done or suffered by the board, any member, the secretary or any other officer or employee of the board bona fide in the execution, or intended execution of this Act, or in the exercise or performance, or intended exercise or performance, of any of its or his powers, authorities, duties or functions, shall subject the board, any member, the secretary, any such officer or employee or the Crown to any liability in respect thereof. Protection of the board and others from liability.

PART III.

REGISTRATION OF REAL ESTATE VALUERS.

12. (1) The board shall keep a register, to be called the "Register of Real Estate Valuers". Register.

(2) The register shall be subdivided as follows :—

- (a) practising real estate valuers ;
- (b) non-practising real estate valuers.

(3) A person shall be registered by the entry in the appropriate subdivision of the register of—

- (a) his full name and address ;
- (b) the date on which he is registered;

(c)

*Valuers Registration.***No. 92, 1975**

- (c) particulars of the qualification by virtue of which he is registered;
- (d) in the case of a practising real estate valuer, particulars of any limitation imposed by the board on his right to practise; and
- (e) such other particulars (if any) as the board may think fit or as may be prescribed.

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

(5) The secretary shall, as soon as practicable after the first day of January in each year, transmit a list of the names and addresses entered in each subdivision of the register to the Minister and, if the Minister so directs, publish that list in the Gazette.

**Qualifica-
tions for
registration.**

13. (1) A person shall be entitled to be registered as a real estate valuer if he is, in the opinion of the board, of good character and if—

- (a) he has successfully completed a course of study and training in valuing land prescribed for the purposes of this paragraph; or
- (b) subject to this section, he establishes, to the satisfaction of the board, that he has, within the period of eight years immediately preceding the day on which he applies for registration, been bona fide engaged in valuing land for a period of, or periods totalling, not less than five years.

(2) A person is not entitled to become registered pursuant to subsection (1) (b) unless he applies for registration within two years after the day appointed under section 2 (3) or within such further time not exceeding twelve months as the board may in any particular case allow.

(3)

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(3) Subsection (2) does not apply to a person who No. 92, 1975 has previously been a registered real estate valuer and who applies for registration within five years after the day on which he ceased to be a registered real estate valuer or last ceased to be so registered, as the case may be.

14. Where a person who duly applies for registration as a non-practising real estate valuer is entitled to be registered pursuant to section 13, the board shall cause that person to be registered as a non-practising real estate valuer. Registration as non-practising real estate valuer.

15. (1) Where a person who duly applies for registration, or renewal of registration, as a practising real estate valuer— Registration as practising real estate valuer.

(a) is, except in the case of an application for renewal, entitled to be registered pursuant to section 13 or is registered as a non-practising real estate valuer; and

(b) is, in the opinion of the board, sufficiently experienced and competent in valuing land to practise as a real estate valuer on his own account,

the board shall cause that person to be registered as a practising real estate valuer or cause his registration to be renewed, as the case may require.

(2) Where a person who duly applies for registration, or renewal of registration, as a practising real estate valuer—

(a) is, except in the case of an application for renewal, entitled to be registered pursuant to section 13 or is registered as a non-practising real estate valuer; and

(b)

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(b) is not, in the opinion of the board, sufficiently experienced and competent in valuing land to practise as a real estate valuer on his own account, the board shall—

(c) cause that person to be registered as a practising real estate valuer or cause his registration to be renewed, as the case may require, subject in either case to such limitations on that person's right to practise as it thinks fit; or

(d) cause that person to be registered as a non-practising real estate valuer unless he is already so registered.

Renewal of registration as a practising real estate valuer.

16. (1) The registration of a person as a practising real estate valuer—

(a) remains in force for a period of one year; and

(b) may, upon application to the board being made within the prescribed period before the date of expiry thereof, be renewed for a like period.

(2) A person who duly applies for renewal of registration under subsection (1) shall remain registered as a practising real estate valuer until such time as the board deals with his application pursuant to section 15.

(3) An application for renewal of registration under subsection (1) made after the expiration of the prescribed period referred to in subsection (1) (b) shall be deemed to be a duly made application for registration as a practising real estate valuer if the board so decides.

(4) The board shall cause to be removed from the register the name of a person whose registration as a practising real estate valuer expires and shall cause that person to be registered as a non-practising real estate valuer.

17.

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17. (1) The board shall issue a certificate of registration to a person registered as a practising real estate valuer or whose registration as a practising real estate valuer is renewed.

No. 92, 1975
 Certificate of registration as a practising real estate valuer.

(2) A certificate of registration issued under subsection (1) shall specify any limitations imposed by the board on the real estate valuer's right to practise.

18. The secretary shall give notice to a person of—

- (a) the refusal of the board to register that person as a non-practising real estate valuer;
- (b) the refusal of the board to register that person, or to renew his registration, as a practising real estate valuer; and
- (c) the decision of the board to register that person as a non-practising real estate valuer pursuant to section 15 (2) (d).

Notice of refusal to register real estate valuer or refusal to renew registration of practising real estate valuer, etc.

19. The board shall cause to be removed from the register the name of—

- (a) a real estate valuer who requests that his name be removed;
- (b) a deceased real estate valuer;
- (c) a real estate valuer who becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; and
- (d) a person whose particulars were entered in the register erroneously or in consequence of any false or fraudulent statement, declaration or representation.

Removal of name of real estate valuer from register.

20.

Valuers Registration.

No. 92, 1975 **20.** (1) Where the board is satisfied after inquiry that a registered real estate valuer—

Proceedings
before the
board
against
real estate
valuers.

- (a) has been convicted in New South Wales or elsewhere by any court of any crime or offence;
- (b) has been guilty of misconduct in a professional respect; or
- (c) has contravened any limitation imposed by the board on his right to practise as a real estate valuer,

the board may by order—

- (d) reprimand or caution that real estate valuer;
- (e) in the case of a practising real estate valuer, suspend his registration for such period, not exceeding the unexpired term of his registration, as it thinks fit; or
- (f) cause his name to be removed from the register.

(2) Where the board causes the name of a registered real estate valuer to be removed from the register, it may in its order fix a time after which the person whose name is so removed may apply for restoration of his name to the register.

(3) The board shall not make an order directing that a registered real estate valuer be suspended from registration or that his name be removed from the register because of a conviction referred to in subsection (1) (a) where it is satisfied that, whether from its trivial nature or from the circumstances in which it occurred or for any other reason, the crime or offence does not in the public interest disqualify the person so registered from practising as a real estate valuer.

(4)

Valuers Registration.

(4) An order made by the board under subsection (1) shall not take effect until the expiration of the period of twenty-one days after notice of the making of the order is given to the registered real estate valuer to whom the order relates.

(5) If the registration of a practising real estate valuer is suspended under subsection (1), the secretary shall enter in the register a memorandum of that fact and of the date and cause thereof.

21. Where the board makes an inquiry under section 20— Inquiry by board for the purposes of section 20.

- (a) it shall sit as in open court;
- (b) the registered real estate valuer in respect of whom the inquiry is being held shall be afforded an opportunity to be heard either in person or by his solicitor or counsel;
- (c) it shall not be bound to observe rules of law governing the admission of evidence; and
- (d) the board or the chairman or other person presiding at the meeting of the board at which the inquiry is made shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the board in the same way as it applies to a witness summoned by or appearing before a royal commission.

22.

No. 92, 1975 **22.** (1) The name of a person whose name has been removed from the register shall only be again entered in the register at the direction of the board or in pursuance of an order of the District Court.

Restoration
of name
to register.

(2) Where the name of a registered real estate valuer has been removed from the register and—

(a) the person whose name has been removed duly applies for registration as a non-practising or practising real estate valuer; and

(b) any disability that caused the removal of the name of that person has ceased to exist,

the board shall deal with the application pursuant to section 14 or 15, as the case may require.

Appeal. **23.** (1) A person aggrieved—

(a) by the refusal of the board to cause him to be registered as a non-practising real estate valuer;

(b) upon application for registration, or renewal of registration, as a practising real estate valuer, by the refusal of the board to cause him to be registered or his registration to be renewed, or by the decision of the board to cause him to be registered as a non-practising real estate valuer or to impose limitations on his right to practise as a real estate valuer;

(c) by any neglect or delay by the board to give within sixty days after receipt by the board of an application for registration as a real estate valuer a decision with respect thereto; or

(d) by an order of the board under section 20,

may appeal to the District Court in accordance with the rules of court.

(2)

Valuers Registration.

(2) An appeal under subsection (1) shall be dealt with by way of rehearing. No. 92, 1975

(3) The District Court, in deciding an appeal under subsection (1), may—

- (a) confirm the determination of the board appealed against; or
- (b) substitute for that determination any determination that the board might have made.

(4) The decision of the District Court in respect of an appeal under subsection (1) shall be final and shall be given effect to by the board.

PART IV.

GENERAL.

24. (1) A person shall not—

- (a) practise as a real estate valuer; or
- (b) advertise himself or hold himself out as being entitled or prepared to practise as a real estate valuer,

Practice
by certain
persons
prohibited.

unless he is registered as a practising real estate valuer.

Penalty : \$500 or imprisonment for six months.

(2) Subsection (1) does not apply to a person who is undertaking a course of study and training prescribed under section 13 (1) (a) and who, for that purpose, carries out duties under the supervision of a person registered as a practising real estate valuer in connection with valuations of land that are made by that valuer.

25.

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Penalties
for false
statements,
etc.**25.** A person shall not—

- (a) wilfully make or cause to be made any false entry in or falsification of the register;
- (b) wilfully procure or attempt to procure himself or any other person to be registered under this Act by the making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing;
- (c) in connection with a matter into which the board is inquiring for the purposes of this Act—
 - (i) wilfully make a false statement;
 - (ii) utter or attempt to utter or put off as true before the board a false, forged or counterfeit academic award, testimonial or other document or writing; or
 - (iii) personate or represent himself as being the person referred to in any academic award, testimonial or other document or writing presented to the board; or
- (d) aid or assist in the commission of any such offence.

Penalty : \$500 or imprisonment for six months.

Notices.

26. A notice required by this Act to be given to any person may be given—

- (a) by delivering it personally to the person to whom it is addressed; or
- (b) by posting it in an envelope duly stamped and addressed to the person to whom it is addressed at the place last known to the secretary to be the place of residence or business of that person,

and,

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and, until the contrary is proved, shall be deemed, in the case No. 92, 1975 of a notice referred to in paragraph (b), to have been given when it would have been delivered in the ordinary course of post.

27. A document purporting to be a certificate signed by the secretary and stating that a person specified therein— Evidentiary certificates.

- (a) was or was not, on a day or during any period specified therein, a registered real estate valuer;
- (b) was or was not, on a day or during any period specified therein, registered as a practising real estate valuer; or
- (c) was, on a day or during any period specified therein, a person whose registration as a practising real estate valuer was suspended pursuant to an order under section 20,

shall, in all courts and before all persons and bodies authorised by law to receive evidence, be admissible and be evidence of the matters specified therein.

28. (1) An information for an offence against this Act or the regulations shall be laid by— Proceedings for offences.

- (a) the secretary or some other person appointed by the board for that purpose either generally or in any particular case; or
- (b) a member of the police force.

(2) Proceedings for an offence against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

29.

No. 92, 1975 **29.** (1) The expenses of the board in carrying out the administration of this Act shall be paid out of money provided by Parliament.

Cost of administration of Act.

(2) The fees payable under this Act or the regulations shall be paid into the Consolidated Revenue Fund.

Regulations. **30.** (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), the Governor may make regulations for or with respect to—

- (a) the procedure for the calling of meetings of the board and for the conduct of business at those meetings;
- (b) the manner in which an application for registration as a non-practising real estate valuer or for registration or renewal of registration as a practising real estate valuer shall be made;
- (c) the form of application for, and the fee to be paid in connection with, registration as a non-practising real estate valuer or registration or renewal of registration as a practising real estate valuer;
- (d) the form of a certificate of registration as a practising real estate valuer; and
- (e) prescribing the procedure to be followed at and any matters incidental to the holding of an inquiry under section 20.

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(3) The regulations may be made so as to apply No. 92, 1975 differently according to such factors as are specified in the regulations.

(4) Regulations made for the purposes of section 13 (1) (a) may authorise any matter or thing to be from time to time determined, applied or regulated by the board either generally or for any class of cases or in a particular case.

(5) A regulation may impose a penalty not exceeding \$100 for any breach thereof.

PART V.

AMENDMENT OF LOCAL GOVERNMENT ACT, 1919.

31. The Local Government Act, 1919, is amended by Amendment of Act No. 41, 1919. omitting section 14 (1) of Schedule 3 and by inserting instead (Sch. 3.) the following subsection :—

(1) Every valuation shall be made by a person registered as a practising real estate valuer under the Valuers Registration Act, 1975.

WEIGHTS