

SURVEYORS ACT 1929—REGULATION

(Surveyors (General) Regulation 1994)

NEW SOUTH WALES



[Published in Gazette No. 108 of 26 August 1994]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Surveyors Act 1929, has been pleased to make the Regulation set forth hereunder.

GEORGE SOURIS, M.P.,
Minister for Land and Water Conservation.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Surveyors (General) Regulation 1994.

Commencement

2. This Regulation commences on 26 August 1994.

Definitions

3. (1) In this Regulation:

“**approved form**” means the form approved by the Board for the purposes of the provision in relation to which the expression is used;

“**Board**” means the Board of Surveyors of New South Wales constituted under the Act;

“**candidate**” means a person who is enrolled as a candidate under clause 6 (3);

“prescribed examination” means the examination referred to in clause 11;

“recognised qualification” means a qualification specified in clause 5;

“required practical experience” of a person means practical experience obtained by the person as determined under clause 8 (1);

“survey plan” means a plan of a survey prepared in accordance with the Survey Practice Regulation 1990;

“the Act” means the Surveyors Act 1929.

(2) In this Regulation, a reference to a form is a reference to a form set out in Schedule 1.

(3) For the purpose of the application of section 76 (a) of the Interpretation Act 1987 to this Regulation, a notice given to a person by post is to be treated as being properly addressed if it is addressed to the person at the last address of the person known to the Registrar.

PART 2—CERTIFICATES OF COMPETENCY

Entitlement to certificate of competency

4. (1) A person is entitled to be given a certificate of competency if the person fulfils the following conditions:

- (a) the person is the holder of a recognised qualification;
- (b) the person is a candidate;
- (c) the person obtains the required practical experience;
- (d) the person passes the prescribed examination.

(2) A certificate of competency is to be in the approved form and is to be given under the seal of the Board.

Recognised qualifications

5. The following qualifications are recognised:

- (a) a degree in surveying conferred by the University of New South Wales;
- (b) a degree in surveying conferred by the University of Newcastle;
- (c) any other qualification that is, in the opinion of the Board, equivalent to a qualification specified in this clause.

Enrolment as a candidate

6. (1) A person is entitled to be enrolled as a candidate if the person:

- (a) is enrolled in a course of studies leading towards a recognised qualification; or
- (b) is the holder of a recognised qualification.

(2) An application for enrolment as a candidate must:

- (a) be in writing; and
- (b) be accompanied by evidence that the applicant is entitled to be so enrolled; and
- (c) be accompanied by a fee of \$60; and
- (d) be lodged with the Registrar.

(3) If the Registrar is satisfied that an applicant for enrolment as a candidate is entitled to be so enrolled, the Registrar must enrol the applicant as a candidate.

Annual enrolment fee

7. (1) A candidate must before or in the month of July in each year pay to the Registrar an annual enrolment fee of \$60.

(2) If a candidate fails to pay the annual enrolment fee before or in the month of July in any year, the Board may remove the candidate's name from the roll of candidates.

Practical experience

8. (1) A person obtains the required practical experience if the Board determines, in accordance with this clause, that:

- (a) the person has been employed as a surveyor's assistant for a period of, or for periods totalling, not less than 104 weeks; and
- (b) while so employed the person has obtained practical experience (under the supervision of a surveyor) in the conduct of land boundary surveys for a period of, or for periods totalling, not less than 65 weeks; and
- (c) in the course of obtaining the experience referred to in paragraph (b), the person has spent a total of not less than 26 weeks in the conduct of land boundary surveys in rural areas; and
- (d) in the course of obtaining the experience referred to in paragraph (b), the person has spent a total of not less than 26 weeks in the conduct of land boundary surveys in urban areas.

(2) For the purpose of making a determination under this clause about a person, the Board:

- (a) must take into account any determination made by it under clause 10 (1) about the person; and
- (b) may take into account any practical experience in surveying obtained by the person:
 - (i) whether that experience has been obtained in New South Wales or elsewhere; and
 - (ii) whether or not that experience has been obtained while the person has been enrolled as a candidate.

Candidate to give notice of practical experience obtained

9. (1) A candidate must, not later than 3 months after the expiration of

- (a) the period of 12 months immediately following the candidate's enrolment as a candidate; and
- (b) each subsequent period of 12 months,

furnish to the Board a notice that specifies the practical experience in surveying obtained by the candidate during the period concerned.

(2) A notice referred to in this clause must:

- (a) be in the approved form; and
- (b) be duly completed by:
 - (i) the candidate furnishing the notice; and
 - (ii) the surveyor under whose supervision the candidate has obtained the practical experience specified in the notice, in accordance with the directions (if any) appearing on the form.

Annual determinations of practical experience obtained by candidates

10. (1) On receipt from a candidate of a notice referred to in clause 9, the Board must, in respect of the period of 12 months to which the notice relates, determine the following matters:

- (a) the length of time for which it is satisfied that the candidate has, during that period, been employed as a surveyor's assistant;
- (b) the length of time for which it is satisfied that the candidate has, during that period, obtained experience in the conduct of land boundary surveys while so employed;

- (c) the length of time for which it is satisfied that the candidate has, during that period, spent in the conduct of land boundary surveys in rural areas in the course of obtaining the experience referred to in paragraph (b);
 - (d) the length of time for which it is satisfied that the candidate has, during that period, spent in the conduct of land boundary surveys in urban areas in the course of obtaining the experience referred to in paragraph (b).
- (2) For the purpose of making a determination under this clause about a candidate, the Board:
- (a) may ignore any single period of practical experience of less than 4 weeks' duration; and
 - (b) if the period of time (during the period of 12 months the subject of the determination and any preceding period) for which the candidate has obtained practical experience while enrolled in a course of studies leading towards a recognised qualification exceeds 12 months—must ignore one-half of such of that period as exceeds 12 months.
- (3) If the Board makes a determination under this clause about a candidate, the Registrar must cause the candidate to be given notice, personally or by post, of the Board's determination.
- (4) A notice referred to in this clause must be in the approved form.

Prescribed examination

11. For the purposes of section 10 (2) (b) of the Act, the prescribed examination consists of the following sections:

- (a) the approved projects;
- (b) a practical test;
- (c) an oral test.

Approved projects

12. (1) The approved projects referred to in clause 11 (a) consist of
- (a) a survey plan for a survey of a parcel of land:
 - (i) that is situated in a rural area; and
 - (ii) that is not less than 30 hectares in area; and
 - (iii) of which 2 boundaries coincide with, and are reinstated from, existing surveys; and
 - (iv) of which 1 other boundary is to consist of, and may be reinstated from, an irregular road, a watercourse, a seashore or a tidal inlet; and

- (b) a survey plan for a survey of a parcel of land:
 - (i) that is situated in an urban area; and
 - (ii) on or adjacent to the boundaries of which are buildings that are so positioned that at least one boundary can be determined only by indirect methods,together with a metes and bounds description of the parcel of land; and
- (c) a design for an engineering work (such as a road, a railway or a drainage work) of not less than 300 metres in length, being a design that complies with any requirements imposed in relation to it by or under any Act, consisting of the following:
 - (i) an engineering survey for the work proposed to be carried out;
 - (ii) complete working drawings of the design;
 - (iii) complete details of any ancillary works proposed to be carried out in connection with the work;
 - (iv) complete specifications of the type of materials required for completion of the work and of any proposed ancillary works;
 - (v) a schedule of the quantities of the materials required for completion of the work and of any proposed ancillary works,

and either:

- (d) a proposal for a development to provide (in accordance with the provisions of any environmental planning instrument or development code applicable to the land on which the development is proposed to be carried out) for the residential accommodation of not less than 1,000 people, accompanied by:
 - (i) a copy of each of any such environmental planning instrument or development code; and
 - (ii) a duly completed form of development application in respect of the proposed development; and
 - (iii) a report, of not less than 1,000 words in length, in support of the proposal; or
- (e) a proposal for a development to provide (in accordance with the provisions of any environmental planning instrument or development code applicable to the land on which the development is proposed to be carried out) for the creation of not less than 20 family farm units, accompanied by:
 - (i) a copy of each of any such environmental planning instrument or development code; and

- (ii) a topographical description of the land; and
- (iii) a site analysis of the land; and
- (iv) details of the existing and proposed roads, water supply and other amenities; and
- (v) a duly completed form of development application in respect of the proposed development; and
- (vi) a report, of not less than 1,000 words in length, in support of the proposal.

(2) A reference in this clause to an environmental planning instrument is a reference to:

- (a) a deemed environmental planning instrument within the meaning of the Environmental Planning and Assessment Act 1979; or
- (b) a local environmental plan made under section 70 of that Act; or
- (c) a draft local environmental plan that is or has been placed on exhibition under section 66 (1) (b) of that Act.

Practical test

13. A practical test referred to in clause 11 (b) is to include items designed to test a candidate in the following fields:

- (a) the ability of the candidate to carry out a survey of a parcel of land and to prepare a survey plan from field notes made by the candidate in the course of carrying out the survey;
- (b) the ability of the candidate to carry out levelling;
- (c) the ability of the candidate to carry out an astronomical determination of azimuth.

Oral test

14. An oral test referred to in clause 11 (c) is to include items designed to test a candidate in the following fields:

- (a) the ability of the candidate to carry out a land boundary survey in a rural area;
- (b) the ability of the candidate to carry out a land boundary survey in an urban area;
- (c) the ability of the candidate to prepare a design for an engineering work;
- (d) the ability of the candidate to prepare a development proposal in accordance with the principles and practice of town and country planning and the laws relating to town and country planning;

- (e) the ability of the candidate to use and adjust the instruments normally used by a surveyor in the practice of the profession of surveying.

Prescribed examination to be advertised

15. (1) The Board must conduct the prescribed examination not less than twice in each calendar year.

(2) The Board may appoint such date or dates for the conduct of the prescribed examination as it thinks fit.

(3) Not less than 2 months before the date or dates appointed by the Board under this clause for the conduct of the prescribed examination, the Registrar must cause to be published in at least 1 daily newspaper circulating generally throughout New South Wales a notice that specifies:

- (a) the date or dates so appointed; and
- (b) the closing date for applications to sit for the examination.

Conditions of entry to prescribed examination

16. A person is entitled to sit for the prescribed examination if the person:

- (a) is a candidate; and
- (b) is the holder of a recognised qualification; and
- (c) has obtained the required practical experience.

Application to sit for prescribed examination

17. (1) An application to sit for the prescribed examination must:

- (a) be in writing; and
- (b) be accompanied by:
 - (i) evidence that the applicant is the holder of a recognised qualification; and
 - (ii) evidence of the practical experience obtained by the candidate, including any notices given to the applicant under clause 10 (3); and
 - (iii) the fee prescribed by subclause (2); and
- (c) be lodged with the Registrar on or before the closing date specified under clause 15 (3) (b) for applications to sit for the examination.

(2) The prescribed fee for a practical test and for each of the items of an oral test referred to in clause 14 (a)–(e) is:

- (a) \$50 (but to a maximum total of \$200) for a prescribed examination held on or before 31 December 1994; or
- (b) \$100 (but to a maximum total of \$400) for a prescribed examination held after that date.

Determination of application

18. (1) If the Board is satisfied that an applicant is entitled to sit for the prescribed examination, the Board:

- (a) must permit the applicant to sit for the examination; and
- (b) must cause the applicant to be given written notice, in person or by post, of that fact; and
- (c) must specify in that notice a date (being a date occurring before the date or dates appointed by the Board under clause 15 (2) for the conduct of the examination) on which the applicant must present the applicant's approved projects to the Board.

(2) If the Board is not satisfied that an applicant is entitled to sit for a prescribed examination, the Board:

- (a) must not permit the applicant to sit for the examination; and
- (b) must cause the applicant to be given written notice, in person or by post, of that fact; and
- (c) must cause any fee paid by the applicant under clause 17 (b) (iii) to be refunded.

(3) If an applicant gives written notice to the Board that the applicant intends to withdraw from the prescribed examination, the Board may cause any fee paid by the applicant under clause 17 (b) (iii) to be refunded.

Approved projects to be presented

19. (1) On the date specified in the notice given to an applicant under clause 18 (1), the applicant must present to the Board:

- (a) one each of the approved projects specified in clause 12 (1) (a), (b) and (c); and
- (b) either the approved project specified in clause 12 (1) (d) or the approved project specified in clause 12 (1) (e).

(2) Each of the approved projects presented under this clause:

- (a) must be the original work of the applicant; and

- (b) must have been undertaken within the period of 2 years immediately preceding the date on which it is presented; and
- (c) must not have been undertaken as part of any course of studies.

Conduct of prescribed examination

20. (1) On the date or dates appointed by the Board under clause 15 (2) for the conduct of the prescribed examination, the Board is to cause to be examined each candidate who attends the examination and whom the Board has permitted to sit for the examination.

(2) The Board may conduct the prescribed examination in such manner as it thinks fit.

Pass marks

21. A candidate passes the prescribed examination if the candidate obtains a mark of not less than 60 per cent in each section of the examination.

PART 3—REGISTRATION OF SURVEYORS

The register

22. In addition to the matters specified in section 8 (1) of the Act, the register is to contain the following:

- (a) the name and address of each candidate and the date on which each such candidate was enrolled;
- (b) particulars of any determination made by the Board under clause 10 (1) about a candidate and the date on which the determination was made;
- (c) the name and address of each person to whom the Board has given a certificate of competency and the date on which the certificate was given;
- (d) the name and address of each person to whom the Registrar has issued a letter of accreditation and the date on which the letter was issued;
- (e) particulars of any charge against a surveyor under section 14 of the Act and the date on which that charge was made;
- (f) particulars of any decision made by the Board in relation to a charge made under section 14 of the Act and the date on which the decision was made.

Manner of application for registration

23. For the purposes of section 10 (3) (a) of the Act, the prescribed manner of making an application for registration is by lodging the application, in writing, with the Registrar.

Evidence in support of applications for registration

24. (1) An application for registration must be supported by the evidence referred to in this clause in addition to any other information the Board may require.

(2) An application for registration by a person who is not entitled to practise as a surveyor outside New South Wales must be supported by:

- (a) the certificate of competency held by the applicant; and
- (b) 2 character references dated within the last 2 years.

(3) An application for registration by a person who is entitled to practise as a surveyor in a reciprocating State that is not a participating State must be supported by a letter of accreditation, dated within the last 12 months, from the competent authority (within the meaning of section 11 (1) of the Act) of the reciprocating State.

(4) An application for registration by a person who is entitled to practise as a surveyor outside New South Wales but not in a reciprocating State or a participating State must be supported by:

- (a) evidence of the qualifications in surveying held by the applicant; and
- (b) 2 character references dated within the last 2 years; and
- (c) evidence that the applicant has obtained the practical experience in the conduct of land boundary surveys in New South Wales that is required by the Board; and
- (d) the results obtained by the applicant in any examination (being an examination about the laws of New South Wales relating to the conduct of surveys) that is required by the Board.

(5) In this clause, “**participating State**” has the same meaning as in the Mutual Recognition (New South Wales) Act 1992.

Application fees

25. An application for registration as a surveyor is to be accompanied by a fee of \$60.

Certificates of registration

26. The Registrar must, on payment to the Board of a fee of \$60, issue a certificate of registration in the approved form to a surveyor who applies for the certificate.

Letters of accreditation

27. The Registrar must, on payment to the Board of a fee of \$60, issue a letter of accreditation in the approved form to a surveyor who applies for the letter.

PART 4—ADVERTISING BY SURVEYORS**Advertising**

28. (1) A surveyor must not knowingly advertise himself or herself (whether directly or on television or radio, in a newspaper or in or on any other medium) to be entitled, qualified, able or willing to practise as a surveyor in a manner:

- (a) that is false, misleading or deceptive; or
- (b) that claims or suggests superiority to other surveyors; or
- (c) that is likely to bring the surveying profession into disrepute.

(2) A surveyor who contravenes this clause is guilty of an offence and liable to a penalty not exceeding 1 penalty unit.

PART 5—MISCELLANEOUS**Delegation of powers, authorities, duties and functions**

29. For the purposes of section 6 (9) of the Act, the prescribed powers, authorities, duties and functions that may be delegated to the president of the Board are the powers, authorities, duties and functions conferred or imposed on the Board by:

- (a) sections 8(2), 8 (3), 9 (a)–(c), 9B (1), 10 (1), 10 (3) (b) and 10 (5)—(7) of the Act; and
- (b) clauses 8 (1), 10 (1) and 18 of this Regulation.

Annual roll fees

30. For the purposes of section 10 (4) of the Act, the prescribed roll fee is \$250.

Fees for restoration to the register

31. For the purposes of section 10 (6) of the Act, the prescribed fee is \$150.

Orders to produce documents

32. For the purposes of section 27 (5) of the Act, the prescribed form is Form 1.

Emeritus surveyors—certificates of recognition

33. (1) The Board may issue a certificate in the approved form to a retired surveyor whose name has been removed from the register after long service as a surveyor in recognition of the contribution made by the retired surveyor.

(2) The Board may charge a fee not exceeding \$50 for the issue of such a certificate.

(3) Such a certificate does not entitle the holder to practise as a surveyor.

(4) Nothing in this clause prevents the name of the holder of such a certificate from being restored to the register in accordance with the Act.

Repeal

34. (1) The Surveyors (General) Regulation 1982 is repealed.

(2) Schedule 2 has effect.

SCHEDULE 1—FORMS

Form 1

(Cl. 32)

ORDER TO PRODUCE DOCUMENTS

Surveyors Act 1929

Section 27 (5)

The Board of Surveyors of New South Wales, pursuant to its powers under section 27 (5) of the Surveyors Act 1929, hereby orders
to produce the documents specified below to the Board at
and on or before 19

Documents to be produced

.....
.....
.....
.....

GIVEN under the seal of the Board this day of
19

.....
President of the Board

.....
Registrar of the Board

SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

(Cl. 34 (2))

**Part 1—Savings and transitional provisions arising from the
repeal of the Survey Examination Regulations 1953 and the
Surveyors (General) Regulations 1969**

Definitions

1. In this Part:
 - “**application**” means an application for registration as a surveyor under section 10 (3) of the Act;
 - “**commencement day**” means the day on which this Regulation commences.

Articles

2. Regulations 1–22 of the Survey Examination Regulations 1953 continue to apply to and in respect of any pupil in respect of whom articles were, immediately before the commencement day, registered in accordance with Regulation 4 of those Regulations in the same manner as if those Regulations had not been repealed.

Certificates of competency

3. For the purposes of section 10 (2) (b) of the Act, a certificate of competency issued in accordance with Regulation 22 of the Survey Examination Regulations 1953 is taken to be a certificate of competency issued in accordance with clause 4 of this Regulation.

Applications for registration

4. Any application which was made in accordance with Regulation 23, 25 or 26 of the Survey Examination Regulations 1953 before the commencement day, but which was not determined or withdrawn before that day, is taken to have been made in accordance with clause 23 of this Regulation.

Evidence accompanying application for registration

5. Any evidence which in accordance with Regulation 23, 25 or 26 of the Survey Examination Regulations 1953 accompanied an application made before the commencement day is taken to be evidence which has supported the application in accordance with clause 24 (2), (3) or (4) of this Regulation, as the case may require.

Delegations

6. Any delegation under section 6 (9) (a) of the Act which was in force immediately before the commencement day, to the extent to which it could have been made if this Regulation had been in force when it was in fact made, continues to have effect according to its tenor until it is revoked under section 6 (9) (b) (i) of the Act.

Part 2—Savings and transitional provisions arising from the repeal of the Surveyors (General) Regulation 1982**Acts under repealed Regulation taken to have effect under this Regulation**

7. Any act, matter or thing that, immediately before the repeal of the Surveyors (General) Regulation 1982, had effect under that Regulation is taken to have effect under this Regulation.

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SCHEDULE 1—FORMS

SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, without any substantive changes, the Surveyors (General) Regulation 1982. The new Regulation deals with the following matters:

- (a) the issue of certificates of competency (Part 2);
- (b) the registration of surveyors (part 3);
- (c) advertising by surveyors (Part 4);
- (d) other minor, consequential and ancillary matters (Parts 1 and 5).

This Regulation is made under the Surveyors Act 1929, including sections 6 (Tenure of office of members and quorum), 8 (Board to keep a register), 10 (Persons entitled to be registered), 12 (Right to make surveys), 20 (Examinations), 23 (the general regulation making power) and 27 (Surveyor to produce field book etc.).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
