



New South Wales

Surveyors (General) Regulation 1999

under the

Surveyors Act 1929

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Surveyors Act 1929*.

KIMBERLEY YEADON, M.P.,

Minister for Information Technology

Explanatory note

The object of this Regulation is to repeal and remake, with minor modifications, the provisions of the *Surveyors (General) Regulation 1994*. The new Regulation deals with the following matters:

- (a) the issue of certificates of competency (in particular, the requirements for entitlement to such a certificate),
- (b) the registration of surveyors,
- (c) advertising by surveyors,
- (d) the annual roll fee and other fees,
- (e) other miscellaneous and ancillary matters.

In particular, the new Regulation provides for professional training agreements (as approved by the Board of Surveyors) to be recognised as part of the process in obtaining a certificate of competency.

This Regulation is made under the *Surveyors Act 1929*, including section 23 (the general regulation making power).

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

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Clause 1 Surveyors (General) Regulation 1999

Part 1 Preliminary

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Surveyors (General) Regulation 1999*.

2 Commencement

This Regulation commences on 1 September 1999.

3 Definitions

(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.

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 *Surveyors (Practice) Regulation 1996*.

the Act means the *Surveyors Act 1929*.

(2) For the purpose of the application of section 76 (1) (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.

(3) The explanatory note and table of contents do not form part of this Regulation.

Part 2 Certificates of competency

4 Entitlement to certificate of competency

- (1) A person is entitled to be granted a certificate of competency if the person:
 - (a) is the holder of a recognised qualification, and
 - (b) is a candidate, and
 - (c) obtains the required practical experience, and
 - (d) passes the prescribed examination or fulfils a professional training agreement as referred to in subclause (2).
- (2) A professional training agreement is an agreement, as approved by the Board, entered into by a person for the purposes of obtaining a certificate of competency, being a person who:
 - (a) is a candidate, and
 - (b) is the holder of a recognised qualification, and
 - (c) is not sitting the prescribed examination.
- (3) A certificate of competency is to be in the approved form and is to be given under the seal of the Board.

5 Recognised qualifications

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.

6 Enrolment as a candidate

- (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

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- (b) be accompanied by evidence that the applicant is entitled to be so enrolled, and
 - (c) be accompanied by a fee of \$80, 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.

7 Annual enrolment fee

- (1) A candidate must before or in the month of July in each year pay to the Registrar an annual enrolment fee of \$80.
- (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.

8 Practical experience

- (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.

9 Candidate to give notice of practical experience obtained

- (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.

10 Annual determinations of practical experience obtained by candidates

- (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).

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- (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.

11 Prescribed examination

For the purposes of section 10 (2) (b) of the Act, the prescribed examination for a candidate who has not entered into a professional training agreement (as referred to in clause 4 (2)) is to consist of the following sections:

- (a) the approved projects,
- (b) an oral test.

12 Approved projects

- (1) The approved projects referred to in clause 11 (a) consist of the following:
 - (a) a survey plan for a survey of a rural parcel of land (see subclause (2)),
 - (b) a survey plan for a survey of an urban parcel of land (see subclause (3)),
 - (c) a design for engineering work (see subclause (4)).
 - (d) a proposal for a development (see subclause (5)).
- (2) A *survey plan for a survey of a rural parcel of land* is a survey plan for a parcel of land:
 - (a) that is situated in a rural area, and
 - (b) that is not less than 30 hectares in area, and

- (c) of which 2 boundaries coincide with, and are reinstated from, existing surveys, and
- (d) 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 is to be accompanied by a metes and bounds description of the parcel of land.

- (3) A ***survey plan for a survey of an urban parcel of land*** is a survey plan for a parcel of land:

- (a) that is situated in an urban area, and
- (b) 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,

and is to be accompanied by a metes and bounds description of the parcel of land.

- (4) A ***design for engineering work*** is a design for 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, and consisting of the following:

- (a) an engineering survey for the work proposed to be carried out,
- (b) complete working drawings of the design,
- (c) complete details of any ancillary works proposed to be carried out in connection with the work,
- (d) complete specifications of the type of materials required for completion of the work and of any proposed ancillary works,
- (e) a schedule of the quantities of the materials required for completion of the work and of any proposed ancillary works.

- (5) A ***proposal for a development*** is either:

- (a) 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

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- (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
- (b) 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.
- (6) 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.

13 Oral test

An oral 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 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.

14 Advertising of examination

- (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 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 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.

15 Entitlement to sit for examination

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.

16 Application to sit for examination

- (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

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- (c) be lodged with the Registrar on or before the closing date specified under clause 14 (3) (b) for applications to sit for the examination.
- (2) The prescribed fee for each of the items of an oral test referred to in clause 13 (a)–(e) is \$200 (but to a maximum total of \$800).

17 Determination of application to sit for examination

- (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 14 (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 the 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 16 (1) (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 16 (1) (b) (iii) to be refunded.

18 Approved projects to be presented

- (1) On the date specified in the notice given to an applicant under clause 17 (1), the applicant must present to the Board:
 - (a) one each of the approved projects specified in clause 12 (2), (3) and (4), and
 - (b) either the approved project specified in clause 12 (5) (a) or the approved project specified in clause 12 (5) (b).
- (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.

19 Conduct of examination

- (1) On the date or dates appointed by the Board under clause 14 (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 examination in such manner as it thinks fit.

20 Pass marks

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.

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Clause 21 Surveyors (General) Regulation 1999

Part 3 Registration of surveyors

Part 3 Registration of surveyors

21 The register

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.

22 Manner of application for registration

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.

23 Evidence in support of applications for registration

- (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*.

24 Application fees

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

25 Certificates of registration

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.

26 Letters of accreditation

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.

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Clause 27 Surveyors (General) Regulation 1999

Part 4 Miscellaneous

Part 4 Miscellaneous

27 Delegation of powers, authorities, duties and functions

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 17 of this Regulation.

28 Advertising

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.

Maximum penalty: 1 penalty unit.

29 Annual roll fees

For the purposes of section 10 (4) of the Act, the prescribed roll fee is \$360.

30 Fees for restoration to the register

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

31 Orders to produce documents

For the purposes of section 27 (5) of the Act, the prescribed form is the Form set out in Schedule 1.

32 Emeritus surveyors—certificates of recognition

- (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.

33 Repeal

- (1) The *Surveyors (General) Regulation 1994* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Surveyors (General) Regulation 1994*, had effect under that Regulation is taken to have effect under this Regulation.

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Schedule 1 Form

Schedule 1 Form

(Clause 31)

ORDER TO PRODUCE DOCUMENTS

(Section 27 (5) of *Surveyors Act 1929*)

The Board of Surveyors of New South Wales, under section 27 of the *Surveyors Act 1929*, orders (*name of surveyor*) to produce the documents specified below to the Board at (*address*) on or before (*date*).

Documents to be produced:

Given under the seal of the Board this day of

President of the Board

Registrar of the Board

BY AUTHORITY