



# **LAND SURVEYORS BILL 2016**

**(NO. 10 OF 2016)**





# LAND SURVEYORS BILL 2016

(NO. 10 OF 2016)

A

BILL

Entitled

AN ACT TO REGULATE THE PRACTICE OF LAND SURVEYING, AND FOR  
RELATED PURPOSES

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS

# LAND SURVEYORS BILL 2016

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## PART 1 PRELIMINARY MATTERS

### 1 Short title

This Act may be cited as the *Land Surveyors Act 2016*.

### 2 Commencement

This Act commences on the day appointed by the Minister by *Gazette* notice.

### 3 Definitions

In this Act:

**“appointed member”**, of the Board, means a member of the Board appointed under section 7(b) or (c);

**“approved form”** means a form approved by the Surveyor-General under section 35;

**“Association”** means the Association of Surveyors established by section 14;

**“Board”** means the Solomon Islands Surveyors Board established by section 5;

**“Council”** means the Council of the Association mentioned in section 16;

**“licensed surveyor”** means a person who holds a current practising licence;

**“practising licence”** means a license to practice as a surveyor issued under section 24;

**“registered surveyor”** means a person registered as a surveyor under section 21;

**“registration”** means registration as a surveyor under section 21;

**“registration certificate”** means a certificate issued under section 22;

**“survey”** means any of the following activities undertaken for the

purposes of defining, redefining or marking the property boundaries of land:

- (a) inserting property boundary survey marks in or on land;
- (c) preparing plans or other documents to illustrate the results of any such measurements or the location of any such survey marks;

**“survey plan”** means a document showing the results of a survey;

**“Surveyor-General”** means the person appointed under section 4.

## **PART 2                      SURVEYOR-GENERAL AND SURVEYORS BOARD**

### **4                      Appointment of Surveyor-General**

The Public Service Commission must appoint a public officer to be the Surveyor-General.

### **5                      Establishment of Surveyors Board**

The Solomon Islands Surveyors Board is established.

### **6                      Function of Board**

The function of the Board is to consider applications for registration.

### **7                      Membership of Board**

The Board consists of the following members:

- (a) the Surveyor-General, as chairperson of the Board;
- (b) a registered surveyor appointed by the Surveyor-General;
- (c) 3 other registered surveyors appointed by the Association.

### **8                      Term of office of Board member**

An appointed member of the Board holds office for 3 years or the shorter period specified in the instrument of appointment and is eligible for reappointment.

## **9 Vacation of office of Board member**

- (1) A person who is an appointed member of the Board ceases to be a member if:
  - (a) the person resigns by giving written notice to the Surveyor-General; or
  - (b) the person's term of office comes to an end and the person is not reappointed; or
  - (c) the person ceases to be a registered surveyor; or
  - (d) the person's appointment is terminated under subsection (2).
- (2) The Minister may terminate the appointment of a person who is an appointed member:
  - (a) on the ground of misbehaviour or misconduct; or
  - (b) on the ground of physical or mental inability to satisfactorily perform the duties of the office; or
  - (c) if the person is sentenced to a term of imprisonment for an offence; or
  - (d) if the person is convicted of an offence:
    - (i) under this Act; or
    - (ii) that the Minister considers is of such a nature that it would be inappropriate for the person to remain a member of the Board; or
  - (e) if the person becomes bankrupt.

## **10 Allowances for Board member**

A member of the Board is entitled to be paid the allowances determined by the Minister.

## **11 Meetings of Board**

- (1) The chairperson must convene meetings of the Board as required to consider applications for registration.



- (2) The quorum for a meeting is 3 members.
- (3) A decision at a meeting must be made by a majority of votes.
- (4) If there is an equality of votes, the chairperson has a casting vote.
- (5) The Board must keep accurate records of each meeting.

## **12 Disclosure of interest**

- (1) This section applies if a member of the Board has a personal interest in a matter being considered, or about to be considered, by the Board.
- (2) The member must disclose the following to the other members as soon as practicable after the relevant facts come to the member's knowledge:
  - (a) the nature and extent of the interest;
  - (b) how the interest relates to the matter.
- (3) The disclosure must be recorded in the minutes of the meeting at which, or before which, the disclosure is made.
- (4) The member need not disclose an interest if the interest is an interest shared with the public generally or a section of the public.
- (5) However, a failure by the member to disclose the interest in the matter does not, on its own, invalidate any decision of the Board about the matter.
- (6) For this section, a member has a personal interest in a matter if the member:
  - (a) has a direct or indirect financial interest in the matter; or
  - (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about the matter.

- (7) A member who is required to disclose a personal interest under this section must not take part in any deliberation or decision of the Board about the matter.

**13 External assistance to Board**

The Board may engage any appropriately qualified person to provide assistance or advice in the performance of its functions.

**PART 3 ASSOCIATION OF SURVEYORS**

**14 Establishment of Association of Surveyors**

- (1) The Association of Surveyors is established.
- (2) The Association is a body corporate with perpetual succession.

**15 Membership**

- (1) The Association consists of its members.
- (2) Each licensed surveyor is a member of the Association.
- (3) The Association may admit a person who is not a licensed surveyor as an associate or student member in accordance with its rules.

**16 Council of the Association**

- (1) The Council of the Association is responsible for managing the affairs of the Association.
- (2) The Council consists of the following members elected from among the Association members in accordance with the rules of the Association:
  - (a) a President;
  - (b) a Vice-President;
  - (c) a Treasurer;
  - (d) a Secretary.
- (3) A member of the Council holds office for a term, not exceeding 3 years, decided at an annual general meeting of the Association.

**17            Association committees**

The Council may appoint committees consisting of members of the Association to carry out specified functions.

**18            Association rules**

Subject to this Act, the Association may regulate its own procedures and may make rules governing its operations.

**PART 4                    REGISTRATION AND LICENSING OF  
SURVEYORS**

**Division 1            Registration**

**19            Application for registration**

- (1) At least twice a year, the Board must call for applications for registration by a notice published in a newspaper circulating generally in Solomon Islands.
- (2) A person may apply to the Surveyor-General for registration by the Board as a surveyor within 28 days after the notice is published.
- (3) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by the prescribed fee; and
  - (c) accompanied by evidence of the applicant's qualifications for registration.

**20            Qualifications for registration**

A person is qualified for registration if the person:

- (a) holds the qualifications prescribed by regulation; or
- (b) is registered or licensed (however described) as a surveyor under a law of another country that, in the Board's opinion, imposes requirements for registration that are equivalent to the requirements of this Act.

## **21            Decision on application**

- (1) The Board may grant registration if it is satisfied that the applicant is qualified for registration.
- (2) The Surveyor-General must give the applicant written notice of the Board's decision, including information about the applicant's rights of review and appeal under Part 7.
- (3) If the Board does not decide an application for a registration within 28 days after it is received:
  - (a) the application is taken to have been refused; and
  - (b) the applicant may apply for review of the refusal under section 33.

## **22            Registration certificate**

The Board must issue each registered surveyor with a registration certificate.

## **Division 2            Licensing**

### **23            Application for practising licence**

- (1) A registered surveyor may apply to the Council for a practising licence.
- (2) The application must:
  - (a) be made in the approved form; and
  - (b) be accompanied by the prescribed fee; and
  - (c) include the following:
    - (i) a certified copy of the applicant's registration certificate;
    - (ii) the name of the business under which the applicant proposes to practice as a surveyor;
    - (iii) the applicant's principal place of business and any other place of business;

- (iv) if the application is for renewal of a practising licence, a copy of the applicant's existing licence;
- (v) any other information specified in the approved form.

## **24 Decision on application**

- (1) The Council may issue a practising licence if the licence application is made in accordance with section 23.
- (2) A practising licence may be issued subject to the conditions specified in it.
- (3) A practising licence is valid for 12 months from the date it is issued.
- (4) The Council must give the applicant written notice of the Council's decision, including information about the applicant's rights of review and appeal under Part 7.
- (5) If the Council does not decide an application for a practising licence within 28 days after it is received:
  - (a) the application is taken to have been refused; and
  - (b) the applicant may apply for review of the refusal under section 33.

## **25 List of licensed surveyors**

By 31 March each year, the Council must publish in the *Gazette* a list of licensed surveyors as at a specified date.

## **26 Disciplinary action**

- (1) Each of the following is a ground for amending, suspending or cancelling a practising licence:
  - (a) the holder of the licence has breached a condition of the licence;
  - (b) the holder of the licence has contravened this Act;
  - (c) the holder of the licence has contravened a practice direction made under section 27;

- (d) the holder of the licence has acted dishonestly, negligently or unprofessionally in his or her practice as a surveyor.
- (2) If the Council believes a ground exists to amend, suspend or cancel a practising licence (the “**proposed action**”), the Council must give the holder of the licence a notice that:
  - (a) specifies the proposed action; and
  - (b) specifies the ground for the proposed action; and
  - (c) outlines the facts and circumstances that form the basis for the Council's belief that the ground exists; and
  - (d) invites the holder to make written representations to the Council, within a specified time of at least 7 days, as to why the proposed action should not be taken.
- (3) If, after considering any written representations made by the holder, the Council still believes a ground exists to take the proposed action, the Council may take:
  - (a) the proposed action; or
  - (b) less onerous action the Council considers appropriate because of the representations made by the holder.
- (4) The Secretary to the Council must give the holder of the licence written notice of the Council's decision, including information about the holder's rights of review and appeal under Part 7.

## **PART 5 THE PRACTICE OF SURVEYING**

### **27 Practice directions**

- (1) The Surveyor-General may make directions in relation to the practice of surveying.
- (2) A licensed surveyor must comply with the directions.

### **28 Preparation of survey plans**

A licensed surveyor must sign and date each survey plan prepared by the surveyor.

**29 Lodging of survey plans**

- (1) A licensed surveyor must lodge a copy of each survey plan prepared by the surveyor with the Surveyor-General.
- (2) The Surveyor-General may approve the plan, subject to any corrections he or she considers necessary.

**30 Recognition of survey plans**

Only a survey plan prepared by a licensed surveyor and approved by the Surveyor-General under section 29 may be recognised by a courts or the Government.

**PART 6 OFFENCES**

**31 Only licensed surveyor may carry out survey**

A person commits an offence if:

- (a) the person carries out a survey; and
- (b) the person is not:
  - (i) a licensed surveyor; or
  - (ii) under the direct supervision of a licensed surveyor.

Maximum penalty: 10,000 penalty units or 12 months imprisonment, or both.

**32 Pretending to be a licensed surveyor**

A person commits an offence if:

- (a) the person is not a licensed surveyor; and
- (b) the person:
  - (i) pretends to be qualified to carry out a survey; or
  - (ii) otherwise pretends to be a licensed surveyor.

Maximum penalty: 10,000 penalty units or 12 months imprisonment, or both.

## **PART 7                      REVIEWS AND APPEALS**

### **33                      Review by Minister**

- (1) If a person is required under this Act to be given notice of any of the following decisions, the person may apply to the Minister for review of the decision:
  - (a) a decision of the Board to refuse an application for registration;
  - (b) a decision of the Council to refuse an application for a practising licence;
  - (c) a decision of the Council to impose a condition on a practising licence;
  - (d) a decision of the Council to take disciplinary action under section 26.
- (2) The person must apply for the review within 30 days after the person receives notice of the decision from the decision maker.
- (3) In deciding the application, the Minister may:
  - (a) confirm the decision; or
  - (b) vary the decision; or
  - (c) make a new decision.
- (4) The Minister must give the applicant for review written notice of the Minister's decision, including information about the applicant's right of appeal under section 34.

### **34                      Appeal to High Court**

- (1) An applicant for review under section 33 may appeal to the High Court against the decision of the Minister on the review.
- (2) The appeal must be started within 30 days after the person receives notice of the decision on the review from the Minister.
- (3) The appeal may be made on a question of law only.



(4) In deciding the application, the Court may:

- (a) confirm the decision; or
- (b) vary the decision; or
- (c) make a new decision.

## **PART 8 MISCELLANEOUS MATTERS**

### **35 Approved forms**

The Surveyor-General may approve forms for use under this Act.

### **36 Delegation**

The Surveyor-General may delegate his or her powers and functions to another public officer.

### **37 Protection from liability**

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as:

- (a) the Surveyor-General; or
- (b) a Board member; or
- (c) a Council member.

(2) In this section:

**exercise**, of a power, includes the purported exercise of the power.

**performance**, of a function, includes the purported performance of the function.

### **38 Regulations**

(1) The Minister may make regulations under this Act.

(2) Without limiting subsection (1), the regulations may prescribe the following:

- (a) fees for this Act, including fees for surveys carried out by the Government;
- (b) the qualifications for registration as a surveyor;
- (c) the procedures that apply when the Council takes disciplinary action against surveyors under section 26.

## **PART 9                      REPEALS AND TRANSITIONAL MATTERS**

### **39                      Definitions**

In this Part:

**“commencement date”** means the date this Part commences;

**“repealed Act”** means the *Land Surveys Act* (Cap. 134) as in force immediately before the commencement date.

### **40                      Repeal of Land Surveys Act**

The *Land Surveys Act* (Cap. 134) is repealed.

### **41                      Saving of subsidiary legislation**

The following subsidiary legislation made under the repealed Act remains in force after the commencement date as if it were made under section 38 of this Act:

- (a) *Surveyor General’s Rules* (LN 28/1964); and
- (b) *Fees for Government Surveys Order* (LN 53/1995).

### **42                      Surveyor-General**

The person who held the public office of Surveyor-General immediately before the commencement date continues to hold the office under this Act.

### **43                      Registered surveyors**

A person who, immediately before the commencement date, was a registered land surveyor under the repealed Act, is taken to be a registered surveyor under this Act.

**44 Requirement to hold practising licence postponed**

For the period of 12 months after the commencement date, a registered surveyor is taken to be a licensed surveyor for the purposes of this Act, even if the registered surveyor does not hold a practising licence.

**45 Disciplinary action**

If disciplinary action in relation to the conduct of a registered land surveyor has been started under section 11 of the repealed Act but not completed by the commencement date, the action must be completed under the repealed Act as if it had not been repealed.

## **LAND SURVEYORS BILL 2016**

### **OBJECTS AND REASONS**

The current laws governing land surveying were first introduced in Solomon Islands in 1915. Those laws (now known as the Land Surveys Act, Cap.134) are largely out of date, and do not reflect the needs of modern-day survey practice. Various important changes are proposed, and rather than attempting to amend the current Act, it is considered opportune to replace that Act with a new Act.

This Bill proposes that the powers of the Surveyors Board be extended, to empower the Board to consider and determine applications for registration as a surveyor. Furthermore, the Bill proposes the establishment of an Association of Surveyors with its own Council, in a similar manner to the Association of Valuers and its Council. The Council would, under this Bill, have the power to issue practising licenses, which would be needed in addition to registration, before a person can practice surveying. A process is proposed to be introduced to allow any person aggrieved by a decision made by the Board or Council to appeal against that decision. Under this Bill, the Minister may make Regulations to set further details relating to procedures, fees or other matters, but the power to approve practice directions (rules) are appropriately transferred from the Minister to the Surveyor-General.

The details are set out in the Explanatory Memorandum to the Bill.

HON. MOSES GARU  
MINISTER FOR LANDS, HOUSING AND SURVEY

**LAND SURVEYORS BILL 2016**  
**EXPLANATORY MEMORANDUM**

Clause 1 provides for the short title.

Clause 2 provides for the commencement provisions.

Clause 3 provides for the definitions.

Clause 4 provides for the appointment of a Surveyor-General.

Clause 5 establishes the Surveyors Board.

Clause 6 establishes that the purpose of the Surveyors Board is to consider applications for registration of surveyors.

Clause 7 establishes who the Board members are.

Clause 8 explains the term of appointed Board members.

Clause 9 sets out the circumstances for a person to cease to be a Board member.

Clause 10 allows for allowances to be set for Board members.

Clause 11 sets out how Board meetings are to be held.

Clause 12 explains the circumstances and process whereby Board members should disclose any interests.

Clause 13 allows the Board to engage external assistance for any relevant matters.

Clause 14 establishes an Association of Surveyors.

Clause 15 establishes that the Association consists of members who are either licensed or admitted as associate or student members.

Clause 16 establishes the Council of the Association, its membership and their term of office.

Clause 17 allows the Council to appoint committees to carry out particular functions.

Clause 18 allows the Association to make its own procedures and rules.

Clause 19 sets out the process for persons to apply to the Board for registration as a surveyor.

Clause 20 establishes the qualifications for registration.

Clause 21 sets out the process for the Board to decide on applications for registration as a surveyor.

Clause 22 establishes that the Board must issue registration certificates to persons who have been approved for registration.

Clause 23 sets out the process for registered surveyors to apply to the Council for a practising license.

Clause 24 sets out the process for the Council to decide on applications for practising licenses.

Clause 25 states that the Council must publish a list of licensed surveyors once a year.

Clause 26 allows the Council to take disciplinary action against a licensed surveyor, including the amending, suspending or cancelling of a license.

Clause 27 allows the Surveyor-General to make directions in relation to the practice of surveying.

Clause 28 requires a licensed surveyor to sign and date each survey plan.

Clause 29 requires a licensed surveyor to submit a survey plan to the Surveyor-General, who can then approve the plan subject to any corrections.

Clause 30 establishes that only approved survey plans can be recognised by the courts or government.

Clauses 31 and 32 declare it an offence for unlicensed persons to practice as a surveyor, and set penalties for any breaches of this law.

Clause 33 allows for a review of certain decisions made by the Board and the Council.

Clause 34 allows for appeals on questions of law to be made to the High Court against a decision made on review.

Clause 35 allows the Surveyor-General to approve forms to be used under the Act.

Clause 36 allows the Surveyor-General to delegate powers to another public officer.

Clause 37 protects the Surveyor-General, Board members and Council members from liability against acts done in good faith.

Clause 38 allows the Minister to make Regulations.

Clause 39 provides for the definitions for words used in the repeals and transitional matters.

Clause 40 repeals the Land Surveys Act.

Clause 41 allows certain subsidiary legislation to remain in force.

Clause 42 allows for the currently-appointed Surveyor-General to be automatically appointed as such under the new Act.

Clause 43 allows for surveyors registered under the previous Act to be automatically registered under the new Act.

Clause 44 allows for a period of 12 months after the commencement of the new Act for surveyors to obtain a practising license.

Clause 45 allows for any disciplinary action being undertaken under the previous Act to continue and be completed under the provisions of that Act despite any commencement of the new Act.

Honiara, Solomon Islands  
Printed under the authority of the  
Solomon Islands Government

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Printed by Pacific Printers Limited