



VALUERS (AMENDMENT) BILL 2016

(NO. 5 OF 2016)



VALUERS (AMENDMENT) BILL 2016

(NO. 5 OF 2016)

A

BILL

Entitled

AN ACT TO AMEND THE VALUERS ACT 2009.

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

VALUERS (AMENDMENT) BILL 2016

TABLE OF PROVISIONS

1	Short title	1
2	Commencement	1
3	Valuers Act 2009 amended	1
4	Amendment of section 2	1
5	Amendment of section 3	1
6	Amendment of section 4	1
7	Amendment of section 7	2
8	Amendment of section 10	2
9	Amendment of section 11	3
10	Amendment of section 13	3
11	Amendment of section 15	4
12	Amendment of sections 18 and 20	4
13	Repeal and replacement of section 23	4
14	Repeal of section 32	5
15	Repeal and replacement of sections 33 and 34	5
16	Amendment of section 38	6
17	Amendment of Schedule	7

VALUERS (AMENDMENT) BILL 2016

1 Short title

This Act may be cited as the *Valuers (Amendment) Act 2016*.

2 Commencement

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

3 Valuers Act 2009 amended

This Act amends the *Valuers Act 2009* (the “*principal Act*”).

4 Amendment of section 2

(1) Section 2 of the principal Act is amended by deleting the definition of “licence”.

(2) Section 2 of the principal Act is amended by inserting each of the following definitions in alphabetical order:

“*practising licence*” means a licence issued under section 34;

“*registration*” means registration as a valuer under section 10 or 13;

“*registration certificate*” means a certificate of registration issued under section 10 or 13;”.

(3) The definition of “valuer” in section 2 of the principal Act is amended by deleting “licence” and substituting “valid practising licence”.

5 Amendment of section 3

Section 3 of the principal Act is amended by deleting “, whether alone or in partnership with another person”.

6 Amendment of section 4

(1) Section 4(1) of the principal Act is amended by inserting the

following after paragraph (a):

“(aa) a public officer who is a valuer appointed to the Board by the Valuer General, as the Secretary to the Board;”

- (2) Section 4(1)(c) to (f) of the principal Act are deleted and replaced with the following:

“(c) a legal practitioner nominated by the Valuer General; and

(d) a person nominated by the Valuer General who has a tertiary qualification in quantity surveying that is approved by the Valuer General.”

- (3) Section 4(2) of the principal Act is deleted and replaced with the following:

“(2) The members mentioned in paragraphs (b) to (d) must be appointed by the Minister in accordance with the relevant nomination.

- (2A) The Valuer General must seek the views of the Council before nominating a person for membership of the Board.”

7 Amendment of section 7

Section 7(1) of the principal Act is amended by deleting “year” and substituting “calendar year”.

8 Amendment of section 10

- (1) Section 10(1) of the principal Act is amended by inserting “made under section 14” immediately after “application for registration”.

- (2) Section 10(1)(a) of the principal Act is amended by deleting “as a valuer;” and substituting “; and”.

- (3) Section 10(1)(c) of the principal Act is amended by deleting “section 12.” and substituting “section 12; and”.

- (4) Section 10(1) of the principal Act is amended by inserting the following after paragraph (c):

“(d) the individual applicant is a citizen of Solomon Islands.”

- (5) Section 10(3)(a) of the principal Act is amended by deleting “certificate of registration” and substituting “registration certificate”.
- (6) Section 10 of the principal Act is amended by inserting the following after subsection (3):
 - “(4) If the Board does not decide an application for registration within 28 days after it is received:
 - (a) the application is taken to have been refused; and
 - (b) the applicant may appeal against the refusal under section 23.”

9 Amendment of section 11

Section 11(1) of the principal Act is amended by deleting “certificate of registration issued to a valuer under section 10 or 13” and substituting “registration certificate”.

10 Amendment of section 13

- (1) Section 13(2)(a) of the principal Act is amended by deleting “Act;” and substituting “Act; and”.
- (2) Section 13(2)(c) of the principal Act is amended by deleting “years.” and substituting “years; and”.
- (3) Section 13(2) of the principal Act is amended by inserting the following after paragraph (c):
 - “(d) holds a work permit that allows the person to work as a valuer in Solomon Islands; and
 - (e) is a member of a body equivalent to the Association in another country.”
- (4) Section 13(3), (4) and (5) of the principal Act are deleted and substituted with the following:
 - “(3) If the Board issues temporary registration to a person, the Board must issue the person with a temporary registration certificate in the prescribed form on payment of the prescribed fee.
 - (4) The Board may extend a temporary registration for additional

periods of up to 3 months each on payment of the prescribed fee.

- (5) To avoid doubt, a person who is issued temporary registration must obtain a practicing licence before engaging in the practice of valuation.
- (6) If the Board refuses an application for temporary registration, the applicant may appeal against the refusal under section 23.
- (7) If the Board does not decide an application for temporary registration within 28 days after it is received:
 - (a) the application is taken to have been refused; and
 - (b) the applicant may appeal against the refusal under section 23.”

11 Amendment of section 15

Section 15(3) of the principal Act is deleted.

12 Amendment of sections 18 and 20

Sections 18 and 20 of the principal Act are amended by deleting all references to “licence” and substituting “practising licence”.

13 Repeal and replacement of section 23

Section 23 of the principal Act is repealed and replaced with the following:

“23 Appeal to Minister

- (1) A person may appeal to the Minister against any of the following decisions:
 - (a) a decision of the Board to refuse an application for registration;
 - (b) a decision of the Board to impose a condition on a registration;
 - (c) a decision of the Board to impose a disciplinary penalty under section 20;
 - (d) a decision of the Council to refuse an application for a

practising licence;

- (e) a decision of the Council to impose a condition on a practising licence.
-
- (2) The appeal must be made within 30 days after the date of the decision.
 - (3) In deciding the appeal, the Minister may:
 - (a) confirm the decision; or
 - (b) vary the decision; or
 - (c) make a new decision.
 - (4) The Minister must decide the appeal in accordance with the provisions of this Act applicable to the original decision.”

14 Repeal of section 32

Section 32 of the principal Act is repealed.

15 Repeal and replacement of sections 33 and 34

Sections 33 and 34 of the principal Act are repealed and replaced with the following:

“33 Application for practising licence

- (1) A person may apply to the Council for a practising licence.
- (2) The application must:
 - (a) be made in the prescribed form; and
 - (b) include the following:
 - (i) a certified copy of the applicant's registration certificate;
 - (ii) if the applicant is employed, the name of the applicant's employer;

- (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 prescribed form.
- (3) A person may apply for a practising licence at any time.
- (4) However, in order to be listed in the notice published under section 34A for a year, a person must apply for a practising licence before the last day in February of that year.

34 Power to issue practising licence

- (1) The Council may issue a practising licence if:
- (a) the licence application is made in accordance with section 33(2); and
 - (b) the applicant pays the prescribed licence fee.
- (2) A practising licence may be issued subject to conditions.
- (3) A practising licence is valid for the period, of at least 12 months but not more than 3 years, specified in it.
- (4) 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 appeal against the refusal under section 23.

34A List of licensed valuers

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

16 Amendment of section 38

- (1) Section 38 of the principal Act is amended by deleting "The Board may, with the approval of the Minister," and substituting "The Minister may".

- (2) Section 38 of the principal Act is amended by deleting “prescribing” and substituting “prescribing any of the following”.
- (3) Section 38(c) of the principal Act is amended by deleting “maintained; and” and substituting “maintained;”.
- (4) Section 38 of the principal Act is amended by inserting the following after paragraph (e):
 - “(ea) allowances for members of the Board;
 - (eb) the way in which valuers must calculate and estimate land valuations;”

17 Amendment of Schedule

- (1) Clause 1(2) of the Schedule to the principal Act is repealed.
- (2) Clause 3(2)(a) of the Schedule to the principal Act is amended by deleting “licence” and substituting “practising licence”.
- (3) Clause 6(3) of the Schedule to the principal Act is deleted and replaced with the following:
 - “(3) The quorum for a meeting of the Board is 4 members.”
- (4) Clause 6(5) of the Schedule to the principal Act is deleted and replaced with the following:
 - “(5) The Secretary to the Board must keep accurate minutes of each meeting of the Board.”
- (5) Clause 10 of the Schedule is repealed and replaced with the following:

“10 External assistance

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

VALUERS (AMENDMENT) BILL 2016

OBJECTS AND REASONS

The *Valuers Act* was enacted in 2009, to provide a statutory framework for the registration and licensing of valuers in Solomon Islands. This was the first time in Solomon Islands that this profession was legally regulated.

From the time the Act was enacted until present, various issues and shortcomings of the current legislation have become apparent. The dual requirements of registration and licensing by the Valuers Board and the Council of the Association of Valuers respectively is sound in principle, although some amendments and clarifications are needed in order to encourage greater integrity to the process.

The major objectives of this Bill are to reform the membership of the Valuers Board, limit registration of valuers to only Solomon Islands citizens, impose additional qualification requirements for temporary registration of valuers, widen the scope for applicants to appeal decisions (or failure to make decisions), and improve the functioning of the Valuers Board.

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

**HON. MOSES GARU
MINISTER FOR LANDS, HOUSING AND SURVEY**

VALUERS (AMENDMENT) BILL 2016

EXPLANATORY MEMORANDUM

Clause 1 provides for the short title.

Clause 2 provides for the commencement provisions.

Clause 3 provides a reference to the principal Act being amended (the Valuers Act 2009).

Clause 4 seeks to delete one definition, amend one definition, and insert 3 new definitions.

Clause 5 seeks to prevent unqualified persons from practising as valuers, by deleting the provision for valuation being carried out in partnership with others.

Clause 6 seeks to amend the provisions relating to membership of the Valuers Board so that membership is more relevant to the valuation profession, by:

- (a) adding a public officer as a Board member (who shall also be the Secretary to the Board);
- (b) adding a quantity surveyor as a Board member;
- (c) deleting civil engineer, chartered accountant and architect as Board members;
- (d) clarifying that the Valuer General must seek the views of the Council (of the Association of Valuers) before making any nominations; and
- (e) clarifying that the appointments made by the Minister must be in accordance with the relevant nominations.

Clause 7 seeks to clarify that annual reports are to be produced within 6 months of the end of a calendar year, as opposed to any 12-month period.

Clause 8 seeks to improve the process for registration as a valuer, by:

- (a) making minor inconsequential amendments in relation to the provisions for registration of valuers;
- (b) inserting a requirement that applicants must be Solomon Islands citizens; and

- (c) inserting a requirement that the Board must make a decision on an application within 28 days otherwise the application is taken to have been refused, and the applicant has the right of appeal.

Clause 9 seeks to make minor inconsequential amendments to definitions.

Clause 10 seeks to improve the process for temporary registration as a valuer, by:

- (a) inserting additional requirements that a person must hold a work permit that allows that person to work as a valuer in Solomon Islands and must be a member of a valuers body in another country in order to be granted temporary registration as a valuer; and
- (b) making other amendments to the process for seeking and obtaining temporary registration, including the applicant's right of appeal where a decision has not been made in relation to an application within 28 days of the application being received by the Board.

Clause 11 seeks to delete the provision requiring the Board to publicise a list of valuers, as this is requirement is proposed to be passed on to the Council following the issuing of licenses.

Clause 12 seeks to make minor inconsequential amendments to definitions.

Clause 13 seeks to widen the situations whereby appeals may be made to the Minister, to include the Council's decisions in relation to practicing licenses.

Clauses 14 and 15 seek to amend and expand on the provisions in relation to practicing licenses, by prescribing additional requirements for applications, and clarifying that, in order for a person's name to appear on the Council's annual published list of licensed valuers, applications must be received prior to the last day of February of that same year.

Clause 16 seeks to shift the ability to make Regulations from the Board to the Minister, and to expand on the matters that Regulations may prescribe to also include allowances for Board members, and the way in which valuers must calculate and estimate land valuations.

Clause 17 seeks to improve the functioning of the Valuers Board, by:

- (a) ensuring that Board meetings are always chaired by the Valuer General by preventing the Valuers Board from selecting an alternative Chairperson if the Valuer General or person acting in that position is absent from a Board meeting;
- (b) increasing the likelihood that Board meetings can proceed despite non-attendance by some members, by reducing the quorum from 5 to 4 members;
- (c) clarifying that it is the Secretary's role to keep Minutes of Board meetings; and
- (d) allowing the Board to invite other persons to provide assistance or advice to the Board.

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

Printed by Pacific Printers Limited