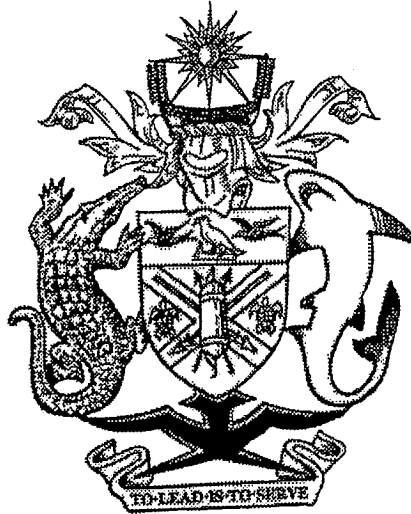




VALUERS BILL 2009
(NO. 8 of 2009)





VALUERS BILL 2009

(NO. 8 of 2009)

A

BILL

Entitled

AN ACT TO ESTABLISH THE VALUERS BOARD AND PROVIDE ITS FUNCTIONS AND POWERS TO REGISTER, LICENSE AND DISCIPLINE VALUERS AND TO REGULATE THEIR PROFESSIONAL STANDARDS AND PRACTICE AND TO ESTABLISH THE VALUERS ASSOCIATION OF SOLOMON ISLANDS AND PROVIDE ITS OBJECTS AND ADMINISTRATION AND RELATED MATTERS.

ENACTED by the National Parliament of Solomon Islands.

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Arrangement of Clauses

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VALUERS BILL 2009

PART 1 - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Valuers Act 2009, and commences on a date appointed by the Minister, by notice in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires –

“Association” means the Valuers Association of Solomon Islands established by section 25;

“Board” means the Valuers Board established by section 4;

“committee” means a valuers disciplinary committee appointed by section 16;

“Council” means the Council of the Association established by section 28;

“licence” means the annual practising licence issued under section 33;

“Minister” means the Minister responsible for this Act;

“practice” has the meaning given to it in section 3;

“Register” means the Register of Valuers established under section 15;

“valuer” means a person who is registered and a holder of a valid registration certificate and a licence under this Act;

“Valuer General” means the public officer appointed as such as the head of the Government Land Valuation Office.

Meaning of practice as valuer

3. For the purposes of this Act, a person shall be deemed to practise as a valuer, if the person, in consideration of remuneration received or to be received, whether alone or in partnership with another person –

(a) engages in the practice of valuation of land or holds out to the public that he or she is a valuer;

- (b) renders professional service or assistance in respect of matters of principle or detail relating to valuation of land;
- (c) engages in certifying reports relating to valuation of land; or
- (d) renders any other prescribed service in relation to valuation of land.

PART 2 - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE VALUERS BOARD

4. (1) This section establishes the Valuers Board Establishment of the Board consisting of the following members –

- (a) the Valuer General, as the chairperson;
- (b) three other members who are valuers in private practice nominated by the Council;
- (c) a legal practitioner;
- (d) a civil engineer;
- (e) a chartered accountant; and
- (f) an architect

(2) The Minister has the power to appoint persons nominated under subsection (1)(b) and (c).

(3) The Schedule covers other provisions relating to the Board.

5. (1) The functions of the Board are –

Functions and powers of the Board

- (a) to formulate, monitor and review policies relating to registration of valuers and the practice of land valuation;
- (b) to express and represent views on behalf of valuers or make submissions on their behalf on legislation and other matters affecting the profession of valuers or the practice;

- (c) to make inquiries and collect information as it thinks fit for the purpose of carrying out its functions;
- (d) to advise and communicate with public authorities, provincial governments, organisations and other persons on matters relating to the profession or practice;
- (e) to make and publish comparative valuation data for use by valuers; and
- (f) to take such other measures as it considers desirable in carrying out its functions under this Act.

(2) For the purposes of carrying out its functions, the Board has the following powers –

- (a) to regulate and control the practice of valuation;
- (b) to grant applications for registration as valuers;
- (c) to regulate disciplinary controls over valuers;
- (d) to regulate professional standards of conduct for valuers;
- (e) to monitor the activities of valuers;
- (f) other powers given to it under this Act or any other written law.

Ministerial directions

6. For the purpose of performing its functions and powers, the Minister may, after consulting the Chairperson, give general policy directions in the public interest to the Board; and the Board shall give effect to such directions.

Annual reports

7. (1) The Board shall, within 6 months after the end of each year or within such further time as may be allowed by the Minister, cause to be made and transmitted to the Minister a report on its functions during the previous year.

(2) The Minister shall cause a copy of the report to be laid before Parliament.

PART 3 - REGISTRATION OF VALUERS

8. (1) No person, other than a valuer, shall engage in the practice of valuation or in any branch of such practice. Prohibition on practice

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding 12 months.

9. (1) No person shall trade or use any title, description or abbreviation so as to represent or likely to represent himself or herself as a qualified valuer unless the person is a valuer. Prohibition on use of title as valuer

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months.

10. (1) The Board may approve an application for registration with or without condition, if it is satisfied that – Power of registration

(a) the individual applicant possesses the prescribed academic or professional qualifications for registration as a valuer;

(b) the individual applicant is of good character; and

(c) the individual applicant is not disqualified for registration under section 12.

(2) If the Board is not satisfied as to any matter specified in subsection (1), the Board shall –

(a) refuse the application for registration; and

(b) in writing, notify the applicant, including the reasons for refusing the application and the right of appeal under section 23.

- (3) When an application is granted, the Board shall –
- (a) in the prescribed form, issue a certificate of registration to the applicant upon payment of the prescribed fee; and
- (b) cause the name of the applicant to be entered in the Register.

Effect of
registration

11. (1) Subject to Division 2 of Part 6, a certificate of registration issued to a valuer under section 10 or 13 authorises the person to engage in the practice of valuation subject to conditions imposed by the Board.

(2) Conditions imposed by the Board may include registration for a particular class or grade as a valuer.

Disqualifications

12. A person is not eligible to be registered as a valuer, if the person –

- (a) is of unsound mind;
- (b) is under the age of 18 years; or
- (c) is an undischarged bankrupt.

Temporary
registration

13. (1) The Board may issue temporary registration for a period of up to 3 months to a person who is not a citizen of Solomon Islands and is required to undertake valuation in Solomon Islands.

(2) No person shall be issued a temporary registration unless the Board is satisfied that the person –

- (a) is qualified for registration under this Act;
- (b) has been practising as a valuer for a period of at least 5 years immediately before the application for temporary registration under this Act; and
- (c) where applicable, is registered as a valuer in another country for a period of not less than 5 years.

(3) A person who intends to apply for temporary registration may apply in the prescribed form accompanied by the prescribed fee.

(4) A temporary registration may be extended up to a further 3 months, subject to payment of temporary registration fee.

(5) A person who is issued with a temporary registration shall not undertake any valuation unless the person has been issued with a temporary practising licence by the Council, subject to payment of the prescribed fee for the licence.

14. (1) A person who desires to be registered as a valuer may, in the prescribed form accompanied by the prescribed fee, apply to the Board to be registered as a valuer. Applications
for registration

(2) An application for registration may contain prescribed particulars and documents.

15. (1) This section establishes the Register of Valuers to be maintained by Board in such form as it may determine, in which shall be entered – Register of
Valuers

(a) the names, addresses and other contact details of valuers; and

(b) other prescribed particulars.

(2) The Register shall –

(a) be kept at the office of the Board; and

(b) be available for inspection by any person during normal working hours.

(3) The Board shall, in February each year, publish the names of valuers in a newspaper having wide circulation in Solomon Islands and in the *Gazette*.

PART 4 - DISCIPLINARY PROCEDURES

Valuers
disciplinary
committees

16. (1) This section establishes the valuers disciplinary committees.

(2) If a complaint is to be referred to a disciplinary committee under section 18(3), the Board shall, in writing, request the Minister to appoint such committee comprising –

- (a) a legal practitioner, as the chairperson; and
- (b) two other members.

Powers of the
Committee

17. A disciplinary committee has the power to hear any disciplinary matter under this Part and to make a report, including its recommendation to the Board on the appropriate penalty to be imposed.

Complaints

18. (1) A person, including the Council, has the right to lodge a complaint to the Board on any matter relating to the professional conduct of a valuer or the practice of valuation or matters relating to the licence.

(2) The complaint must be in writing and set out in detail the nature and basis of the complaint.

(3) The Board shall refer the complaint under subsection (2) to a disciplinary committee to hear the complaint.

(4) The Board may, on its own initiative, refer one or more of the following matters to be heard by a disciplinary committee –

- (a) the valuer is convicted of an offence under this Act or of any offence involving fraud or dishonesty under any other written law;
- (b) the valuer has been deprived of or suspended from membership of the Association or similar organisation in another country;
- (c) the valuer is no longer eligible for registration under this Act;
- (d) the valuer is alleged to have procured the registration or licence under this Act as a result of misleading, false or fraudulent representation;

- (e) the valuer has been alleged to have done a grave impropriety or gross negligence or incompetence in the performance of his or her practice or of any act, default or conduct which violates the standard of conduct and rules, or his registration or licence; or
- (f) whether or not the licence of the valuer should be varied, suspended or cancelled;
- (g) the valuer has failed to comply with any condition of his or her registration or licence.

19. (1) A committee shall send the complaint to the valuer for his or her response within the time specified by the committee. ^{Valuer's response}

(2) When the response is received from the valuer, the committee may —

- (a) dismiss the complaint, if it is frivolous or vexatious; or
 - (b) set a hearing date.
- (3) If the complaint is dismissed under subsection (2)(a), the committee must inform the Board and the complainant about the dismissal and the reasons for the dismissal.
- (4) If a hearing date is set by the committee, it must notify both parties to attend the hearing.
- (5) A committee may determine its own procedures for the purpose of this Part.
- (6) A valuer who is subject to disciplinary proceedings under this section is entitled to be represented by a legal practitioner, and be heard orally or through written submissions, including the right to make representation to the Board before it imposes a penalty under section 20.

Penalties

20. (1) When the Board receives a report of a disciplinary committee, the Board may, subject to section 19(6), impose one or more of the following penalties –

- (a) censure the valuer;
- (b) impose other conditions on the registration or licence;
- (c) impose a civil penalty not exceeding 50 penalty units, which shall be payable to the Association;
- (d) vary, suspend or cancel the registration or licence of the valuer.

(2) If the Board cancels or suspends the registration or licence of the valuer under subsection (1)(d), the Board shall direct that the name and particulars of such person be removed from the Register until further order of the Board or in the case of suspension until such time as specified by the Board.

(3) If the Board cancels the registration or licence of a valuer under subsection (1)(d), the Board may specify a time after which the valuer shall be eligible to apply for re-registration or a licence under this Act.

(4) If the Board imposes any condition on or varies, suspends, or cancels any registration or licence, the Board shall publish the condition, variation, suspension or the cancellation in a newspaper having wide circulation in Solomon Islands and in the *Gazette*.

(5) If the Board suspends or cancels the registration of a valuer, the licence issued to the valuer shall be deemed to have been suspended or cancelled by operation of this subsection.

Notice of decisions

21. The Board shall, in writing, notify the valuer of its decision given under section 20 and the reasons for the decision, including the right of appeal under section 23.

22. Subject to section 10(2), a person whose name has been removed from the register may, in the prescribed form accompanied by the prescribed fee, apply for re-registration and the applications will be determined as if they were new applications. Re-registration

PART 5 - APPEALS

23. (1) Any person may, within 30 days from the date of the decision of the Board, appeal the decision to the Minister if the Board – Appeals to Minister

- (a) refuses an application for registration or temporary registration;
 - (b) imposes any condition on the registration or temporary registration; or
 - (c) imposes a disciplinary penalty under section 20.
- (2) In determining the appeal, the Minister may –
- (a) confirm or vary the decision of the Board;
 - (b) make a new decision; or
 - (c) dismiss the appeal.

24. (1) A person who is aggrieved with the decision of the Minister may appeal only on question of law to the High Court. Appeals to the High Court

(2) An appeal relating to disciplinary penalty under section 23(1)(c) may include the proceedings before the disciplinary committee.

PART 6 - VALUERS ASSOCIATION OF SOLOMON ISLANDS

Division 1 - Establishment and Management of the Association

25. This section establishes the Valuers Association of Solomon Islands, as a body corporate with perpetual succession and a common seal and has power – Establishment of the Association

- (a) to sue and be sued in its corporate name;
- (b) to own, hold and dispose of movable or immovable property; or
- (c) to do any other thing a legal entity may do or suffer.

26. The objects of the Association are –

- (a) to maintain and improve the standards of conduct and practice of valuers;
- (b) to promote the welfare and preserve and maintain the integrity of the profession, including continuing professional development and training programmes;
- (c) to protect and preserve the interests and aspirations of valuers as well as present their complaints and views to appropriate authorities for consideration;
- (d) to assist and provide the means necessary in carrying into effect the issues raised in paragraph (c);
- (e) to represent and assist in securing redress for any grievance or settling any points of dispute which any of its members may be involved in the course of their employment or practice;
- (f) to inquire into any fair and reasonable adjustment on behalf of its members in case of any charge, suspension, reduction in rank, position, grade or pay, dismissal or retirement and to make a genuine protest against any injustice meted against them in their employment;
- (g) to maintain a high standard of professional ethics and conduct within the profession;
- (h) to facilitate the exchange of information and ideas on matters affecting the profession and its related field and other occupations;
- (i) to associate, affiliate and federate with any national or international association, society or organisation having the same or similar objects;
- (j) to promote and enhance the spirit of mutual respect, loyalty and understanding between employers and its members;

- (k) to render mutual financial assistance to its members (including deceased relations) in times of need;
- (l) to acquire, hold, develop or dispose of any or all movable or immovable property and to derive capital or income from the renting or sale for the purpose of the Association;
- (m) to keep and operate a bank account in reputable banks and to deposit all moneys received on its behalf into the accounts;
- (n) to borrow an agreed sum of money which the Association may from time to time require for the performance of any of its activities;
- (o) to invest any sum of money standing to its credit in viable securities and, at any time where the need arises, to dispose of the securities;
- (p) to pay the whole or any part of the expenses incurred by members in attending meetings of the Association or of any of the committees or sub-committees appointed by the Association in that behalf;
- (q) to pay all costs or other payments relating to the discharge of any of the functions or activities assigned by the Association;
- (r) to generally do such things as are desirable or essential in matters affecting the employment and other educational welfare and training of its members and to secure effective participation of its members in the administration and development of the institutions where they are employed or trained; and
- (s) to do all other things as are incidental to or connected with the effective and efficient or proper carrying into effect any or all of the objects of the Association.

Vesting of assets

27. All assets and liabilities of the Association shall vest in the Association.

Council of the Association

28. (1) The Council of the Association consists of the following members –

- (a) a President;
- (b) a Vice-President;
- (c) a Secretary;
- (d) a Treasurer; and
- (e) 3 other members.

(2) The members are elected for a term of up to 3 years at an annual general meeting of the Association.

(3) In carrying out the functions and powers of the Association, the Council shall –

- (a) act as the executive body and manage the affairs of the Association; and
- (b) exercise the functions, duties and powers of the Association given to it under this Act or any other written law.

Members of the Association

29. (1) A person shall be a member of the Association upon registration of the person as a valuer.

(2) The Association has the power to admit other persons who are not valuers –

- (a) as associate members; or
- (b) as honorary members.

30. The Council has the power to appoint any committee to carry out any function given to it by the Council. Committees

31. The Council may make rules to give effect to the provisions of this Part, and in particular – Rules of the Association

- (a) the authentication of any document;
- (b) the election and removal of officers;
- (c) the resignation and filling of vacancy;
- (d) the annual subscription;
- (e) the requirements for admitting persons as associate or honorary members;
- (f) the procedures determining for membership; and
- (g) matters to give effect to the objects of the Association or this Part.

Division 2 - Annual Practising Licences

32. (1) A person registered under Part 3 shall not undertake any valuation unless the person has an annual practising licence issued by the Council. Valuers to be licensed

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment not exceeding 12 months.

33. (1) The Council may issue a licence, with or without condition, authorising a valuer to undertake the practice. Power to issue licence

(2) The Council may issue a licence for a period of not less than one year and not more than 3 years, subject to payment of the prescribed annual licence fee.

(3) The annual licensing fee shall be paid before the end of February of each year to the Association.

(4) If the annual licensing fee is not paid pursuant to subsection (3), the licence is deemed to have been cancelled by virtue of this subsection.

(5) Section 32(2) applies to a contravention of subsection (4).

Application for
licence

34. (1) A valuer may apply, in the prescribed form accompanied by the prescribed fee, to the Council for a licence or renewal of the licence.

- (2) The application shall include –
- (a) a certified copy of the registration certificate;
 - (b) the name of the company, business or firm;
 - (c) the principal place of business, including any other place of business;
 - (d) for renewals, a copy of the existing licence; or
 - (e) any other prescribed particulars.

PART 7 - MISCELLANEOUS

Penalty unit

35. The value of one penalty unit is \$100.

General penalties

36. A person who is convicted of an offence under this Act where no specific penalty is provided under this Act or regulations is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months.

Standards of
conduct

37. (1) The Board may, in consultation with the Council, issue standards and rules relating to the practice of valuation and professional conduct and ethics of valuers.

(2) Breach of standards and rules may be used as a ground for disciplinary proceedings under this Act.

Regulations

38. The Board may, with the approval of the Minister, make regulations to give effect to the provisions of this Act, and in particular to make regulations prescribing –

- (a) the form and fees for the purpose of this Act, including scale of professional fees for valuers;
- (b) the qualifications for registration as valuers;

- (c) the manner in which registers and other records are to be maintained; and
- (d) any other procedures for appeal or discipline for the purpose of this Act;
- (e) penalties for offences created by regulations to a fine not exceeding 20 penalty units, or to imprisonment not exceeding 12 months;
- (f) any other matter or thing which may be or is required to be prescribed under this Act.

39. (1) At the commencement of this Act, any person who is a valuer and undertaking valuation practice is deemed to have been registered and licensed under this Act.

Transitional and
savings

(2) A person who is mentioned in subsection (1) shall, within 12 months of the commencement of this Act, apply to the Board for registration and (if the Council is not in operation) for a licence.

(3) A person who fails to comply with subsection (2) shall be deemed not to be a registered or licensed person under this Act at the end of the 12 month period specified under subsection (2).

SCHEDULE
(Section 4)

OTHER PROVISIONS RELATING TO THE BOARD

Acting chairperson

1. (1) If the Chairperson is absent from duty or unable to perform the function of the Chairperson, the person acting as the Valuer General shall act as Chairperson.

(2) If the Chairperson is absent from a meeting, the members present may select a member to preside at that meeting.

Terms of appointment

2. A member may be appointed for a period of up to 3 years and is eligible for re-appointment.

Resignation and removal

3. (1) A member of the Board may resign his or her office in writing addressed to the Minister, and transmitted through the Chairperson, and the resignation is effective from the date it is received by the Minister.

(2) The Minister may remove a member if the member –

(a) is no longer registered or a holder of a licence under this Act;

(b) is serving a sentence of imprisonment;

(c) has been convicted of an offence under this Act or any other offence which the Minister is of the opinion will affect membership of the person on the Board;

(d) is being adjudicated as a bankrupt;

(e) is, for any other good reason, unable to perform his or her office as a member of the Board.

Replacement member

4. If a member resigns or is removed from office and a vacancy occurs in the Board, a person may be appointed for the remainder of the period for which the previous member was appointed.

5. The funds of the Board shall consist of any other moneys received by or on behalf of the Board. Funds of the Board

6. (1) The Board shall meet at least once every 2 months, and such meeting shall be held at such places and times and on such days as the Board may determine. Meetings

(2) The Chairperson may at any time call a special meeting of the Board within 7 days of the receipt of a written requisition of at least 3 members.

(3) A quorum of the Board shall be 5 members.

(4) The decision of the Board shall be by a majority of votes, and the Chairperson or the person presiding has an ordinary vote and a casting vote to be exercised when there is a tie.

(5) Minutes in proper form of each meeting shall be kept.

7. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board. Exemption from personal liability

8. The Chairperson and members are entitled to allowances and other expenses (whether by way of honourarium or fees) determined by the Minister. Allowances

9. The office of Chairperson or a member of the Board shall not be a public office for the purposes of Chapter XIII of the Constitution. Members are not public officers

10. The Permanent Secretary may designate a public officer as Secretary to the Board. Secretary to the Board

VALUERS BILL 2009**OBJECTS AND REASONS**

This Bill seeks to establish a Valuers Board to regulate and control the practice of valuers. The Board will be given the following responsibilities –

- (a) to administer the Act, including formulation and monitoring of policies in relation to the practice of valuation;
- (b) to register persons who are qualified as valuers;
- (c) to impose disciplinary measures;
- (d) to provide professional standards.

The Bill also seeks to establish an association for the valuers.

MINISTER OF LANDS, HOUSING AND SURVEY



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