



AUSTRALIAN CAPITAL TERRITORY

Surveyors Act 2001

No 2 of 2001

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AUSTRALIAN CAPITAL TERRITORY

Surveyors Act 2001

No 2 of 2001

An Act to regulate the practice of land surveying, and for other purposes

[Notified in ACT Gazette No 10: 8 March 2001]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART 1—PRELIMINARY

1 Name of Act

This Act is the *Surveyors Act 2001*.

2 Commencement

This Act commences on a day fixed by the Minister by notice in the Gazette.

Note 1 The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Interpretation Act 1967*, s 10C (1)).

Note 3 If a provision has not commenced within 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See *Interpretation Act 1967*, ss 12 (1), (4) and (5) for the legal status of notes.

4 Definitions for Act

In this Act:

certificate of registration—see section 22.

commissioner means the Commissioner for Surveys.

disciplinary notice—see section 29.

field procedures means field notes, records, measurements or calculations.

mutual recognition legislation means the *Mutual Recognition Act 1992* (Cwlth) or the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth).

reciprocating jurisdiction—see section 19.

register means the register of surveyors kept under section 15.

registered means registered under this Act.

survey means the survey of land for a purpose mentioned in section 35.

surveyor means a person registered under this Act, but, for Part 5 (The practice of surveying), does not include a person whose registration is suspended.

this Act includes the regulations.

Note A definition applies unless the contrary intention appears (see *Interpretation Act 1967*, s 11G).

PART 2—COMMISSIONER FOR SURVEYS

5 Commissioner for Surveys

The position of Commissioner for Surveys is established.

6 Functions

The commissioner has the following functions:

- (a) to develop standards for the practice of surveying;
- (b) to consult with entities (including organisations that represent surveyors in the Territory) on major policy issues affecting the practice of surveying;
- (c) to enter into arrangements with the appropriate authority of any place outside Australia (other than New Zealand) for the reciprocal recognition of surveying qualifications and eligibility to practise;
- (d) to liaise and enter into arrangements with any entity that, in Australia or elsewhere, is concerned with surveyors and the practice of surveying, for the purpose of improving or reviewing—
 - (i) standards for the practice of surveying; and
 - (ii) the qualifications and professional development of surveyors; and
 - (iii) the commissioner's functions and powers under this Act;
- (e) to exercise any other function given to the commissioner under this Act or any other Territory law.

Note Territory laws that give functions to the commissioner include the *Districts Act 1966*, s 7 and the *Land Titles Act 1925*, s 64.

7 Appointment of commissioner

- (1) The commissioner is appointed by the Minister.
- (2) Despite paragraph 6 (a) of the *Statutory Appointments Act 1994*, sections 4 and 5 of that Act apply to the appointment of a public servant as commissioner.

Note 1 A person may be reappointed to a position if the person is eligible to be appointed to the position (see *Interpretation Act 1967*, par 28 (3) (c) and dict, def of **appoint**).

Note 2 A power to appoint a person to a position includes power to appoint a person to act in the position (see *Interpretation Act 1967*, ss 28 (4)-(6)).

8 Term of appointment

- (1) The commissioner is to be appointed for a term not longer than 5 years.
- (2) The instrument appointing, or evidencing the appointment of, the commissioner must state the term for which the commissioner is appointed.

9 Eligibility

A person is eligible to be appointed commissioner only if the person is, or is eligible to be, registered as a surveyor under this Act.

10 Terms of appointment generally

The commissioner holds the position on the terms, not provided for by this Act or another Territory law, that are decided by the Minister.

11 Leave of absence

The Minister may grant leave of absence to the commissioner on the terms that the Minister considers appropriate.

12 Ending of commissioner's appointment

The Minister may end the commissioner's appointment—

- (a) for misbehaviour or physical or mental incapacity; or
- (b) if the commissioner becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
- (c) if the commissioner is absent from duty, except on leave given by the Minister, for 14 consecutive days or for 28 days in any 12 months.

Note The commissioner's appointment also ends if the commissioner resigns (see *Interpretation Act 1967*, ss 28 (8) and (9)).

13 Delegation by commissioner

The commissioner may delegate all or any of the commissioner's powers under this Act or any other Territory law to a public servant.

14 Protection from liability

- (1) In this section:

official means:

- (a) the commissioner; or
 - (b) a person acting under the commissioner's direction or authority.
- (2) An official does not incur civil liability for an act or omission done honestly and without negligence for this Act.
- (3) A liability that would, apart from this section, attach to an official attaches instead to the Territory.

PART 3—REGISTRATION OF SURVEYORS

Division 3.1—Administration

15 The register

- (1) The commissioner must keep a register of surveyors.
- (2) The register may be kept in any form, including electronic form, that the commissioner decides.
- (3) The commissioner must make the register available to the public.
- (4) The commissioner may give to a person a copy of a part of, or an entry from, the register certified by the commissioner to be a true copy.

16 Particulars to be entered in the register

- (1) The commissioner must enter in the register the following particulars in relation to a registered surveyor:
 - (a) his or her name;
 - (b) the address of each place in the Territory where the surveyor carries on the practice of surveying or, if the surveyor has no such address, his or her home address;
 - (c) his or her qualifications;
 - (d) his or her date of birth;
 - (e) a registration number allotted to the surveyor by the commissioner;
 - (f) the date of his or her registration;
 - (g) any other particulars prescribed under the regulations.
- (2) The commissioner may enter in the register any other particulars the commissioner considers appropriate.
- (3) The commissioner may correct any mistake, error or omission in the register.

Division 3.2—Eligibility for registration

17 Application for registration

A person may apply to the commissioner for registration.

18 General eligibility requirements

- (1) A person is eligible to be registered as a surveyor if the person—

- (a) has the educational qualifications, practical training and field experience that, under the regulations, are sufficient for the practice of surveying; or
 - (b) is entitled to be registered under mutual recognition legislation; or
 - (c) is registered, licensed or otherwise authorised to practise as a surveyor of land in a reciprocating jurisdiction; or
 - (d) satisfies the commissioner that the person is competent to practise surveying by having, in a place outside Australia other than a reciprocating jurisdiction, successfully completed the courses of study, and obtained the practical experience, that the commissioner considers appropriate.
- (2) However, a surveyor whose registration is suspended is not eligible to be registered.
- (3) Also, a person who is not authorised to practise surveying because his or her registration, licence or other authorisation as a surveyor of land has been cancelled or otherwise terminated, or suspended, whether under this Act (other than subsection 23 (3)) or any other law of the Territory or another place, is eligible to be registered only if—
- (a) the person is entitled to be registered under mutual recognition legislation; or
 - (b) in the case of a cancellation or termination—the commissioner is satisfied that the reasons that led to the cancellation or termination no longer apply or are not relevant.

19 Reciprocating jurisdictions

- (1) The commissioner may enter into arrangements with the appropriate authority of any place outside Australia (other than New Zealand) for the reciprocal recognition of—
- (a) the eligibility to carry on the practice of surveying; and
 - (b) any qualifications or experience required to carry on that practice; and
 - (c) any disciplinary action taken in relation to a surveyor.
- (2) The commissioner may enter into arrangements with the appropriate authority of a place only if the practice of land surveying may, under the law of the place, be carried on only by a person who is registered, licensed or otherwise authorised for the purpose.

(3) A *reciprocating jurisdiction* is a place in relation to which an arrangement under subsection (1) is in force.

20 Supporting evidence for applications

(1) This section applies if the commissioner receives an application for registration.

(2) The commissioner may require the applicant to give to the commissioner any additional documents or other information that the commissioner reasonably needs to decide the application.

(3) The commissioner may make the inquiries that the commissioner reasonably needs to decide the application.

21 Deciding applications

(1) The commissioner must register a person who applies for registration if—

- (a) the person is eligible for registration; and
- (b) all the requirements of this Act relating to the application have been met.

(2) The commissioner must refuse to register a person who applies for registration if—

- (a) the person is not eligible for registration; or
- (b) all the requirements of this Act relating to the application have not been met.

22 Certificate of registration

(1) A surveyor may apply to the commissioner for a certificate (a *certificate of registration*), signed by the commissioner, that states the name and date of registration of the surveyor under Territory law.

(2) The commissioner must give the surveyor a certificate of registration if all the requirements under this Act relating to the application have been met.

(3) The commissioner must refuse to give the surveyor a certificate of registration if all the requirements under this Act relating to the application have not been met.

Division 3.3—General provisions relating to surveyors

23 Annual registration fee

- (1) Before 1 July in each financial year, a surveyor must pay to the commissioner the annual registration fee for the financial year.
- (2) A surveyor who does not comply with subsection (1) in relation to a financial year must pay a late registration surcharge for the financial year to the commissioner.
- (3) The registration of a surveyor is automatically cancelled if the surveyor—
 - (a) does not comply with subsection (1); and
 - (b) does not pay the annual registration fee and the late registration surcharge for the financial year by 1 November in the financial year.
- (4) A person whose registration has been cancelled under subsection (3) may apply to the commissioner for revocation of the cancellation within 3 years after the cancellation.
- (5) The commissioner must revoke a cancellation under subsection (3) if—
 - (a) the annual registration fee and late registration surcharge that have become payable by the applicant are paid; and
 - (b) the requirements of this Act relating to the application for revocation have been met.
- (6) In this section:

annual registration fee, for a financial year, means the fee determined under section 46 for subsection (1) for the financial year.

late registration surcharge, for a financial year, means the fee determined under section 46 for subsection (2) for the financial year.

24 Changes of address to be notified

- (1) A registered surveyor who has a registered professional address must tell the commissioner in writing, within 21 days, of any of the following:
 - (a) a change in the professional address;
 - (b) the setting up of an additional professional address in the Territory;

- (c) that the address has ceased to be a professional address of the surveyor.

Maximum penalty: 5 penalty units.

(2) A registered surveyor who has no registered professional address must tell the commissioner in writing, within 21 days, of—

- (a) the setting up of a professional address in the Territory; or
- (b) any change in his or her home address.

Maximum penalty: 5 penalty units.

25 Voluntary cancellation of registration

The commissioner must cancel the registration of a surveyor if—

- (a) the surveyor asks, in writing, that it be cancelled; and
- (b) the surveyor surrenders any certificate of registration given to the surveyor or satisfies the commissioner that any certificate given to the surveyor has been lost, stolen or destroyed; and
- (c) the commissioner is satisfied that the surveyor is not in contravention of any provision of this Act.

26 Changes to register

(1) The commissioner must remove from the register the name and particulars of a registered surveyor—

- (a) who has died; or
- (b) whose registration has been cancelled.

(2) The commissioner must enter in the register any changes notified under section 24.

27 Inquiries about registered addresses

(1) The commissioner may, by notice sent by post to a surveyor at any address of the surveyor shown on the register, ask whether—

- (a) the surveyor's address or addresses shown on the register are still correct; or
- (b) the surveyor has set up any additional professional address.

(2) If the commissioner does not receive an answer to a notice sent to a surveyor under subsection (1) within 2 months after sending the notice to the surveyor, the commissioner may cancel the surveyor's registration.

28 Surrender of certificate on cancellation or suspension of registration

(1) The commissioner may, by written notice given to a person whose registration is suspended or cancelled, require the person to return to the commissioner, within 14 days after receiving the notice, any certificate of registration issued to the person.

(2) A person must not, without reasonable excuse, fail to comply with a notice given to the person under subsection (1).

Maximum penalty: 5 penalty units.

PART 4—DISCIPLINARY PROVISIONS

29 Meaning of *disciplinary notice* for pt 4

In this Part:

disciplinary notice means a notice that complies with section 31.

30 Grounds for disciplinary notice

The commissioner may give a disciplinary notice to a surveyor if the commissioner believes that any of the following grounds apply to the surveyor:

- (a) the surveyor's registration has been obtained because of a false or misleading statement or document;
- (b) the registration, licence or authorisation of the surveyor to practise as a surveyor of land in another State, New Zealand or a reciprocating jurisdiction has been cancelled or terminated otherwise than at the surveyor's own request;
- (c) the surveyor has certified to the accuracy of a survey knowing it to be inaccurate;
- (d) the surveyor has, deliberately or through carelessness or incompetence, made a survey that is so inaccurate or defective as to be unreliable;
- (e) a survey has been carried out, or a plan prepared, by or under the supervision of the surveyor, that contravenes section 40;
- (f) the surveyor has contravened a provision of this Act;
- (g) the surveyor no longer holds an educational qualification sufficient for the practice of surveying.

31 Disciplinary notices

- (1) A disciplinary notice given to a surveyor must—
 - (a) state the grounds on which the notice is given; and
 - (b) state particulars of each ground sufficient to identify the circumstances that give rise to the ground; and
 - (c) state a time and place where the inquiry into the grounds will be held; and

- (d) if the surveyor's registration is suspended under section 32—state that the surveyor's registration is suspended pending completion of an inquiry into the grounds.
- (2) For paragraph (1) (c), the time must be not less than 10 days and, if the surveyor's registration is suspended when the notice is sent, not more than 28 days, after the surveyor is given the notice.

32 Suspension pending completion of inquiry

- (1) This section applies if—
 - (a) the commissioner gives, or proposes to give, a disciplinary notice to a surveyor; and
 - (b) the commissioner considers it necessary in the public interest to suspend the surveyor's registration until the completion of the inquiry into the grounds stated, or to be stated, in the notice.
- (2) In deciding whether to suspend the surveyor's registration, the commissioner must have regard to the circumstances leading to the decision to send the disciplinary notice and the grounds stated, or to be stated, in the notice.
- (3) If this section applies, the commissioner may suspend the surveyor's registration by the disciplinary notice or a later notice given to the surveyor.
- (4) The commissioner may, at any time before the completion of the inquiry, revoke the suspension by notice given to the surveyor.
- (5) Unless sooner revoked, the suspension ceases to have effect when the commissioner tells the surveyor of the outcome of the inquiry.

33 Inquiries

- (1) If the commissioner gives a surveyor a disciplinary notice, the commissioner must inquire into each ground stated in the notice.
- (2) The commissioner is not bound by legal procedures or the rules of evidence, but may inform himself or herself in any way the commissioner considers appropriate, but must observe natural justice.
- (3) The surveyor may appear personally before the commissioner and make written representations to the commissioner, but may not be represented by someone else without the commissioner's leave.
- (4) The commissioner may administer an oath or affirmation to a person appearing as a witness before the commissioner.

- (5) At the completion of the inquiry the commissioner must decide whether each ground stated in the notice is established.
- (6) If the commissioner is satisfied that a ground is established, the commissioner may—
- (a) reprimand the surveyor; or
 - (b) suspend the surveyor's registration for not longer than 3 years; or
 - (c) cancel the surveyor's registration.
- (7) The commissioner must tell the surveyor in writing of the outcome of the inquiry.
- (8) If the commissioner decides to suspend or cancel the surveyor's registration, the commissioner must also tell the surveyor when the suspension or cancellation takes effect.
- (9) A suspension or cancellation must not take effect earlier than the day after the surveyor is told of the outcome of the inquiry.

34 Suspension of interstate registration

If the entitlement of a surveyor to practise as a surveyor of land in a State, New Zealand or a reciprocating jurisdiction is suspended, the commissioner may suspend the registration of the surveyor until the surveyor may again practise in the place where the entitlement is suspended.

PART 5—THE PRACTICE OF SURVEYING

Note In this Part, *surveyor* does not include a person whose registration is suspended (see s 4, def of *surveyor*).

35 Only surveyors to carry out certain surveys

A person who is not a surveyor must not survey land for the purpose of—

- (a) defining, redefining or marking the boundaries of land divided or to be divided under the *Districts Act 1966*; or
- (b) deciding, for fee or reward, whether improvements are or are not within the boundaries of any land; or
- (c) defining, redefining or marking the boundaries of a public place or public road within the meaning of the *Roads and Public Places Act 1937*; or
- (d) defining, redefining or marking the boundaries of land in relation to which an interest has been, or is to be, created; or
- (e) defining, redefining or marking the boundaries of land to be resumed under a Territory or Commonwealth law.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

36 Certificates to be given only by surveyors

A person who is not a surveyor must not give, or purport to give, a certificate that, under a Territory law, is required to be given by a surveyor.

Maximum penalty: 30 penalty units.

37 Pretending to be a surveyor

A person who is not a surveyor must not—

- (a) pretend to be a surveyor; or
- (b) pretend to be qualified to carry out a survey for a purpose mentioned in section 35.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

38 Ministerial directions about the practice of surveying

(1) The Minister may issue directions with respect to the practice of surveying, including, for example—

- (a) the preparation of plans showing the results of surveys; and

- (b) the preparation and keeping of field procedures relating to surveys; and
 - (c) the supervision of persons assisting surveyors in the preparation of surveys; and
 - (d) the nature and position of survey marks; and
 - (e) the achievement of accuracy in surveying.
- (2) Before issuing a direction, the Minister must—
- (a) require the commissioner—
 - (i) to consult on the proposed direction with entities that, in the Territory, represent surveyors and other entities that appear to the commissioner to have a relevant interest in the proposed direction; and
 - (ii) report to the Minister on the results of the consultations; and
 - (b) have regard to the commissioner's report.
- (3) A direction may provide that—
- (a) the commissioner may exempt a surveyor from a stated requirement of the direction; and
 - (b) the exemption may be subject to conditions decided by the commissioner.
- (4) An exemption that is subject to a condition does not have effect if the condition is not complied with.
- (5) A direction under subsection (1) is a disallowable instrument.

39 Surveyors to comply with directions

A surveyor must comply with each direction under section 38 that applies to the surveyor.

40 Surveys to comply with directions

A survey carried out, or a plan prepared, by or under the supervision of a surveyor—

- (a) must comply with all applicable directions under section 38; and
- (b) must carry an annotation summarising all applicable exemptions and setting out sufficient particulars to enable the exemptions and any relevant conditions to be identified.

41 Power of entry on land and in buildings

(1) For the purpose of conducting a survey, a surveyor or a person assisting a surveyor may at any reasonable time, in accordance with this section—

- (a) enter on any land, including land that is not to be surveyed; and
- (b) open a door, gate or fence; and
- (c) place a survey mark on the ground of any land entered; and
- (d) enter any building; and
- (e) trim a tree or bush obstructing a survey.

(2) A surveyor or a person assisting a surveyor may enter land that is not owned by the person for whom the survey is being conducted only if, before entering, the surveyor has given to the owner of the land reasonable notice, oral or written, of the surveyor's intention to enter the land.

(3) A surveyor or a person assisting a surveyor may enter a building or part of a building that is not occupied by the person for whom the survey is being conducted only—

- (a) if the occupier has consented, in writing, to the entry; or
- (b) in accordance with an order of a magistrate.

(4) A surveyor or a person for whom a survey is being, or is to be, conducted, may apply to a magistrate for an order under paragraph (3) (b).

(5) A person must not, without reasonable excuse, hinder or obstruct a surveyor, or a person assisting a surveyor, in the exercise of the surveyor's powers under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

42 Damage by surveyor

(1) This section applies if a surveyor or a person assisting a surveyor damages anything when exercising or purporting to exercise a power under section 41.

(2) The surveyor or person assisting the surveyor must immediately give written notice of particulars of the damage to the person who appears to be the owner of the thing.

(3) However, if for any reason it is not practicable to comply with subsection (2), the surveyor or person assisting the surveyor must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.

(4) The surveyor is liable to pay compensation for the damage to the owner of the thing.

(5) The surveyor is entitled to be reimbursed by the person for whom the survey is being conducted for any compensation payable under subsection (4) that is reasonably and necessarily caused in carrying out the survey.

43 Destruction of, or damage to, survey marks

(1) A person must not, without reasonable excuse interfere with, change or remove a survey mark.

Maximum penalty: 20 penalty units.

(2) If a person is convicted or found guilty of an offence against subsection (1), the court may order, in addition to any other penalty, that the person pay the reasonable costs of re-establishing the survey mark.

44 Production of evidence of field procedures to commissioner

(1) The commissioner may, by written notice, require a surveyor to produce to the commissioner stated evidence of field procedures that the commissioner reasonably requires for the exercise of the commissioner's functions under this Act or any other Territory law.

Note Territory laws that give functions to the commissioner include the *Districts Act 1966*, s 7 and the *Land Titles Act 1925*, s 64.

(2) A surveyor must not fail, without reasonable excuse, to comply with a notice given to the surveyor under subsection (1).

Maximum penalty: 50 penalty units.

(3) The commissioner may keep material produced under this section for the time reasonably necessary to make a copy of it.

(4) In this section:

field procedures means the field procedures that a surveyor is required under this Act to keep.

PART 6—MISCELLANEOUS

45 False or misleading statements etc

(1) A person must not knowingly or recklessly, in or in relation to an application for registration—

- (a) state anything that is false or misleading in a material particular; or
- (b) omit from a statement anything without which the statement is misleading in a material particular.

Maximum penalty: 50 penalty units.

(2) A person must not knowingly or recklessly give the commissioner, in relation to an application for registration, a document containing information that is false or misleading in a material particular.

Maximum penalty: 50 penalty units.

46 Determination of fees, charges and other amounts

(1) The Minister may, in writing, determine fees, charges and other amounts payable under this Act or the regulations.

(2) Without limiting subsection (1), a fee, charge or other amount may be determined—

- (a) by specifying the fee, charge or amount; or
- (b) by setting a rate, or providing a formula or other method, by which the fee, charge or amount is to be worked out.

(3) A determination under subsection (1)—

- (a) must provide who is liable to pay a fee, charge or other amount; and
- (b) may make provision about when the fee, charge or other amount is payable and how it is to be paid (for example, as a lump sum or by instalments); and
- (c) may make provision about anything else relating to the fee, charge or other amount.

(4) A determination under subsection (1) is a disallowable instrument.

47 Fees, charges and other amounts payable to Territory in accordance with determinations etc

(1) A fee, charge or other amount determined under section 46 is payable to the Territory, in relation to the relevant matter mentioned in the

determination and in accordance with the determination, by the person liable to pay the fee, charge or other amount under the determination.

(2) A fee, charge or other amount determined under section 46 is payable in advance unless the determination provides otherwise.

(2) If a fee, charge or other amount determined under section 46 is payable in advance and the amount has not been paid, the commissioner or anyone else is not obliged to exercise a function, or provide a service or facility, in relation to which the amount is payable.

48 Regulations may make provision about fees, charges and other amounts

(1) The regulations may make provision with respect to the payment by cheque or credit card of any fee, charge or other amount payable under this Act, including, for example, the consequences of a cheque not being met on presentation or a credit card transaction not being honoured.

(2) Without limiting subsection (1), the regulations may make provision for or with respect to—

- (a) the suspension, cancellation or revocation of any registration, exemption, condition, document, or anything else done, given or issued under this Act if any fee, charge or other amount payable for or in relation to it—
 - (i) is not paid when it is required to be paid; or
 - (ii) is paid by cheque and the cheque is not met on presentation; or
 - (iii) is paid by credit card and the credit card transaction is not honoured; or
- (b) the restoration (whether prospectively or during any past period of suspension, cancellation or revocation) of any registration, exemption, condition, document, or anything else so suspended, cancelled or revoked.

49 Review of decisions

(1) Application may be made to the administrative appeals tribunal for review of a decision of the commissioner—

- (a) refusing to register a person under subsection 21 (2); or
- (b) refusing to revoke the cancellation of a registration under subsection 23 (5); or

- (c) refusing to cancel a registration under section 25; or
- (d) cancelling a registration under subsection 27 (2); or
- (e) suspending a registration under section 32; or
- (f) reprimanding a surveyor under paragraph 33 (6) (a); or
- (g) suspending a registration under paragraph 33 (6) (b); or
- (h) cancelling a registration under paragraph 33 (6) (c); or
- (i) suspending a registration under section 34; or
- (j) refusing to give an exemption under section 38; or
- (k) giving an exemption under a direction under section 38 that is subject to a condition.

(2) If the commissioner makes a decision mentioned in subsection (1), the commissioner must give written notice of the decision to each person affected by the decision.

(3) The notice must be in accordance with the requirements of the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

50 Evidentiary value of certificates

(1) In any proceeding—

- (a) a certificate of registration is evidence of the matters stated in it; and
- (b) a certificate signed by or on behalf of the commissioner stating that on a date or during a period stated in the certificate a person named in the certificate was or was not registered is evidence of the matters so stated.

(2) Unless the contrary is proved, a document that purports to be a certificate mentioned in subsection (1) is taken to be such a certificate.

51 Approved forms

(1) The commissioner may approve forms for this Act.

(2) If the commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

52 Regulation-making power

(1) The Executive may make regulations for this Act.

(2) In particular, the regulations may make provision for the registration of persons under this Act, including the registration of persons who are entitled to be registered under another Territory law or a Commonwealth law.

PART 7—TRANSITIONAL

53 Definitions for pt 7

In this Part:

board means the Surveyors Board of the Australian Capital Territory established under the repealed Act.

commencement means the commencement of this Act.

repealed Act means the *Surveyors Act 1967*.

Note The *Surveyors Act 1967* is repealed by the *Surveyors (Consequential Amendments) Act 2001*, s 3).

54 Surveyors registered at commencement

(1) A person who was, immediately before the commencement, a registered surveyor under the repealed Act, is taken, on the commencement, to be registered under this Act.

(2) If the registration of a registered surveyor under the repealed Act was, immediately before the commencement, suspended under the repealed Act, the suspension is taken, after the commencement, to be a suspension under section 33.

(3) To remove any doubt, the date when the suspension began, and the duration of the suspension, are not affected by subsection (2).

55 Certificates of registration

(1) A certificate under subsection 16 (3) of the repealed Act is taken to be a certificate of registration.

(2) A certificate signed by or on behalf of the chairperson or deputy chairperson of the board under the repealed Act, and stating that on a date or during a period stated in the certificate a person named in the certificate was or was not registered is taken to be a certificate mentioned in paragraph 50 (1) (b).

56 Changes of address

Section 24 of this Act applies to a registered surveyor who, within 21 days before the commencement, had changed or established an address mentioned in section 23 of the repealed Act but had not notified the registrar under that section, as if the change had happened on the commencement.

57 Disciplinary action

(1) If the board has taken action of a kind mentioned in section 27 of the repealed Act but, before the commencement, had not served on the person directly affected a notice under paragraph 27 (b) of the repealed Act, the commissioner must, within 7 days after the commencement, give to the person entitled to the notice a statement setting out the reasons for the decision of the board.

(2) The commissioner must give a statement of reasons for a decision of the board under section 27 of the repealed Act to a person who—

- (a) is directly affected by the decision; and
- (b) requests a copy of the reasons.

58 Surrender of certificates

(1) If a notice under subsection 29 (1) of the repealed Act had been issued to a person within 14 days before the commencement, but had not been complied with before the commencement—

- (a) section 29 of the repealed Act continues to apply to the person; and
- (b) the person may comply with the notice by giving the required certificate to the commissioner within 14 days after the issue of the notice.

(2) If, under the repealed Act, the board had ordered the removal from the register kept under that Act of the name of a person or the suspension of his or her registration but, before the commencement, a notice under subsection 29 (1) of the repealed Act had not been issued, section 28 of this Act applies as if the surveyor's registration had been cancelled or suspended (as the case requires) under this Act.

59 Proceedings and evidence

(1) In this section:

proceeding means a civil or administrative proceeding under the repealed Act and includes an inquiry under section 26 of the repealed Act, but does not include a proceeding completed before the commencement in relation to which there is no right to appeal or review.

(2) For a proceeding begun, but not completed, before the commencement to which the board is a party, the commissioner is substituted as a party to the proceeding.

(3) Part IV of the repealed Act continues to apply in relation to any right of appeal to the Supreme Court that exists at the commencement.

(4) However, subsection 32 (4) of the repealed Act, in its continued application under subsection (3) of this section, is modified by omitting 'Board' and substituting 'commissioner'.

60 Expiry of pt 7

This Part expires 1 year after its commencement.

Endnote

Penalty units

Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 29 June 2000]