

**2009**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**SURVEYORS AMENDMENT BILL 2009**

**EXPLANATORY STATEMENT**

**Presented by  
Mr Andrew Barr MLA  
Minister for Planning**

## **Overview of Surveyors Amendment Bill 2009**

### ***Background***

The *Surveyors Act 2007* (the Act) provides the regulatory framework for surveying in the ACT. It established the position of Chief Surveyor and sets out the functions of that position which include:

- keeping a register of surveyors;
- determining a surveyor's eligibility for registration; and
- developing standards for the practice of surveying.

The Chief Surveyor also has responsibilities pursuant to the *Districts Act 2002*, the *Electoral Act 1992* and the *Land Titles Act 1925*.

A number of amendments have been identified to address operational deficiencies and better align the legislation with recent developments in New South Wales.

### **Bill in detail**

#### ***Clauses 4 to 6 - Amendments to Existing Section 9 – Registration Condition***

The Act requires Continuing Professional Development (CPD) for continuation of registration (existing section 9). The Chief Surveyor may make 'guidelines' with respect to CPD. As it is mandatory to comply with the guidelines, the Bill replaces the term 'guideline' with 'direction'.

#### ***Clauses 7, 9 and 10 - Amendments to Existing Section 18, 19 & 20 – Continuation notice***

The amendments change the cut-off time for Surveyors annual registration renewal from 30 June to 31 August. This brings the ACT annual renewal dates into line with NSW. The change is important as approximately 80% of surveyors registered in the ACT are also registered in NSW. These dual registered surveyors pay a joint registration fee to NSW and NSW then reimburses the ACT Government. This system saves administrative duplication and cost however it requires both jurisdictions to align renewal dates.

#### ***Clause 8 - Amendments to Existing Section 18 (2)(c)***

This amendment simplifies the existing section by removal of the dates for applying a higher fee for late payment. The affect of this section remains unchanged.

#### ***Clause 11 - Amendments to Existing Section 21 (3) – Lifting s 20 suspension***

This amendment removes suspension of a surveyor who was suspended for failure to meet renewal requirements and has subsequently complied with requirements. The amendment also makes provision to ensure the surveyor's registration continues as though the surveyor was not suspended. This is important as it ensures any surveys conducted while suspended are valid upon removal of the suspension.

***Clauses 12 & 13 - Amendments to Section 26 and Definitions – Grounds for Occupational Discipline***

The definition of ‘survey’ in the Act is very restrictive and limited to only those surveys related to land boundaries. It is reasonable to believe that anyone engaging the services of a registered surveyor would expect that professional discipline provisions apply to all survey work performed by that surveyor.

For example, surveyor’s certificates for building approval usually show floor levels to confirm the building meets design criteria. Negligent or incompetent determination of levels does not constitute a survey under the current definition.

It is proposed that the Act be amended to broaden the definition of survey consistent with the equivalent NSW legislation. This new definition includes surveys relating to more general measurement such as road or engineering surveys. The new broader definition only applies to the grounds for occupational discipline of surveyors registered under the Act and does not alter the type of work any surveyor, registered or not registered, is legally entitled to perform.

The amendments to Section 26 are consistent with the *Surveying Act 2002* (NSW) (section 5 – Definitions).

***Section 14 - Further Amendments– Change in title from Chief Surveyor to Surveyor General.***

This amendment replaces the title ‘Chief Surveyor’ with ‘Surveyor General’. This is recommended as it recognises that all State and Territory jurisdictions with the exception of the ACT and Queensland currently have a position of surveyor general. The role of surveyors-general in the other jurisdictions is very similar to the ACT Chief Surveyor. The change of title is also required as the title of Chief Surveyor is often used to describe the most senior surveyor within an organisation, agency or local government. NSW has both a Chief Surveyor and Surveyor General. It is believed that the title Surveyor General would remove any doubt that the role extends beyond the employing agency.

***Schedule 1 - Consequential Amendments***

Minor amendments to the following Acts to change references from Chief Surveyor to Surveyor General:

Districts Act 2002  
Electoral Act 1992  
Land Titles Act 1925  
Legislation Act 2001