

Passed by both Houses



New South Wales

Surveying Amendment Bill 2009

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2009*



New South Wales

Surveying Amendment Bill 2009

Act No , 2009

An Act to amend the *Surveying Act 2002* in relation to the objects of that Act and the carrying out of land and mining surveys; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Surveying Amendment Act 2009*.

2 Commencement

This Act commences on the date of assent.

Schedule 1 Amendment of Surveying Act 2002 No 83

[1] Section 1 Name of Act

Insert “*and Spatial Information*” after “*Surveying*”.

[2] Section 2A

Insert after section 2:

2A Objects of Act

The objects of this Act are:

- (a) to provide for the registration of land surveyors and mining surveyors to ensure that only appropriately qualified persons carry out land surveys and mining surveys, and
- (b) to ensure that registered surveyors provide services to the public in a professional and competent manner, and
- (c) to provide for the maintenance of a State cadastre and ensure its integrity, and
- (d) to provide for the co-ordination of surveys carried out by public authorities and for the establishment of a State control survey, and
- (e) to provide for the investigation of, and the giving of advice to the Government relating to, the collection, collation and dissemination of spatial information other than surveys.

[3] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

firm means a corporation or a partnership or other unincorporated association of persons.

State cadastre means an inventory that records boundaries, dimensions and measurements on, above or below the Earth’s surface for the purpose of defining rights, interests, restrictions and responsibilities within the jurisdiction of New South Wales.

[4] Section 3 (1), definition of “Department”

Omit the definition. Insert instead:

Department means the Land and Property Management Authority.

[5] Section 3 (1), definition of “land survey”

Insert after paragraph (c):

- (c1) the preparation of documents required to be prepared under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986* by a registered land surveyor, or

[6] Part 2

Omit the heading to the Part. Insert instead:

**Part 2 Provisions relating to co-ordination,
collection and maintenance of certain
State cadastral information**

[7] Section 21 Unregistered persons not to practise land surveying

Insert after section 21 (3):

- (4) Subsection (1) does not apply to a firm, or a member or partner of a firm, in the circumstances referred to in section 22A.

[8] Section 22 Unregistered persons not to practise mining surveying

Insert after section 22 (3):

- (4) Subsection (1) does not apply to a firm, or a member or partner of a firm, in the circumstances referred to in section 22A.

[9] Section 22A

Insert after section 22:

22A Firms offering land and mining surveying services

- (1) A firm, or a member or partner of a firm, does not commit an offence against section 21 (1) or 22 (1) if:
 - (a) a land survey or mining survey is carried out in the name of, or on behalf of, the firm for fee or reward, or
 - (b) the firm is advertised as willing to carry out land surveys or mining surveys for fee or reward,so long as the requirements of this section are complied with.
- (2) Any land survey carried out in the name of, or on behalf of, the firm for fee or reward may be carried out only by:
 - (a) a registered land surveyor, or

-
- (b) a student of surveying, or a surveyor's assistant, acting under the general supervision of a registered land surveyor, or
 - (c) another person acting under the immediate supervision of a registered land surveyor.
 - (3) Any mining survey carried out in the name of, or on behalf of, the firm for fee or reward may be carried out only by:
 - (a) a registered mining surveyor, or
 - (b) a student of surveying, or a surveyor's assistant, acting under the general supervision of a registered mining surveyor, or
 - (c) another person acting under the immediate supervision of a registered mining surveyor.

[10] Section 27 Constitution of Board

Omit section 27 (2) (e). Insert instead:

- (e) between one and three are to be persons appointed by the Minister from persons nominated by such relevant professional associations as the Minister determines and that comprise persons involved in the spatial information industry or bodies of persons involved in that industry, and

[11] Section 28 Functions of Board

Insert after section 28 (1) (f):

- (f1) the provision of advice to the Minister on the maintenance of the integrity of the State cadastre,

[12] Section 29

Insert after section 28:

29 Provision of information by Board

- (1) The Board may provide information to the public in respect of the discipline of surveying (including, in particular, land surveying and mining surveying) and related disciplines.
- (2) Without limiting subsection (1), the Board may, if it considers it appropriate to do so, provide any of the following information to the public:
 - (a) information in respect of firms that undertake surveying services,

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- (b) information in respect of retired or non-practising surveyors,
 - (c) information in respect of practitioners in disciplines related to the discipline of surveying.

[13] Section 36 Regulations

Insert after section 36 (2) (j):

- (k) prescribing what constitutes immediate supervision or general supervision for the purposes of all or any of the provisions of this Act (including authorising a person or body to determine what constitutes such supervision).

[14] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Surveying Amendment Act 2009

Schedule 2 Consequential amendment of other Acts and instruments

2.1 Administrative Decisions Tribunal Regulation 2009

Clause 5 Reviewable decisions excluded from internal review

Omit “*Surveying Act 2002*” from clause 5 (k).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.2 Coal Mine Health and Safety Regulation 2006

[1] Clause 3 Definitions

Omit “*Surveying Act 2002*” wherever occurring in the definitions of *registered mining surveyor* and *surveying and drafting directions* in clause 3 (1).

Insert instead “*Surveying and Spatial Information Act 2002*”.

[2] Part 4, Division 6

Omit the note appearing under the heading to the Division. Insert instead:

Note. The qualifications required of a person preparing plans required by or under the Act and requirements for the content and standard of preparation of those plans are subject to provisions in or under the *Surveying and Spatial Information Act 2002*.

2.3 Community Land Development Regulation 2007

Clauses 13 (4) (b), 19 (4) (b), 24 (4) (b) and 29 (5) and the note to clause 29

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.4 Conveyancing Act 1919 No 6

Sections 131, 195C (1) (c) and 196C, definition of “Australian Height Datum”

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.5 Conveyancing (General) Regulation 2008

Clauses 3 (1), definition of “plan of survey”, 24 (2) (b) (i) and 35 (1) (c)

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.6 Crown Lands (Continued Tenures) Act 1989 No 7

Schedule 7 Purchase of land held under lease

Omit “*Surveying Act 2002*” from clause 14 (2).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.7 Defamation Act 2005 No 77

Schedule 1 Additional publications to which absolute privilege applies

Omit “*Surveying Act 2002*” wherever occurring in clause 32.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.8 Dividing Fences Act 1991 No 72

Section 18 Procedure for defining boundary line

Omit “*Surveying Act 2002*” from section 18 (6).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.9 Encroachment of Buildings Act 1922 No 23

Sections 3 (4) and 9 (3)

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.10 Environmental Planning and Assessment Regulation 2000

Clause 157 Applications for subdivision certificates

Omit “*Surveying Act 2002*” from clause 157 (4).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.11 Lake Illawarra Authority Act 1987 No 285

Section 17 Vesting of the development area in the Authority

Omit “*Surveying Act 2002*” from section 17 (4).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.12 Licensing and Registration (Uniform Procedures) Act 2002 No 28

Schedule 2 Registration to which Part 3 of Act applies

Omit “*Surveying Act 2002*”.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.13 Mine Health and Safety Regulation 2007

Clause 3 (1), definitions of “registered mining surveyor” and “surveying and drafting instructions” and note to Part 7

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.14 Mining Act 1992 No 29

Section 371 and Dictionary, definition of “registered surveyor”

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.15 Mining Regulation 2003

Clause 3 Definitions

Omit “*Surveying Act 2002*” wherever occurring in the definitions of *Geocentric Datum of Australia* and *statutory surveying requirements* in clause 3 (1).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.16 Native Vegetation Act 2003 No 103

Section 25 Legislative exclusions

Omit “*Surveying Act 2002*” from section 25 (r).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.17 Offshore Minerals Act 1999 No 42

Section 10 Position on the Earth's surface

Omit "*Surveying Act 2002*" from section 10 (1).

Insert instead "*Surveying and Spatial Information Act 2002*".

2.18 Parliamentary Electorates and Elections Act 1912 No 41

Section 14A Manner of identifying boundaries of electoral districts

Omit "*Surveying Act 2002*" from the note to the section.

Insert instead "*Surveying and Spatial Information Act 2002*".

2.19 Petroleum (Offshore) Act 1982 No 23

Section 7 Ascertaining points and other matters

Omit "*Surveying Act 2002*" from section 7 (1).

Insert instead "*Surveying and Spatial Information Act 2002*".

2.20 Petroleum (Onshore) Act 1991 No 84

Sections 5 and 99 (2)

Omit "*Surveying Act 2002*" wherever occurring.

Insert instead "*Surveying and Spatial Information Act 2002*".

2.21 Petroleum (Onshore) Regulation 2007

Clause 4 Drawing of plans: section 13

Omit "*Surveying Act 2002*" from clause 4 (3).

Insert instead "*Surveying and Spatial Information Act 2002*".

2.22 Protection of the Environment Operations (Waste) Regulation 2005

Clause 4 Definitions

Omit "*Surveying Act 2002*" from paragraph (a) of the definition of *qualified surveyor* in clause 4 (1).

Insert instead "*Surveying and Spatial Information Act 2002*".

2.23 Real Property Act 1900 No 25

Sections 3 (1) (a), definition of “Plan of survey” and 135F (1)

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.24 Real Property Regulation 2008

Schedule 5 Requirements for plans annexed to or endorsed on dealings (other than leases of premises) or caveats

Omit “*Surveying Act 2002*” from item 3 (e).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.25 Road Transport (Safety and Traffic Management) Act 1999 No 20

Section 43A Average speed of heavy vehicle is evidence of actual speed in certain circumstances

Omit “*Surveying Act 2002*” from section 43A (10).

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.26 Strata Schemes (Freehold Development) Act 1973 No 68

Sections 5 (1), definition of “registered land surveyor” and 8 (6) (a)

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.27 Strata Schemes (Leasehold Development) Act 1986 No 219

Sections 4 (1), definition of “registered land surveyor” and 7 (2E) (b)

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.28 Surveying Regulation 2006

[1] Clause 1 Name of Regulation

Insert “*and Spatial Information*” after “*Surveying*”.

[2] Clause 5 (1), definition of “the Act” and Schedule 1

Omit “*Surveying Act 2002*” wherever occurring.

Insert instead “*Surveying and Spatial Information Act 2002*”.

[3] Schedule 1

Omit “*Surveying Regulation 2006*” wherever occurring.

Insert instead “*Surveying and Spatial Information Regulation 2006*”.

2.29 Very Fast Train (Route Investigation) Act 1989 No 44

Section 3, definition of “survey”

Omit “*Surveying Act 2002*”.

Insert instead “*Surveying and Spatial Information Act 2002*”.

2.30 Western Lands Act 1901 No 70

Schedule 4 Provisions relating to purchases of certain leased land

Omit “*Surveying Act 2002*” from clause 13 (2).

Insert instead “*Surveying and Spatial Information Act 2002*”.