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Valuers Act 1948

Public Act 1948 No 63

An Act to make provision for the registration of land valuers, to constitute the New Zealand Institute of Valuers, and for matters incidental thereto

1 Short Title and commencement

This Act may be cited as the Valuers Act 1948, and shall come into force on the 1st day of January 1949.

2 Interpretation

In this Act, unless the context otherwise requires,--

Board means the Valuers Registration Board constituted under this Act:

Council means the Council of the New Zealand Institute of Valuers constituted under this Act:

Institute means the New Zealand Institute of Valuers constituted under this Act:

[**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:]

Public valuer means a registered valuer who holds himself out as willing to make valuations of land for members of the public:

Register means the Register of Valuers kept under this Act:

Registered valuer means any valuer for the time being registered under this Act:

Registrar means the Registrar of the Board appointed under this Act:

Rural Valuer: *Definition repealed.*

Urban Valuer: *Definition repealed.*

Valuer means a valuer of land:

[**Valuer-General** means the Valuer-General appointed under the State Sector Act 1988.]

Status Compendium

Hist.

"Minister": Definition omitted and substituted on 1 July 1998 by Rating Valuations Act 1998 (1998 No 69), s54(1). The omitted definition is listed below for reference.

"Minister means the Minister in charge of the Valuation Department:"

Hist.

"Rural Valuer": Definition repealed by s2(1)(a) of the Valuers Amendment Act 1968. The repealed definition is listed below for reference.

"Rural Valuer" means a valuer registered as a rural valuer under this Act:

Hist.

"Urban Valuer": Definition repealed by s2(1)(a) of the Valuers Amendment Act 1968. The repealed definition is listed below for reference.

"Urban Valuer" means a valuer registered as an urban valuer under this Act:

Hist.

"Valuer-General": Definition omitted and substituted on 15 December 2005 by 2005 No 117, s3. The omitted definition is listed below for reference

"**Valuer-General** means the Valuer-General appointed under [the Valuation of Land Act 1951]."

Hist.

"Valuer General": Reference to "Valuation of Land Act 1951" substituted for the repealed Valuation of Land Act 1925, being the corresponding enactment, on 1 January 1952, by Valuation of Land Act 1951 (1951 No 19), s50(1) & 1924 No 11, s21(1).

Valuers Registration Board

3 Valuers Registration Board constituted

- (1) There is hereby established a Board, to be known as the Valuers Registration Board.
- (2) The Board shall consist of--
 - (a) The Valuer-General, who shall be the Chairman; and
 - (b) Four registered valuers appointed by the Minister, of whom 2 shall be appointed on the recommendation of the Institute.
- (3) The powers of the Board shall not be affected by any vacancy in the membership thereof.
- (4) Every appointed member of the Board shall be appointed for a term of 3 years, but may from time to time be reappointed, or may be at any time removed from office by the Minister for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Valuer-General.
- (5) If any appointed member of the Board dies, is removed from office, or resigns, the vacancy so created shall within 3 months after the occurrence thereof be filled in the manner in which the appointment of the vacant office was originally made. Every person so appointed shall be appointed for a term of 3 years.
- (6) Unless he sooner vacates his office as provided in the last preceding subsection, every member of the Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

Status Compendium

4 Meetings of the Board

- (1) The first meeting of the Board shall be held not later than 3 months after the commencement of this Act.

(2) Subject to the provisions of the last preceding subsection, meetings of the Board shall be held at such times and places as the Board or the Chairman from time to time determines, but any 2 members of the Board may at any time by notice in writing request the Valuer-General to call a special meeting of the Board, and thereupon the Valuer-General shall call a special meeting to be held not later than one month after he received the notice.

(3) At every meeting of the Board 3 members shall form a quorum.

(4) Every question before the Board shall be determined by a majority of the votes of the members present at a meeting of the Board.

(5) In the absence from any meeting of the Valuer-General, he may authorise any [officer under the Valuer-General's control] to attend the meeting in his stead. While any person is attending any meeting of the Board pursuant to this subsection he shall be deemed for all purposes to be a member of the Board, but he shall not be deemed to be the Chairman of that meeting by virtue of the fact that he attends as the deputy of the Valuer-General.

(6) At any meeting of the Board the Chairman of that meeting shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

Hist.

s4(5) omitted words "other officer of the Valuation Department" and substituted words "officer under the Valuer-General's control" on 1 July 1998 by Rating Valuations Act 1998 (1998 No 69), s54(1).

5 Deputy Chairman

(1) At the first meeting of the Board held after the commencement of this Act, and at the first meeting of the Board held in the year 1950, and at the first meeting of the Board in each succeeding year the Board shall appoint a Deputy Chairman.

(2) Any person appointed as the Deputy Chairman shall hold office, while he continues to be a member of the Board, until the appointment of his successor in accordance with this section, and may be reappointed.

(3) During any vacancy in the office of Chairman or whenever the Chairman is unable to act, whether by reason of absence or otherwise, the Deputy Chairman may exercise and perform all the powers and duties of the Chairman.

(4) The Chairman shall preside at every meeting of the Board at which he is present. In the absence of the Chairman and the Deputy Chairman from any meeting of the Board the members present shall select one of their number to be the Chairman for the purposes of that meeting.

6 Procedure of Board

Except as expressly provided in this Act or in regulations made under this Act, the Board may regulate its procedure in such manner as it thinks fit.

7 Fees and allowances of members

[(1) The Board shall pay to its members and to any assessors appointed under section 34 of this Act remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such assessors (as well as the members of the Board) were members of a statutory Board within the meaning of that Act.]

(2) Except as provided in this section, no member of the Board shall be entitled to receive any remuneration or other payment out of the funds of the Board.

Hist.

7(1) repealed and substituted by s10(1) of the Fees and Travelling Allowances Act 1951. The Board is a statutory Board under that Act; see s2 of that Act.

8 Registrar of the Board

There shall be appointed as an officer of the Public Service a Registrar of the Board to assist the Board in the efficient carrying out of its functions under this Act. The Registrar so appointed shall also be the secretary of the Board. The office of Registrar of the Board may be held either separately or in conjunction with any other office in the Public Service.

New Zealand Institute Of Valuers

9 Incorporation of New Zealand Institute of Valuers

(1) There is hereby established a body, to be known as the New Zealand Institute of Valuers, which shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.

(2) The Institute constituted under this section is hereby declared to be the same body corporate as the body incorporated under the provisions of the Incorporated Societies Act 1908 and heretofore known as the New Zealand Institute of Valuers Incorporated.

(3) The Registrar of Incorporated Societies shall, as soon as practicable after the commencement of this Act, remove the name of the Institute from the register of incorporated societies kept under the Incorporated Societies Act 1908, and nothing in that Act shall, as from the commencement of this Act, apply to the Institute.

[10 Functions of Institute

The general functions of the Institute are--

- (a) To promote and encourage ethical conduct among valuers and other members of the Institute; and
- (b) To preserve and maintain the integrity and status of valuers and other members of the Institute generally; and
- (c) To provide opportunities for the acquisition and communication of knowledge in relation to the valuing of land and related subjects; and
- (d) To consider and suggest amendments to the law relating to the valuing of land and related subjects; and
- (e) To provide means for the amicable settlement of professional differences; and
- (f) To protect and promote the interests of the profession of valuing and the interests of the public in relation to valuations of land and related subjects.]

Status Compendium

Hist.

s10 repealed and substituted on 28 July 1997 by Valuers Amendment Act 1997 (1997 No 55), s2. The repealed s10 is listed below for reference.

"10 Functions of Institute

"The general functions of the Institute shall be to promote and encourage proper conduct among valuers; to suppress illegal, dishonourable, improper, and objectionable practices; to preserve and maintain the integrity and status of valuers generally; to provide opportunities for the acquisition and diffusion of knowledge in relation to the valuing of land and kindred subjects; to consider and suggest amendments in the law relating to the valuing of land; to provide means for the amicable settlement of professional differences; and generally to protect and promote the interests of the profession of valuing and the interests of the public in relation to valuations of land."

11 Membership of the Institute

(1) Every person who immediately before the commencement of this Act was a member of the New Zealand Institute of Valuers Incorporated shall, as from the commencement of this Act, be deemed to be a member of the New Zealand Institute of Valuers constituted under this Act.

(2) Every valuer for the time being registered under this Act shall be a member of the Institute, whether or not he applies for membership thereof.

[(3) Every valuer who is a member of the Institute by virtue of subsection (2) and who ceases to be registered under this Act ceases to be a member of the Institute.

(4) The Council may admit to membership of the Institute any valuer who is not registered under this Act and who satisfies the Council that--

- (a) He or she is of good character and reputation; and
- (b) He or she--
 - (i) Holds a certificate that is or would be recognised by the Board for the purposes of section 19; or

- (ii) Has passed such examination or examinations as are or would be approved by the Board for the purposes of section 19.

(5) Admission to membership of the Institute under subsection (4) may in any particular case be on such terms and conditions as the Council thinks fit.

(6) The Council may admit to membership of the Institute any other person who meets any other qualification for membership from time to time prescribed by rules made by the Institute under section 16(1)(b).]

Status Compendium

Hist.

s11(3) repealed and s11(3)-(6) substituted on 28 July 1997 by Valuers Amendment Act 1997 (1997 No 55), s3. The repealed s11(3) is listed below for reference.

"(3) Every member of the Institute who ceases to be registered under this Act shall thereupon cease to be a member of the Institute."

[11A Exempting from membership of the Institute registered valuers with conscientious objection to membership]

(1) Notwithstanding anything in section 11 of this Act, where any registered valuer satisfies the Board that he has a conscientious objection to becoming a member of the Institute, the Board may exempt him from membership of the Institute, subject to such conditions as the Board may impose; and, while any such exemption continues and all conditions governing the exemption are complied with, the person who is granted the exemption shall not be a member of the Institute.

(2) Every registered valuer who is for time being so exempted from membership of the Institute shall from time to time pay to the Board the fees or other payments, annual or otherwise, that he would be required to pay to the Institute if he were a member of the Institute.

(3) If any fee or other payment payable to the Board by a registered valuer under this section is not paid within 3 months after it is due, the Board may direct the Registrar to remove the name of the valuer from the register, and the Registrar shall remove that name accordingly. If any person whose name is removed from the register under this subsection satisfies the Registrar that all such fees and other payments have been paid, the Registrar shall, on payment of the prescribed fee, restore the name of that person to the register.

(4) All provisions of this Act and of the rules and code of ethics of the Institute relating to the discipline of members of the Institute, all the provisions of the rules of the Institute regulating the charges that may be made by registered valuers for work as such, and the provisions of subsection (2) of section 35 of this Act (which requires public valuers to have annual practising certificates) shall apply with respect to every person exempted from membership of the Institute under this section as if he were a member of the Institute.]

Hist.

s11A inserted by s2 of the Valuers Amendment Act 1959.

12 Membership fees

There shall be payable to the Institute by every member thereof an annual membership fee of such amount as may be prescribed, which shall be due on the 1st day of January in each year.

13 Council of the Institute

(1) The affairs of the Institute shall be managed by a Council of not less than 10 members of the Institute, consisting of a President, 2 Vice-Presidents, and not less than 7 other members, of whom one shall be a member of the Institute appointed by the Valuer-General before each annual general meeting of the Institute. All the members of the Council other than the member appointed by the Valuer-General shall be elected by the members of the several branches of the Institute by ballot from among their number in accordance with the rules of the Institute.

(2) The President and Vice-Presidents of the Council shall be elected by ballot by the members of the Council from among their number.

(3) In addition to the members provided for by subsection (1) of this section, the Council may on the retirement of the President appoint him to be a member of the Council, to hold office as such until some other person who subsequently holds the office of President becomes eligible for appointment as a member of the Council under this subsection.

(4) The President shall hold office for 2 years. The member of the Council appointed by the Valuer-General shall hold office for one year. In every year one of the Vice-Presidents and 3 of the elected members of the Council shall retire from office. The Vice-President who has held office longer as such shall retire before the other, and the elected members of the Council who have held office longest as such shall retire before the other elected members. In every case where a question arises as to which of 2 or more members who have held office for the same period should retire the question shall be determined by lot. Every retiring President, Vice-President, or other member of the Council shall be eligible for re-election or reappointment to the office from which he retires or to any other office.

(5) At every meeting of the Council 5 members, or such other number as may from time to time be prescribed by the rules of the Institute, shall form a quorum.

(6) Every person may hold office concurrently as a member of the Council and as a member of the Board.

Status Compendium

14 Powers of Council

The Council shall transact all the ordinary business of the Institute, and shall cause to be kept proper minutes of its proceedings; and may appoint committees with such delegated powers as the Council thinks fit. Except as otherwise provided in this Act or in any rules or regulations made under this Act, the Council may regulate its procedure in such manner as it thinks fit.

15 Officers of Institute

The Council may from time to time appoint a Secretary of the Institute and such other officers and servants as it deems necessary for the efficient exercise of its functions.

16 Rules of Institute

(1) The Institute may from time to time, at a meeting at which not less than 20 members are present, make rules (not inconsistent with this Act) for all or any of the following purposes:

- (a) For the regulation and good government of the Institute and of the members and affairs thereof:
- (b) Providing for the qualifications for membership of the Institute, and for different classes of members:
- (c) Providing for the constitution of branches of the Institute:
- (d) Providing for the election of the members of the Council by the members of the several branches of the Institute, the number of members of the Council which may be elected by the several branches, and the filling of extraordinary vacancies:
- (e) Regulating the election of the President and Vice-Presidents of the Institute:
- (f) Regulating the audit of the accounts of the Institute and the appointment of auditors, and prescribing their qualifications:
- (g) Providing for and regulating the granting of certificates of membership:
- (h) Providing for the convening of ordinary and special meetings of the Institute and of the Council, and regulating the quorum, the representation of members, and the procedure thereat:
- (i) Providing for the conferring of fellowships, honorary memberships, and other distinctions:
- (j) Prescribing the fees or other payments, annual or otherwise, to be paid by members of the Institute:
- (k) *Repealed*
- (l) Prescribing a code of ethics for regulating the professional conduct of members of the Institute:
- (m) Imposing a fine not exceeding [[\$500]] upon any member of the Institute for the breach of any rule made under this section:
- (n) Generally for carrying the objects for which the Institute is formed into full effect.

(2) Rules may be so made under this section that different fees or other payments are prescribed for different classes of registered valuers or members and that any class of registered valuers or members is exempted from any fee or other payment.

(3) No rules made under this section shall come into force unless and until they are approved by the Minister.

(4) Any fine imposed upon any member under any rule made under this section shall be deemed to be a debt due from the member to the Institute, and shall be recoverable accordingly in any Court of competent jurisdiction.

Status Compendium Penalty

Hist.

s16(1)(k) repealed on 1 July 1984 by Valuers Amendment Act 1983 (1983 No 99), s2. The repealed s16(1)(k) is listed below for reference.

"(k) Regulating the charges that may be made by registered valuers for work as such, and prescribing scales of charges:"

Hist.

s16(1)(m) omitted expression "\$10]" and substituted expression "\$500" on 28 July 1997 by Valuers Amendment Act 1997 (1997 No 55), s4.

Hist.

s16(1)(m) the sum of \$10 was substituted for £5 by s7 of the Decimal Currency Act 1964.

17 Affairs of Institute to be managed temporarily by officers of former incorporated society

(1) Until the Council is constituted in accordance with this Act the affairs of the Institute shall be managed by the persons who immediately before the commencement of this Act were officers of the New Zealand Institute of Valuers Incorporated. On the constitution of the Council the said officers shall cease to act.

(2) Until the approval by the Minister of rules made by the Institute under this Act the rules of the New Zealand Institute of Valuers Incorporated in force immediately before the commencement of this Act shall, so far as they are applicable and are not inconsistent with this Act, be deemed to be the rules of the Institute constituted under this Act.

Registration Of Valuers

18 Register of Valuers

(1) Registration under this Act shall be effected by the entry in the Register of Valuers (which shall be kept by the Registrar) of the name and address of the applicant, of the qualifications by virtue of which he is registered, [] and of such other particulars as may be prescribed.

(2) The Register of Valuers shall be open to inspection by the public during ordinary office hours on payment of the prescribed fee.

Hist.

s18(1) omitted words "of the classification of the applicant as a rural valuer or as an urban valuer or as both a rural valuer and an urban valuer, as the case may be" by s2(1)(b) of the Valuers Amendment Act 1968.

[19 Qualifications for registration

(1) Every person who is not less than 23 years of age shall be entitled to be registered under this Act if he satisfies the Board that he is of good character and reputation[[, has attained a reasonable standard of professional competence,]] and that--

- (a) He holds a recognised certificate (as defined in subsection (2) of this section), and has had not less than 3 years' practical experience in New Zealand in the valuing of land within the 10 years immediately preceding the making of his application; or
- (b) He has passed an examination or examinations approved by the Board and has had not less than 3 years' practical experience in New Zealand in the valuing of land within the 10 years immediately preceding the making of his application; or
- (c) He holds a recognised certificate (as so defined) granted out of New Zealand, and has had not less than 3 years' practical experience in the valuing of land within the 10 years immediately preceding the making of his application, of which at least 1 year shall be experience acquired in New Zealand within the previous 3 years, and has passed an examination approved by the Board in the valuation law of New Zealand

and is at the date of his application, or was within the previous 12 months, a member in good standing of an overseas institute or association of valuers with whom a reciprocity agreement has been entered into by the Board and that agreement is in full force and effect.

(2) For the purposes of this section the term **recognised certificate** means a certificate, diploma, degree, or licence granted by a university, college, board, or other authority (whether in New Zealand or elsewhere) and recognised by the Board as furnishing sufficient evidence of the possession by the holder thereof of the requisite knowledge and skill for the efficient practice of the profession of land valuing.]

Status Compendium

Hist.

s19 (as amended by s19 of the Valuers Amendment Act 1970) repealed and substituted by s2(1) of the Valuers Amendment Act 1974.

Hist.

s19(1) inserted words ", has attained a reasonable standard of professional competence," by s2 of the Valuers Amendment Act 1981.

20 Valuers to be classified as rural valuers or urban valuers

Repealed by s2(1)(c) of the Valuers Amendment Act 1968.

21 Application for registration

(1) Application for registration as a valuer under this Act shall be made in writing addressed to the Registrar. Every such application shall be accompanied by the prescribed fee.

(2) Every application for registration shall be accompanied by a copy thereof, which shall, on receipt by the Registrar, be forthwith sent by him to the Institute.

22 Applications to be considered by Board

(1) As soon as practicable after the receipt of any application for registration the Board shall consider the application and shall give such directions in respect thereof as it thinks fit and as are hereinafter authorised.

(2) Before giving any such directions the Board may, if it thinks fit, examine on oath or otherwise the applicant, or any person objecting to the application, or any other person, with respect to the application; and for the purposes of this subsection the Chairman of the Board may administer an oath to any person.

(3) The Board may also, if it thinks fit, require any person to verify by statutory declaration any statement made by him with respect to any application, or with respect to any objection to an application.

23 Objections by Institute

(1) Within one month after the receipt by the Institute of a copy of any application as aforesaid the Institute may give notice in writing to the Registrar of its desire to object to the registration of the applicant, and of the grounds of the objection. A copy of the notice shall forthwith be sent by the Institute to the applicant.

(2) The Board shall appoint a convenient time and place for hearing the objection, and shall give notice thereof in writing to the applicant and to the Institute at least 7 clear days before the time so appointed.

(3) Both the applicant and the Institute shall be entitled to be present and to be heard, and may be represented by counsel or otherwise at the hearing of the objection.

24 Registrar to observe directions of Board

(1) If the Board, after considering any application as aforesaid, is of opinion that the applicant is entitled to be registered under this Act, it shall so direct [] and the Registrar shall thereupon register the applicant, and shall notify him accordingly.

(2) If the Board, after considering any application as aforesaid, is of opinion that the applicant is not entitled to be so registered it shall direct accordingly, and the Registrar shall thereupon refuse to register the applicant, and shall notify him accordingly.

(3) No entry in the register of the name of any person shall be made by the Registrar without the direction in writing of the Board.

Hist.

s24(1) omitted words "and shall determine whether the applicant is entitled to be registered as a rural valuer, as an urban valuer, or as both a rural valuer and an urban valuer" by s2(1)(d) of the Valuers Amendment Act 1968.

25 Certificate of registration

The Registrar shall, on application in that behalf made to him at any time by a registered valuer and on payment of the prescribed fee, issue to that valuer a certificate of registration [].

Status Compendium

Hist.

s25 omitted words "which shall show whether he is registered as a rural valuer, as an urban valuer, or as both a rural valuer and an urban valuer" after "registration" by s2(1)(e) of the Valuers Amendment Act 1968.

26 Penalty for wrongfully procuring registration

Every person who wilfully makes or causes to be made any false entry in or falsification of the register, or procures or attempts to procure himself or any other person to be registered under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, commits an offence against this Act.

Status Compendium Penalty

27 Name to be removed from register if valuer cannot be found, etc.

(1) The Registrar may at any time, and shall if the Board so directs, send to any registered valuer, by registered letter addressed to him at his address as appearing on the register, an inquiry as to whether or not he desires to have his name retained on the register.

(2) If no reply is received to that letter within 6 months from the posting thereof, or if the letter is not delivered and is returned to the Registrar, the Registrar shall, if the Board so directs, remove from the register the name of the valuer to whom the letter was sent.

(3) Any person whose name has been removed from the register under this section may apply to the Registrar to have his name restored to the register, and on payment of the prescribed fee his name shall, if the Board so directs, be restored to the register accordingly.

28 Correction of register

(1) If any person has been registered under this Act by reason of any false or fraudulent representation or declaration, made either verbally or in writing, or if any person not entitled to be registered under this Act has been so registered, the Board shall cause the name of that person to be removed from the register, and the fact of the removal shall be notified by the Registrar in the *Gazette*.

(2) If any particulars appearing in the register in respect of the qualifications of any registered valuer are proved to the satisfaction of the Board to be, or are to the knowledge of the Board, false or erroneous in any respect, the Board shall direct the Registrar to erase those particulars from the register, or otherwise to amend the register, and the Registrar shall thereupon amend the register accordingly.

(3) The provisions of the last preceding subsection shall apply, notwithstanding the fact that at the time when the entry in the register was made the valuer was actually possessed of the qualifications particulars of which appear in the register, or that at that time the entry was otherwise correct.

Status Compendium

29 Voluntary removal of name from register

(1) If any valuer applies to the Registrar to have his name removed from the register the Registrar shall, if the Board so directs, remove his name from the register accordingly.

(2) Any person whose name is removed from the register under this section may apply to have his name restored to the register, and on payment of the prescribed fee his name shall, if the Board so directs, be restored to the register accordingly.

30 Removal of name from register on non-payment of membership fee

(1) If any membership fee payable to the Institute by a registered valuer under this Act is not paid within 3 months after it is due, the Institute may apply to the Registrar to remove the name of the valuer from the register, and the Registrar shall, if the Board so directs, remove that name accordingly.

(2) Any person whose name is removed from the register under this section may apply to the Registrar to have his name restored to the register. If the applicant satisfies the Registrar that all membership fees [and registration fees payable by that person to the Board or the Institute] have been paid, the Registrar shall, on payment of the prescribed fee, restore the name to the register accordingly.

Hist.

s30(2) omitted words "payable by him as aforesaid" and substituted words "and registration fees payable by that person to the Board or the Institute" on 8 August 1991 by Valuers Amendment Act 1991 (1991 No 88), s2(2).

[30A Removal of name from register on non-payment of annual registration fee

(1) If any annual registration fee payable, under this Act, by a registered valuer is not paid within 3 months after it is due, the Registrar shall, if the Board so directs, remove the name of that valuer from the register.

(2) Any person whose name has been removed from the register under subsection (1) of this section may apply to the Registrar to have that person's name restored to the register, and if the person satisfies the Registrar that all registration and membership fees payable by that person to the Board or the Institute have been paid, the Registrar shall, on payment of the prescribed fee (if any), restore the name to the register accordingly.]

Hist.

s30A inserted on 8 August 1991 by Valuers Amendment Act 1991 (1991 No 88), s2(1).

Disciplinary Powers Of The Board

31 Removal of name from register if registered valuer guilty of indictable offence or grave misconduct

(1) The Board may cause the name of any registered valuer to be removed from the register if it is satisfied, after inquiry as hereinafter provided, but not otherwise,--

- (a) That he has been guilty of such improper conduct as renders him in the opinion of the Board unfit to be registered under this Act, or has been convicted (either before or after his registration) of an indictable offence punishable by imprisonment for a term of 2 years or upwards:
- (b) That he has been convicted (either before or after his registration) of an offence which tends to dishonour him in the public estimation:
- (c) That he has been guilty of such improper, unethical, or incompetent conduct in the performance of his duties as a valuer as in the opinion of the Board renders him unfit to be registered under this Act.
Proviso repealed.

.

(2) Unethical conduct for the purposes of paragraph (c) of the last preceding subsection means conduct in breach of the code of ethics prescribed by the rules of the Institute.

(3) The name of any valuer shall not be removed from the register under paragraph (a) or paragraph (b) of subsection (1) of this section by reason of any offence committed before the date of his registration, if at that date the Board was aware of his conviction in respect of that offence.

Status Compendium

Hist.

s31(1) proviso repealed by s2 of the Valuers Amendment Act 1980.

32 Inquiry by Board into charges of misconduct

(1) Every complaint that any registered valuer has been guilty of any act or default specified in the last preceding section shall be referred to the Valuer-General who shall investigate the matter and report thereon in writing to the Board:

[Provided that the Council of the Institute may appoint a person to investigate and report in writing to the Board on a complaint that a registered valuer has been guilty of an act or default specified in subsection (1)(c) of that section, and if it does so the Valuer-General shall not investigate the complaint and report thereon to the Board.]

(2) The Board shall, unless it is satisfied that there is no reasonable ground for the complaint, hold an inquiry into the matter, and shall give to the valuer concerned not less than 30 clear days' notice in writing of its intention to hold the inquiry, and of the time and place of hearing, and of the nature of the charge to be inquired into. The notice may be served personally or by registered letter addressed to the valuer concerned at his last known place of business or abode.

(3) At the inquiry the valuer concerned shall be entitled to be present and to be heard, and may, if he thinks fit, be represented by counsel or otherwise.

(4) The Valuer-General[or, as the case may be, the person appointed under the proviso to subsection (1) of this section to investigate the complaint], shall not be competent to act as a member of the Board for the purposes of the inquiry or of the deliberations of the Board thereon.

(5) Every complaint shall be prosecuted at the inquiry by such person as the Valuer-General shall appoint, except where the complaint is made in the first instance by the Institute and is prosecuted by the Institute [or is investigated by a person appointed by the Council of the Institute under the proviso to subsection (1) of this section]. The person so appointed by the Valuer-General and the Institute may be heard and may be represented by counsel or otherwise at any inquiry held under this section.

Status Compendium

Hist.

s32(1) proviso added by s2(1) of the Valuers Amendment Act 1977.

Hist.

s32(4) inserted words "or, as the case . . . investigate the complaint" by s2(2)(a) of the Valuers Amendment Act 1977.

Hist.

s32(5) inserted words "or is investigated . . . of this section" by s2(2)(b) of the Valuers Amendment Act 1977.

33 Further disciplinary powers of Board

(1) After any inquiry made as provided in the last preceding section into a complaint against any registered valuer the Board may, by writing under the hand of the Chairman, [reprimand the valuer or impose a penalty on him not exceeding [\$10,000], or may both reprimand him and impose such a penalty, and may in addition to or in lieu of reprimanding him or] imposing any monetary penalty suspend his registration for a period not exceeding 12 months.

[(1A) The Board shall not impose any monetary penalty under subsection (1) of this section in respect of any act or default that constitutes an offence of which the registered valuer has been convicted by a Court.]

(2) *Repealed*

(3) While any order of suspension from practice under this section remains in force the valuer shall be deemed not to be a registered valuer, but forthwith on the expiry of the order his rights and privileges as a registered valuer shall be revived as from the date of the expiry of the order.

(4) An order of suspension shall not take effect in any case until the expiration of 21 clear days after the notification by the Board to the valuer of the making of the order. If within that period the valuer gives due notice of appeal under

the next succeeding section, the order shall not take effect unless and until it is confirmed by the Board of Appeal or the appeal is for any reason dismissed by that Board:

Provided that, unless the Board of Appeal otherwise orders, the period of suspension specified in the order shall commence on the day when the order commences to have effect.

(5) The powers conferred on the Valuers Registration Board by this section are in addition to its powers under sections 31 and 32 of this Act.

Status Compendium

Hist.

s33(1) omitted expression "\$1,000" and substituted expression "\$10,000" on 1 July 1994 by Valuers Amendment Act 1994 (1994 No 65), s2(1).

Hist.

s33(1) omitted words "impose a penalty upon the valuer not exceeding \$20, and may in addition to or in lieu of" and substituted words "reprimand the . . . him or" by s2(3) of the Valuers Amendment Act 1977.

Hist.

s33(1A) inserted by s3 of the Valuers Amendment Act 1980.

Hist.

s33(2) repealed on 1 July 1994 by Valuers Amendment Act 1994 (1994 No 65), s2(1). The repealed s33(2) is listed below for reference.

"(2) Every monetary penalty imposed by the Board under this section shall be recoverable as a debt due to the Board by proceedings taken by the Registrar in his own name on behalf of the Board."

[33A Costs and expenses

In any case to which section 31 or section 33(1) of this Act applies, the Board may order the valuer concerned to pay such sum as the Board thinks fit in respect of either or both of the following:

- (a) The costs and expenses of and incidental to the inquiry by the Board:
- (b) The costs and expenses of and incidental to the investigation conducted under section 32 of this Act in relation to the complaint to which the inquiry relates.]

Status Compendium

Hist.

s33A inserted on 1 July 1994 by Valuers Amendment Act 1994 (1994 No 65), s3.

[33B Enforcement of fines and order to pay costs

Every monetary penalty imposed by the Board under section 33 of this Act, and any sum ordered to be paid under section 33A of this Act, shall be recoverable as a debt due to the Board by proceedings taken by the Registrar, in the Registrar's own name, on behalf of the Board.]

Hist.

s33B inserted on 1 July 1994 by Valuers Amendment Act 1994 (1994 No 65), s3.

Appeals

34 Appeals from decisions of Board

(1) Every person who is dissatisfied with any decision of the Board relating to an application by him for registration, or to the removal of his name from the register otherwise than pursuant to section 30 of this Act, or to the suspension of his registration, or to the imposition on him of any penalty, [or to the payment by him of any sum under section 33A of this Act,] may, within 3 months after notice of the decision has been given to him by the Registrar, give notice of appeal in the prescribed manner to the Registrar.

(2) Upon receipt of the notice of appeal the Registrar shall forthwith take all steps necessary for the constitution of a Board of Appeal, consisting of a [District Court Judge] and 2 assessors. The assessors shall be appointed in accordance with regulations under this Act to represent the Board and the appellant respectively.

(3) The Board of Appeal so constituted shall as soon as practicable hear the appeal, and may confirm the decision of the Board, or may order the registration of the appellant or the restoration of his name to the register or the determination of the order of suspension, or the remission of the whole or any part of any monetary penalty imposed on him, or may make such other order as the case may require.

(4) On any appeal under this section the decision of the Board of Appeal shall be final and conclusive.

(5) On any appeal under this section the Board of Appeal may make an order for the payment by the Valuers Registration Board, the Institute, or the appellant, as the case may be, of the costs incurred in respect of the appeal by any other party to the appeal, and in any such case the costs so awarded may be recovered in any Court of competent jurisdiction as a debt due by the party against whom they have been awarded to the party in whose favour they have been awarded.

Status Compendium

Hist.

s34(1) inserted words "or to the payment by him of any sum under section 33A of this Act," on 1 July 1994 by Valuers Amendment Act 1994 (1994 No 65), s4.

Hist.

s34(2) reference to "District Court Judge" substituted for a reference to "Magistrate" by s18(2) of the District Courts Amendment Act 1979.

Annual Practising Certificates

35 Public valuers to have annual practising certificates

(1) In this section **year** means a year ending on the 31st day of December.

(2) Notwithstanding anything to the contrary in the foregoing provisions of this Act, no member of the Institute shall after the commencement of this Act be entitled to act as a public valuer unless he is the holder of an annual practising certificate issued in accordance with this section.

(3) Every person who acts as a public valuer in breach of the last preceding subsection commits an offence against this Act.

(4) Every person, whether registered under this Act or not, commits an offence against this Act, who, not being the holder of an annual practising certificate issued under this section, uses or causes to be used in connection with his business, trade, calling, or profession, any written words, titles, initials, or abbreviation of words, titles, or initials, which are intended to cause or may reasonably cause any other person to believe that he is a public valuer registered under this Act:

Provided that nothing in this subsection shall prevent or be deemed to prevent any person from being employed as a valuer or from using in connection with his occupation the word "valuer".

(5) Subject to the payment of the prescribed fee, the Registrar, on application in that behalf by any registered valuer, shall issue to him an annual practising certificate [] and any such certificate shall be in force during the year in respect of which it is issued:

Provided that if at any time during the currency of any such certificate the holder thereof ceases to be registered as a valuer the certificate shall be deemed to be cancelled.

(6) Every person entitled to receive an annual practising certificate under this section shall be deemed to have obtained that certificate when he has duly applied to the Registrar for it and has paid the prescribed fee.

Status Compendium Penalty

Hist.

s35(5) omitted words "which shall show whether the valuer is registered as a rural valuer or as an urban valuer or as both a rural valuer and an urban valuer" by s2(1)(f) of the Valuers Amendment Act 1968.

36 Annual list of holders of practising certificates

(1) The Board shall, not later than the 30th day of April in the year 1950 and in each year thereafter, furnish to the Minister a list of registered valuers who, on the immediately preceding 31st day of March, were the holders of annual practising certificates issued under this Act. The said list shall show the particulars entered in the register in respect of each such valuer, and the Minister shall cause a copy of every such list to be published in the *Gazette*.

(2) The *Gazette* containing any such copy shall, unless the contrary is proved (whether by a certificate under the hand of the Registrar or otherwise), be sufficient evidence in all judicial proceedings that, on the 31st day of March immediately preceding the date of the *Gazette*, every person whose name appears therein as the holder of an annual practising certificate issued under this Act was duly registered as [a valuer] under this Act and was the holder of an annual practising certificate, and that no person whose name does not appear therein was the holder of an annual practising certificate.

{ Editorial Note: For list of public valuers as at--
31 March 2004 see *Gazette* 2004, p1771 }

Status Compendium

Hist.

s36(2): Words "a valuer" substituted for omitted words "a rural valuer or as an urban valuer, or as both a rural valuer and an urban valuer, as the case may be" by s2(1)(g) of the Valuers Amendment Act 1968.

Annual Registration Fee

[36A Annual registration fee

(1) An annual registration fee of such amount as is prescribed by regulations made under this Act shall be payable to the Board by each registered valuer.

(2) The annual registration fee shall be due on the 1st day of January in each year.

(3) On application by any person, the Board may, if it thinks that it is just to do so in all the circumstances of the case, refund to that person, or waive payment of, the whole or any part of the annual registration fee.]

Status Compendium

Hist.

s36A & part heading inserted on 8 August 1991 by Valuers Amendment Act 1991 (1991 No 88), s3.

Financial Provisions

37 Application of fees, etc., received by the Board

(1) The Registrar shall take and receive the fees prescribed by regulations made under this Act as payable to the Board in respect of the matters specified in the regulations.

(2) Until the prescribed fee has been paid the Registrar may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable.

(3) All fees, monetary penalties, and other money received on behalf of the Board under this Act shall be forthwith paid into such [person carrying on in New Zealand the business of banking] as the Board may determine to the credit of an account to be called the Valuers Registration Board Account, and may be applied by the Board as follows:

- (a) In payment of the expenses incurred by the Board in respect of this Act, including the cost of the audit of its accounts:
- (b) In payment of any fees or allowances payable in accordance with this Act to members of the Board:
- [(bb) In the making of grants for educational purposes which in the opinion of the Board will be of benefit to the profession of land valuing:]
- (c) Otherwise for the payment of any expenditure lawfully incurred by the Board.

[(3A) The Board may from time to time compile and publish any land valuation data that in its opinion will be of benefit to the profession of land valuation, and may incur expenditure and make charges in relation thereto.]

(4) All cheques drawn on the Valuers Registration Board Account shall be signed, and all negotiable and other instruments requiring endorsement shall be endorsed, by any 2 of such members of the Board as are nominated for the purpose or by one such member and the Registrar:

Provided that cheques for payment into the Valuers Registration Board Account may be endorsed by any one of such members of the Board as aforesaid alone or by the Registrar alone.

(5) No cheque shall be drawn on the Valuers Registration Board Account, and no money of the Board shall be expended except pursuant to a resolution of the Board approving the payment and the amount thereof, but no banker or other person to whom a cheque duly signed as aforesaid is presented shall be concerned to inquire whether any such resolution has been passed.

(6) The accounts of the Board shall comprise a [statement of financial position] showing the financial position of the Board at the 31st day of December in every year, together with a statement of income and expenditure and an itemised cash summary both covering the year ended on that date.

(7) The Board may from time to time, as it thinks fit, invest any money not for the time being required for any of the purposes mentioned in the last preceding subsection by depositing it [] with any bank or other institution authorised to receive money on deposit.

[(8) The Board is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.]

Hist.

s37(3): Reference to "person carrying on in New Zealand the business of banking" substituted for reference to "bank within the meaning of the [Banking Act 1982]" on 30 June 1995 by Banking Act Repeal Act 1995 (1995 No 32), s2(2).

Hist.

s37(3) reference to "Banking Act 1982" substituted for repealed "Banking Act 1908", being the corresponding enactment in force, on 16 December 1982 by Banking Act 1982 (1982 No 144), s15 & 1924 No 11, s21(1).

Hist.

s37(bb): Inserted by s3 of the Valuers Amendment Act 1959.

Hist.

s37(3A): Inserted by s3 of the Valuers Amendment Act 1968.

Hist.

s37(6): Reference to "statement of financial position" substituted for reference to "balance sheet" on 1 October 1997 by Financial Reporting Amendment Act 1997 (1997 No 17), s6(1).

Hist.

s37(7): Words "in the Post Office Savings Bank or" omitted after "by depositing it" on 1 April 1987 by State-Owned Enterprises Amendment Act 1987 (1987 No 117), s11(1) & (2).

Hist.

s37(8): Repealed and substituted on 1 July 2001 by Public Audit Act 2001 (2001 No 10), s53. The repealed s37(8) is listed below for reference.

"(8) The accounts of the Board shall be audited by the Audit Office in the same manner as if the funds of the Board were public money."

[37A Board to reimburse [Land Information New Zealand] and other Government agencies for expenditure incurred in relation to this Act

(1) The Board shall from time to time pay to [Land Information New Zealand], out of the money of the Board, such sums as may be required to reimburse [Land Information New Zealand] for all costs incurred by [Land Information New Zealand] in connection with the exercise or performance, by the Valuer-General or by any other officer of [Land

Information New Zealand], of any of the powers, duties, and functions conferred or imposed on the Valuer-General by or pursuant to this Act.

(2) The Board shall from time to time pay to any Government agency, out of the money of the Board, such sums as may be required to reimburse the agency for all costs incurred by the agency in connection with the exercise or performance, by any officer of the agency, of any of the powers, duties, and functions conferred or imposed on the Registrar by or pursuant to this Act.

(3) Without limiting the generality of subsection (1) or subsection (2) of this section, the costs referred to in subsection (2) of this section include--

- (a) An amount equal to that proportion of the salary and allowances payable to or in respect of an officer of the agency as is fairly attributable to the time spent by that officer in exercising or performing any of the powers, duties, and functions referred to in subsection (2) of this section:
- (b) Any travel or accommodation expenses incurred by or on behalf of the agency in connection with the exercise or performance, by any officer of the agency, of any of the powers, duties, and functions referred to in subsection (2) of this section:
- (c) The cost of any secretarial, clerical, or other administrative services provided by the agency in connection with the exercise or performance, by any officer of the agency, of any of the powers, duties, and functions referred to in subsection (2) of this section.

(4) If any question arises as to the amount to be paid by the Board under this section in any financial year, it shall be determined by the Minister, whose decision shall be final.]

Hist.

s37A(1) "heading": Reference to "Land Information New Zealand" substituted for reference to "Valuation Department" (for consistency), on 1 July 1998 pursuant to Rating Valuations Act 1998 (1998 No 69), s54(1).

Hist.

s37A(1) omitted expression "the Valuation Department", & "the Department" in 2 places, and substituted expression "Land Information New Zealand" on 1 July 1998 by Rating Valuations Act 1998 (1998 No 69), s54(1).

Hist.

s37A inserted on 8 August 1991 by Valuers Amendment Act 1991 (1991 No 88), s4.

38 Fees payable to Institute

(1) The Secretary of the Institute shall take and receive the fees prescribed by the rules of the Institute as payable to the Institute in respect of the matters specified in the rules.

(2) Until the prescribed fee has been paid the Secretary of the Institute may decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable.

39 Institute to contribute to Board's funds

(1) The Council shall from time to time pay to the Board out of the money of the Institute such sums as may, with the money of the Board, be required for payment of the expenditure lawfully incurred by the Board at any time.

(2) If any question arises as to the amount to be paid by the Institute under this section in any financial year it shall be determined by the Minister, whose decision shall be final.

[39A Unauthorised expenditure

The Board may, in any financial year, expend out of its funds for purposes not authorised by any provision of this Act or by any other Act any sum or sums not amounting in the whole to more than \$200.]

Hist.

s39A inserted by s3 of the Valuers Amendment Act 1974.

Miscellaneous

40 Certificate by Registrar to be evidence of registration, etc.

A certificate under the hand of the Registrar to the effect that any person was or was not registered as a valuer under this Act at any time or during any period specified in the certificate, or as to any entry in the Register of Valuers or as to any act or proceeding of the Board, shall, until the contrary is proved, be sufficient evidence of the matters therein specified.

41 Registrar to notify Institute of entries in register

As soon as practicable after the entry in the register of any person's name, or after the removal of any person's name therefrom, or after the suspension of any registration, the Registrar shall give notice in writing to the Institute of the entry, removal, or suspension, as the case may be, together with all relevant particulars.

42 Improper use of words, initials, etc., implying registration or membership of Institute

(1) Every person commits an offence against this Act who, not being registered under this Act, uses or causes or permits to be used any written words, titles, or initials, or any abbreviation of any words, titles, or initials, which are intended to cause or may reasonably cause any person to believe that he is registered under this Act.

(2) Every person commits an offence against this Act who, not being a member of the Institute, uses or causes or permits to be used any written words, titles, or initials, or any abbreviation of any words, titles, or initials which are intended to cause or may reasonably cause any person to believe that he is a member of the Institute.

(3) Nothing in this section shall prevent or be deemed to prevent any person from being employed as a valuer or from using in connection with his occupation the word "valuer".

Penalty

43 Offences

Every person who commits an offence against this Act shall, where no other penalty for that offence is provided elsewhere in this Act, be liable on summary conviction to a fine not exceeding [\$500], and, where the offence is a continuing one, to a further fine not exceeding [\$50] for every day during which the offence continues.

Hist.

The expressions "\$500" and "\$50" were substituted for the expressions "\$100" and "\$10" (as substituted by s7 of the Decimal Currency Act 1964) by s3(a) and (b) respectively of the Valuers Amendment Act 1977.

44 Regulations

(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) Prescribing the form of and the method of keeping the Register of Valuers, and providing for the issue of annual practising certificates:
- (b) Prescribing the forms of applications, certificates, and other documents required under this Act:
- (c) Prescribing the fees payable in respect of examinations and of registration under this Act and in respect of the restoration of names after their removal from the register and in respect of any other alteration of or addition to the register; and also prescribing fees for the issue of certificates of registration, annual practising certificates, and other certificates, and for copies of certificates, and for inspections of the register:
- [(ca) Prescribing the annual registration fee payable under section 36A of this Act, including different fees for different classes of registered valuer; and exempting any class or classes of registered valuer from liability to pay any such fee:]
- (d) Prescribing the subject-matter of examinations to be conducted by or on behalf of the Board, the standards required to be attained by successful candidates, and the times when examinations will be held:
- (e) Regulating the procedure of the Board:

- (f) Providing such other matters as may be necessary for the efficient discharge by the Board of its duties and functions under this Act:
- (g) Providing for the appointment of assessors and regulating the conduct of appeals under section 34 of this Act:
- (h) Providing for the taxation or review by the Council or a committee thereof or by a [District Court Judge] of charges made by valuers for work as such:
 - (i) Prescribing fines, not exceeding [\$500], for the breach of any regulation made under this section.

(3) Repealed.

{ Editorial Note: As to regulations under this Act, see SR 1949/25. }

Hist.

s44(2)(ca) inserted on 8 August 1991 by Valuers Amendment Act 1991 (1991 No 88), s5.

Hist.

In subs. (2)(h) the reference to a District Court Judge was substituted for a reference to a Magistrate by s18(2) of the District Courts Amendment Act 1979.

Hist.

In subs (2)(i) the expression "\$500" was substituted for the expression "\$100" (as substituted by s7 of the Decimal Currency Act 1964) by s3(e) of the Valuers Amendment Act 1977.

Hist.

s44(3) repealed on 19 December 1989 by Regulations (Disallowance) Act 1989 (1989 No 143), s11. The repealed s44(3) is listed below for reference.

"(3) All regulations made under this section shall be laid before [the House of Representatives] within 28 days after the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within 28 days after the commencement of the next ensuing session."

Hist.

In subs. (3) the reference to the House of Representatives was substituted for a reference to both Houses of Parliament by s2(4) of the Legislative Council Abolition Act 1950.

---- End of Request ----

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Time Of Request: Friday, May 18, 2007 10:07:00