

1950

c 196 Land Surveyors Act

Ontario

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CHAPTER 196

The Land Surveyors Act

1. In this Act,

Interpre-
tation.

- (a) "Association" means the Association of Ontario Land Surveyors;
- (b) "board" means board of examiners of the Association;
- (c) "council" means the council of management of the Association;
- (d) "Minister" means Minister of Lands and Forests;
- (e) "surveyor" means a person who practises the profession of land surveyor, or a person, other than an employee of an Ontario land surveyor, who for gain either by himself or by some other person surveys, establishes, locates or defines any boundary, limit or angle of any land, location, claim, limit, common, road, street, lane, way, gore, reserve, concession, section, block, lot, village, town, city, township or other parcel of land or division or property. R.S.O. 1937, c. 231, s. 1, *amended*.

2.—(1) No person shall act as a surveyor in Ontario unless authorized to practise as a land surveyor according to the provisions of this Act, or so authorized before the passing thereof according to the laws then in force, and unless registered under this Act. Who may act as a surveyor.

(2) Every person who contravenes this section shall be guilty of an offence and liable to a penalty of \$40. R.S.O. 1937, c. 231, s. 2. Penalty.

3.—(1) The Association of Ontario Land Surveyors is hereby continued and all persons who are now members of the Association shall continue to be members thereof subject to the by-laws of the Association and the provisions of this Act. Association continued.

(2) All persons duly authorized to practise as surveyors shall, upon becoming duly registered as hereinafter provided, become members of the Association. R.S.O. 1937, c. 231, s. 3. New members.

4. All fines and fees payable under this Act or under any by-law of the Association shall belong to the Association. R.S.O. 1937, c. 231, s. 3. Fines and fees.

Powers as to
real estate.

5. The Association may purchase, take and possess for the purposes of the Association, but for no other purpose, and after acquiring the same may sell, mortgage, lease or dispose of any real estate. R.S.O. 1937, c. 231, s. 5.

Council of
management.

6.—(1) There shall be a council of management of the Association, consisting of the Minister or his appointee, the Surveyor-General of Ontario, the president and the vice-president of the Association, and six other elective members to be elected and hold office as hereinafter provided. R.S.O. 1937, c. 231, s. 6 (1); 1938, c. 37, s. 12.

Chairman
and officers.

(2) The council shall elect annually one of its members as chairman, and may appoint from among the members of the Association such other officers as may be deemed necessary for carrying out the objects of this Act, and such appointed officers shall hold office during the pleasure of the council. R.S.O. 1937, c. 231, s. 6 (2).

Invest-
ments.

7. The council may invest, in the name of the Association, any moneys of the Association in such securities as trustees may properly invest in, and the income derived therefrom shall form part of the ordinary income of the Association. R.S.O. 1937, c. 231, s. 7.

By-laws.

8.—(1) The Association may pass by-laws for,

- (a) the government, discipline and honour of its members;
- (b) the management of its property;
- (c) the examination and admission of candidates for the study or practice of the profession;
- (d) all such other purposes as may be necessary for carrying out the objects of the Association.

Ratification.

(2) All by-laws shall be passed by the council and shall be ratified by the Association at the next annual general meeting or at a special general meeting called for the purpose. R.S.O. 1937, c. 231, s. 8.

Annual
general
meeting.

9.—(1) The annual general meeting of the Association shall be held in the City of Toronto on the third Tuesday of February in each year at such place as the council may appoint.

Special
general
meeting.

(2) Upon the written request of any 10 members of the Association in good standing or of the council, the president, or in his absence the vice-president, may call a special general

meeting to be held in the City of Toronto at a time not more than 30 days after the receipt of such request.

(3) Notice of any such meeting shall be given by the secretary-treasurer to each member of the Association by letter posted to his registered address at least 14 days before such meeting. R.S.O. 1937, c. 231, s. 9. Notice.

10.—(1) The members of the Association shall elect annually from their number by sealed ballot (Form 1) the president, vice-president, secretary-treasurer and two auditors who shall hold office for one year from the termination of the annual general meeting, or until their successors in office have been elected, and two members of the council who shall hold office for three years from the termination of the annual general meeting, or until their successors in office have been elected. Election of president and officers of the Association.

(2) No person shall be eligible for election to any office or to the council or qualified to fill any vacancy thereon or for appointment by the council to any office unless his fees have been paid and he is duly qualified under this Act and the by-laws of the Association. R.S.O. 1937, c. 231, s. 10. Qualification.

11.—(1) A nominating committee of five members of the Association in good standing other than members of the council shall be elected by ballot at each annual general meeting to hold office until the next annual general meeting and it shall be the duty of the nominating committee to nominate before the 1st day of December in each year at least as many eligible members for each position as are required to be elected in accordance with section 10. Nominating committee.

(2) The presiding officer at the meeting at which the nominating committee is elected shall appoint two scrutineers to count the votes cast for members of the nominating committee, and he shall have the casting vote in the case of a tie, and shall appoint one of the members elected to act as chairman and convener of the committee. R.S.O. 1937, c. 231, s. 11. Scrutineers and casting vote.

12.—(1) The chairman of the nominating committee shall forthwith after the 30th day of November in each year forward to the secretary-treasurer, by registered mail, the list of persons nominated and the secretary-treasurer shall on or before the 10th day of December in that year mail a copy of the list to each member of the Association at his registered address. Nominations.

Addition of names when required.

(2) Any 10 members of the Association in good standing may, by registered letter delivered to the secretary-treasurer at his office on or before the 31st day of December, require the secretary to add to the list of persons nominated the name or names of any other eligible members, and the names of the members so added, with the names of the members chosen by the nominating committee, shall be placed by the secretary on the ballot paper (Form 1). R.S.O. 1937, c. 231, s. 12.

Distribution and return of ballots.

13.—(1) The ballot papers shall be mailed by the secretary-treasurer to each member of the Association at his registered address at least 14 days before the annual meeting and shall be returned to the secretary-treasurer in a sealed envelope not later than ten o'clock in the forenoon of the day prior to the annual general meeting.

Scrutineers.

(2) Two scrutineers shall be appointed by the president to examine and count the votes.

Counting ballots.

(3) The ballot papers shall on the day prior to the annual meeting be opened by the secretary-treasurer in the presence of the scrutineers who shall examine and count the votes cast for the various candidates and keep a record thereof in a book provided for that purpose by the council. R.S.O. 1937, c. 231, s. 13.

Qualification of voters.

14.—(1) The persons qualified to vote shall be such persons as are members of the Association and have paid all fees due from them to the Association.

Where voting paper has too many names.

(2) In the event of an elector placing more than the required number of names upon the voting paper for members of the council the first names only not exceeding the required number shall be counted.

Who may be present at counting of votes.

(3) Any person entitled to vote at the election may be present at the counting of the votes. R.S.O. 1937, c. 231, s. 14.

Result of elections.

15.—(1) The qualified persons who have the highest number of votes shall be declared elected.

Equality of votes.

(2) In the case of equality of votes between two or more persons which leaves the election of one or more officers or members of the council undecided, the scrutineers shall forthwith put into a ballot box a number of papers with the names of the candidates respectively having such equality of votes written thereon, one for each candidate, and the secretary-treasurer shall draw from the ballot box, in the presence of the scrutineers, one or more of the papers sufficient to make

up the required number, and the person or persons whose name or names are upon the papers so drawn shall be the officer or officers or the member or members of the council, as the case may be. R.S.O. 1937, c. 231, s. 15.

16. Upon the completion of the counting of the votes the secretary-treasurer shall report the result of the election in writing signed by himself and the scrutineers to the president who shall announce the same at the annual general meeting. R.S.O. 1937, c. 231, s. 16. Result of election to be reported.

17. In the case of the resignation, death or dismissal of the president, vice-president, or any elective member of the council the other members of the council shall have power to fill any vacancy so caused, and the person so appointed shall hold office for the unexpired portion of the term. R.S.O. 1937, c. 231, s. 17. Vacancies.

18. In case of doubt or dispute as to who has been elected or as to the legality of the election, the duly elected officers and members shall be a committee, to inquire and decide the doubt or dispute, and the persons whom they decide to have been elected shall be deemed to have been duly elected and if the election is found to have been illegal the committee shall order a new election. R.S.O. 1937, c. 231, s. 18. Disputed elections.

19.—(1) There shall be a board of examiners for the examination of candidates as hereinafter provided. Board of examiners.

(2) The board shall consist of the chairman of the council, the secretary-treasurer, four other members of the Association to be appointed by the council and two to be appointed by the Lieutenant-Governor in Council. Constitution of board.

(3) The six members to be so appointed shall hold office for three years. Term of office.

(4) In the case of resignation, death or inability to act of any member of the board, the Lieutenant-Governor in Council if such member was appointed by him, and the council if such member was appointed by it, shall appoint a member of the Association to be a member of the board for the unexpired portion of the term. To supply vacancies.

(5) The chairman of the council shall be the chairman of the board and three members of the board shall form a quorum. Chairman, quorum.

(6) The council may also appoint competent persons to assist the board in any of the subjects of examination, and Examiners.

may fix the expenses and fees to be paid to any of the examiners, subject to the restrictions hereinafter contained in respect of payments to members of the board.

Oath of examiner.

(7) Each member of the board shall take and subscribe the following oath:

I,.....of....., having been appointed a member of the board of examiners under *The Land Surveyors Act*, do sincerely promise and swear that I will faithfully discharge the duties of such office without favour, affection or partiality. So help me God.

A. B.

Sworn before me at..... this.....day of....., 19.....

R.S.O. 1937, c. 231, s. 19.

Meeting, when and where held.

20.—(1) The board shall meet in the City of Toronto on the first Monday in February in every year, and may adjourn such meeting from time to time.

Payment of examiners.

(2) The council shall for each day's attendance pay out of the funds of the Association to each member of the board who attends any examinations such sum, not less than \$6 and not more than \$8, as the council may by by-law determine, and his travelling expenses. R.S.O. 1937, c. 231, s. 20.

Certificate of qualification,

21. The board shall grant a certificate (Form 2) authorizing to practise as a surveyor, any person who,

age;

(a) has attained the age of 21 years;

apprenticeship;

(b) has served faithfully and regularly for three years under an instrument in writing duly executed before two witnesses, as a student to a surveyor in actual practice and has received from such surveyor a certificate of his having so served or proves to the satisfaction of the board that he has so served or has been wholly or partly exempted from such apprenticeship by the board in accordance with the provisions hereinafter in that behalf;

intermediate examination;

(c) has passed at least six months prior to presenting himself for the final examination, an intermediate examination in such subjects as the by-laws of the Association may set out or such part thereof as specified by the board in accordance with the provisions hereinafter in that behalf;

final examination;

(d) has passed a final examination not more than six months prior to the termination of his apprenticeship, if any, in such subjects as the by-laws of the

Association may require or such part thereof as specified by the board in accordance with the provisions hereinafter in that behalf;

- (e) has paid all fees due from him to the Association in payments; accordance with section 29;
- (f) has produced if required by the board satisfactory references; evidence as to probity and sobriety;
- (g) has entered into a joint and several bond to His Majesty in the sum of \$1,000, conditioned for the faithful performance of the duties of his office to be deposited in the office of the Treasurer of Ontario and ensuring to the benefit of any person sustaining damage by breach of the conditions thereof with two sufficient sureties to the satisfaction of the board or the chairman or secretary-treasurer thereof;
- (h) has provided himself with a properly certified standard measure of length; standard measure;
- (i) has taken and subscribed the oath of allegiance and the following oath of office before the chairman of the board or a member thereof deputed by the board for that purpose which said oaths of allegiance and office shall be deposited in the office of the Provincial Secretary: oaths of office and allegiance.

I,, do solemnly swear that I will faithfully discharge the duties of an Ontario Land Surveyor according to the law, without favour, affection or partiality.

R.S.O. 1937, c. 231, s. 21.

22. No person shall be apprenticed to a surveyor until he has produced to the secretary-treasurer certificates of pass matriculation and honour matriculation in mathematics both as prescribed by the Department of Education or such other evidence of educational standing as is in the opinion of the board equivalent to the above. Who may be apprenticed. R.S.O. 1937, c. 231, s. 22.

23. Notwithstanding anything contained in section 21, Exemption from apprenticeship.

- (a) any person who is a graduate of the Royal Military College at Kingston or a graduate of the University of Toronto, McGill University at Montreal, Queen's University at Kingston, or the University of Western Ontario at London in civil or mining engineering, or of the Faculty of Arts in mathematics or in mathematics and physics, or a graduate in forestry of the University of Toronto or a graduate of such other educational

institution as may be approved by the board in a course which in the opinion of the board is equivalent to one of the courses hereinbefore mentioned, shall only be bound to serve under articles with a practising surveyor, duly filed as required by section 27, during 12 consecutive months of active practice; and

- (b) any person who has been on active service in the naval, military or air forces of His Majesty or any of His Majesty's allies shall only be bound to serve under such articles for such period of time as the board may deem necessary after considering his training or experience in surveying or engineering prior to or during such service in the forces. 1946, c. 45, s. 1.

Exemption when qualified elsewhere.

24. The board shall have power to grant exemption from the whole or part of the term of apprenticeship and from the whole or parts of the intermediate and final examinations in the case of a person who has attained the age of 21 years and has practised as a surveyor in any of His Majesty's Dominions other than the Province of Ontario, and has satisfied the board that the qualifications for practising required in such Dominion are similar to those required in Ontario and has produced to the board his certificate or diploma; provided that the same or similar privileges are granted in such Dominion to Ontario land surveyors. R.S.O. 1937, c. 231, s. 24.

Provision in case of death, etc., of employer.

25. If a surveyor dies or leaves Ontario, or is suspended, dismissed or ceases to practise, his apprentice may complete his term of apprenticeship under an instrument in writing, with any registered surveyor in actual practice. R.S.O. 1937, c. 231, s. 25.

Transfer of apprenticeship.

26. A surveyor may, with the consent of the apprentice by an instrument in writing, transfer him to another registered surveyor in actual practice with whom he may serve the remainder of the term of his apprenticeship. R.S.O. 1937, c. 231, s. 26.

Registration of apprenticeship agreements.

27. Every instrument being an agreement of apprenticeship to a surveyor shall be transmitted to the secretary-treasurer within two months of the date thereof for approval and registration and if approved shall be registered by the secretary-treasurer in his office and notice of the said registration forwarded by mail to the apprentice. R.S.O. 1937, c. 231, s. 27.

28. Every person desiring to be examined by the board shall give notice thereof in writing to the secretary-treasurer at least one month before the meeting of the board. R.S.O. 1937, c. 231, s. 28. Notice by candidates for examination.

29.—(1) The following fees shall be paid to the secretary-treasurer:

- (a) for the registration of articles of apprenticeship.....\$10
- (b) for the registration of the transfer of articles of apprenticeship..... 5
- (c) by each candidate for examination with his notice to present himself thereat..... 1
- (d) by each candidate presenting himself for the intermediate examination..... 20
- (e) by each candidate presenting himself for the final examination..... 40
- (f) for intermediate certificate..... 1
- (g) for final certificate authorizing to practise... 10
- (h) for registration as a surveyor in active practice 1
- (i) for official notice of registration in *The Ontario Gazette*..... 1

(2) Where the annual fees of a member remain unpaid for more than six years and the council is unable to grant total exemption for such period on the ground of extenuating circumstances, the member shall be suspended from membership in the Association until such fees are paid in full or in such part as the council may deem just. R.S.O. 1937, c. 231, s. 29. Suspension for non-payment of fees.

30.—(1) The secretary-treasurer shall make and keep a correct register of all persons entitled to be registered under this Act, and shall enter opposite the name of a registered person who has died, a statement of the fact and shall make necessary alterations in the addresses of persons registered, and subject to this Act shall keep the register in accordance with the by-laws of the Association and the orders and regulations of the council. How register to be kept.

(2) A registered surveyor desiring to give up practice may have his name removed from the register upon giving written notice to the secretary-treasurer of such desire and paying all fees due from him to the Association, and thereafter he shall not be liable to the Association for any annual or other fees, and may, upon like notice of his intention to resume practice and paying the annual fee for the year in which such notice is given, be again registered. Retirement from practice.

Rectification
of entries.

(3) No name shall be entered in the register except of persons authorized by this Act to be registered nor unless the secretary-treasurer is satisfied by proper evidence that the person claiming to be entitled to be registered is so entitled and any appeal from his decision shall be decided by the council, and any entry which is proved to the satisfaction of the council to have been fraudulently or incorrectly made shall be erased from or amended in the register by order of the council.

Exemption
from
annual fees.

(4) The Association may provide that any surveyor who has been in the actual practice of his profession for a period of 35 years or more and was during the entire period a duly qualified surveyor may be exempted from payment of the annual membership fee. R.S.O. 1937, c. 231, s. 30.

Annual
register.

31.—(1) The secretary-treasurer shall in every year cause to be printed and kept for inspection in his office an annual register in which shall be printed in alphabetical order the names and addresses of all persons authorized to practise as surveyors on the 1st day of June of that year.

Evidence of
registration.

(2) A copy of the annual register so printed shall be evidence in all courts and for all persons that the persons therein mentioned are registered according to this Act.

Omission of
name from
copy.

(3) In the case of any person whose name does not appear in such copy a certified copy under the hand of the secretary-treasurer of the entry of the name of such person in the register shall be like evidence that such person is registered under this Act. R.S.O. 1937, c. 231, s. 31.

Penalty for
improper
entry.

32. If the secretary-treasurer wilfully makes or causes or allows to be made any falsification in any matter relating to the register he shall be guilty of an offence and liable to a penalty of not less than \$20 and not more than \$50. R.S.O. 1937, c. 231, s. 32.

Penalty for
procuring
entry by
fraud.

33. Any person who wilfully procures or attempts to procure registration 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, shall be guilty of an offence and liable to a penalty of not less than \$20 and not more than \$50 and the council may remove the name of the offender from the register. R.S.O. 1937, c. 231, s. 33.

Right to
use title.

34.—(1) A person registered under this Act shall be entitled to take or use the name or title of "Ontario Land Surveyor"

and unless so registered no person shall be entitled to take or use the name or title of "Ontario Land Surveyor" either alone or in combination with any other word or words, or any name, title or description implying that he is registered under this Act.

(2) Every person who contravenes this section shall be ^{Penalty.} guilty of an offence and liable to a penalty of not more than \$20 for the first offence and not more than \$50 for each subsequent offence. R.S.O. 1937, c. 231, s. 34.

35. Every surveyor summoned to attend any civil or ^{Witness} criminal court for the purpose of giving evidence in his ^{fees.} professional capacity or in consequence of any professional service rendered by him, shall be entitled to \$5 for each day he so attends, in addition to his travelling expenses, to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court. R.S.O. 1937, c. 231, s. 35.

36.—(1) Where after due inquiry by a committee of the ^{Dismissal or} Association, appointed pursuant to its by-laws, a surveyor ^{suspension} has been found to have been guilty of gross negligence or of ^{of members.} corruption in the execution of the duties of his office, or of professional misconduct or of conduct apt to bring the profession into disrepute, or where a surveyor has been convicted in Canada or elsewhere of an indictable offence, other than a political offence committed out of His Majesty's Dominions, the council by order may reprimand or censure such surveyor or may suspend him from membership and from registration for such time not exceeding one year as the council may deem proper, or may expel him from membership and from registration.

(2) Unless a judge of the Supreme Court otherwise orders, a surveyor who has been ordered by the council to be ^{Not to act} suspended or expelled from membership and from registration ^{as surveyor} shall not, pending the disposition of any appeal made by ^{during} him, act as a surveyor while so ordered to be suspended or ^{appeal.} expelled.

(3) When an order has been made by the council suspending ^{Appeal.} or expelling a surveyor from membership, the surveyor may appeal to a judge of the Supreme Court from the order.

(4) The appeal shall be by notice of motion served upon ^{Mode.} the president, vice-president or secretary-treasurer of the Association within 15 days after service upon the surveyor of a copy of the decision appealed from, or within such further time as may be allowed by a judge of the Supreme Court.

Hearing.

(5) The judge may hear the appeal on the transcript of the evidence taken before the committee of the Association, or upon such further evidence as he may permit, or the judge may rehear the case, or he may remit the case for rehearing on such evidence as he may indicate.

Judge's order.

(6) The judge may affirm, vary or rescind the order of the council or make such other order as he deems just.

Appeal.

(7) By leave of a judge of the Court of Appeal given on application made within 15 days after the decision complained of, there shall be an appeal to the Court of Appeal from any decision of a judge made under subsection 6.

Restoration of name.

(8) The council may at any time direct the secretary-treasurer to restore to the register, upon such terms and conditions as may be determined by the council, any entry or the name of any person removed therefrom. R.S.O. 1937, c. 231, s. 36.

Attendance of witnesses.

37. On any inquiry concerning the election, dismissal, suspension or restoration of any member a subpoena under the hand of the president or of the vice-president, or of any two members of the council, for the attendance of a witness before the council, shall have all the force of a subpoena issued by the Supreme Court, and any witness not attending in obedience thereto shall be liable to attachment in the Supreme Court. R.S.O. 1937, c. 231, s. 37.

Recovery of fees and penalties.

38.—(1) All fees payable under this Act may be recovered as ordinary debts due the Association and all penalties imposed by or under the authority of this Act shall be recoverable under *The Summary Convictions Act*.

Rev. Stat. c. 379.

Application of penalties.

(2) All penalties recovered under this Act shall immediately upon the recovery thereof be paid over by the convicting justice to the secretary-treasurer.

Apportionment of penalty.

(3) Any person may be prosecutor or complainant under this Act, and the council may allot such portion of the penalty as it deems expedient to the prosecutor. R.S.O. 1937, c. 231, s. 38.

Accounts of Association.

39. The secretary-treasurer shall enter in books to be kept for that purpose a true account of all moneys received and paid by him, and such books shall be audited and submitted to the council and to the Association when and so often as they may require. R.S.O. 1937, c. 231, s. 39.

40.—(1) Except as herein otherwise provided all notices and documents required by or for the purposes of this Act to be sent by mail, if sent by registered post, shall be deemed to have been received at the time when the same would be delivered in the ordinary course of mail. Service of notices.

(2) Such notices and documents, when sent to a person registered under this Act, shall be deemed to be properly addressed if addressed to him according to his address in the register of the Association. What to be deemed proper address. R.S.O. 1937, c. 231, s. 40.

FORM 1

(Section 10 and 12 (2))

VOTING PAPER

Association of Ontario Land Surveyors

Election 19.....

I,, of,
 in.....

a member of the Association of Ontario Land Surveyors, do hereby declare that:

(1) The signature hereto is in my proper handwriting.

(2) I vote for *A. B.*, of....., as (president, vice-president, secretary-treasurer, auditor or auditors, as the case may be).

(3) I vote for the following persons as members of the Council of the Association: *A. B.*, of....., and *C. D.*, of.....

(4) I have signed no other voting paper at this election.

(5) This voting paper was signed on the day of the date thereof.

Witness my hand this.....day of....., 19.....

R.S.O. 1937, c. 231, Form 1.

FORM 2

(Section 21)

CERTIFICATE OF ADMISSION

This is to certify that *A. B.*, of....., has duly passed his examination before the board of examiners, and has been found qualified to fill the office and perform the duties of an Ontario Land Surveyor, he having complied with all the requirements of the law in that behalf. Wherefore the said *A. B.* is admitted to the said office and is by law authorized to practise as an Ontario Land Surveyor.

In witness whereof we have signed this certificate at the City of Toronto the.....day of....., 19.....

C. D., Chairman
E. F., Secretary-treasurer

R.S.O. 1937, c. 231, Form 2.

