

CLAUSE NOTES

Surveyors Amendment Bill 2023

Clause 1 Short Title

Clause 2 Commencement

This clause provides for the provisions of this Act to commence on a day or days to be proclaimed.

Clause 3 Principal Act

This clause provides that the *Surveyors Act 2002* is the Principal Act.

Clause 4 Section 3 amended (Interpretation)

This clause amends the definition of 'published' to provide for the Director of Consumer Affairs (the Director) to be able to publish disciplinary orders issued under section 34. The existing definition provides for the Surveyor-General to notify registered land surveyors of errors or anomalies in surveys that cannot be readily corrected and, because of its wording, creates or implies a function that is only within the purview of the Surveyor-General. Part (a) is added to open the function to the Director in relation to section 34(4A), whilst the existing function for the Surveyor-General is retained in (b), amended to be consistent with (a) with respect to "thinks fit".

Clause 5 Section 9 amended (particulars to be entered in the register)

This clause amends section 9(3) of the Principal Act by providing for all disciplinary orders made by the Director of Consumer Affairs to be noted in the register and only requiring disciplinary orders that do not involve a suspension or cancellation of registration to be removed three years after the order was made.

The existing paragraph (a) is replaced to clarify that only suspensions or cancellations of registration due to disciplinary action are to be noted as the register only includes currently registered persons. This paragraph makes it clear that this action applies if a person is subsequently successful in re-applying to be included in the register.

Paragraph (b), which dealt with the removal of notes made under paragraph (a) after 3 years, is replaced with a new paragraph (b) that allows for the inclusion of notes in the register about disciplinary orders that do not involve a suspension or cancellation of registration.

A new paragraph (c) is added that requires the removal of the notes in the register made under paragraph (b) as soon as practicable after the end of the

three-year period. The inclusion of 'as soon as practicable' provides the Surveyor-General with flexibility to remove the note at other than the exact moment the 3-year period expires.

A new subsection (3A) is added to provide the flexibility for the Surveyor-General to remove a note in the register before the three-year period expires.

Clause 6 **Section 16 amended (only registered land surveyors to survey land or practise as land surveyors)**

This clause amends section 16(2) of the Principal Act to remove the requirement for a registered land surveyor to 'directly' supervise a person who is not a registered land surveyor assisting them in conducting a survey of land. Since 'directly' and 'supervision' are not defined in the Principal Act, the effect of this wording in relation to a non-registered person undertaking a survey of land is that currently they must always be personally and directly overseen by a registered land surveyor. This does not reflect the current understanding or standard practice of land surveyors supervising non-registered persons in Tasmania, or other Australian jurisdictions.

The removal of 'directly' permits the Surveyor-General to issue Directions under section 15 of the Principal Act that specify what constitutes effective supervision of a person assisting a registered land surveyor conducting a survey of land in a range of different circumstances.

Clause 7 **Section 34 amended (disciplinary action)**

This clause adds new sections 4A, 4B and 4C to provide for the Director of Consumer Affairs to publish the details and particulars of a disciplinary order made under section 34. Section 4A provides the Director with discretionary authority to publish all disciplinary orders. Sections 4B and 4C together provide discretionary authority to withdraw such a publication at any time, whilst specifying that a publication concerning an order that does not involve prohibiting a registered surveyor from carrying on business, or being employed or engaged in the business of a registered surveyor, must be withdrawn as soon as practicable after 3 years from the date of the order.

Clause 8 **Section 46 inserted**

This clause provides for the postponement of the repeal date of the *Surveyors Regulations 2014* from 10 December 2014 to 10 December 2026, but still permits the Regulations to be repealed before 10 December 2026 if that is appropriate.

Clause 9 **Repeal of Act**

This clause is self-explanatory.