



Valuers Registration Act 1992

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Queensland

Valuers Registration Act 1992

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Valuers Registration Act 1992

An Act relating to the registration of valuers, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Valuers Registration Act 1992*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Definitions

In this Act—

annual renewal day means 1 May.

appointed member means a member appointed under section 6(1)(b) or (c).

assistant member means a person appointed under section 7 as an assistant member of the board.

board means the Valuers Registration Board of Queensland.

chairperson means the chairperson of the board.

commencing day means the day fixed under section 2.

CPD, for a registered valuer, means continuing professional development.

criminal history, of a person, has the meaning given by the *Criminal Law (Rehabilitation of Offenders) Act 1986*,

section 3, but does not include convictions for which the rehabilitation period has expired, and has not been revived, under that Act.

information notice means a notice complying with the QCAT Act, section 157(2).

investigator means a person authorised under section 44 to conduct an investigation on behalf of the board.

member means a member of the board.

officer, of the board, includes a person authorised under section 44 to carry out an investigation.

register means the Register of Valuers of Queensland kept under this Act.

registered valuer means a valuer registered under this Act.

specialist retail valuer means a person whose name is recorded on the list of specialist retail valuers kept under section 42A.

valuer means a person who, in any capacity, holds himself or herself out as ready to make a valuation of land.

4 Administration of Act

Subject to the Minister, the board administers this Act.

Part 2 The board

5 Board continued in existence

The Valuers Registration Board of Queensland established under the *Valuers Registration Act 1965* is, by this section, continued in existence under the name Valuers Registration Board of Queensland.

6 Membership

- (1) The board consists of the following members—
 - (a) a nominee, who is a valuer, of the valuer-general;
 - (b) 2 registered valuers, 1 of whom is to be appointed from names submitted by the Australian Property Institute under section 8;
 - (c) 2 persons appointed from names submitted by business, community or professional organisations.
- (2) The members mentioned in subsection (1)(b) and (c) are to be appointed by the Governor in Council, by gazette notice.

7 Assistant members

- (1) The Governor in Council may, by gazette notice, appoint assistant members.
- (2) A person is qualified for appointment if the person is—
 - (a) a registered valuer whose name has been submitted by the Australian Property Institute under section 8; or
 - (b) a registered valuer whose name has been submitted by the Real Estate Institute of Queensland under section 8; or
 - (c) another person who is otherwise qualified for appointment under section 6 or paragraph (a) or (b).

8 Panel of nominees

- (1) The submission of names of persons under section 6 and 7 is to be made within the time and in the way determined by the Minister.
- (2) If an Institute fails to make a submission within the time and in the way determined by the Minister, the Governor in Council may appoint as a member or an assistant member any person who is otherwise qualified to be appointed under section 6 or 7.

9 Tenure of office

An appointment as an appointed member or assistant member—

- (a) begins on the day specified in the gazette notice or, if no day is specified, on the day of publication of the notice; and
- (b) is for a term of 3 years or such shorter period as is specified in the notice.

10 Eligibility for appointment

A person is not eligible to become an appointed member or assistant member if—

- (a) the person is bankrupt or is otherwise taking advantage of the laws in force relating to bankruptcy; or
- (b) the person has been convicted of an indictable offence (whether in Queensland or elsewhere).

10A Investigations about eligibility for appointment

- (1) The valuer-general may make investigations about a person, whose name has been submitted for appointment as a member or assistant member, to decide whether the person is eligible for appointment.
- (2) Without limiting subsection (1), the valuer-general may ask the commissioner of the police service for a written report about the criminal history of the person.
- (3) The commissioner must give the report to the valuer-general.
- (4) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

10B Criminal history is confidential document

- (1) An officer, employee or agent of the department must not, directly or indirectly, disclose to anyone else a report, or information contained in a report, given under section 10A.

Maximum penalty for subsection (1)—100 penalty units.

- (2) However, the officer, employee or agent does not contravene subsection (1) if—
- (a) disclosure of the report or information to someone else is authorised by the valuer-general to the extent necessary to perform a function under or in relation to this Act; or
 - (b) the disclosure is otherwise required or permitted by law.
- (3) The valuer-general must destroy the report as soon as practicable after considering the person's eligibility for appointment.

11 Casual vacancy

- (1) The office of an appointed member or assistant member becomes vacant if the member or assistant member—
- (a) dies; or
 - (b) ceases to be eligible to become a member or assistant member; or
 - (c) resigns from office by signed notice given to the Minister; or
 - (d) is removed from office by the Governor in Council under section 12.
- (2) A resignation takes effect on the day on which the notice of resignation is given to the Minister or, if a later day is specified in the notice for its operation, that day.

12 Removal from office

- (1) The Governor in Council may, by gazette notice, remove an appointed member or assistant member if—
 - (a) the member or assistant member is unable to perform the duties of office because of mental or physical incapacity; or
 - (b) the member or assistant member is guilty of misconduct; or
 - (c) the member or assistant member is absent, without prior leave granted by the board and without reasonable excuse, from 3 consecutive meetings of the board of which due notice has been given to the member or assistant member; or
 - (d) the member or assistant member, other than a member appointed under section 6(1)(c), ceases to be a registered valuer.
- (2) For the purposes of subsection (1)(c), attendance of an appointed member or an assistant member at the time and place appointed for a meeting of the board is taken to constitute presence at a meeting even though, because of the lack of a quorum, the meeting does not take place.

13 Casual appointment

- (1) If a vacancy happens in the office of an appointed member or assistant member, the Governor in Council may, under section 6 or 7, appoint a qualified person to the office for the balance of the predecessor's term of appointment.
- (2) If otherwise qualified, a person appointed under subsection (1) is eligible for reappointment.

14 Assistant member may act as board member

The chairperson may authorise an assistant member to act as a member—

- (a) during any period, or all periods, when an appointed member is unable, for any reason, to perform the duties of office; or
- (b) during a vacancy in the office.

15 Who may act as member in absence of valuer-general's nominee

- (1) The valuer-general may authorise a valuer who is an officer of the department to act as a member—
 - (a) during any period, or all periods, when the valuer-general's nominee is unable, for any reason, to perform the duties of office; or
 - (b) during a vacancy in the office.
- (2) If the nominee is chairperson, the officer is not to act as chairperson unless authorised to act under section 16(3).

16 Chairperson

- (1) In every appointment of the whole number of appointed members, the Governor in Council is to appoint a member to be chairperson.
- (2) If a vacancy happens in the office of chairperson, the Governor in Council may, by gazette notice, appoint another member to the vacant office.
- (3) If the chairperson is not present at a meeting of the board, the member appointed by the members present at the meeting may act as chairperson.
- (4) A member acting as chairperson may perform the functions and exercise the powers of the chairperson.

17 Officers of the board employed under this Act

- (1) The board may employ a secretary and other officers necessary for this Act.

- (2) The secretary and other officers are to be employed under this Act, and not under the *Public Service Act 2008*.

18 Meetings of board

- (1) The board is to meet as often as is necessary for the efficient conduct of its business.
- (2) The secretary must give at least 7 days notice of the day and time of a meeting to members.
- (3) The board is to exercise its powers and perform its functions by majority vote.
- (4) A member who abstains from voting is taken to have voted in the negative.
- (5) If the vote on a question is equal, the chairperson has a casting vote.
- (6) The chairperson may adjourn a meeting from time to time.

19 Disclosure of interest

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the board must, as soon as possible after the relevant facts come to the member's knowledge, disclose the interest to a meeting of the board.
- (2) The disclosure is to be recorded in the minutes of the meeting, and, unless the board otherwise determines, the member concerned must not—
 - (a) be present during the consideration by the board of the matter in question; and
 - (b) take part in any decision of the board in respect of the matter.
- (3) A member who makes a disclosure must not—
 - (a) be present during any deliberation by the board as to whether to make a determination under subsection (2) in respect of the member; and

- (b) take part in the making by the board of such a determination.

20 Special meetings

- (1) The chairperson may, and on the request of a member must, convene a special meeting.
- (2) If the chairperson does not convene a special meeting that has been requested within 10 days of the request, the member who requested the meeting may convene the meeting.
- (3) The secretary is to give notice of the time and place of a special meeting and the business to be transacted at the meeting to members.
- (4) Business other than that stated in the notice is not to be transacted at the meeting.

21 Quorum

- (1) A quorum at a meeting or special meeting of the board is 3 members.
- (2) If a quorum is not present within 15 minutes after the time when the meeting is to be held, the meeting is taken to be adjourned to a time and day, not later than 7 days after the adjournment, determined by the secretary.
- (3) If a meeting is adjourned because a quorum is not present, the secretary is to enter in the minute book the names of the members present.

22 Protection of members etc. from liability

- (1) A member, assistant member or an officer of the board incurs no civil liability for an act or omission done or omitted to be done honestly and without negligence under, or for the purposes of, this Act.
- (2) A liability that would, but for this section, attach to a person attaches to the State.

23 Validity of acts

A proceeding of the board is not invalidated merely because of a defect in the qualification, appointment or membership of any member.

24 Remuneration

Members and assistant members are to be paid such fees and allowances as are approved by the Governor in Council.

25 Funds

- (1) All amounts received by or on behalf of the board must be paid into and form part of the funds of the board.
- (2) Expenses of and incidental to the administration of this Act must be paid from the funds of the board.
- (3) Funds that are not immediately required for the administration of this Act may be applied to such objects and purposes as appear to the board calculated to advance the principles, standards or practice of land valuation.

25A Board is statutory body

- (1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the board is a statutory body.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

Part 3 Registration

Division 1 Registered valuers

26 Register

- (1) The board is to keep a register to be called the Register of Valuers of Queensland in such form as it thinks fit.
- (2) The register is to be in the custody of the secretary.
- (3) The secretary is to record in the register the name and other particulars of registered valuers.

27 Inspection of register

A person may inspect the register at the office of the board.

28 Publication of names of registered valuers

The board must publish in the gazette and on the board's website a copy of the register as at 1 July in each year.

29 Applications for registration

- (1) An application to be registered as a valuer is to be—
 - (a) made to the board in a form approved by the board; and
 - (b) supported by such evidence as the board may require; and
 - (c) accompanied by the prescribed fee.
- (2) The board may, by written notice given to the applicant, require the applicant to do either or both of the following—
 - (a) give further information or a document the board reasonably requires to decide the application;

- (b) attend before the board, on the date stated in the notice, to give any further information the board reasonably requires to decide the application.
- (3) A notice under subsection (2)(a) must state a reasonable period of at least 14 days after it is given within which the information or document must be given.
- (4) The board may require the information or document to be verified by statutory declaration.
- (5) The applicant is taken to have withdrawn the application if the applicant—
 - (a) does not comply with a requirement under subsection (2)(a) within the period stated in the notice; or
 - (b) does not attend before the board on the date stated in the notice.
- (6) However, if the board is satisfied with the applicant's reasons for not complying with a notice under subsection (2), the board may—
 - (a) extend the time for complying with subsection (2)(a); or
 - (b) require the applicant to attend before the board on a later date.
- (7) The board must consider the application and decide to grant, or refuse to grant, the application.
- (8) The board must not refuse to grant the application until the board has—
 - (a) given the applicant a written notice that—
 - (i) sets out the reasons for the proposed refusal; and
 - (ii) gives the applicant 30 days in which to make oral or written submissions to the board about the reasons; and
 - (b) considered any submissions made.

30 Qualifications for registration

The board is to register a person as a valuer if the person makes application under section 29 and satisfies the board that the person—

- (a) is of good fame and character and is a fit and proper person to be registered as a valuer; and
- (b) either—
 - (i) holds a certificate of competence recognised by the board and issued by a prescribed institute; or
 - (ii) has passed an examination approved by the board; and
- (c) has had sufficient practical experience over a period of at least 3 years since starting an approved course of study to enable the person to competently value land in Queensland.

31 Investigations about suitability of applicants

- (1) The board may make investigations about an applicant for registration or renewal of registration as a valuer to help the board decide whether the applicant is a suitable person to be registered as a valuer.
- (2) Without limiting subsection (1), the board may ask the commissioner of the police service for a written report about the applicant's criminal history.
- (3) The commissioner must give the report to the board.
- (4) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

31A Consideration of suitability of applicants

- (1) The board may have regard to the commissioner's report about an applicant's criminal history in deciding whether the applicant is a suitable person to be registered as a valuer.

- (2) In having regard to the report, the board must consider the nature of any offence mentioned in the report and the relevance of the offence to the applicant's suitability to be registered as a valuer.

31B Criminal history is confidential document

- (1) An officer, employee or agent of the board must not, directly or indirectly, disclose to anyone else a report, or information contained in a report, given under section 31.

Maximum penalty—100 penalty units.

- (2) However, the officer, employee or agent does not contravene subsection (1) if—
 - (a) disclosure of the report or information to someone else is authorised by the board to the extent necessary to perform a function under or in relation to this Act; or
 - (b) the disclosure is otherwise required or permitted by law.
- (3) The board must destroy the report as soon as practicable after considering the applicant's suitability for registration as a valuer.

32 Entries in register

Registration is effected by entering in the register—

- (a) the name of the person; and
- (b) the person's place of business or, if there is no such place, the person's place of residence; and
- (c) the person's qualifications; and
- (d) any other particulars that are prescribed or that the board considers necessary.

33 Notice of board's decision

- (1) The secretary must give written notice to the applicant of the board's decision on an application for registration.

- (2) If the application is refused, the notice must be an information notice.

34 Certificate to be issued on registration

- (1) When the board first registers a person as a valuer, the secretary must issue a certificate of registration to the person on payment of the annual roll fee determined under subsection (2) and any other prescribed fee.
- (2) The amount of the annual roll fee that is to be paid when the board first registers a person as a valuer is the prescribed roll fee payable to the board for the financial year of registration, reduced by an amount equal to one-twelfth of the fee for each whole month of the financial year that has expired on the day of registration.
- (3) For the purposes of subsection (2), a whole month is taken to have expired if registration is effected after the 15th day of the month.
- (4) A certificate is evidence that the person named in the certificate was registered as a valuer on the day specified in the certificate.

35 Replacement and return of certificate

- (1) If the secretary is satisfied that a certificate issued to a registered valuer has been lost, stolen or destroyed, the secretary may issue to the person a duplicate certificate on payment of the prescribed fee.
- (2) If a person ceases to be a registered valuer, the board may by written notice require the person to deliver the person's certificate of registration to the secretary within 14 days of service of the notice on the person.
- (3) The person must comply with the notice unless the person has reasonable excuse for failing to do so.

Maximum penalty—20 penalty units.

36 Roll fee, late fee and restoration fee

- (1) Before 1 May in each year, a registered valuer must pay to the board the prescribed roll fee for the following financial year.
- (2) A registered valuer who pays the roll fee after 30 April must pay the prescribed late fee.
- (3) If a registered valuer does not pay the roll fee and the late fee before 30 June, the valuer's registration is cancelled and the secretary must remove the person's name and other particulars from the register.
- (4) If a person's registration is cancelled under subsection (3), the board must restore the registration if the person makes written application to the board before the end of the financial year for which the roll fee was payable and pays the roll fee, the late fee and the prescribed restoration fee.

36A Payment of roll fee for up to 5 years

- (1) Despite section 36(1), a registered valuer may pay the roll fee for up to 5 years in advance.
- (2) If particulars of a valuer are removed from the register under section 37(2), the board may refund any roll fee paid for a period after the next annual renewal day after the removal.
- (3) If a roll fee has been paid for a period after the next annual renewal day and the prescribed roll fee for the period is a different amount to the amount paid, the board may—
 - (a) if the prescribed roll fee is less than the amount already paid—refund the difference between the roll fee already paid and the prescribed roll fee; or
 - (b) if the prescribed roll fee is more than the amount already paid—require payment of the difference between the roll fee already paid and the prescribed roll fee.

36B Renewal of registration—statement or certificate about CPD

- (1) In addition to the prescribed roll fee, a registered valuer must, before 1 May in each year, give the board—
 - (a) a statement about, including details of and documents to support, the CPD prescribed under a regulation that the valuer has undertaken during the previous 12 months; or
 - (b) a CPD compliance certificate from a prescribed institute; or
 - (c) a statement about, including details of, and documents to support, the activities the valuer has undertaken that meet a prescribed institute's requirements for a CPD compliance certificate.
- (2) A registered valuer who gives the board a statement or certificate mentioned in subsection (1) after 30 April must pay the late fee prescribed under a regulation.
- (3) If the valuer does not give the board the statement or certificate and pay the late fee before 30 June, the board must cancel the valuer's registration and remove the valuer's name and other particulars from the register.
- (4) However, if the valuer gives the board the statement or certificate and pays the late fee before the end of the financial year to which the renewal of registration relates, the board must restore the valuer's registration.

36C Exemption from providing statement or certificate about CPD

- (1) The board may exempt a registered valuer from the requirement under section 36B(1) to give the board a statement or certificate about the valuer's CPD—
 - (a) in special circumstances; and
 - (b) for no longer than 2 years; and

- (c) if the valuer gives the board an undertaking not to practise as a valuer during the time to which the exemption relates.

Examples for paragraph (a)—

- the valuer's family responsibilities
 - the valuer's absence interstate or overseas
- (2) The valuer must give the board the statement or certificate before the valuer recommences practice as a valuer.

36D Entries in register about renewal of registration

On payment by a registered valuer of the prescribed roll fee for the next financial year, the board must enter in the register—

- (a) renewal of the valuer's registration; and
- (b) in relation to the statement or certificate required under section 36B(1) that—
- (i) the valuer has given the statement or certificate; or
 - (ii) the valuer has been exempted under section 36C(1) from giving the statement or certificate and the period of the exemption.

37 Removal from and alteration of register

- (1) A registered valuer must give written notice to the board of any change in the particulars entered in the register within 30 days after the change happens.
- (2) The board is to remove from the register particulars of a valuer who has died or has, in writing, requested the removal.
- (3) The board may make such other alterations to particulars in the register as are necessary for the register to be an accurate record of the prescribed particulars of valuers.

38 Effect of removal from register

A person whose name and other particulars are removed from the register ceases to be a registered valuer.

39 Cancellation of registration

- (1) The board may order that a valuer's registration be cancelled if—
 - (a) in the board's opinion, the valuer does not possess the qualifications entitling the valuer to registration; or
 - (b) the valuer is mentally or physically incapable of managing the valuer's own affairs; or
 - (c) the valuer has been convicted of an indictable offence (whether in Queensland or elsewhere).
- (2) The board must not act under subsection (1) unless the board has given the valuer a written notice that—
 - (a) sets out the reasons for the proposed cancellation; and
 - (b) gives the valuer 30 days in which to make oral or written submissions to the board in relation to the reasons.
- (3) If the board cancels a valuer's registration under this section, the board must give the valuer an information notice for the decision.
- (4) If the board cancels a valuer's registration under this section, the board must—
 - (a) remove the name and other particulars of the valuer from the register; and
 - (b) publish notice of the removal in a newspaper circulating throughout the State and on the board's website.

40 Restoration of registration after removal under s 37

- (1) A person whose particulars are removed from the register under section 37 may make written application to the board for restoration of the registration.

[s 41]

- (2) An application under subsection (1) is to be accompanied by the fee prescribed under a regulation and the statement or certificate mentioned in section 36B(1).
- (3) If the board is satisfied that the person is qualified to be registered the board is to give effect to the application.
- (4) When the board restores a person's registration as a valuer and the roll fee for the financial year has not been paid, the roll fee that is to be paid to the board is to be reduced by an amount equal to one-twelfth of the fee for each whole month of the financial year that has expired on the day of restoration.
- (5) For the purposes of subsection (4), a whole month is taken to have expired if registration is effected after the 15th day of the month.
- (6) If the board decides to refuse to restore the applicant's registration, the board must give the applicant an information notice for the decision.

41 Unauthorized dealing with register

Unless otherwise authorised by this Act, a person must not—

- (a) make an entry in the register; or
- (b) alter an entry in the register; or
- (c) remove a name or other particulars from the register; or
- (d) restore a name or other particulars to the register.

Maximum penalty—50 penalty units.

42 Waiver of fee

Despite any other provision of this Act, the board may waive the whole or part of a fee payable on an application for registration or restoration of a name to the register, or the issue of a certificate, if it appears to the board just to do so.

Division 2 Specialist retail valuers

42A List of specialist retail valuers

- (1) The board must keep a list of specialist retail valuers.
- (2) The list must be kept separate from the register.

42B Valuers may apply to be recorded as specialist retail valuers

- (1) An individual who is a registered valuer may apply to the board to be recorded as a specialist retail valuer.
- (2) The application must be in the form approved by the board and accompanied by the fee prescribed by regulation.

42C Grant of application

If the board is satisfied the applicant has enough experience in retail rental valuation, it must—

- (a) approve the application and record the applicant's name on the list of specialist retail valuers; and
- (b) give written notice to the applicant of the recording of the applicant's name on the list.

42D Refusal of application

If the board is not satisfied the applicant has enough experience in retail rental valuation it must—

- (a) refuse the application; and
- (b) give the applicant an information notice for the decision to refuse.

42F Inspection of list

- (1) The board must—

[s 42FA]

- (a) keep the list of specialist retail valuers open for inspection by members of the public during office hours on business days at the board's office; and
 - (b) permit a person to take extracts from the list or, on payment of the appropriate fee by a person, give the person a copy of the list or part of it.
- (2) The fee for a copy of the list or part of it is the amount that—
- (a) the board considers to be reasonable; and
 - (b) is not more than the reasonable cost of making the copy.

42FA Renewal of recording of registered valuer on list of specialist retail valuers

A registered valuer who is recorded as a specialist retail valuer on the list kept by the board must, to remain on the list, before 1 May in each year—

- (a) pay the board the fee prescribed under a regulation; and
- (b) give the board a statement about, including details of and documents to support, the CPD relating to retail rental valuation prescribed under a regulation that the valuer has undertaken during the previous 12 months.

42FB Payment of fee for recording on list for up to 5 years

- (1) Despite section 42FA, a specialist retail valuer may pay the fee mentioned in section 42FA(a) for up to 5 years in advance.
- (2) If particulars of a specialist retail valuer are removed from the list of specialist retail valuers under section 42G(1), the board may refund any fee paid for a period after the next annual renewal day after the removal.
- (3) If a fee has been paid for a period after the next annual renewal day and the prescribed fee for the period is a different amount to the amount paid, the board may—

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- (a) if the prescribed fee is less than the amount already paid—refund the difference between the fee already paid and the prescribed fee; or
 - (b) if the prescribed fee is more than the amount already paid—require payment of the difference between the fee already paid and the prescribed fee.

42FC Exemption from providing statement about CPD relating to retail rental valuation

- (1) The board may exempt a specialist retail valuer from the requirement under section 42FA(b) to give the board a statement about the specialist retail valuer's CPD relating to retail rental valuation—
 - (a) in special circumstances; and
 - (b) for no longer than 2 years; and
 - (c) if the specialist retail valuer gives the board an undertaking not to practise as a specialist retail valuer during the time to which the exemption relates.

Examples for paragraph (a)—

- the specialist retail valuer's family responsibilities
 - the specialist retail valuer's absence interstate or overseas
- (2) The specialist retail valuer must give the board the statement before the valuer recommences practice as a specialist retail valuer.

42FD Entries on list of specialist retail valuers about renewal

On payment by a specialist retail valuer of the fee mentioned in section 42FA(a), the board must record on the list—

- (a) renewal of the recording of the valuer as a specialist retail valuer; and
- (b) in relation to the statement required under section 42FA(b) that—
 - (i) the valuer has given the statement; or

- (ii) the valuer has been exempted under section 42FC(1) from giving the statement and the period of the exemption.

42G Effect of loss of registration

- (1) If the board removes a specialist retail valuer's name from the register, the board must also remove the person's name from the list of specialist retail valuers.
- (2) The person ceases to be a specialist retail valuer on removal of the person's name from the list.

42GA Removal from list of specialist retail valuers

- (1) The board may remove a valuer's particulars from the list of specialist retail valuers kept by the board if the board considers the valuer does not have the qualifications to remain on the list.
- (2) The board must not remove the particulars unless the board gives the valuer written notice—
 - (a) stating the reasons for the proposed removal; and
 - (b) giving the valuer 30 days to make oral or written submissions to the board about the reasons.
- (3) If the board decides to remove a valuer's particulars under subsection (1), the board must give the valuer an information notice for the decision.

42GB Restoration of name on list

- (1) A valuer whose particulars are removed from the list of specialist retail valuers under section 42GA(1) may apply to the board for restoration of the valuer's particulars on the list.
- (2) The application must be—
 - (a) in writing; and

- (b) accompanied by the fee prescribed under a regulation and the statement mentioned in section 42FA(b).
- (3) If the board is satisfied the valuer has the qualifications to be recorded on the list, the board must grant the application.
- (4) If the board restores a valuer's particulars to the list and the fee mentioned in section 42FA has not been paid, the fee payable is calculated by reducing the prescribed fee by one twelfth for each whole month of the financial year that has passed at the time the particulars are restored.
- (5) For subsection (4), a whole month is taken to have passed if the particulars are restored after the 15th day of the month.

42GC Unauthorised dealing with list of specialist retail valuers

A person must not, other than under this Act—

- (a) record particulars on the list of specialist retail valuers; or
- (b) alter particulars on the list; or
- (c) remove particulars from the list; or
- (d) restore particulars to the list.

Maximum penalty—50 penalty units.

42GD Waiver of fee

The board may waive payment of the whole or part of a fee payable under section 42B(2), 42FA(a) or 42GB(4) if the board considers it reasonable in the circumstances to do so.

42H Disciplinary proceedings against specialist retail valuers

- (1) This section applies if the board suspects on reasonable grounds that a specialist retail valuer has—
 - (a) knowingly contravened section 28(3) of the *Retail Shop Leases Act 1994*; or

- (b) contravened section 29 or 32 of the *Retail Shop Leases Act 1994*.
- (2) Part 4 applies to the contravention as if the valuer had contravened a prescribed code of professional conduct.

Part 4 Complaints and discipline

43 Complaints

- (1) A person who is aggrieved by the conduct of a registered valuer may complain to the board.
- (2) A complaint must be in writing.

44 Board may authorise investigation

- (1) The board may—
 - (a) on a complaint made under section 43 or of its own initiative, authorise a person who is not a member or an assistant member to carry out an investigation of conduct of a registered valuer on behalf of the board; or
 - (b) if it suspects on reasonable grounds that a registered valuer has contravened a prescribed code of professional conduct—authorise a person who is not a member or an assistant member to carry out an investigation in relation to the suspected contravention on behalf of the board; or
 - (c) if it suspects on reasonable grounds that a person who is not a registered valuer has contravened section 63—authorise a person who is not a member or an assistant member to carry out an investigation in relation to the suspected contravention on behalf of the board.
- (2) The investigator must give the board a written report on the investigation.

- (3) The board must not authorise the investigation of a complaint that in its opinion is frivolous or vexatious.
- (4) The board may authorise an investigator to continue to carry out an investigation of the conduct of a registered valuer even if the complaint, on which the investigation was authorised, is withdrawn.

45 Powers of investigator

- (1) An investigator may, if it is reasonably necessary for the purposes of the investigation concerned, by written notice given to a person, require the person—
 - (a) to attend before the investigator, at a reasonable time and place specified in the notice, and there and then answer any questions; and
 - (b) to produce to the investigator, at a reasonable time and place specified in the notice, a document or thing in the person's custody or under the person's control.
- (2) If the document or thing is produced to the investigator, the investigator may—
 - (a) examine the document or thing; and
 - (b) make copies of, or take extracts from the document or photograph the thing; and
 - (c) if the investigator reasonably considers it necessary to do so—keep the document or thing for 60 days or, if a prosecution for an offence against this Act of which the document or thing may afford evidence is instituted within that period, until the completion of the proceeding for the offence and of any appeal from the decision in relation to the proceeding.
- (3) While the investigator has possession of the document the investigator must allow it to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the investigator's possession.

- (4) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1) to the extent that the person is capable of doing so commits an offence.

Maximum penalty—20 penalty units.

- (5) It is a reasonable excuse for a person to fail to comply with a requirement under subsection (1) if complying with the requirement might tend to incriminate the person.

46 Entry and search—evidence of offences

- (1) Subject to subsection (3), if an investigator has reasonable grounds for suspecting that there is in a place a particular thing (*the evidence*) that may afford evidence of the commission of an offence against this Act, the investigator may—

- (a) enter the place; and
- (b) exercise the powers set out in section 47.

- (2) If the investigator enters the place and finds the evidence, the following provisions have effect—

- (a) the investigator may seize the evidence;
- (b) the investigator may keep the evidence for 60 days or, if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceeding for the offence and of any appeal from the decision in relation to the proceeding;
- (c) if the evidence is a document—while the investigator has possession of the document, the investigator may take extracts from and make copies of the document, but must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the investigator's possession.

- (3) The investigator must not enter the place or exercise a power under subsection (1) unless—

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- (a) the occupier of the place consents to the entry or exercise of the power; or
 - (b) a warrant under section 48 that was issued in relation to the evidence authorises the entry or exercise of the power.
- (4) If, while searching the place under subsection (1) under a warrant under section 48, the investigator—
- (a) finds a thing that the investigator believes, on reasonable grounds to be—
 - (i) a thing (other than the evidence) that will afford evidence of the commission of the offence mentioned in subsection (1); or
 - (ii) a thing that will afford evidence of the commission of another offence against this Act; and
 - (b) the investigator believes, on reasonable grounds, that it is necessary to seize the thing to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) its use in committing, continuing or repeating the offence mentioned in subsection (1) or the other offence, as the case may be;
- subsection (2) applies to the thing as if it were the evidence.
- (5) An investigator who seizes or damages anything under this section must give written notice of particulars of the thing or damage.
- (6) The notice must be given to—
- (a) if anything is seized—the person from whom the thing was seized; or
 - (b) if damage is caused to anything—the person who appears to the investigator to be the owner.

47 General powers of investigator in relation to places

- (1) The powers an investigator may exercise under section 46(1)(b) in relation to a place are as follows—

- (a) to search any part of the place;
 - (b) to inspect, examine or photograph anything in the place;
 - (c) to take extracts from, and make copies of, any documents in the place;
 - (d) to take into the place such equipment and materials as the investigator reasonably requires for the purpose of exercising any powers in relation to the place;
 - (e) to require the occupier or any person in the place to give to the investigator reasonable assistance in relation to the exercise of the investigator's powers mentioned in paragraphs (a) to (d).
- (2) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1)(e) to the extent that the person is capable of doing so commits an offence.
- Maximum penalty—20 penalty units.
- (3) It is a reasonable excuse for a person to fail to comply with a requirement under subsection (1)(e) if complying with the requirement might tend to incriminate the person.

48 Warrants

- (1) An investigator may apply to a magistrate for a warrant under this section in relation to a particular place.
- (2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 72 hours, in the place a particular thing (*the evidence*) that may afford evidence relevant to the investigator's investigation.
- (3) If the magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the magistrate must not issue the warrant unless the investigator has given the information to the magistrate in the form (either orally or by affidavit) that the magistrate requires.
- (4) The warrant must—

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- (a) authorise the investigator, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise the powers set out in section 47; and
 - (iii) to seize the evidence; and
 - (b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
 - (c) specify the day (not more than 7 days after the issue of the warrant) on which the warrant ceases to have effect; and
 - (d) state the purpose for which the warrant is issued.

49 Charge of offence may be laid

If, after considering an investigator's report, the board considers that a prima facie case of an offence against section 63 has been made out against a person, the board may commence proceedings under section 64.

50 Disciplinary proceedings

- (1) This section applies if, after considering an investigator's report, the board reasonably considers that a valuer has engaged in—
 - (a) professional misconduct; or
 - (b) incompetence or negligence in the person's performance as a valuer.
- (2) The board may, as it considers appropriate in the circumstances—
 - (a) refer the matter to QCAT to decide; or
 - (b) if it considers the matter does not warrant referral to QCAT—

[s 51]

- (i) take disciplinary action against the valuer under section 51; or
 - (ii) take no further action.
- (3) A referral under subsection (2)(a) must be made as provided under the QCAT Act.

51 Board may take disciplinary action

- (1) Subject to section 52, the board may do 1 or more of the following—
 - (a) admonish or reprimand the valuer;
 - (b) order the valuer to give an undertaking to abstain from particular conduct;
 - (c) order the valuer to pay to the board a penalty of an amount equal to not more than 20 penalty units.
- (2) The board must give a valuer an information notice for its decision to take action against the valuer under subsection (1).
- (3) The board may publish, in the newspaper or on its website, notice of any action taken under subsection (1).

52 Notice of intention to take disciplinary action

- (1) Before taking action against a valuer under section 51, the board must give to the valuer written notice of its intention to take the action.
- (2) The notice must state—
 - (a) the professional misconduct, incompetence or negligence alleged against the valuer; and
 - (b) the facts and circumstances forming the basis for the allegations; and
 - (c) a day, at least 14 days after the day the notice is given, by which the valuer may, in relation to the allegations stated in the notice—
 - (i) make written representations to the board; or

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- (ii) request the board to hear him or her; or
 - (iii) require the board to refer the matter to QCAT.
- (3) If the valuer requests a hearing, the board must advise the valuer of a time and place at which the valuer may appear before the board.
 - (4) When deciding the action to be taken against a valuer under section 51, the board must consider any representations made by the valuer about the allegations.
 - (5) If the valuer requires the board to refer the matter to QCAT, the board can not proceed to take action against the valuer under section 51.

59 QCAT may order cancellation of registration, etc.

- (1) If QCAT finds a registered valuer has engaged in professional misconduct, incompetence or negligence, QCAT may do 1 or more of the following—
 - (a) admonish or reprimand the valuer;
 - (b) order the valuer to give an undertaking to abstain from specified conduct;
 - (c) order the valuer to pay to the board a penalty of an amount equal to not more than 100 penalty units;
 - (d) order that the valuer's registration be suspended for up to 12 months;
 - (e) order that the valuer's registration be cancelled.
- (2) QCAT may order the valuer to pay to the board, within a stated time, the costs or part of the costs of and incidental to the proceeding, including the costs or part of the costs of the investigation that led to the proceeding.
- (3) An order under subsection (1)(c) or (2) may contain a direction that the valuer's registration is to be suspended for a stated period or cancelled if the valuer fails to pay the penalty or costs within the stated time.

[s 60]

- (4) If the valuer does not pay the penalty or costs within the stated time, the valuer's registration is suspended or cancelled in accordance with the direction.
- (5) If QCAT makes an order under subsection (1)(e), or the valuer's registration is cancelled under subsection (4), subject to an order made by QCAT, the board must—
 - (a) remove the name and other particulars of the valuer from the register; and
 - (b) publish notice of the removal in a newspaper circulating throughout the State and on the board's website.
- (6) Subject to an order made by QCAT, the board may also publish, in the newspaper or on its website, notice of any action taken under subsection (1)(a) to (d) or any suspension of a valuer's registration under subsection (4).

60 Effect of removal and suspension

- (1) A person whose name and other particulars are removed from the register under section 59 ceases to be a registered valuer.
- (2) A person whose registration is suspended under section 59 is, during the suspension, taken not to be a registered valuer.

61 Review of particular decisions

- (1) A person aggrieved by—
 - (a) a refusal by the board of the person's application for registration as a valuer; or
 - (b) a refusal by the board to restore the person's name and other particulars to the register; or
 - (c) an admonition, reprimand or other order of the board; or
 - (d) a refusal by the board of the person's application to be recorded as a specialist retail valuer; or
 - (f) a decision by the board to remove the person's name from the list of specialist retail valuers; or

(g) an order under section 39 that a valuer's registration be cancelled;

may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

(4) If on review an order is made for payment of a monetary penalty by the applicant, the payment is to be made to the board.

Part 5 **Miscellaneous**

62 **False statements**

A person must not—

- (a) make a statement to the board that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to the board anything without which the statement is, to the person's knowledge, misleading in a material particular; or
- (c) give to the board a document containing information that the person knows is false, misleading or incomplete in a material particular without, at the same time—
 - (i) indicating that the document is false, misleading or incomplete and the respect in which it is false, misleading or incomplete; and
 - (ii) giving correct information if the person has, or can reasonably obtain, the correct information.

Maximum penalty—50 penalty units.

63 **Practice of unregistered valuer prohibited**

(1) Subject to subsections (2) and (3), a person who is not a registered valuer must not—

[s 64]

- (a) hold himself or herself out as being a registered valuer;
or
- (b) carry on or attempt to carry on the business of a registered valuer; or
- (c) take, use or exhibit a name, letter, word, title, description or symbol that, either alone or in the circumstances in which it is taken—
 - (i) is capable of being reasonably understood to indicate; or
 - (ii) is intended by the person to indicate;

that the person is a registered valuer or is entitled to carry on the business of a registered valuer.

Maximum penalty—100 penalty units.

- (2) If the person is a body corporate, an offence against subsection (1) is not committed if at least 1 director or member of the board of management of the body corporate or an employee of the body corporate is a registered valuer.
- (3) It is not an offence against subsection (1) for a person who is an architect, engineer or quantity surveyor to make cost assessments or cost estimates in relation to a building, structure or improvement in the course of the person's professional duties.

64 Proceedings on behalf of board

- (1) A proceeding in a court in the name of the board may be instituted by the chairperson, the secretary or a person authorised by the chairperson.
- (2) All penalties ordered to be paid in respect of offences against this Act are payable to the board.
- (3) All fees payable to the board under this Act constitute debts due to the board and may be recovered in a court having jurisdiction for the recovery of debts up to the amount concerned.

65 Evidentiary provisions

In a proceeding for the purposes of this Act—

- (a) a certificate purporting to be signed by the secretary that a person named in the certificate—
 - (i) was or was not at a time or for a period specified in the certificate a registered valuer; or
 - (ii) was removed from the register on a date specified in the certificate; or
 - (iii) was suspended for a period specified in the certificate;is evidence of the fact stated in the certificate; and
- (b) it is not necessary to prove—
 - (i) the authority of the person who instituted the proceeding; or
 - (ii) the appointment of a member of the board.

66 Regulation-making power

- (1) The Governor in Council may make regulations for the purposes of this Act.
- (2) A regulation may prescribe a code of professional conduct for valuers.

Part 6 Transitional provisions

Division 1 Transitional provisions for Valuers Registration Act 1992

70 Savings and transitional

- (1) A person registered as a valuer under the repealed Act immediately before the commencing day is taken to be registered as a valuer under this Act.
- (2) The Register of Valuers of Queensland kept under the repealed Act and existing immediately before the commencing day, is taken to be the Register of Valuers of Queensland kept under this Act.
- (3) For the purposes of the constitution of the board continued in existence under section 5, the persons appointed to and holding office under the repealed Act immediately before the commencing day are taken to be the appointed members until the end of the term for which they were appointed under the repealed Act.
- (4) On the commencing day—
 - (a) an application for registration under the repealed Act as a valuer that is not disposed of before that day is, subject to subsection (6), to be treated as an application duly made to the board for registration under this Act as a valuer; and
 - (b) a proceeding by way of disciplinary action against a person registered under the repealed Act as a valuer that is not disposed of before that day is to be continued and disposed of under that Act; and
 - (c) a proceeding by way of an appeal instituted under section 21 of the repealed Act by a person registered as a valuer under that Act that is not disposed of before that day may be continued and disposed of under this Act; and

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- (d) an amount by way of penalty or costs that was payable to The Valuers Registration Board of Queensland under an order made under section 20 of the repealed Act is payable to, and recoverable by the board, as if the order were an order of a committee under this Act.
- (5) If—
- (a) a person's name and other particulars were removed from the Register of Valuers of Queensland kept under the repealed Act under a direction given under section 19 or 20 of that Act; and
 - (b) the time allowed for instituting an appeal under section 21 of that Act has not expired; and
 - (c) no appeal has been instituted;
- the person may, before the end of that time, appeal against that order under section 61 as if it were an order of a committee made under section 59.
- (6) A person who—
- (a) started a course of study before 1 January 1992; and
 - (b) satisfies the requirements of provision 2 of section 13 of the repealed Act;
- is taken to comply with the requirements of section 30 of this Act.
- (7) In this section—
- repealed Act* means the *Valuers Registration Act 1965*.

71 References to repealed Act

A reference in an Act or document to the *Valuers Registration Act 1965* is taken to be a reference to this Act.

Division 2 **Transitional provisions for Valuers Registration Amendment Act 2001**

72 **Definition for div 2**

In this division—

amending Act means the *Valuers Registration Amendment Act 2001*.

73 **Publication of names of registered valuers—s 28**

Despite the commencement of section 9 of the amending Act, the board—

- (a) must publish a copy of the register as at 1 January 2002; and
- (b) is not required to publish a copy as at 1 July 2002.

74 **Roll fee—s 36**

On the commencement of section 12 of the amending Act, section 36 has effect in the following way—

- (a) in the year 2001, roll fees are payable as if section 36 had not been amended;
- (b) in the year 2002, roll fees are payable for the second half of the financial year that begins on 1 July 2002 and ends on 30 June 2003;
- (c) in the year 2003, roll fees are payable under section 36 as amended by the amending Act.

Division 3 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2005

75 Definition for div 3

In this division—

amending Act means the *Natural Resources and Other Legislation Amendment Act 2005*.

76 Renewal of registration

Despite the amendment of section 36B by the amending Act, that section, as in force immediately before the commencement of this section, applies to the renewal of a valuer's registration for the financial year beginning on 1 July 2006.

77 Renewal of recording on list of specialist retail valuers

Despite the amendment of section 42FA by the amending Act, that section, as in force immediately before the commencement of this section, applies to the renewal of a valuer's recording as a specialist retail valuer for the financial year beginning on 1 July 2006.

Division 4 Transitional provision for Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009

78 Effect of charge laid under previous section 50

(1) This section applies if, immediately before the commencement, a charge had been laid by an investigator

against a registered valuer under previous section 50(1), but no committee had been appointed under previous section 50(3).

- (2) From the commencement, the charge ceases to have effect.
- (3) Subsection (2) does not limit the board's powers to take action under section 50(2).
- (4) In this section—

commencement means the commencement of this section.

previous, if followed by a provision number, means the provision of that number in force before the commencement.

Note—

See also the QCAT Act, chapter 7.