



BOARD COMMUNIQUE



COMMUNICATION TO REGISTERED CONSULTING SURVEYORS

Important information for:

1. **Employees and directors holding a consulting endorsement**
2. **Partnerships providing cadastral surveying services**
3. **Corporations which provide cadastral surveying services, and are not Registered Consulting Surveyors**

1 Consulting Endorsement for Individuals

Registered consulting surveyors who are employees will not be able to renew their consulting endorsement this coming year.

Under Section 36 of the *Surveyors Act 2003*, in order for an individual registered surveyor to obtain a consulting endorsement, the person must:

- (a) have been assessed as competent;
- (b) intend to carry on a business providing surveying services; and
- (c) hold the prescribed insurance cover.

Based on advice from Crown Law, the Board's understanding of these provisions is that an employee (other than a director) cannot comply with item (b) above.

Also, the Board's advice is that for a surveyor to comply with item (c) above, they must personally hold the prescribed insurance; it is not sufficient to be covered by the employer's insurance. This also applies if the surveyor is a director of the corporation.

As a result of this, under the current provisions of the Act the Board is not able to renew the registration of any individual consulting surveyor who is an employee, or who is not able to demonstrate that they personally hold the prescribed PI insurance.

This will not jeopardise the consulting endorsement of any corporation, as it is not a requirement under the Act that the corporation employ a person with a consulting endorsement. The requirement is to employ a registered surveyor.

What the Board will do

The Board does not consider that this was the intention of the legislation, and will seek to have the Act amended to correct these anomalies, so that to obtain a consulting endorsement:

- (a) to satisfy the insurance requirement, it is sufficient that the employee be covered by the employer's insurance; and
- (b) it is not necessary to "intend to carry on a business providing surveying services".

The Board will also request that the requirements for a corporation to obtain a consulting endorsement be amended, so that the corporation must employ an individual who is a consulting surveyor.

What you need to do

If you are an individual consulting surveyor who is an employee, do not apply for renewal of your consulting endorsement this year. The Board will keep a record of such persons, and if the Act is amended as requested, will re-enter these persons onto the register if they so wish.

If you are a director of a company that is registered as a surveyor, and wish to renew your consulting endorsement this year, you will need to make arrangements with your insurer so that you personally hold PI insurance.

2 Partnerships providing cadastral surveying services

Where a partnership provides cadastral surveying services, each partner must be a registered cadastral surveyor with a consulting endorsement.

The *Surveyors Act 2003* prohibits persons from charging a fee for carrying out a cadastral survey (s.75), or conducting a business providing cadastral surveying services (s.76, unless the person is a registered cadastral surveyor with a consulting endorsement. The 'person' can be either an individual or a corporation. A partnership cannot be a registered surveyor.

The Board's understanding of the Act, based on advice from Crown Law, is that in order for a partnership to comply with the requirements of Sections 75 and 76, all of the partners must be registered cadastral surveyors with a consulting endorsement. There are currently a number of surveying practices set up as partnerships, which do not comply with this.

What the Board will do

The Board considers that the purposes of the Act can be achieved provided at least one partner is a cadastral surveyor with a consulting endorsement, and will seek to have the Act amended so that such a partnership is not contravening sections 75 and 76.

What you need to do

Partnerships that provide cadastral surveying services must cease doing so, and cease using the partnership to deal with clients in relation to the provision of these services. The business arrangements need to be altered so that the business is being provided by a consulting cadastral surveyor. A test of who is conducting the business is "Who is being paid for the work?".

One solution in some cases may be to register the partnership as a company. We suggest that you seek legal advice in relation to your particular situation.

3 Corporations providing cadastral surveying services

A corporation that provides cadastral surveying services must be registered as a cadastral surveyor with a consulting endorsement.

The *Surveyors Act 2003* prohibits persons from conducting a business providing cadastral surveying services (s.76), unless the person is a registered cadastral surveyor with a consulting endorsement. The 'person' can be either an individual or a corporation.

Some incorporated corporations may be operating on the premise that, to comply with s.76, it is not necessary for the corporation to be a consulting cadastral surveyor, and it is sufficient to employ a consulting cadastral surveyor. However, if it is the corporation that is dealing with the clients—receiving instructions, entering into contracts, receiving payment, etc.—then the Act is quite clear that the corporation must be a registered consulting surveyor with a cadastral endorsement.

What the Board will do

The Board considers it appropriate that a corporation which carries on a business providing cadastral surveying services must be a registered cadastral surveyor with a consulting endorsement.

What you need to do

Corporations that are not registered as a cadastral surveyor with a consulting endorsement must not provide cadastral surveying services, even if they employ a registered cadastral surveyor with a consulting endorsement. The corporation may wish to apply for registration as a cadastral consulting surveyor.