1957

CHAPTER 39

An Act to amend The Alberta Land Surveyors Act

(Assented to April 11, 1957)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. The Alberta Land Surveyors Act, being chapter 169 of the Revised Statutes of Alberta, 1955, is hereby amended.

2. Section 30 is struck out and the following is substituted:

"30. (1) A person is entitled to be registered as an Alberta land surveyor who

"(a) for at least three years has followed in the Faculty of Engineering of any college or university a regular course of study in all the branches of education required by this Act,

"(b) has received from the college or university a diploma or certificate,

"(c) has served a term or terms totalling one year under articles with an Alberta land surveyor including six months actual practice with him in the field and has produced a certificate from the said surveyor together with his own affidavit in Forms C and D respectively in the Schedule proving his service,

"(d) has passed a final examination in such subjects as the Board may prescribe, and

"(e) has paid the necessary fee.

"(2) The Board, in its absolute discretion, may decide whether the course of instruction in the college or university meets the requirements of this section.

"(3) If a person produces evidence that he has satisfactorily completed the first two academic years of his course of study, he may then enter into articles with an Alberta land surveyor, and such periods of time as he may thereafter spend in the actual service of such surveyor shall be deemed to be service under articles.

"(4) If a person who serves under articles as provided in subsection (3) does not receive a diploma or certificate as required by subsection (1), his term of service under articles and the period of actual field practice to be in-
cluded therein shall be such as the Board may require, and upon completing such term of service and fulfilling the requirements of clauses (d) and (e) of subsection (1), such person is entitled to be registered as an Alberta land surveyor.”.

3. Section 36 is repealed.

4. The heading preceding section 38 and section 38 are struck out and the following heading and sections are substituted:

“Discipline Committee

38. (1) The Council shall from time to time appoint and shall always maintain for the purposes hereinafter named, a committee of not less than five members of its own body to be known as the discipline committee.

(2) Three members of the discipline committee constitute a quorum.

(3) The Council may at any time alter the number, constitution, and tenure of office of the discipline committee.

38a. Conduct unbecoming a land surveyor is a question of fact which shall be determined by the Council or the discipline committee and any matter, conduct or thing that, in the judgment of the Council or of the discipline committee, is such as to be injurious to the best interests of the public or the profession shall be held to be conduct unbecoming a land surveyor.

38b. For the purpose of completing and reporting upon any matters relating to discipline begun while he was a member of the Council, a member of the discipline committee or of the Council may continue to act as such, notwithstanding that he may no longer be a member of the Council.

38c. The discipline committee shall make a preliminary investigation respecting any allegation of conduct unbecoming a land surveyor on the part of any member

(a) when a complaint in writing has been made to the Council by any person respecting such member, or

(b) if in the opinion of the Council or of the discipline committee the conduct of the member ought to be investigated.

38d. When the discipline committee conducts a preliminary investigation or a formal hearing respecting any member the discipline committee shall report its findings to the Council.

38e. (1) Before making any preliminary investigation the discipline committee shall give at least ten days’ notice in writing to the member whose conduct is to be investigated, of its intention to make the investigation.

(2) The notice shall specify in general terms the mat-
ter to be investigated and shall be served either personally or by registered mail addressed and mailed to the member at his last post office address on the register of the Association.

"(3) The member whose conduct is to be investigated shall be given a reasonable opportunity to submit to the discipline committee a written statement respecting the matters under investigation.

"38f. If, in the opinion of the discipline committee, the evidence obtained by it on the preliminary investigation does not warrant a charge of conduct unbecoming a land surveyor, the discipline committee shall, with the approval of the Council, dismiss the complaint and so notify the complainant, if any, and the person whose conduct had been subjected to preliminary investigation.

"38g. If, in the opinion of the discipline committee, the evidence obtained by it on the preliminary investigation warrants a further investigation, the discipline committee shall notify the Council accordingly with a recommendation that a formal hearing be conducted.

"38h. The Council, on receipt of a recommendation from the discipline committee pursuant to section 38g shall inform itself of the facts of the case and in its sole discretion shall thereupon direct the discipline committee either

"(a) to dismiss the complaint and so notify the complainant, if any, and the person whose conduct had been subjected to preliminary investigation, or

"(b) to hold a formal hearing in respect of the matters under investigation.

"38i. (1) If a formal hearing is directed by the Council pursuant to section 38h, the discipline committee shall give to the member whose conduct is being investigated at least thirty days written notice respecting the time and place at which such hearing will be held, and specifying the matters to be investigated.

"(2) The notice shall be served in the same manner as is provided in section 38e.

"38j. In preparation or in the conduct of any investigation or hearing, the Council or the discipline committee may employ at the expense of the Association such legal or other assistance as it thinks necessary.

"38k. In the event of the non-attendance at a hearing of a person whose conduct is the subject of inquiry, the Council or the discipline committee upon proof by statutory declaration or otherwise of the proper service of the notice of the hearing, may proceed with the hearing, and take any action authorized under this Act without further notice to such person.

"38l. (1) For the purposes of an investigation by the discipline committee, the discipline committee may summon witnesses and require them

"(a) to give evidence on oath, orally or in writing or,
If the witnesses are persons entitled to affirm in civil matters, on solemn affirmation, and

"(b) to produce such documents and things as the discipline committee deems requisite to the full investigation of the matter before the committee.

"(2) The discipline committee has the same powers to enforce the attendance of witnesses and to compel them to give evidence as is vested in a court of record in civil cases.

"38m. (1) When, upon completion of the formal hearing, the discipline committee finds the member to be not guilty of conduct unbecoming a land surveyor, the discipline committee shall, with the approval of the Council, dismiss the charge and so notify the complainant, if any, and the person whose conduct has been the subject of the formal hearing.

"(2) When, upon completion of the formal hearing, the discipline committee finds the member to be guilty of conduct unbecoming a land surveyor but considers that the offence is not of such gravity or importance as to warrant the suspension or the striking of the name of the member from the register, the discipline committee shall, with the approval of the Council, reprimand, censure or warn the member.

"(3) When, upon completion of the formal hearing, the discipline committee finds the member to be guilty of conduct unbecoming a land surveyor and considers the offence to be grave, the discipline committee shall, in its report to the Council, recommend either that the member be suspended or that his name be struck from the register.

"38n. (1) The council, upon receipt of a recommendation of the discipline committee made pursuant to subsection (3) of section 38m, shall inform itself of the evidence presented at the hearing and having regard to the recommendation of the discipline committee shall, in its sole discretion,

"(a) suspend the member for such time as the Council may determine, or

"(b) direct the Registrar to strike the name of the member from the register.

"(2) When a member is suspended under this section he shall not practise as a land surveyor during the period of the suspension.

"(3) When pursuant to this section the name of a member is struck from the register, the member thereupon ceases to be entitled to practise as a land surveyor.

"38o. (1) Any person who has been suspended or whose name has been struck from the register may appeal from the order of the Council to a judge of the Supreme Court at any time within thirty days after the date of the order.

"(2) The court may, upon hearing the appeal, make an order either confirming or reversing the order appealed against.
"38p. (1) An appeal, notice of which shall be served upon the Registrar, shall be founded upon
(a) a copy of the proceedings before the discipline committee, and
(b) the evidence taken and the order of the Council.
(2) The Registrar, upon the request of any person desiring to appeal, shall furnish him with a certified copy of all proceedings, reports, orders and papers upon which the Council acted in making the order appealed against.

"38q. Upon furnishing the Council with an affidavit to the effect that there is new evidence that could materially have affected the decision of the Council, and upon setting out the evidence, any member who has been suspended or any person whose name has been struck from the register may, either before or after an appeal to a judge of the Supreme Court, apply to the Council for a re-hearing.

"38r. Upon receipt of an affidavit pursuant to section 38q, the council shall re-hear the matter and render its decision.

"38s. No action lies against the Council or the discipline committee or members thereof for any proceedings taken or judgments given or enforced under the disciplinary provisions of this Act."

5. Section 39 is amended
(a) as to clause (c) by striking out the word "twenty" and by substituting the word "ten",
(b) by striking out clause (d).

6. This Act comes into force on the day upon which the Revised Statutes of Alberta, 1985, come into force.