

Western Australia

Land Valuation Tribunals Act 1978

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Land Valuation Tribunals Act 1978

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Western Australia

Land Valuation Tribunals Act 1978

An Act to provide for the establishment of Land Valuation Tribunals and to define the jurisdiction, powers and procedures of such Tribunals and for other purposes.

Part I — Preliminary

1. Short title

This Act may be cited as the *Land Valuation Tribunals Act 1978*¹.

2. Commencement

This Act shall come into operation on the date on which the *Valuation of Land Act 1978* comes into operation¹.

[3. *Repealed by No. 10 of 1998 s. 76.*]

4. Interpretation

In this Act unless the context requires otherwise —

“**acting Chairman**” means any person appointed under section 7 to act as Chairman of a Tribunal;

“**acting member**” means any person appointed under section 7 to act as a member of a Tribunal and includes an acting Chairman;

“**authority**” means the Valuer-General or any rating or taxing authority;

“**Chairman**” means a Chairman of a Tribunal and includes an acting Chairman;

“**member**” means a member of a Tribunal and includes an acting member;

“**rating or taxing authority**” means any person entitled under an Act to assess any rate or tax in respect of land;

“**Registrar**” means the Registrar of Land Valuation Appeals appointed under section 15;

“**section**” means section of this Act;

“**subsection**” means subsection of the section in which the term is used;

“Tribunal” means a Land Valuation Tribunal established under this Act;

“Valuer-General” means the Valuer-General appointed under the *Valuation of Land Act 1978*.

Part II — Land Valuation Tribunals

5. The Tribunals

For the purposes of this Act there shall be one or more tribunals each to be known as a “Land Valuation Tribunal” and identified by a number.

6. Composition of Tribunals

(1) Subject to this section, each Tribunal shall consist of 3 members appointed by the Governor of whom —

- (a) one shall be a legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory, of not less than 8 years standing and practice, and who shall be the Chairman of the Tribunal;
- (b) one shall be a member, as an Associate or a Fellow, of the Australian Property Institute (Incorporated) of not less than 5 years standing and practice; and
- (c) one shall be a person nominated for appointment by the Minister for Consumer Affairs².

(2) A person shall not be a member of a Tribunal if he is employed under Part 3 of the *Public Sector Management Act 1994*, or is otherwise employed in a full time capacity by an agency or instrumentality of the Crown or by a rating or taxing authority, or if he is a member of a rating or taxing authority.

[Section 6 amended by No. 32 of 1994 s. 3(1); No. 65 of 2003 s. 114; No. 74 of 2003 s. 73.]

7. Acting members

Where the Chairman or any other member of a Tribunal —

- (a) is ill or absent; or

- (b) disqualifies himself in respect of a particular appeal, whether by reason of the possibility of a conflict of interest or otherwise,

the Minister may appoint another eligible person to act as Chairman or member in his stead during the illness or absence or in the particular appeal, as the case may be, and the person so appointed shall while so acting have all the powers and perform all the duties of the Chairman or member in whose stead he is appointed to act.

8. Term of office

- (1) Subject to this Act, each member shall hold office for a term not exceeding 3 years as is specified in the instrument of his appointment and is eligible for re-appointment.
- (2) The Governor may grant leave of absence to a member on such terms and conditions as the Minister determines.
- (3) The Governor may terminate the appointment of a member for inability, inefficiency, or misbehaviour.
- (4) If a member of a Tribunal —
 - (a) is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
 - (b) ceases to hold any qualification or ceases to satisfy any condition required for his becoming or being a member;
 - (c) has his appointment terminated by the Governor;
 - (d) resigns his office by writing under his hand addressed to the Minister; or
 - (e) dies,

his office shall become vacant.

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9. Vacancy

- (1) On the occurrence of any vacancy in a Tribunal, the Governor may appoint an eligible person to fill the vacancy.
- (2) Where a vacancy arises otherwise than by effluxion of time, the Governor shall appoint such person to the vacant office for the unexpired part of the term of the office which so became vacant.

10. Sittings of Tribunals

- (1) The Chairman of a Tribunal shall appoint the time and place for the sittings of the Tribunal and may adjourn its sittings from time to time.
- (2) The Chairman or, in the absence of the Chairman, the acting Chairman shall preside at all sittings of the Tribunal.

11. Quorum for land valuation, use and classification appeals

- (1) The Chairman and one other member of a Tribunal shall be a quorum to hear an appeal relating to the valuation, use or classification of land.
- (2) Where such a quorum is divided, the appeal shall be reheard by the Tribunal when all 3 members are present.
- (3) The decision of a majority of members of a Tribunal shall be the decision of the Tribunal.

12. Chairman to hear other appeals

The Chairman of a Tribunal shall sit alone to hear any appeal not being an appeal relating to the valuation, use or classification of land and may for such purpose exercise all the powers of the Tribunal.

13. Validity of acts of Tribunals

No act, proceeding, or determination of a Tribunal shall be invalid on the ground only of any vacancy in the office of any

member or of any defect in the appointment of any member or any acting member.

14. Remuneration of members

The Chairman and other members and the acting members of a Tribunal shall each be entitled to be paid such remuneration, allowances and expenses as the Governor shall determine.

15. The Registrar of Land Valuation Appeals and other officers

- (1) There shall be appointed a Registrar of Land Valuation Appeals and there may be appointed such other Land Valuation Appeals officers as are necessary for the proper functioning of the Tribunals.
- (2) The officers shall be appointed and shall hold office subject to and in accordance with Part 3 of the *Public Sector Management Act 1994*.
- (3) The officers may hold office as such in conjunction with any other office in the Public Service of the State.

[Section 15 amended by No. 32 of 1994 s. 3(1).]

16. Powers and function of Registrar

The Registrar shall establish and maintain a register of appeals and other proceedings before the Tribunals and the determinations of the Tribunals thereon and shall exercise the powers conferred on him and perform the duties required of him under this Act.

17. Immunity of Tribunals and officers

No liability shall attach to a member or an acting member of a Tribunal or to the Registrar or any other Land Valuation Appeals officer for any act or omission by him, or by the Tribunal, in good faith and in the exercise or purported exercise of his or a Tribunal's powers or functions, or in the discharge or purported discharge of his or a Tribunal's duties under this Act.

Part III — Appeals to Tribunals

18. Jurisdiction of Tribunals

- (1) A Tribunal shall hear and determine, in accordance with this Act, all appeals referred to it or brought before it under the *Valuation of Land Act 1978* or under any other Act.
- (2) During such times as there is more than one Tribunal established under this Act the allocation of business between the Tribunals shall be effected in such manner as may be prescribed.

19. Referred appeals

- (1) Where, pursuant to an Act, a person serves on an authority a notice requiring that authority to treat as an appeal to a Tribunal an objection by that person against an act or a decision of the authority or to refer an act or a decision of that authority to a Tribunal as an appeal, the authority shall promptly refer such objection or such act or decision, as the case may be, to a Tribunal.
- (2) The authority shall effect the reference by forwarding the notice to the Registrar together with the objection (if any) and a copy certified by a responsible officer on behalf of the authority of the record of the relevant act or decision of the authority and the reasons therefor (if any).

20. Direct appeals

- (1) Where, pursuant to an Act, a person has a right of appeal directly to a Tribunal against an act or a decision of an authority, that person may commence the appeal by lodging a notice of appeal with the Registrar within 42 days (or such further period as a Tribunal shall, for reasonable cause shown by the person, allow) after the date of the relevant act or decision.

- (2) A notice of appeal shall —
 - (a) state the name of the appellant and an address where notices relating to the appeal may be served upon him;
 - (b) specify the authority against whose act or decision the appeal is brought;
 - (c) identify the relevant act or decision;
 - (d) describe the land (if any) to which the relevant act or decision relates; and
 - (e) set out fully and in detail the grounds of appeal.
- (3) Upon receipt of a notice of appeal the Registrar shall promptly forward a copy thereof to the authority against whose act or decision the appeal is brought.
- (4) This section is subject to the Act under which the appeal is brought.

21. Authority to furnish documents relating to appeals

A Tribunal may require an authority to furnish to the Tribunal, and the authority shall so furnish any document or a copy, certified by a responsible officer on behalf of the authority, of any document in the custody or control of the authority relevant to an appeal before the Tribunal.

22. Determination of appeals

Subject to the Act under which an appeal is referred or brought, the Tribunal may allow the appeal with or without conditions, affix further conditions or dismiss the appeal, wholly or in part.

23. Authorities to give effect to determinations

Subject to the Act under which an appeal is referred or brought, every authority affected by a determination of the Tribunal on the appeal shall give effect to the determination.

Part IV — Practice and procedure of Tribunals

24. Notice of hearing

The Registrar shall give not less than 21 days notice in writing to each party to an appeal before a Tribunal of the time and place at which the Tribunal will first sit to hear that appeal.

25. Hearing to proceed in absence of party

Where a party —

- (a) after a notice of the first sitting of a Tribunal on an appeal is given to him in accordance with section 24; or
- (b) with knowledge of the time and place appointed for any subsequent sitting of the Tribunal on the appeal,

fails to appear at the time and place appointed, the Tribunal may proceed to hear and determine the appeal in his absence.

26. Additional parties to appeal

A Tribunal may, subject to such conditions as it determines, grant leave to any person having an interest in any matter in issue in an appeal before the Tribunal to appear and be heard as a party to the appeal.

27. Proceedings before Tribunals

A Tribunal shall afford to each person who is a party to an appeal before the Tribunal a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses, and to make submissions to the Tribunal.

28. Appearance before Tribunal

- (1) A party to an appeal before a Tribunal may appear personally or by counsel or a solicitor.

- (2) A party to an appeal before a Tribunal may, by leave of the Tribunal, be represented before the Tribunal by a person other than a legal practitioner.
- (3) A person, other than a legal practitioner, who demands or receives fee or reward for representing a party to an appeal before a Tribunal is guilty of an offence and is liable to a penalty not exceeding \$500.
- (4) A Tribunal may appoint a person with such qualifications as it thinks fit to appear in an appeal before the Tribunal to assist the Tribunal.
- (5) A person authorised to appear in an appeal before a Tribunal for the purpose of representing another person or a person appointed by a Tribunal to assist the Tribunal in an appeal before the Tribunal has the same protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court and, where the person so appointed is a legal practitioner, he is subject to the same liabilities as he would be in appearing before that Court.

29. Powers of Tribunals

- (1) For the purpose of hearing and determining an appeal, a Tribunal may —
 - (a) by summons signed on behalf of the Tribunal by the Registrar require any person to attend before the Tribunal or to produce before the Tribunal any books, papers, plans or other documents;
 - (b) inspect any books, papers, plans or other documents produced before the Tribunal and retain them for such reasonable period as it thinks fit, and make copies of them;
 - (c) require any person to make oath or affirmation that he will truly answer all questions put to him by the Tribunal relevant to the appeal before the Tribunal (which oath or

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affirmation may be administered by a member of the Tribunal or any officer of the Tribunal);

- (d) require any person appearing before the Tribunal (whether he has been summoned to appear or not) to answer any relevant questions put to him by the Tribunal or by any other person appearing before the Tribunal.

- (2) Subject to subsection (3), if any person —

- (a) who has been served with a summons to attend before the Tribunal or to produce before the Tribunal any books, papers, plans or other documents, fails without reasonable excuse (proof of which shall lie upon him) to comply with the summons;
- (b) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Tribunal; or
- (c) misbehaves himself before the Tribunal, wilfully insults the Tribunal, or interrupts the proceedings of the Tribunal,

he is guilty of an offence and liable to a penalty not exceeding \$1 000.

- (3) A person shall not be obliged to answer a question put to him under this section if the answer to that question would tend to incriminate him, or to produce any book, paper, plan or document if its contents would tend to incriminate him.

30. New matters raised on appeal

Upon the hearing of an appeal, the appellant shall not be restricted to the grounds stated in his notice of objection or appeal and the authority against whose act or decision the appeal is brought shall not be restricted to the reasons previously given for such act or decision (if any); but where any new ground or matter is raised on the appeal the Tribunal shall, by adjournment or otherwise, ensure that the parties and any

other person entitled to be heard have a reasonable opportunity of properly considering and replying to that ground or matter.

31. Tribunal to act according to substantial merits

On the hearing of an appeal the Tribunal shall act according to equity and good conscience and the substantial merits of the case without regard to technicalities or legal forms and shall not be bound by rules of evidence, subject to the requirements of justice, and may inform itself of any matter in such manner as it thinks fit.

32. Proceedings to be public unless otherwise determined

All proceedings before a Tribunal shall be conducted in public unless the Tribunal determines, as it is hereby authorised to do, that any part of the proceedings shall be *in camera*.

33. Costs of appeal

On an appeal to a Tribunal the Tribunal may award such costs as it thinks fit and any costs so awarded may, as a debt due, be recovered in a court of competent jurisdiction.

34. Notice of determination to be in writing

A Tribunal shall give to the parties to an appeal to the Tribunal notice in writing of its determination on the appeal and shall, in any case where the determination of the Tribunal is of general interest or significance, give to the parties and publish written reasons for such determination.

Part V — Miscellaneous

35. Appeal to Supreme Court in certain cases

- (1) Subject to subsection (2), any person aggrieved by a direction, determination or order of a Tribunal in proceedings before the Tribunal to which the person was a party may appeal to the Supreme Court against the direction, determination, or order, in the manner, and in the time, prescribed by the Rules of Court.
- (2) An appeal does not lie to the Supreme Court from a direction, determination, or order of a Tribunal unless the appeal involves a question of law.
- (3) The Supreme Court may make such order as to costs as it thinks fit in relation to an appeal to the Supreme Court under this section.

36. Regulations

- (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), those regulations may —
 - (a) provide for the allocation of appeals between Tribunals whenever there is more than one Tribunal established;
 - (b) prescribe the procedure of Tribunals;
 - [(c) deleted]*
 - (d) prescribe the particulars to be recorded in the register required to be kept under this Act.

[Section 36 amended by No. 65 of 1987 s. 39.]

Notes

¹ This is a compilation of the *Land Valuation Tribunals Act 1978* and includes the amendments made by the other written laws referred to in the following table. This table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Land Valuation Tribunals Act 1978</i>	75 of 1978	20 Oct 1978	1 Jul 1979 (see s. 2 and <i>Gazette</i> 11 May 1979 p. 1211)
<i>Acts Amendment (Legal Practitioners, Costs and Taxation) Act 1987 Pt. XII</i>	65 of 1987	1 Dec 1987	12 Feb 1988 (see s. 2(2) and <i>Gazette</i> 12 Feb 1988 p. 397)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(1)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 76</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
Reprint of the <i>Land Valuation Tribunals Act 1978</i> as at 25 Oct 2002 (includes amendments listed above)			
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 114</i>	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 73</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)

² Under the *Alteration of Statutory Designations Order (No. 2) 1993* a reference in any law to the Minister for Consumer Affairs is read and construed as a reference to the Minister for Fair Trading. At the time of this reprint the Minister is known as the Minister for Consumer and Employment Protection.