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## STATE ADMINISTRATIVE TRIBUNAL

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### STATE ADMINISTRATIVE TRIBUNAL ACT 2004

#### STATE ADMINISTRATIVE TRIBUNAL RULES (AMENDMENT NO.1) 2005

Pursuant to s 170 of the *State Administrative Tribunal Act 2004* (WA) we have this day made the Rules set out in the Schedule.

Dated this 3rd day of October 2005.

Hon Justice M. L. BARKER, President.  
Judge J. A. CHANEY, SC, Deputy President.  
Judge J. E. ECKERT, Deputy President.  
M. J. ALLEN, Senior Member.  
D. R. PARRY, Senior Member.  
T. J. CAREY, Member.  
J. MANSFIELD, Member.  
M. J. HARDY.  
M. SCOTT.

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#### Explanatory note

The objects of this Rule Amendment are to—

- (a) remove the requirement for a respondent in review proceedings to file the documents required by the Act section 24 within 28 days of being a copy of the application, referring the matter to the Tribunal or being given notice of a hearing;

- (b) impose a requirement for a respondent in review proceedings to file the documents required by the Act section 24 in accordance with any order made by the Tribunal;
- (c) remove the requirement for a respondent to file a response to an application;
- (d) introduce procedures for protected matter; and
- (e) authorise the Commissioner of Police or licensing officers in proceedings under the *Firearms Act 1973* (WA), *Pawnbrokers and Second-hand Dealers Act 1996* (WA) and *Security and Related Activities (Control) Act 1996* (WA) to be represented by a member of the Police Force or an officer of the Department and the Commissioner of Police or authorised officers in proceedings under the *Public Order in Streets Act 1984* (WA) to be represented by a member of the Police Force.

#### SCHEDULE

##### 1. Name of Rules

These Rules may be cited as the *State Administrative Tribunal Rules (Amendment No.1) 2005*.

##### 2. Commencement

These Rules commence on 17 October 2005.

##### 3. Amendment of Principal Rules

The *State Administrative Tribunal Rules 2004* are amended as follows—

- (i) in subrule 12(2) by deleting all the words after “Tribunal” where it first appears and by inserting in their place the words—  
“in accordance with, and within the period specified in, any order made by the Tribunal.”;
- (ii) by repealing subrule 12(3) and by inserting the following subrule in its place—  
“(3) The Tribunal may order a decision-maker to provide a copy of the material to any other party or to a person who has been granted leave by the Tribunal to make submissions in the proceedings.”;
- (iii) by repealing subrule 12(4) and by inserting the following subrule in its place—  
“(4) The Tribunal may order a decision-maker to provide it with additional copies of the material.”;
- (iv) by repealing subrules 12(5), (6), (7), (8), (9), (10) and (11);
- (v) by repealing rule 13 and by inserting the following rule after rule 12 and before the heading “Division 2—Proceedings and hearings”—

##### “13. Protected matter

(1) In this rule, “protected matter” has the meaning given to it in the Act section 3(1).

(2) Where a party considers that any document comprises or contains protected matter and would, in accordance with an order of the Tribunal, be required to be included in that party's bundle of documents to be filed with the Tribunal and given to another party—

- (a) The party must file with the Tribunal and give to the other party, within the period specified in the order for the filing of the party's bundle of documents, a list of documents which—
  - (i) indicates which document or documents contain or comprise protected matter;
  - (ii) sufficiently identifies any document that contains or comprises protected matter without disclosing its substance; and
  - (iii) indicates that any document that contains or comprises protected matter has been included within Part B of the party's bundle of documents.
- (b) The party's bundle of documents must be divided into Part A and Part B as follows—
  - (i) Part A must include all documents in the party's bundle which do not contain or comprise protected matter. Part A must be filed with the Tribunal and given to the other party within the period specified in the order for the filing of the party's bundle of documents; and
  - (ii) Part B must include all documents in the party's bundle which the party considers contain or comprise protected matter. Part B must be clearly marked as containing protected matter and must be placed into a sealed envelope clearly marked as containing protected matter. Part B must be filed with the Tribunal within the period specified in the order for the filing of

the party's bundle of documents but must not be given to any other party.

(3) Any application under section 159 or section 160 of the Act must be made to the President in writing within 14 days of the receipt of the list of documents which identifies the document the subject of the application.”;

- (vi) in the heading to rule 14 by deleting the words “**or responses**”;
- (vii) in rule 14 by—
  - (A) inserting the word “and” after the semi-colon in paragraph (a);
  - (B) deleting the semi-colon and the word “or” and inserting in its place a comma in paragraph (b);
  - (C) deleting paragraph (c); and
  - (D) deleting the expression “election, request or response” and inserting in its place the expression “election or request”;
- (viii) in the heading to rule 15 by deleting the words “or response”;
- (ix) in subrule 15(1) by deleting the words “or filed a response” and “or response”;
- (x) in rule 52 by inserting the following subrule after subrule (3)—
 

“(4) Under the Act section 39(1)(f), the Commissioner of Police is authorised to be represented by a member of the Police Force of Western Australia or an officer of the Department as defined in the *Firearms Act 1973* section 4.”;
- (xi) by repealing rule 57 and by inserting the following rule in its place—
 

**“57. Pawnbrokers and Second-hand Dealers Act 1994**

(1) Under the Act section 39(1)(f), a licensing officer who makes an allegation to the Tribunal under the *Pawnbrokers and Second-hand Dealers Act 1994* (WA) section 27(2) that it should take action against a specified licensee under section 27 of that Act is authorised to be represented by a member of the Police Force of Western Australia or an officer of the Department as defined in section 3(1) of that Act.

(2) Under the Act section 39(1)(f), a licensing officer whose decision is subject to review under the *Pawnbrokers and Second-hand Dealers Act 1994* (WA) section 30(1) is authorised to be represented by a member of the Police Force of Western Australia or an officer of the Department as defined in section 3(1) of that Act.”;
- (xii) in the heading to rule 58 and by inserting the following heading in its place—
 

**“Public Order in Streets Act 1984”**
- (xiii) in subrule 58(1) by deleting the words “*Public Meetings and Processions Act 1984*” and by inserting in their place the words—
 

*“Public Order in Streets Act 1984”*;
- (xiv) by amending rule 58 by inserting the following subrule after subrule (5)—
 

“(6) Under the Act section 39(1)(f), the Commissioner or Police, or the authorised officer to whom the application for the permit was made, as the case may require, is authorised to be represented by a member of the Police Force of Western Australia.”;
- (xv) by repealing subrule 61(1) and by inserting the following subrule in its place—
 

“(1) This rule applies to—

  - (a) an allegation by the Commissioner to the Tribunal that there is proper cause for disciplinary action under the *Security and Related Activities (Control) Act 1996* section 67(1);
  - (b) a reference by the Commissioner to the Tribunal under section 67(3b) of that Act; and
  - (c) an application for review under section 72 of that Act.”; and
- (xvi) in subrule 61(3) by inserting before the words “a licensing officer” the words “the Commissioner or”.