

Western Australia

**State Administrative Tribunal (Conferral of  
Jurisdiction) Amendment and Repeal Act 2004**

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Western Australia

## **State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

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**No. 55 of 2004**

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**An Act to amend certain Acts to confer jurisdiction in certain matters on the State Administrative Tribunal, to repeal certain other Acts, to make consequential amendments, to deal with related matters, and to provide for transitional matters.**

*[Assented to 24 November 2004]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004*.

**2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

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## **Part 2 — Various Acts amended to confer jurisdiction**

### **Division 1 — *Aboriginal Heritage Act 1972***

#### **3. The Act amended**

The amendments in this Division are to the *Aboriginal Heritage Act 1972*\*.

[\* Reprinted as at 16 February 2001.]

#### **4. Section 4 amended**

Section 4 is amended by inserting after the definition of “person of Aboriginal descent” —

“

“**proceedings under this Act**” includes a proceeding commenced under this Act before the State Administrative Tribunal;

”.

#### **5. Section 18 amended**

- (1) Section 18(5) is amended by deleting all of the subsection after “he may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 18(6) is repealed.

#### **6. Section 43 amended**

- (1) Section 43(3) is amended by deleting “Local Court at Perth” and inserting instead —

“ State Administrative Tribunal ”.

- (2) Section 43(6) is repealed.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 1** Aboriginal Heritage Act 1972

**s. 7**

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**7. Section 46 amended**

- (1) Section 46(3) is amended by deleting all of the subsection after “notice may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Minister.

”.

- (2) Section 46(4) and (6) are repealed.

- (3) Section 46(5) is amended as follows:

- (a) by deleting “appeal was duly made against” and inserting instead —

“ application was made for a review of ”;

- (b) by deleting “appeal” in both of the other places where it occurs and inserting instead —

“ application ”.

**8. Section 50 amended**

Section 50 is amended by inserting after “in any court” —

“ or tribunal ”.

**9. Various references to “Local Court” amended**

The Act is amended by deleting “Local Court” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

s. 43(4) (both places)

s. 43(5) (both places)

s. 44

s. 47(2)

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**Division 2 — Adoption Act 1994**

**10. The Act amended**

The amendments in this Division are to the *Adoption Act 1994*\*.

[\* Reprinted as at 2 January 2001.

For subsequent amendments see Act No. 8 of 2003.]

**11. Section 10 amended**

Section 10(f) is amended by deleting all of the paragraph after “right” and inserting instead —

“

to apply to the State Administrative Tribunal for  
a review of a decision of the Minister as to an  
application or licence;

”.

**12. Section 107 amended**

Section 107(d) is deleted and the following paragraph is inserted  
instead —

“

(d) the conferral of a right to apply to the State  
Administrative Tribunal for a review of a  
decision of the Director-General as to an  
application or licence;

”.

**13. Section 143 amended**

Section 143(4)(g) is amended by deleting all of the paragraph  
after “right” and inserting instead —

“

to apply to the State Administrative Tribunal  
for a review of a decision as to an application  
or as to accreditation;

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 3** Aerial Spraying Control Act 1966

**s. 14**

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”

**Division 3 — Aerial Spraying Control Act 1966**

**14. The Act amended**

The amendments in this Division are to the *Aerial Spraying Control Act 1966*\*.

[\* *Reprint approved 28 August 1983.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 7.]*

**15. Section 8 amended**

- (1) Section 8(1) is amended by deleting all of the subsection after “Act, may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision to refuse, vary, suspend or cancel, as the case may be.

”

- (2) Section 8(2) and (3) are repealed.

**16. Section 13A amended**

Section 13A(8) is amended by deleting all of the subsection after “subsection (7) may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision to give the order.

”



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**Division 4 — *Agricultural Produce (Chemical Residues) Act 1983***

**17. The Act amended**

The amendments in this Division are to the *Agricultural Produce (Chemical Residues) Act 1983*\*.

[\* Reprinted as at 6 September 2002.]

**18. Section 8 amended**

Section 8(2) is amended as follows:

- (a) by deleting “appeal against” and inserting instead —  
“ application for a review of ”;
- (b) by deleting “appeal” in both of the other places where it occurs and inserting instead —  
“ application ”.

**19. Section 20 amended**

- (1) Section 20(1) is amended by deleting all of the subsection after “may” and inserting instead —

“  
apply to the State Administrative Tribunal for a review of the decision to give the direction, to refuse to give approval, or to seize the thing, as the case requires.  
”.

- (2) Section 20(2) is repealed and the following subsections are inserted instead —

“  
(2) In dealing with an application under subsection (1) for the review of a decision to seize anything, the State Administrative Tribunal may determine whether anything so seized is to be forfeited to the Crown or restored to the person from whom it was seized.  
”

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 5** Agricultural Produce Commission Act 1988

**s. 20**

---

- (3) Subsection (2) does not limit the powers that the *State Administrative Tribunal Act 2004* gives the State Administrative Tribunal.

”.

**20. Section 23 amended**

Section 23(3) is amended by deleting all of the subsection after “which an” and inserting instead —

“

application may be made in accordance with section 20 for a review of the decision to seize that thing or, where an application has been so made, before the determination of the application.

”.

**Division 5 — Agricultural Produce Commission Act 1988**

**21. The Act amended**

The amendments in this Division are to the *Agricultural Produce Commission Act 1988*\*.

[\* Reprinted as at 5 April 2002.]

**22. Section 16 amended**

- (1) Section 16(2) is amended by deleting all of the subsection after “fact may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision to include or omit the person’s name.

”.

- (2) Section 16(3) is repealed.

**Division 6 — *Agriculture and Related Resources Protection  
Act 1976***

**23. The Act amended**

The amendments in this Division are to the *Agriculture and Related Resources Protection Act 1976*\*.

[\* Reprinted as at 15 October 1999.]

**24. Section 7 amended**

Section 7 is amended by deleting the definition of “Local Court”.

**25. Section 54 amended**

- (1) Section 54(2) is repealed.
- (2) Section 54(4) is repealed and the following subsections are inserted instead —

“

- (4) An owner having only a partial interest or a particular estate in the land may apply to the Protection Board for it to declare what portion of any expense of or incidental to the control of declared plants and declared animals on and in relation to the land paid or to be paid by the owner is to be borne by any other person having a partial interest or an estate in the land, and the Protection Board may, subject to the provisions of this Act, make such declaration as in the circumstances it considers just, and an owner paying, or who has paid, more than that owner’s proportion of the expenses as declared by the Protection Board may, by action in a court of competent jurisdiction, recover the excess from any person the Protection Board declares to be liable to pay it.

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**Division 7** Animal Welfare Act 2002

**s. 26**

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- (5) A party dissatisfied with a decision of the Protection Board under subsection (1) or (4) may apply to the State Administrative Tribunal for a review of the decision.

”.

**Division 7 — Animal Welfare Act 2002**

**26. The Act amended**

The amendments in this Division are to the *Animal Welfare Act 2002*\*.

[\* *Act No. 33 of 2002.*]

**27. Heading to Part 5 Division 4 amended**

The heading to Part 5 Division 4 is amended by deleting “and appeals”.

**28. Section 71 amended**

- (1) Section 71(1) is amended in the definition of “appealable decision” by deleting “appealable” and inserting instead —  
“ **reviewable** ”.
- (2) Section 71(2) is amended by deleting “or appeal”.

**29. Section 72 amended**

Section 72(1) is amended as follows:

- (a) by deleting “an appealable” and inserting instead —  
“ a reviewable ”;
- (b) by deleting “lodged an appeal against” and inserting instead —  
“ applied for a review of ”.

**30. Section 74 amended**

- (1) Section 74(1) is amended by deleting “an appealable decision may appeal against” and inserting instead —

“

a reviewable decision may apply to the State  
Administrative Tribunal for a review of

”.

- (2) Section 74(2) is amended by deleting “appeal against” and inserting instead —

“

apply to the State Administrative Tribunal for a  
review of

”.

- (3) Section 74(3) and (4) are repealed.

- (4) Section 74(5) is amended as follows:

- (a) by deleting “appeal has been made against” and inserting instead —

“ application for review has been made in relation to ”;

- (b) by deleting “court deals with the appeal under section 75(4), unless the court” and inserting instead —

“

State Administrative Tribunal deals with the matter  
unless the Tribunal

”.

**31. Section 75 repealed**

Section 75 is repealed.

**Division 8 — Architects Act 1921**

**32. The Act amended**

The amendments in this Division are to the *Architects Act 1921*\*.

[\* *Reprinted as at 26 February 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 22.]*

**33. Part 1 heading amended**

Before section 1 the heading “Preliminary” is deleted and the following Part heading is inserted instead —

“

**Part 1 — Preliminary**

”.

**34. Section 2 amended**

Section 2(1) is amended by deleting the definition of “District Court”.

**35. Part 2 heading amended**

Before section 5 the heading “The Architects’ Board of Western Australia” is deleted and the following Part heading is inserted instead —

“

**Part 2 — The Architects’ Board of  
Western Australia**

”.

**36. Section 10 repealed**

Section 10 is repealed.

**37. Part 3 heading amended**

Before section 12 the heading “Registration” is deleted and the following Part heading is inserted instead —

“

**Part 3 — Registration**

”.

**38. Section 12 amended**

Section 12(3)(c) is amended by deleting “District Court” and inserting instead —

“

State Administrative Tribunal made upon an application

”.

**39. Section 14B amended**

(1) Section 14B(1) is amended as follows:

(a) by deleting “Where the Board determines that” and inserting instead —

“

There is proper cause for disciplinary action in respect of a practising corporation if

”;

(b) by deleting the comma at the end of paragraph (d) and inserting instead a full stop;

(c) by deleting “the registration of that practising corporation as an architect under this Act is liable to be suspended or cancelled and the Board shall so notify the corporation.”.

(2) Section 14B(2) and (3) are repealed.

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**40. Section 14D amended**

(1) Section 14D(1) is amended as follows:

- (a) by deleting “Where the Board determines that” and inserting instead —

“

There is proper cause for disciplinary action in respect of a practising firm if

”;

- (b) by deleting the comma at the end of paragraph (d) and inserting instead a full stop;
- (c) by deleting “the registration of that practising firm as an architect under this Act is liable to be suspended or cancelled and the Board shall so notify the firm.”.

(2) Section 14D(2) and (3) are repealed.

**41. Section 16 replaced**

Section 16 is repealed and the following section is inserted instead —

“

**16. Application for review**

(1) Any person aggrieved by a reviewable decision of the Board, may apply to the State Administrative Tribunal for a review of the decision.

(2) In subsection (1) —

“**person aggrieved**” means a person —

- (a) whose registration is affected by a reviewable decision; or
- (b) who applies for registration;

“**reviewable decision**” means a decision under this Part other than a decision to make an allegation to the State Administrative Tribunal.



”.

**42. Section 22 amended**

Section 22(1) is amended by deleting “District Court” and inserting instead —

“ State Administrative Tribunal ”.

**43. Section 22A amended**

- (1) Section 22A(1) is amended by deleting “In this section, “misconduct” means the doing by a person registered under this Act as an architect” and inserting instead —

“

Proper causes for disciplinary action in respect of a person registered as an architect are the doing by the person

”.

- (2) Section 22A(1a) is amended by deleting “District Court” and inserting instead —

“ State Administrative Tribunal ”.

- (3) Section 22A(3) and (4) are repealed and the following subsection is inserted instead —

“

- (3) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1) or in sections 14B or 14D, against a registered person.

”.

- (4) Section 22A(5) is amended as follows:

- (a) by deleting “If as the result of the inquiry the Board is of opinion that the person is guilty of the misconduct alleged, the Board may by written order direct” and inserting instead —

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“

If in a proceeding commenced by an allegation under this section against a registered person the State Administrative Tribunal is of opinion that proper cause exists for disciplinary action the State Administrative Tribunal may order

”;

- (b) in paragraph (ab) by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”;

- (c) by deleting at the end of paragraph (b) the comma and “and” after it and inserting instead a full stop;

- (d) by deleting paragraph (c).

- (5) Section 22A(6), (7), (8) and (9) are repealed.

**44. Section 22AB inserted**

After section 22A the following section is inserted —

“

**22AB. Suspension of registration by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a registered person and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the person’s registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

”.

**45. Section 25 amended**

Section 25(2) is repealed and the following subsection is inserted instead —

“

- (2) Despite the resignation by an architect, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the resignation, as if the architect had not resigned.

”.

**46. Part 4 heading amended**

Before section 26 the heading “Committee of Architectural Education” is deleted and the following Part heading is inserted instead —

“

**Part 4 — Committee of Architectural Education**

”.

**47. Part 5 heading amended**

Before section 27 the heading “General Meeting of Architects” is deleted and the following Part heading is inserted instead —

“

**Part 5 — General Meeting of Architects**

”.

**48. Part 6 heading amended**

Before section 28 the heading “By-laws” is deleted and the following Part heading is inserted instead —

“

**Part 6 — By-laws**

”.

**49. Part 7 heading amended**

Before section 29 the heading “Miscellaneous” is deleted and the following Part heading is inserted instead —

“

**Part 7 — Miscellaneous**

”.

**50. Section 30 amended**

Section 30(b) is amended as follows:

- (a) by deleting “examination before” and inserting instead —  
“ investigation by ”;
- (b) by deleting “used in evidence before, or to be submitted to,” and inserting instead —  
“ submitted to ”.

**51. Section 31 replaced by sections 31 to 31C**

Section 31 is repealed and the following sections are inserted instead —

“

**31. Powers of investigation**

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
  - (a) determining any application or any other matter before the Board;
  - (b) determining whether or not a person registered under this Act is or has been acting in conformity with the conditions, if any, of the person’s registration and is or has been complying with the requirements of this Act;

- 
- (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action; or
  - (d) detecting offences against this Act.
- (2) The Board may appoint an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
- (a) require any person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to the person,  
in relation to any matter the subject of such inquiry;
  - (b) require any person to produce any document to the investigator;
  - (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
  - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —

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- (i) be given orally or in writing;
  - (ii) be given at or sent or delivered to any place specified in the requirement;
  - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
  - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
  - (a) shall be made by notice in writing served on the person required to produce a document;
  - (b) shall specify the time at or within which the document is to be produced; and
  - (c) may, by its terms, require that the document be produced —
    - (i) at any place specified in the requirement; and
    - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he or she is required under this Act to give the information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he or she is required under this

---

Act to give the information, answer the question, or produce the document, as the case may be.

- (8) Before entering any premises under this section the investigator —
- (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
  - (b) shall display to the person, if any, giving the investigator entry, a document signed by the Board and certifying that he or she is an investigator appointed by the Board.

**31A. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 31 a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

the person shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 31B(1)(b).

**31B. Failure to comply with investigation**

- (1) Where under section 31 a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him or her) —
- (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 31, the investigator did not, when making the requirement, inform the defendant that he or she was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 31, the notice did not state that he or she was required under this Act to give the information, answer the question, or produce the document, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him or her to comply with the requirement; or



- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

**31C. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his or her powers under section 31.

Penalty: \$2 000.

”.

**52. Section 35 amended**

After section 35(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
  - (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 9** Armadale Redevelopment Act 2001

**s. 53**

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”.

**Division 9 — Armadale Redevelopment Act 2001**

**53. The Act amended**

The amendments in this Division are to the *Armadale Redevelopment Act 2001*\*.

[\* *Act No. 25 of 2001.*]

**54. Section 50 replaced**

Section 50 is repealed and the following section is inserted instead —

“

**50. Review of certain decisions**

An applicant may apply to the State Administrative Tribunal for a review, in accordance with Part V of the Town Planning Act, of a decision of the Authority under section 48 in respect of the applicant’s application.

”.

**55. Section 52 amended**

- (1) Section 52(2) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review, in accordance with Part V of the Town Planning Act, of the decision to give the direction.

”.

- (2) Section 52(3) is amended by deleting “appeal” and inserting instead —

“ application ”.

- (3) Section 52(4) is amended by deleting “Town Planning Appeal Tribunal” in both places where it occurs and inserting instead —  
“ State Administrative Tribunal ”.

**Division 10 — Associations Incorporation Act 1987**

**56. The Act amended**

The amendments in this Division are to the *Associations Incorporation Act 1987*\*.

[\* *Reprinted as at 20 August 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 25 and Act No. 20 of 2003.]*

**57. Section 4 amended**

- (1) Section 4(6) is amended by deleting all of the subsection after “may” and inserting instead —  
“  
apply to the State Administrative Tribunal for a review of the decision of the Commissioner.  
”.

- (2) Section 4(7) is repealed.

**58. Section 7 amended**

- (1) Section 7(2) is amended by deleting all of the subsection after “refusal” and inserting instead —  
“  
, apply to the State Administrative Tribunal for a review of the decision of the Commissioner.  
”.

- (2) Section 7(3) is repealed.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 10** Associations Incorporation Act 1987

**s. 59**

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**59. Section 8 amended**

- (1) Section 8(2) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Commissioner.

”.

- (2) Section 8(3) is repealed.

**60. Section 9 amended**

- (1) Section 9(3) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Commissioner.

”.

- (2) Section 9(4) is repealed.

**61. Section 18 amended**

- (1) Section 18(4) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Commissioner.

”.

- (2) Section 18(5) is repealed.

**62. Section 19 amended**

- (1) Section 19(3) is amended by deleting all of the subsection after “may” and inserting instead —
- “
- apply to the State Administrative Tribunal for a review of the decision of the Commissioner.
- ”.
- (2) Section 19(4) is repealed.

**Division 11 — *Biological Control Act 1986***

**63. The Act amended**

The amendments in this Division are to the *Biological Control Act 1986*\*.

[\* *Act No. 106 of 1986.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 34.]*

**64. Section 3 amended**

Section 3(1) is amended by deleting the definition of “Board”.

**65. Section 54 amended**

- (1) Section 54(1) is amended by deleting “in accordance with the regulations appeal to a Biological Control Appeal Board appointed under section 55.” and inserting instead —
- “
- apply to the State Administrative Tribunal for a review of the decision.
- ”.
- (2) Section 54(2) is amended by deleting “and in sections 56 and 58”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 12** Births, Deaths and Marriages Registration Act 1998

**s. 66**

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**66. Sections 55 to 58 repealed**

Sections 55, 56, 57 and 58 are repealed.

**Division 12 — *Births, Deaths and Marriages Registration Act 1998***

**67. The Act amended**

The amendments in this Division are to the *Births, Deaths and Marriages Registration Act 1998*\*.

[\* *Act No. 39 of 1998.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 34.]*

**68. Section 67 amended**

- (1) Section 67(1) is amended by deleting “Minister” and inserting instead —

“ State Administrative Tribunal ”.

- (2) Section 67(2) is repealed.

**Division 13 — *Boxing Control Act 1987***

**69. The Act amended**

The amendments in this Division are to the *Boxing Control Act 1987*\*.

[\* *Act No. 2 of 1987.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 36.]*

**70. Part V heading replaced**

The heading to Part V is deleted and the following heading is inserted instead —

“

**Part V — Review**

”.

**71. Section 34 amended**

- (1) Section 34(1) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision, condition or restriction.

”.

- (2) Section 34(2), (3), (4) and (5) are repealed.

**72. Section 40 amended**

Section 40(a) and (b) are deleted and the following paragraphs are inserted instead —

“

- (a) where the book is surrendered under section 39 as a consequence of the suspension of registration and no application for review is made in relation to the suspension — as soon as practicable after the suspension;
- (b) where the book is surrendered under section 39 and, on application made for a review of a decision of the Commission to cancel or suspend registration, the decision is set aside — as soon as is practicable after the decision is set aside.

”.

**Division 14 — Builders' Registration Act 1939**

**73. The Act amended**

The amendments in this Division are to the *Builders' Registration Act 1939*\*.

[\* Reprinted as at 11 January 2002.]

**74. Section 6 amended**

Section 6(3) is amended by deleting “Subject to section 13(4), 4” and inserting instead —

“ Four ”.

**75. Section 8 amended**

Section 8(1) is amended as follows:

- (a) in paragraph (c) by deleting “or cancel”;
- (b) by deleting paragraphs (d) and (e).

**76. Section 10D amended**

Section 10D is amended by deleting “by any” and inserting instead —

“ under any ”.

**77. Section 12A amended**

Section 12A(5) is amended as follows:

- (a) by deleting “appeal” in both places where it occurs and inserting instead —  
“ application ”;
- (b) by deleting “against the making” and inserting instead —  
“ for a review ”;
- (c) by inserting after “Board” —  
“ or the State Administrative Tribunal ”;



(d) by deleting “under section 13”.

**78. Section 12D inserted**

Before section 13 the following section is inserted —

“

**12D. Allegation of cause for disciplinary action**

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 13, against a builder who is registered under this Act.

”.

**79. Section 13 amended**

(1) Section 13(1) is amended as follows:

(a) by deleting “The Board may cancel or suspend registration of any builder under this Act” and inserting instead —

“

In a proceeding commenced by an allegation under section 12D the State Administrative Tribunal may cancel or suspend the registration of any builder under this Act because there is proper cause for disciplinary action

”;

(b) in paragraph (f) by deleting “under this Act”;  
(c) by deleting the comma and all of the subsection after paragraph (g)(ii) and inserting instead a full stop.

(2) Section 13(1a) is amended as follows:

(a) by deleting “Board after the holding of an inquiry into a matter or matters arising under subsection (1), the Board” and inserting instead —

“

State Administrative Tribunal, the State Administrative Tribunal

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**Part 2** Various Acts amended to confer jurisdiction

**Division 14** Builders' Registration Act 1939

**s. 79**

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”;

(b) by deleting “, without further inquiry”.

(3) Section 13(1ba) is amended as follows:

(a) by deleting “Board after the holding of an inquiry into a matter or matters arising under subsection (1), the Board” and inserting instead —

“

State Administrative Tribunal, the State Administrative Tribunal

”;

(b) by deleting “, without further inquiry”.

(4) Section 13(1bb) is amended as follows:

(a) by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”;

(b) by deleting paragraph (a) and “and” after it.

(5) Section 13(1c), (2), (3) and (4) are repealed and the following subsections are inserted instead —

“

(2) On the application of the Board or the builder whose registration is suspended or has been cancelled, the State Administrative Tribunal may order that the suspension of a registration is terminated or a registration that has been cancelled be reinstated.

(3) An application for the termination of a suspension or the reinstatement of a registration that was cancelled cannot be made before the expiry of a period of 3 months after the day on which the registration was suspended or cancelled.

”.

**80. Section 13A amended**

Section 13A is amended as follows:

- (a) by deleting “after the holding of a full inquiry in accordance with section 13 the Board” and inserting instead —  
“ the State Administrative Tribunal ”;
- (b) by deleting “Board” in the second place where it occurs and inserting instead —  
“ State Administrative Tribunal ”.

**81. Section 14 replaced**

Section 14 is repealed and the following section is inserted instead —

“

**14. Application for review**

- (1) A person aggrieved by a reviewable decision of the Board in relation to that person may apply to the State Administrative Tribunal for a review of the decision.
- (2) In subsection (1) —  
“**person aggrieved**” means a person —
  - (a) whose registration as a builder is affected by a reviewable decision; or
  - (b) who applies for registration;“**reviewable decision**” means a decision of the Board —
  - (a) refusing or suspending registration; or
  - (b) granting registration on a condition or conditions.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 14** Builders' Registration Act 1939

**s. 82**

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**82. Section 17 amended**

- (1) Section 17(1) is amended by deleting "or inquiry".
- (2) Section 17(2), (3), (4) and (5) are repealed.

**83. Section 17A inserted**

After section 17 the following section is inserted —

“

**17A. Suspension of registration by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a registered builder and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

”.

**84. Section 19A inserted**

After section 19 the following section is inserted —

“

**19A. Surrender of registration or certificate**

Despite the surrender by a person of the person's registration, or a certificate issued to the person under this Act, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the registration or certificate had not been surrendered.

”.

**85. Section 22 amended**

Section 22(4) is amended by inserting after “20B” —

“

but excluding penalties ordered by the State  
Administrative Tribunal

”.

**86. Section 23B amended**

After section 23B(1a) the following subsection is inserted —

“

(1b) The Board’s annual report is to include details of —

- (a) the number, nature, and outcome, of —
  - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
  - (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Board.

”.

**87. Section 41 amended**

(1) Section 41(1) is amended by deleting all of the subsection after “may” and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 14** Builders' Registration Act 1939

**s. 88**

---

“  
apply to the State Administrative Tribunal for a review  
of a decision of the Disputes Tribunal.

”.

- (2) Section 41(2), (3) and (4) are repealed and the following subsection is inserted instead —

“

(2) An application for a review cannot be made under subsection (1) unless the State Administrative Tribunal gives leave.

”.

- (3) Section 41(5) is amended by deleting “District Court” in both places where it occurs and inserting instead —

“ State Administrative Tribunal ”.

**88. Section 42 amended**

- (1) Section 42(1) and (2) are amended by deleting “District Court” and inserting instead —

“ State Administrative Tribunal ”.

- (2) Section 42(3) is amended by deleting “District Court has jurisdiction to consider and determine any case stated and to” and inserting instead —

“

State Administrative Tribunal may determine any case stated and

”.

- (3) After section 42(3) the following subsection is inserted —

“

(4) When dealing with the substance of a case stated under this section, the State Administrative Tribunal is to be constituted by a judicial member as defined in

section 3(1) of the *State Administrative Tribunal Act 2004*.

”.

**Division 15 — *Business Names Act 1962***

**89. The Act amended**

The amendments in this Division are to the *Business Names Act 1962*\*.

[\* *Reprinted as at 16 February 2001.*

*For subsequent amendments see Act No. 20 of 2003.]*

**90. Section 14 amended**

(1) After section 14(1) the following subsection is inserted —

“

(1a) Subsection (1) applies as if the State Administrative Tribunal were a court and a proceeding before it were an action.

”.

(2) After section 14(2) the following subsection is inserted —

“

(3) The power given by this section to the State Administrative Tribunal is exercisable only by a person who is a judicial member or a senior member, as defined in section 3(1) of the *State Administrative Tribunal Act 2004*.

”.

**91. Section 19 amended**

(1) Section 19(3) is amended by deleting all of the subsection after “apply to the” and inserting instead —

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 16** Caravan Parks and Camping Grounds Act 1995

**s. 92**

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“

State Administrative Tribunal for a review of the Commissioner’s decision to cancel the registration of the business name.

”.

- (2) Section 19(4) is repealed and the following subsection is inserted instead —

“

(4) The time within which the application may be made is unlimited.

”.

- (3) Section 19(5) is amended by deleting “Upon the making of an order by the Supreme Court under subsection (4)” and inserting instead —

“

If the State Administrative Tribunal sets aside the Commissioner’s decision to cancel the registration of the business name

”.

**Division 16 — Caravan Parks and Camping Grounds Act 1995**

**92. The Act amended**

- (1) The amendments in this Division are to the *Caravan Parks and Camping Grounds Act 1995*\*.

[\* *Act No. 34 of 1995.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 45.]*

**93. Section 7 amended**

Section 7(8) is amended by deleting “appeal to the Minister.” and inserting instead —



“  
apply to the State Administrative Tribunal for a review  
of the decision.  
”.

**94. Section 10 amended**

Section 10(2)(b) is amended by deleting “appeal to the  
Minister.” and inserting instead —

“  
apply to the State Administrative Tribunal for a  
review of the decision to give the notice.  
”.

**95. Section 11 amended**

Section 11(3) is repealed.

**96. Section 12 amended**

Section 12(4) is amended by deleting “appeal to the Minister.”  
and inserting instead —

“  
apply to the State Administrative Tribunal for a review  
of the decision.  
”.

**97. Section 21 amended**

Section 21(6) is amended by deleting “appeal to the Minister.”  
and inserting instead —

“  
apply to the State Administrative Tribunal for a review  
of the decision to give the works specification notice or  
the decision under subsection (5), as the case requires.  
”.

**98. Section 27 replaced**

Section 27 is repealed and the following section is inserted  
instead —

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 17** Cemeteries Act 1986

**s. 99**

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“

**27. Review**

A person who is aggrieved by a decision of a local government under section 7, 10, 12, or 21 may apply to the State Administrative Tribunal for a review of that decision.

”.

**99. Section 28 amended**

Section 28(2)(h) is deleted.

**100. Section 34 amended**

Section 34(4) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

**Division 17 — Cemeteries Act 1986**

**101. The Act amended**

- (1) The amendments in this Division are to the *Cemeteries Act 1986*\*.

[\* Reprinted as at 3 April 2002.]

**102. Section 19 amended**

- (1) Section 19(2) is amended by deleting “appeal to a Local Court against” and inserting instead —

“ apply to the State Administrative Tribunal for a review of ”.

- (2) Section 19(3), (4), (5) and (6) are repealed.

**Division 18 — *Chattel Securities Act 1987***

**103. The Act amended**

The amendments in this Division are to the *Chattel Securities Act 1987*\*.

[\* *Reprinted as at 13 December 2002.*

*For subsequent amendments see Act No. 20 of 2003.]*

**104. Section 3 amended**

Section 3(1) is amended by deleting the definition of “tribunal”.

**105. Section 26 amended**

- (1) Section 26(1) is amended by deleting “is entitled to appeal to the Tribunal” and inserting instead —

“

may apply to the State Administrative Tribunal for a review of the decision

”.

- (2) Section 26(2) is repealed.

**106. Sections 27 and 28 repealed**

Section 27 and 28 are repealed.

**107. Section 29 amended**

Section 29 is amended by deleting “or the Tribunal under this Act” and inserting instead —

“

under this Act or to give effect to a decision arising from an application made under this Act to the State Administrative Tribunal

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 19** Chicken Meat Industry Act 1977

**s. 108**

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**Division 19 — Chicken Meat Industry Act 1977**

**108. The Act amended**

The amendments in this Division are to the *Chicken Meat Industry Act 1977*\*.

[\* *Act No. 58 of 1977.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 49.]*

**109. Section 18 amended**

- (1) Section 18(2) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of that determination.

”.

- (2) Section 18(3) is amended by deleting “appeal is lodged under subsection (2) within the time prescribed by that subsection or an appeal so lodged” and inserting instead —

“

application is made under subsection (2) within the time prescribed for making the application or an application is made but

”.

- (3) Section 18(4) is repealed.

**110. Section 19A amended**

- (1) Section 19A(11) is amended by deleting all of the subsection after “decision may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 19A(12) is repealed.

**Division 20 — Chiropractors Act 1964**

**111. The Act amended**

The amendments in this Division are to the *Chiropractors Act 1964*\*.

[\* Reprinted as at 7 December 2001.]

**112. Section 16C amended**

After section 16C(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.

”.

**113. Section 18 amended**

Section 18(1) is amended as follows:

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 20** Chiropractors Act 1964

**s. 114**

---

(a) in paragraph (h) by deleting “, and the inquiry by the Board into that charge or complaint, and for fixing penalties in relation thereto”;

(b) after paragraph (h) by inserting —

“

(ha) for regulating the making of allegations in respect of disciplinary matters by the Board to the State Administrative Tribunal, and for fixing penalties in relation thereto;

”.

**114. Section 20A amended**

(1) Section 20A(1) is amended as follows:

(a) after paragraph (b) by inserting “or”;

(b) by deleting at the end of paragraph (c) the semicolon and “or” after it and inserting instead a comma;

(c) by deleting paragraph (d);

(d) by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

(2) Section 20A(2) and (3) are repealed.

**115. Part IVA inserted**

After section 21 the following Part is inserted —

“

## **Part IVA — Investigation**

### **21A. Investigator**

- (1) The Board may appoint a person to investigate any matter relevant to the performance of the Board's functions under this Act and report to the Board.
- (2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

### **21B. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the Board requires prepare a report on the investigation; and
  - (b) immediately after preparing the report, provide the Board with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the Board is provided with a copy of the report.

### **21C. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —
  - (a) enter and inspect the premises of a person named in a warrant issued under section 21E(1), and exercise the powers referred to in section 21E(2)(b) and (c);
  - (b) require a person to produce to the investigator any document or other thing concerning the

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 20** Chiropractors Act 1964

**s. 115**

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- investigation that is in the possession or under the control of the person;
- (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
- (d) require a person —
- (i) to give the investigator such information as the investigator requires; and
  - (ii) to answer any question put to that person,
- in relation to the matter the subject of the investigation; and
- (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
  - (b) must specify the time at or within which the document or other thing is to be produced;
  - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
  - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
    - (i) the document itself; and
    - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —



- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
- (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
- (c) may, by its terms, require that the information or answer required —
  - (i) be given orally or in writing;
  - (ii) be given at or sent or delivered to a place specified in the requirement;
  - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
  - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

**21D. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person the

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

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investigator may apply to a magistrate for a warrant to be issued in respect of those premises.

- (2) An application for a warrant must —
  - (a) be in writing;
  - (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
  - (a) the application does not comply with the requirements of this Act; or
  - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**21E. Issue of warrant**

- (1) A magistrate to whom an application is made under section 21D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.

- 
- (2) A warrant under subsection (1) authorises the investigator —
- (a) to enter and inspect the premises named in the warrant;
  - (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
  - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and
  - (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**21F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
- (a) at the end of the period of one month after its issue;

- (b) if it is withdrawn by the magistrate who issued it; or
- (c) when it is executed,

whichever occurs first.

**21G. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 21C a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 21H(1)(b).

**21H. Failure to comply with investigation**

- (1) Where under section 21C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
  - (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 21C, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 21C, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
  - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

## **21I. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 21C.

Penalty: \$2 000.

”.

**Division 21 — Commercial Tenancy (Retail Shops) Agreements Act 1985**

**116. The Act amended**

The amendments in this Division are to the *Commercial Tenancy (Retail Shops) Agreements Act 1985*\*.

[\* Reprinted as at 21 July 2000.

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 59.]*

**117. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definition of “Registrar”;
- (b) in the definition of “Tribunal” by deleting “Commercial Tribunal of Western Australia established under the *Commercial Tribunal Act 1984*” and inserting instead —  
“ State Administrative Tribunal ”.

**118. Section 4 amended**

Section 4(2) is amended as follows:

- (a) by deleting “Sections 16 to 21 apply” and inserting instead —  
“ Section 16 applies ”;
- (b) by deleting “sections 22 and 27 have” and inserting instead —  
“ section 27 has ”.

**119. Section 9 amended**

Section 9(3) is amended by deleting “in the Tribunal or” and inserting instead —

“  
upon an application to the Tribunal for an order that the  
money sought be paid or in  
”.

**120. Section 11 amended**

- (1) Section 11(5) is amended by deleting “Registrar” in each place where it occurs and inserting instead —  
“ Tribunal ”.
- (2) Section 11(6) and (7) are repealed.
- (3) Section 11(8) is amended by deleting “Registrar” in each place where it occurs and inserting instead —  
“ Tribunal ”.

**121. Section 12 amended**

Section 12(1)(b) is amended by deleting “Registrar” and  
inserting instead —  
“ Tribunal ”.

**122. Section 12A amended**

- (1) Section 12A(3)(e)(ii) is amended by deleting “Registrar” and  
inserting instead —  
“ Tribunal ”.
- (2) Section 12A(4) is amended by deleting “Registrar” in each  
place where it occurs and inserting instead —  
“ Tribunal ”.

**123. Section 12B amended**

- (1) Section 12B(3)(e)(ii) is amended by deleting “Registrar” and  
inserting instead —

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 21** Commercial Tenancy (Retail Shops) Agreements Act 1985

**s. 124**

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“ Tribunal ”.

- (2) Section 12B(4) is amended by deleting “Registrar” in each place where it occurs and inserting instead —

“ Tribunal ”.

**124. Section 13 amended**

- (1) Section 13(3)(a) is amended as follows:

(a) by deleting “Registrar” and inserting instead —

“ Tribunal ”;

(b) by deleting “he” and inserting instead —

“ it ”.

- (2) Section 13(3a) is amended by deleting “Registrar” in each place where it occurs and inserting instead —

“ Tribunal ”.

- (3) Section 13(6) is amended by deleting “Registrar” in each place where it occurs and inserting instead —

“ Tribunal ”.

- (4) Section 13(7) is amended as follows:

(a) by deleting “Registrar” and inserting instead —

“ Tribunal ”;

(b) by deleting “him” and inserting instead —

“ it ”;

(c) by deleting “he” and inserting instead —

“ it ”.

- (5) Section 13(7a) is amended as follows:

(a) by deleting “Registrar” and inserting instead —



“ Tribunal ”;

(b) after “exercise” by deleting “his” and inserting  
instead —

“ its ”.

(6) Section 13(7b) is amended as follows:

(a) by deleting “Registrar” and inserting instead —

“ Tribunal ”;

(b) by deleting “he” and inserting instead —

“ it ”.

**125. Section 13A amended**

(1) Section 13A(2) is amended by deleting “Registrar” in each  
place where it occurs and inserting instead —

“ Tribunal ”.

(2) Section 13A(3) is amended as follows:

(a) by deleting “Registrar” in each place where it occurs and  
inserting instead —

“ Tribunal ”;

(b) by deleting “him” and inserting instead —

“ it ”.

**126. Section 15 amended**

Section 15(1)(b) is amended by deleting “Registrar” and  
inserting instead —

“ Tribunal ”.

**127. Section 16 amended**

(1) Section 16(1) is amended by deleting “Registrar” in each place  
where it occurs and inserting instead —

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 21** Commercial Tenancy (Retail Shops) Agreements Act 1985

**s. 128**

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“ Tribunal ”.

(2) Section 16(2) is amended as follows:

(a) by deleting “Registrar” in each place where it occurs and inserting instead —

“ Tribunal ”;

(b) in paragraph (a) by deleting “he” and inserting instead —

“ it ”;

(c) in paragraph (b) by deleting “sections 22(f) and” and inserting instead —

“ section ”.

(3) After section 16(2) the following subsection is inserted —

“

(3) Nothing in this section prevents a matter or question from being dealt with through a compulsory conference or mediation process under the *State Administrative Tribunal Act 2004*.

”.

**128. Sections 18 to 25 repealed**

Sections 18, 19, 20, 21, 22, 23, 24 and 25 are repealed.

**129. Section 26 amended**

(1) Section 26(1) is amended by deleting “*Commercial Tribunal Act 1984*” and inserting instead —

“ *State Administrative Tribunal Act 2004* ”.

(2) Section 26(2) and (4) are repealed.

**130. Section 27 amended**

(1) Section 27(1) is amended by deleting “Registrar” in each place where it occurs and inserting instead —

“ Tribunal ”.

- (2) Section 27(2) is amended by deleting “Registrar” in each place where it occurs and inserting instead —

“ Tribunal ”.

- (3) Section 27(3) is amended as follows:

- (a) after “referred to the” by deleting “Registrar” and inserting instead —

“ Tribunal ”;

- (b) in paragraph (b) by deleting “his or its own motion, the Registrar or, where the matter has been referred by the Registrar to the Tribunal under section 22, the” and inserting instead —

“ its own motion, the ”.

**131. Section 29 repealed**

Section 29 is repealed.

**Division 22 — Community Services Act 1972**

**132. The Act amended**

The amendments in this Division are to the *Community Services Act 1972*\*.

[\* Reprinted as at 5 April 2002.]

**133. Section 17C amended**

- (1) Section 17C(1) is amended by deleting all of the subsection after “officer, may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Director-General.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 23** Competition Policy Reform (Western Australia) Act 1996

**s. 134**

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(2) Section 17C(3) and (4) are repealed.

**Division 23 — Competition Policy Reform (Western Australia) Act 1996**

**134. The Act amended**

The amendments in this Division are to the *Competition Policy Reform (Western Australia) Act 1996*\*.

[\* Reprinted as at 6 July 2001.

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 64.]*

**135. Section 45 amended**

Section 45 is amended as follows:

- (a) by deleting the definitions of “Chairman”, “Commercial Tribunal”, “Deputy Chairman” and “Registrar”;
- (b) by inserting the following definition in the appropriate alphabetical position —

“

**“executive officer of the State Administrative Tribunal”** has the meaning given to the term “executive officer” in section 3(1) of the *State Administrative Tribunal Act 2004*;

”.

**136. Section 52 amended**

Section 52 is amended as follows:

- (a) in paragraph (b) by deleting “Commercial Tribunal” and inserting instead —  
“ State Administrative Tribunal ”;
- (b) by deleting paragraphs (c), (d) and (e) and inserting instead —

- “
- (c) to the Chairperson is taken to be a reference to the Commissioner;
  - (d) to the Deputy Chairperson is taken to be a reference to the Commissioner;
  - (e) to the Registrar is taken to be a reference to the executive officer of the State Administrative Tribunal;
- ”.

**Division 24 — Consumer Affairs Act 1971**

**137. The Act amended**

The amendments in this Division are to the *Consumer Affairs Act 1971*\*.

[\* *Reprinted as at 25 March 1999.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 77.]*

**138. Section 15 amended**

- (1) Section 15(1) is amended by inserting after “this” —  
“ or any other ”.
- (2) Section 15(1a) is amended by inserting after “deemed”—  
“ , for the purposes of this or any other Act, ”.

**139. Section 15A amended**

Section 15A(1) is amended by deleting “The” and inserting instead —

“  
In addition to other functions that this or any other Act gives to the Commissioner, the  
”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 24** Consumer Affairs Act 1971

**s. 140**

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**140. Section 19 amended**

- (1) Section 19(1) is amended by deleting “the *Fair Trading Act 1987*” and inserting instead —  
“ any other Act ”.
- (2) Section 19(1c) is amended by deleting “the *Fair Trading Act 1987*” and inserting instead —  
“ any other Act ”.
- (3) Section 19(1d) is amended by deleting “the *Fair Trading Act 1987*” and inserting instead —  
“ any other Act ”.
- (4) Section 19(2)(a) is amended by deleting “the *Fair Trading Act 1987*” and inserting instead —  
“ another Act ”.

**141. Section 20 amended**

Section 20(2) is amended by deleting “the *Fair Trading Act 1987* required” and inserting instead —

“ any other Act required by the Commissioner ”.

**142. Section 21 amended**

Section 21(2) is amended as follows:

- (a) in paragraph (a) by deleting “*Fair Trading Act 1987*” and inserting instead —  
“ other Act that is relevant ”;
- (b) in paragraph (b) by deleting “*Fair Trading Act 1987*” and inserting instead —  
“ other Act that is relevant ”.

**143. Section 24 amended**

(1) Section 24(2) is amended as follows:

- (a) by deleting “with this Act” and inserting instead —  
“ with the relevant Act ”;
- (b) by inserting after “purposes of this Act” —  
“ or another Act (the “**relevant Act**”) ”.

(2) Section 24(3) is amended as follows:

- (a) by inserting after “prohibits a person who” —  
“  
exercises powers or performs duties or functions under  
this Act and  
”;
- (b) by deleting “any information referred to in that  
subsection”;
- (c) by inserting after “under that Act” —  
“  
, any information acquired under or for the  
purposes of this Act  
”.

**Division 25 — Consumer Credit (Western Australia) Act 1996**

**144. The Act amended**

The amendments in this Division are to the *Consumer Credit (Western Australia) Act 1996*\*.

[\* *Reprinted as at 6 September 2002.*

*For subsequent amendments see Gazette 2 May 2003  
p. 1495.]*

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 26** Control of Vehicles (Off-road Areas) Act 1978

**s. 145**

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**145. Section 7 amended**

Section 7(1)(a) is amended by deleting “Commercial Tribunal of Western Australia constituted under the *Commercial Tribunal Act 1984*” and inserting instead —

“ State Administrative Tribunal ”.

**Division 26 — Control of Vehicles (Off-road Areas) Act 1978**

**146. The Act amended**

The amendments in this Division are to the *Control of Vehicles (Off-road Areas) Act 1978*\*.

[\* Reprinted as at 2 August 2002.]

**147. Section 33 replaced**

Section 33 is repealed and the following section is inserted instead —

“

**33. Review**

There is a right to apply to the State Administrative Tribunal for a review of a decision —

- (a) to refuse a registration, or the renewal or a transfer of a registration, under this Act; or
- (b) to suspend a registration.

”.

**Division 27 — Co-operative and Provident Societies Act 1903**

**148. The Act amended**

The amendments in this Division are to the *Co-operative and Provident Societies Act 1903*\*.

[\* Reprinted as at 7 September 2001.

*For subsequent amendments see Act No. 20 of 2003.]*



**149. Section 6 amended**

- (1) Section 6(1) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the refusal.

”.

- (2) Section 6(2) is repealed.

**150. Section 8 amended**

- (1) Section 8(4) is amended as follows:

- (a) by deleting “appeal to the Supreme Court from” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”;

- (b) by deleting “from” in the second place where it occurs.

- (2) Section 8(5) is amended by deleting “appeal” and inserting instead —

“ review ”.

**Division 28 — Country Areas Water Supply Act 1947**

**151. The Act amended**

The amendments in this Division are to the *Country Areas Water Supply Act 1947*\*.

[\* *Reprinted as at 19 March 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 84.]*

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**Part 2** Various Acts amended to confer jurisdiction

**Division 28** Country Areas Water Supply Act 1947

**s. 152**

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**152. Section 12BE amended**

Section 12BE(1) is amended by deleting “appeal under section 12D” and inserting instead —

“ application under section 12D for a review ”.

**153. Section 12C amended**

Section 12C(5) is amended by deleting “appeal” and inserting instead —

“ application for a review ”.

**154. Section 12D amended**

- (1) Section 12D(1) is amended by deleting all of the subsection after “(d), may” and inserting instead —

“  
apply to the State Administrative Tribunal for a review of the decision of the Commission.  
”.

- (2) Section 12D(2) is amended as follows:

- (a) by deleting “appeal” in both places where it occurs and inserting instead —

“ application ”;

- (b) by inserting after “subsection (1)” —

“ for a review ”.

**155. Part VI Division 2 heading amended**

The heading to Part VI Division 2 is amended by deleting “appeals” and inserting instead —

“ **review** ”.

**156. Section 58 amended**

Section 58(7) is amended by deleting “an appeal against the decision may be made” and inserting instead —

“ a review of the decision may be sought ”.

**157. Section 59 amended**

- (1) Section 59(1) is amended by deleting “treat the objection as an appeal against the relevant entry” and inserting instead —

“

refer the relevant entry in the records to the State  
Administrative Tribunal for a review

”.

- (2) Section 59(2) is amended by deleting “objection to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal” and inserting instead —

“

relevant entry in the records to the State Administrative  
Tribunal for a review

”.

- (3) After section 59(2) the following subsection is inserted —

“

- (3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the relevant entry in the records; and  
(b) the reasons, if any, for the entry.

”.

**158. Section 60 amended**

- (1) Section 60(1) is amended as follows:

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**Part 2** Various Acts amended to confer jurisdiction

**Division 28** Country Areas Water Supply Act 1947

**s. 159**

---

- (a) by deleting “treat an objection as an appeal” and inserting instead —

“

refer the relevant entry in the records to the State Administrative Tribunal for a review

”;

- (b) by deleting all of the subsection after “to refer” and inserting instead —

“

the decision to refuse to extend time to the State Administrative Tribunal for a review.

”.

- (2) Section 60(2) is amended by deleting “such a Tribunal as an appeal” and inserting instead —

“ the State Administrative Tribunal for a review. ”.

- (3) After section 60(2) the following subsection is inserted —

“

- (3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the decision to refuse to extend the time; and  
(b) the reasons, if any, for the decision.

”.

**159. Sections 60A and 60B inserted**

After section 60 the following sections are inserted —

“

**60A. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal on a reference under section 59 or 60, the State Administrative Tribunal may consider —
  - (a) grounds in addition to those stated in the notice of objection; and
  - (b) reasons in addition to any reasons previously given for the Corporation’s decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

**60B. Written reasons for certain determinations to be given and published**

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 59 or 60 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2004*.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 29** Country Towns Sewerage Act 1948

**s. 160**

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**160. Section 61 amended**

Section 61(1) is amended by deleting “appeal” and inserting instead —

“ review ”.

**161. Section 62 amended**

Section 62 is amended by deleting “or an appeal” and “or the appeal”.

**162. Section 62A amended**

(1) Section 62A(1) is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by inserting after “1978” —

“

or in consequence of a review by the State  
Administrative Tribunal

”.

(2) Section 62A(2) is amended by deleting all of the subsection after “when” and inserting instead —

“

amendment of an assessment is necessary under  
subsection (1).

”.

**Division 29 — Country Towns Sewerage Act 1948**

**163. The Act amended**

The amendments in this Division are to the *Country Towns Sewerage Act 1948*\*.

[\* *Reprinted as at 9 November 2001.*]

**164. Heading amended**

The heading before section 61 is amended by deleting “Appeals” and inserting instead —

“ *Review* ”.

**165. Section 61 amended**

Section 61(6) is amended by deleting “an appeal against the decision may be made” and inserting instead —

“ a review of the decision may be sought ”.

**166. Section 62 amended**

- (1) Section 62(1) is amended by deleting “treat the objection as an appeal against the relevant entry” and inserting instead —

“

refer the relevant entry to the State Administrative  
Tribunal for a review

”.

- (2) Section 62(2) is amended by deleting all of the subsection after “refer the” and inserting instead —

“

relevant entry in the records to the State Administrative  
Tribunal for a review.

”.

- (3) After section 62(2) the following subsection is inserted —

“

- (3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the relevant entry in the records; and

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**Part 2** Various Acts amended to confer jurisdiction

**Division 29** Country Towns Sewerage Act 1948

**s. 167**

---

(b) the reasons, if any, for the entry.

”.

**167. Section 63 amended**

(1) Section 63(1) is amended as follows:

(a) by deleting “treat an objection as an appeal” and inserting instead —

“

refer the relevant entry in the rating records to the State Administrative Tribunal for a review

”;

(b) by deleting all of the subsection after “to refer” and inserting instead —

“

the decision to refuse to extend time to the State Administrative Tribunal for a review.

”.

(2) Section 63(2) is amended by deleting “a Land Valuation Tribunal as an appeal” and inserting instead —

“ the State Administrative Tribunal for a review ”.

(3) After section 63(2) the following subsection is inserted —

“

(3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

(a) the decision to refuse to extend the time; and

(b) the reasons, if any, for the decision.

”.



**168. Sections 63A and 63B inserted**

After section 63 the following sections are inserted —

“

**63A. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal on a reference under section 62 or 63, the State Administrative Tribunal may consider —
  - (a) grounds in addition to those stated in the notice of objection; and
  - (b) reasons in addition to any reasons previously given for the Corporation's decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

**63B. Written reasons for certain determinations to be given and published**

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 62 or 63 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2004*.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 30** Credit Act 1984

**s. 169**

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**169. Section 64 amended**

Section 64 is amended by deleting “appeal” and inserting instead —

“ review ”.

**170. Section 65 amended**

Section 65 is amended by deleting “or an appeal” and “or the appeal”.

**171. Section 65A amended**

(1) Section 65A(1) is amended as follows:

(a) by deleting “or an appeal”.

(b) by inserting after “1978” —

“

or in consequence of a review by the State  
Administrative Tribunal

”.

(2) Section 65A(2) is amended by deleting all of the subsection after “when” and inserting instead —

“

amendment of an assessment is necessary under  
subsection (1).

”.

**Division 30 — Credit Act 1984**

**172. The Act amended**

The amendments in this Division are to the *Credit Act 1984*\*.

[\* *Reprinted as at 6 April 2001.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 87.]*

**173. Section 5 amended**

Section 5(1) is amended in the definition of “Tribunal” by deleting “Commercial Tribunal of Western Australia” and inserting instead —

“ State Administrative Tribunal ”.

**174. Section 85B amended**

Section 85B(9) is repealed.

**175. Section 86 amended**

- (1) Section 86(5) is amended by deleting “*Commercial Tribunal Act 1984*” and inserting instead —

“ *State Administrative Tribunal Act 2004* ”.

- (2) Section 86(6) is repealed.

**176. Section 167A amended**

Section 167A(5) is amended by deleting “Tribunal” and inserting instead —

“

former Commercial Tribunal established under the  
*Commercial Tribunal Act 1984*

”.

**177. Section 167B amended**

Section 167B(3) is amended by deleting “Tribunal” and inserting instead —

“

former Commercial Tribunal established under the  
*Commercial Tribunal Act 1984*

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 31** Credit (Administration) Act 1984

**s. 178**

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**178. Section 170 amended**

Section 170(1)(a) is amended by deleting “Tribunal” and inserting instead —

“ Commissioner ”.

**Division 31 — Credit (Administration) Act 1984**

**179. The Act amended**

The amendments in this Division are to the *Credit (Administration) Act 1984*\*.

[\* *Reprinted as at 5 May 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 88.]*

**180. Section 3 repealed**

Section 3 is repealed.

**181. Section 4 amended**

Section 4 is amended as follows:

- (a) by deleting the definitions of “Registrar” and “Tribunal”;
- (b) in the definition of “trade or tie agreement” by deleting the semicolon and inserting instead a full stop.

**182. Section 9 amended**

Section 9(5) is amended by deleting “Tribunal or the Registrar” in both places where it occurs and inserting instead —

“ Commissioner ”.

**183. Section 10 amended**

- (1) Section 10(1) is amended as follows:

- (a) by deleting “Registrar shall send a copy of the application to the Commissioner with a request in writing that the Commissioner” and inserting instead —  
“ Commissioner may ”;
  - (b) by deleting “Registrar specifies in the request” and inserting instead —  
“ Commissioner considers necessary ”.
- (2) Section 10(2) is repealed.
- (3) Section 10(3) is amended as follows:
- (a) by deleting “a copy of which is sent to” and inserting instead —  
“ received by ”;
  - (b) by deleting “subsection (1)” and inserting instead —  
“ section 9 ”.
- (4) Section 10(4) is amended by deleting “submits to the Tribunal a report on an application, the Registrar” and inserting instead —  
“  
receives an application and has the results of any investigation under this section, the Commissioner  
”.

**184. Section 11 amended**

- (1) Section 11(1) is amended by deleting “the Commissioner may with the consent of the Minister, and any other person may,” and inserting instead —  
“ any person may ”.
- (2) Section 11(2)(c) is amended by deleting “Commissioner or other”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 31** Credit (Administration) Act 1984

**s. 185**

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**185. Section 12 amended**

- (1) Section 12(1) is repealed and the following subsection is inserted instead —

“

- (1) Unless subsection (2) or (4) requires it to be refused, the Commissioner shall grant an application for a licence as soon as practicable after the expiration of the period allowed by or under section 11(1) for the lodging of an objection to the granting of an application.

”.

- (2) Section 12(5) is amended as follows:

- (a) by deleting “Tribunal is satisfied that the ground has been made out after it” and inserting instead —  
“ Commissioner ”;
- (b) in paragraph (a) by deleting “and has held a hearing with respect to the application”;
- (c) in paragraph (b) by deleting “to appear at the hearing and”.

- (3) Section 12(6) is repealed and the following subsection is inserted instead —

“

- (6) Where an application for a licence is refused, the Commissioner shall forthwith, by notice in writing, inform the applicant and each objector (if any) to the granting of the application of the refusal and of the ground on which the refusal is based and inform the applicant of the right to apply to the State Administrative Tribunal for a review of the refusal, and the Commissioner shall, as soon as practicable, refund to the applicant so much of the application fee as is appropriate to be refunded.

”.

- (4) Section 12(7) is amended by inserting after “of the application” —

“

and the right to apply to the State Administrative Tribunal for a review of the decision to grant the application

”.

- (5) Section 12(8)(b) is amended by inserting after “of the application” —

“

and the right to apply to the State Administrative Tribunal for a review of any condition or restriction imposed

”.

- (6) Section 12(9) is amended by deleting “appeared personally before” and inserting instead —

“ attended personally on ”.

**186. Section 13 amended**

- (1) Section 13(3) is amended as follows:

- (a) by deleting “Subject to subsection (4), the Tribunal” and inserting instead —

“ The Commissioner ”;

- (b) by deleting “held a hearing with respect to the conditions and restrictions that are proposed to be imposed or varied and has”;

- (c) by deleting “appear at the hearing and to make submissions and adduce evidence” and inserting instead —

“ make written submissions ”.

- (2) Section 13(4) is repealed.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 31** Credit (Administration) Act 1984

**s. 187**

---

**187. Section 14 amended**

Section 14(3) is amended by deleting “accordance with the rules, the Tribunal” and inserting instead —

“ writing, the Commissioner ”.

**188. Section 22 amended**

Section 22(2) is repealed and the following subsection is inserted instead —

“

- (2) Where the Commissioner makes an allegation under section 23 against the holder of a licence, the licence cannot be surrendered until after effect has been given to any order made by the State Administrative Tribunal in disposing of the allegation or by the court dealing with an appeal from an order of the State Administrative Tribunal.

”.

**189. Section 23 amended**

- (1) Section 23(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) Any person may, at any time, make to the Commissioner a written complaint about the holding of a licence by a specified licensee if the complaint complies with subsection (2).
- (2) For a complaint to comply with this subsection —
  - (a) the complaint has to specify the licensee and the grounds of the complaint; and
  - (b) the grounds of the complaint have to be capable of reasonably giving rise to a belief described in subsection (4).

”.



- (2) Section 23(3) is repealed.
- (3) Section 23(4) is amended as follows:
- (a) by deleting “Where it appears to the Chairman, whether or not pursuant to an objection under subsection (1), that” and inserting instead —  
“  
The Commissioner may, on receiving a complaint under subsection (1) or on the Commissioner’s own initiative, make any investigation or inquiry that the Commissioner considers necessary to decide whether  
”;
  - (b) in paragraph (b) by deleting “of the Tribunal” and inserting instead —  
“ under any of the cognate Acts ”;
  - (c) by deleting the comma and all of the subsection after paragraph (j) and inserting instead a full stop.
- (4) Section 23(5), (6) and (7) are repealed and the following subsections are inserted instead —  
“
- (5) If the Commissioner decides that it is appropriate to do so, the Commissioner may make an allegation to the State Administrative Tribunal that there are reasonable grounds for a belief described in subsection (4) concerning a specified licensee.
  - (6) If the Commissioner decides not to make an allegation concerning a licensee about whom a complaint was made to the Commissioner under subsection (1), the Commissioner is required to notify the person who made the complaint of that decision and the reason for it.  
”.
- (5) Section 23(8) is amended as follows:

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- (a) by deleting “, after holding an inquiry in relation to a licence, the Tribunal” and inserting instead —

“

the State Administrative Tribunal, on dealing with an allegation under subsection (5),

”;

- (b) by deleting “on the part of the Chairman”;
- (c) by deleting “the Tribunal” in the second place where it occurs and inserting instead —

“ it ”.

- (6) Section 23(9) and (10) are repealed.
- (7) Section 23(14) is amended by deleting “an inquiry under this section,” and inserting instead —

“

a proceeding before the State Administrative Tribunal upon an allegation under subsection (5),

”.

**190. Part II Division 4 heading replaced**

The heading to Part II Division 4 is deleted and the following heading is inserted instead —

“ **Division 4 — Review** ”.

**191. Section 24 replaced**

Section 24 is repealed and the following section is inserted instead —

“

**24. Application for review**

- (1) A person aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

- (2) In subsection (1) —
- “person aggrieved”** means —
- (a) a person upon whose application a reviewable decision is made or a person who lodged an objection to the application; or
  - (b) the holder of the licence to which a reviewable decision relates.
- “reviewable decision”** means —
- (a) a decision under section 12 to grant or refuse an application for a licence;
  - (b) a decision under section 13 to impose or vary a condition or restriction; or
  - (c) a decision under section 25(3) to grant or refuse an application or impose a condition.
- (3) The making of an application under subsection (1) for a review of a decision to impose or vary a condition subject to which a licence is to be held operates to stay the decision in so far as it would have the effect of preventing the collection of payments by a credit provider, unless the State Administrative Tribunal orders otherwise.

”.

**192. Section 25 amended**

Section 25(2), (3) and (4) are repealed and the following subsections are inserted instead —

“

- (2) The Commissioner may make any investigation or inquiry that the Commissioner considers necessary for the purpose of dealing with the application.
- (3) The Commissioner shall grant or refuse the application and, on granting the application, may impose

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conditions subject to which the business to which the application relates may be carried on.

”.

**193. Section 28 amended**

Section 28(3) is amended as follows:

(a) by deleting paragraph (a) and inserting instead —

“

(a) the Commissioner cannot make an allegation under section 23 to the State Administrative Tribunal;

”;

(b) in paragraph (b) by deleting “may not” and inserting instead —

“ cannot ”.

**194. Section 29 amended**

Section 29(1)(a) and “and” after it are deleted.

**195. Section 30 amended**

(1) Section 30(1) is amended by deleting “after inquiry”.

(2) Section 30(3) is amended by deleting “commissioner” and inserting instead —

“ Commissioner ”.

**196. Section 32 amended**

(1) Section 32(1) is amended by deleting “the Tribunal (constituted as specified in the instrument) or”.

(2) Section 32(4) is amended as follows:

(a) by deleting “the Tribunal or” and inserting instead —

“ a ”;

- (b) by deleting “on the Tribunal”.
- (3) Section 32(7) is amended as follows:
- (a) by deleting “the Tribunal or” in the first place where it occurs;
- (b) by deleting “Tribunal or that”.
- (4) Section 32(8) and (9) are repealed and the following subsection is inserted instead —
- “
- (8) A person appointed under subsection (1) is not liable for any act or omission by or on the part of the person that occurred in good faith and in the performance or discharge or purported performance or discharge, of functions under this Part.

”.

**197. Section 33 amended**

Section 33 is amended as follows:

- (a) by deleting “The Tribunal” and inserting instead —  
“ A person ”;
- (b) by deleting “it” in each place where it occurs and inserting instead —  
“ the person ”.

**198. Section 34 amended**

Section 34(1) is amended by deleting “Tribunal may, at an inquiry under this Part,” and inserting instead —

“ person conducting an inquiry under this Part may ”.

**199. Section 35 amended**

- (1) Section 35(2) is amended as follows:
- (a) by deleting “Tribunal may, if it thinks fit,” and inserting instead —

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- “ person conducting the inquiry may ”;
  - (b) by deleting “Tribunal” in the second place where it occurs and inserting instead —
    - “ person conducting the inquiry ”;
  - (c) by deleting “Tribunal” in the third place where it occurs and inserting instead —
    - “ person ”.
- (2) Section 35(3) is amended by deleting “Tribunal” and inserting instead —  
“ person conducting the inquiry ”.
- (3) Section 35(4) is amended as follows:
  - (a) by deleting “Tribunal” in both places where it occurs and inserting instead —
    - “ person conducting the inquiry ”;
  - (b) by deleting “it” and inserting instead —
    - “ the person ”.
- (4) Section 35(5) is amended by deleting “Tribunal” and inserting instead —  
“ person conducting the inquiry ”.

**200. Section 36 amended**

- (1) Section 36(1) is amended by deleting “Tribunal” and inserting instead —  
“ person conducting the inquiry ”.
- (2) Section 36(3) is amended by deleting “before the Tribunal” and inserting instead —  
“ at an inquiry ”.

**201. Section 39 amended**

- (1) Section 39(1) is amended as follows:
- (a) by deleting “Tribunal” in the first place where it occurs and inserting instead —  
“ person conducting the inquiry ”;
  - (b) by deleting “the Tribunal” in the second place where it occurs and inserting instead —  
“ that person ”.
- (2) Section 39(2), (3) and (5) are amended by deleting “Tribunal” and inserting instead —  
“ person conducting the inquiry ”.
- (3) Section 39(8) is amended by deleting “a member of the Tribunal or”.

**202. Section 40 repealed**

Section 40 is repealed.

**203. Section 43 amended**

Section 43(2) is amended as follows:

- (a) by deleting “, lodges an objection under section 11 or 23”;
- (b) by deleting “, the lodging of the objection”.

**204. Section 44 amended**

Section 44 is amended by deleting “Chairman” and inserting instead —

“ President ”.

**205. Section 56 amended**

- (1) Section 56(1) is amended as follows:

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---

(a) by deleting paragraph (a) and inserting instead —

“

(a) a member of, or the Registrar of, the former Commercial Tribunal that existed under the *Commercial Tribunal Act 1984* before that Act was repealed;

”;

(b) by inserting “or” after paragraph (d);

(c) by deleting paragraph (e) and “or” after it;

(d) in paragraph (f) by deleting “or the Registrar”.

(2) Section 56(2) is amended by deleting “*Commercial Tribunal Act 1984*” and inserting instead —

“ *State Administrative Tribunal Act 2004* ”.

**206. Section 57 amended**

Section 57 is amended by deleting “Tribunal, the Commissioner or the Registrar may extend a period, the Tribunal, Commissioner or Registrar” and inserting instead —

“

State Administrative Tribunal or the Commissioner may extend a period, the State Administrative Tribunal or the Commissioner

”.

**207. Section 60 amended**

(1) Section 60 is amended by inserting before “The” the subsection designation “(1)”.

(2) At the end of section 60 the following subsection is inserted —

“

(2) The annual report of the department in which the Commissioner is employed is to include details of —

(a) the number, nature, and outcome, of —



- (i) investigations and inquiries undertaken by, or at the direction of, the Commissioner for the purposes of this Act; and
- (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Commissioner in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Commissioner's functions under this Act.

”.

**208. Schedule 1 repealed**

Schedule 1 is repealed.

**209. Various references to “Tribunal” amended**

- (1) The Act is amended by deleting “Tribunal” in each place specified in the Table to this section and inserting instead —  
“ Commissioner ”.

**Table**

- s. 9(1) and (4)
- s. 9(5) (in the second place)
- s. 11(1) (in both places)
- s. 11(2)(b)
- s. 12(2) and (3)
- s. 12(4) (both places)

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**Division 31** Credit (Administration) Act 1984

**s. 210**

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- s. 12(9) (5 places)
  - s. 13(1)
  - s. 13(3) (in the second place)
  - s. 22(3)
  - s. 23(4)(i)
  - s. 23(11) (in the second place)
- (2) The Act is amended by deleting “Tribunal” in each place specified in the Table to this section and inserting instead —
- “ State Administrative Tribunal ”.

**Table**

- s. 26
- s. 28(1)(b)
- s. 29(5)
- s. 30(1), (2), (3) (all in the first place)
- s. 30(4)
- s. 31(1)
- s. 41(1)(a) (both places)
- s. 41(2)
- s. 42 (3 places)
- s. 43(1)
- s. 44 (in the first place)
- s. 54(1)

**210. Various references to “Registrar” amended**

The Act is amended by deleting “Registrar” in each place specified in the Table to this section and inserting instead —

“ Commissioner ”.

**Table**

- s. 12(7) and (8)(b)
- s. 16(1)
- s. 16(2) (both places)
- s. 18(1)
- s. 23(12)
- s. 25(1) (both places)

s. 26 (both places)  
s. 51(1) and (2)

**Division 32 — Cremation Act 1929**

**211. The Act amended**

The amendments in this Division are to the *Cremation Act 1929*\*.

[\* *Reprinted as at 16 February 2001.*  
*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 88.*]

**212. Section 8 amended**

Section 8(6) is amended by deleting all of the subsection after “applicant may” and inserting instead —

“  
apply to the State Administrative Tribunal for a review  
of the decision of the medical referee.  
”.

**Division 33 — Dangerous Goods Safety Act 2004**

**213. The Act amended**

The amendments in this Division are to the *Dangerous Goods Safety Act 2004*\*.

[\* *Act No. 7 of 2004.*]

**214. Section 67 amended**

(1) Section 67(1) is amended in the definition of “appealable decision” by deleting “appealable” and inserting instead —

“ **reviewable** ”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 34** Dangerous Goods (Transport) Act 1998

**s. 215**

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- (2) Section 67(2) is amended by deleting “an appealable decision may appeal to a Local Court against” and inserting instead —

“

a reviewable decision may apply to the State  
Administrative Tribunal for a review of

”.

- (3) Section 67(3), (4), (5), (6) and (7) are repealed.

**215. Schedule 1 amended**

Schedule 1 clause 8(10) is amended by inserting after  
“conditions” —

“

but not so as to provide for review by the State  
Administrative Tribunal

”.

**Division 34 — *Dangerous Goods (Transport) Act 1998***

**216. The Act amended**

- (1) The amendments in this Division are to the *Dangerous Goods (Transport) Act 1998*\*.

[\* *Act No. 50 of 1998.*]

- (2) This Division is of no effect if the *Dangerous Goods (Transport) Act 1998* is repealed and this Division has not come into operation before the repeal.

**217. Section 4 amended**

Section 4 is amended by deleting “a Local Court” and inserting  
instead —

“ the State Administrative Tribunal ”.

**218. Section 8 amended**

Section 8(2)(v) is deleted.

**Division 35 — Debt Collectors Licensing Act 1964**

**219. The Act amended**

The amendments in this Division are to the *Debt Collectors Licensing Act 1964*\*.

[\* Reprint 2 as at 7 March 2003.]

**220. Section 3 amended**

Section 3 is amended as follows:

- (a) by inserting after the definition of “bank” —

“

“**Commissioner**” has the meaning given to that term in  
section 4(1) of the *Consumer Affairs Act 1971*;

”;

- (b) by deleting the definition of “Court”.

**221. Section 8 amended**

- (1) Section 8(3) is amended by deleting all of the subsection after  
“lodged with the” and inserting instead —

“ Commissioner. ”.

- (2) Section 8(4) is amended as follows:

- (a) by deleting “Clerk of the Court” and inserting instead —

“ Commissioner ”;

- (b) by deleting “officer in charge of police at the police  
station nearest to the Court of the fact and that officer”  
and inserting instead —

“ Commissioner of Police, who ”;

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**Division 35** Debt Collectors Licensing Act 1964

**s. 221**

---

(c) in paragraph (b) by deleting “Court” and inserting instead —  
“ Commissioner ”.

(3) Section 8(5) is amended as follows:

(a) in paragraph (a) —

(i) by deleting “officer in charge referred to in subsection (4),” and inserting instead —

“ Commissioner of Police ”;

(ii) by deleting “proposes to so object” and inserting instead —

“ objects ”; and

(iii) by deleting “so proposes” and inserting instead —

“ objects ”;

(b) in paragraph (b) by deleting “Court” and inserting instead —

“ Commissioner ”;

(c) by deleting paragraph (c) and inserting instead —

“

(c) Where a report of the Commissioner of Police contains an objection, the Commissioner under this Act shall notify the applicant concerned in writing of the objection and afford the applicant the opportunity to make submissions in support of the application.

”.

(4) Section 8(6) is amended as follows:

(a) by deleting “Court in hearing an” and inserting instead —

“

Commissioner, for the purposes of deciding an

”;

(b) by deleting “may call and receive” and inserting instead —

“ , may consider ”.

(5) Section 8(7), (8) and (9) are repealed.

(6) Section 8(10) is amended by deleting “Court hearing the application” and inserting instead —

“ Commissioner ”.

**222. Section 9 amended**

(1) Section 9(1) is amended as follows:

(a) by deleting “Court hearing” and inserting instead —

“ Commissioner has to refuse ”.

(b) by deleting “shall refuse the application unless it is” and inserting instead —

“ unless ”.

(2) Section 9(3) is repealed.

(3) Section 9(4) is amended as follows:

(a) by deleting “where the Court” and inserting instead —

“ where the Commissioner ”;

(b) by deleting “Clerk of the Court” and inserting instead —

“ Commissioner ”.

(4) Section 9(5) is amended by deleting “a Stipendiary Magistrate, he may order the issue of” and inserting instead —

“ the Commissioner, he may issue ”.

**223. Section 10 amended**

(1) Section 10(1) is repealed and the following subsections are inserted instead —

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**Division 35** Debt Collectors Licensing Act 1964

**s. 223**

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“

- (1) Any person may, at any time, make a complaint in writing to the Commissioner about the holding of a licence by a specified licensee if the complaint complies with subsection (1ab).
- (1a) For a complaint to comply with this subsection —
  - (a) the complaint has to specify the licensee and the ground of the complaint; and
  - (b) the ground of the complaint has to be a ground described in subsection (1).
- (1b) The Commissioner may, on receiving a complaint under subsection (1) or on the Commissioner's own initiative, make any investigation or inquiry that the Commissioner considers necessary to decide whether to make an allegation under subsection (2) —
  - (a) on the ground that the licensee improperly obtained his licence contrary to the provisions of this Act;
  - (b) on the ground that the licensee has been convicted of any offence against this Act; or
  - (c) on any of the grounds on which the Commissioner may refuse the grant or renewal of a licence under section 9.
- (1c) If the Commissioner decides that it is appropriate to do so, the Commissioner may make an allegation to the State Administrative Tribunal that there is a ground for it to make an order under subsection (2).
- (1d) If the Commissioner decides not to make an allegation concerning a licensee about whom a complaint was made to the Commissioner under subsection (1), the Commissioner is required to notify the person who made the complaint of that decision and the reason for it.



”.

(2) Section 10(2) is amended as follows:

(a) by deleting “Where the Court” and inserting instead —

“

Where the State Administrative Tribunal, on dealing  
with an allegation under subsection (1c),

”;

(b) by deleting “those grounds is proved, the Court” and  
inserting instead —

“

the grounds described in subsection (1b) is proved, it

”;

(c) by deleting “Clerk of the Court” and inserting instead —

“ Commissioner ”;

(d) by deleting “as the Court” and inserting instead —

“ as the Tribunal ”.

(3) Section 10(3) is repealed.

(4) Section 10(4) is amended by deleting “a Court makes an order  
under subsection (2), the Clerk of the Court” and inserting  
instead —

“

the State Administrative Tribunal makes an order under  
subsection (2), the Commissioner

”.

## **224. Section 11 replaced**

Section 11 is repealed and the following section is inserted  
instead —

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“

**11. Review of Commissioner’s decision**

- (1) Where the Commissioner refuses to grant an application under section 8 the applicant may apply to the State Administrative Tribunal for a review of the decision.
- (2) Where the Commissioner grants an application under section 8 after the Commissioner of Police has objected under that section to the granting of the application, the Commissioner of Police may apply to the State Administrative Tribunal for a review of the decision.

”.

**225. Section 12 amended**

- (1) Section 12(1) is amended as follows:
  - (a) by deleting “Each Clerk of a Court” and inserting instead —  
“ The Commissioner ”;
  - (b) by deleting “granted or made by the Court of which he is the Clerk”.
- (2) Section 12(2) is amended by deleting “Clerk” and inserting instead —  
“ Commissioner ”.

**226. Section 12A inserted**

After section 12 the following section is inserted —

“

**12A. Matters to be included in annual report**

The annual report of the department in which the Commissioner is employed is to include details of —

- (a) the number, nature, and outcome, of —

- (i) investigations and inquiries undertaken by, or at the direction of, the Commissioner for the purposes of this Act; and
- (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Commissioner in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Commissioner's functions under this Act.

”.

**227. Section 15 amended**

Section 15(4) is amended as follows:

- (a) in paragraph (a) by deleting “Clerk of the Court that granted his licence,” and inserting instead —  
“ Commissioner ”;
- (b) in paragraph (b) by deleting “Clerk” and inserting instead —  
“ Commissioner ”.

**228. Section 20 amended**

Section 20(1) is amended as follows:

- (a) by deleting “Where the Court” and inserting instead —  
“ Where the Commissioner ”;

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- (b) by deleting “Clerk of the Court” and inserting instead —  
“ Commissioner ”.

**229. Section 21 amended**

- (1) Section 21(1)(a) is amended by deleting “Clerk of the Court with whom the bond is lodged” and inserting instead —  
“ Commissioner ”.
- (2) Section 21(2) is amended by deleting “appropriate Clerk of the Court” and inserting instead —  
“ Commissioner ”.

**Division 36 — *Dental Act 1939***

**230. The Act amended**

The amendments in this Division are to the *Dental Act 1939*\*.

[\* *Reprinted as at 25 June 1999.*]

**231. Section 14C amended**

After section 14C(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;

- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Board.

”.

**232. Section 15 amended**

Section 15(1) amended in paragraph (h) by deleting “, and the inquiry by the Board into such charge or complaint”.

**233. Section 18 amended**

Section 18(1) is amended by inserting after “Board” —  
“ or the State Administrative Tribunal ”.

**234. Section 23 amended**

Section 23(1) is amended by deleting “by the Board” and inserting instead —  
“ by the State Administrative Tribunal ”.

**235. Part IV inserted**

After section 29 the following headings and sections are inserted —

“

## **Part IV — Disciplinary proceedings**

### **Division 1 — Investigation**

**29A. Investigator**

- (1) The Board may appoint a person to investigate a complaint or any other matter relevant to the Board’s functions and report to the Board.

- (2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

**29B. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the Board requires prepare a report on the investigation, and make recommendations as to the manner in which the complaint or other matter should be dealt with; and
  - (b) immediately after preparing the report, provide the Board with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the Board is provided with a copy of the report.

**29C. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —
  - (a) enter and inspect the premises of a person named in a warrant issued under section 29E(1), and exercise the powers referred to in section 29E(2)(b) and (c);
  - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
  - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit,

- and make copies of a document or any of its contents;
- (d) require a person —
- (i) to give the investigator such information as the investigator requires; and
  - (ii) to answer any question put to that person,
- in relation to the matter the subject of the investigation; and
- (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
  - (b) must specify the time at or within which the document or other thing is to be produced;
  - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
  - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
    - (i) the document itself; and
    - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;

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- (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
- (c) may, by its terms, require that the information or answer required —
  - (i) be given orally or in writing;
  - (ii) be given at or sent or delivered to a place specified in the requirement;
  - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
  - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

**29D. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of an investigation, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- (2) An application for a warrant must —
  - (a) be in writing;



- (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of the investigation;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
- (a) the application does not comply with the requirements of this Act; or
  - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**29E. Issue of warrant**

- (1) A magistrate to whom an application is made under section 29D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose of the investigation.
- (2) A warrant under subsection (1) authorises the investigator —
- (a) to enter and inspect the premises named in the warrant;
  - (b) to require a person on the premises to answer questions or produce documents or other things

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in the person's possession concerning the investigation; and

- (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and
  - (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**29F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
  - (a) at the end of the period of one month after its issue;
  - (b) if it is withdrawn by the magistrate who issued it; or
  - (c) when it is executed,whichever occurs first.

**29G. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 29C a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 29H(1)(b).

**29H. Failure to comply with investigation**

- (1) Where under section 29C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
  - (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —

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- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 29C, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
- (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 29C, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
- (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

**29I. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 29C.

Penalty: \$2 000.

**Division 2 — Proceedings**

”.

**236. Section 30 amended**

(1) Section 30(1) is amended as follows:

(a) by deleting all of the subsection before paragraph (a) and inserting instead —

“

(1) There is proper cause for disciplinary action in respect of a registered person if —

”;

(b) in paragraph (b) —

(i) by deleting “named”; and

(ii) by deleting “, in the opinion of the Board,”;

(c) in paragraph (c) —

(i) by deleting “other”;

(ii) by deleting “Board” before “by this Act” and inserting instead —

“ State Administrative Tribunal ”; and

(iii) by deleting “in the opinion of the Board”.

(2) After section 30(1) the following subsections are inserted —

“

(1aa) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), in respect of a person who is or was a registered person.

(1ab) If in a proceeding commenced by an allegation under this section in respect of a registered person, the State Administrative Tribunal is of the opinion that proper cause exists for disciplinary action the Tribunal may order that the name of the person be struck off the Register.

”.

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- (3) Section 30(1a) is amended as follows:
- (a) by deleting “Board, after due inquiry,” and inserting instead —  
“ Tribunal ”;
  - (b) by deleting “(1)” and inserting instead —  
“ (1ab) ”;
  - (c) by deleting “Board” in each place where it occurs and inserting instead —  
“ Tribunal ”.
- (4) Section 30(1b) is amended by deleting “Board” and inserting instead —  
“ Tribunal ”.
- (5) Section 30(2) is amended as follows:
- (a) by deleting “shall consider all such allegations” and inserting instead —  
“ may ”;
  - (b) by inserting after “writing” —  
“  
refer the allegation to the State Administrative Tribunal  
”.
- (6) After section 30(2) the following subsections are inserted —  
“
- (2a) Instead of making an allegation to the Tribunal under subsection (1aa) or referring an allegation to the Tribunal under subsection (2), if the Board —
    - (a) is of the opinion that a proceeding before the Tribunal is not warranted by the nature of the allegations;
    - (b) has afforded to the person concerned the opportunity of giving an explanation to the

Board either in person or in writing and is not satisfied by any explanation offered; and

- (c) has afforded to the person concerned the option of the matter proceeding before the Tribunal and that option has not been taken up,

the Board may deal with the matter as described in subsection (3)(a), (b), (c), or (d) except that it cannot order that a person be fined more than \$2 500 and it cannot make an order under subsection (3)(a) or (c) in respect of a person who is no longer a registered person.

- (2b) The Board may, in addition to or instead of imposing 1 or more penalties under provisions referred to in subsection (2a), order the person concerned to pay all or any of the costs and expenses of or incidental to the proceedings.
- (2c) The amount of any penalty, costs, or expenses that the Board orders under subsection (2a) or (2b) that a person pay is recoverable by the Board in any court of competent jurisdiction as a debt due to the Board.

”.

(7) Section 30(3) is amended as follows:

- (a) by deleting “Board considers” and inserting instead —  
“ State Administrative Tribunal considers ”;
- (b) by deleting “Board may” and inserting instead —  
“ Tribunal may ”;
- (c) in paragraph (a) by deleting “, and amend those particulars accordingly”;
- (d) in paragraph (c) —
  - (i) by deleting “require” and inserting instead —  
“ order ”;

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- (ii) by deleting “the Board thinks necessary” and inserting instead —  
“ is specified in the order ”; and
    - (iii) in subparagraph (i) by deleting “the Board may impose” and inserting instead —  
“ may be specified in the order ”;
  - (e) in paragraph (d) by deleting “the Board thinks fit” and inserting instead —  
“ is specified in the order ”;
  - (f) in paragraphs (e) and (f) —
    - (i) by deleting “suspend that person” and inserting instead —  
“ order that that person is suspended ”;  
and
    - (ii) by inserting after “12 months” —  
“ as specified in the order ”.
- (8) Section 30(4) and (5) are repealed.

**237. Section 30A amended**

Section 30A is amended as follows:

- (a) by deleting “to the Board”;
- (b) by inserting after “with the undertaking,” —  
“  
refer the matter to the State Administrative Tribunal  
and the Tribunal may  
”;
- (c) by deleting “as the Board” and inserting instead —  
“ as the Tribunal ”.



**238. Section 30B repealed**

Section 30B is repealed.

**239. Section 31 amended**

(1) After section 31(1) the following subsection is inserted —

“

(1aa) The Board cannot grant an application under subsection (1) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

(2) Section 31(1a) is amended by deleting “unless it is” and inserting instead —

“ if it is not ”.

(3) Section 31(2) is amended by deleting “subsection” and inserting instead —

“ subsections (1aa) and ”.

**240. Section 33 replaced**

Section 33 is repealed and the following section is inserted instead —

“

**33. Review**

Whenever the Board makes a decision —

- (a) refusing to register any person;
- (b) refusing to re-enter in the Register the name of any person whose name has previously been withdrawn from or struck off the Register; or
- (c) imposing any penalty or making any order as to costs or expenses under section 30(2a) or (2b),

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---

a person aggrieved may apply to the State Administrative Tribunal for a review of the decision.

”.

**241. Section 45 amended**

Section 45(1)(a) is deleted.

**242. Section 48 amended**

Section 48(e) is amended by deleting “inquiry or”.

**243. Section 63 repealed**

Section 63 is repealed.

**Division 37 — Dental Prosthetists Act 1985**

**244. The Act amended**

The amendments in this Division are to the *Dental Prosthetists Act 1985*\*.

[\* *Reprint 1 as at 1 May 2003.*]

**245. Section 12 amended**

Section 12(4)(a) is deleted.

**246. Sections 19A to 19I inserted**

After section 19 the following sections are inserted —

“

**19A. Investigator**

(1) The Commissioner may appoint a person to investigate —

- (a) a complaint in relation to a dental prosthetist; or
- (b) any other matter relevant to the Commissioner’s functions,

and report to the Commissioner.

- (2) The Commissioner is to issue to each investigator the Commissioner appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

**19B. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the Commissioner requires prepare a report on the investigation, and make recommendations as to the manner in which the complaint or other matter should be dealt with; and
  - (b) immediately after preparing the report, provide the Commissioner with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the Commissioner is provided with a copy of the report.

**19C. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —
  - (a) enter and inspect the premises of a person named in a warrant issued under section 19E(1), and exercise the powers referred to in section 19E(2)(b) and (c);
  - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;

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- (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
  - (d) require a person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to that person,  
in relation to the matter the subject of the investigation; and
  - (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
  - (b) must specify the time at or within which the document or other thing is to be produced;
  - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
  - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
    - (i) the document itself; and
    - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give

- information or answer a question, as the case may be;
- (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to a place specified in the requirement;
    - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
    - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

**19D. Warrant to enter premises**

- (1) If the Commissioner has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of an investigation the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- (2) An application for a warrant must —

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- (a) be in writing;
  - (b) be accompanied by a notice in writing from the Commissioner stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of the investigation;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
- (a) the application does not comply with the requirements of this Act; or
  - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**19E. Issue of warrant**

- (1) A magistrate to whom an application is made under section 19D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose of the investigation.
- (2) A warrant under subsection (1) authorises the investigator —
- (a) to enter and inspect the premises named in the warrant;

- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
  - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and
  - (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**19F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
  - (a) at the end of the period of one month after its issue;
  - (b) if it is withdrawn by the magistrate who issued it; or
  - (c) when it is executed,whichever occurs first.

**19G. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 19C a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 19H(1)(b).

**19H. Failure to comply with investigation**

- (1) Where under section 19C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
  - (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —



- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 19C, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
- (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 19C, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
- (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

**19I. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 19C.

Penalty: \$2 000.

”.

**247. Section 20 amended**

- (1) Section 20(1) is amended as follows:
  - (a) by deleting “, after due inquiry,”;

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- (b) by deleting “, by writing signed by him,” and inserting instead —

“

refer the matter to the State Administrative Tribunal and the Tribunal may, if satisfied that the dental prosthetist is not a fit and proper person to hold a licence,

”.

- (2) Section 20(2) is repealed and the following subsections are inserted instead —

“

- (2) A person whose licence has been revoked under this section may apply in writing to the Commissioner, at any time after the expiration of a period of one year from the revocation for the restoration of his licence.
- (3) The Commissioner may, on payment by the applicant to the Commissioner of the prescribed fee, grant the application and restore the licence to the applicant or may refuse the application.
- (4) The Commissioner cannot grant an application under subsection (2) unless the Commissioner has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

**248. Section 21 amended**

Section 21 is amended as follows:

- (a) by deleting “Commissioner” in the first place where it occurs and inserting instead —  
“ State Administrative Tribunal ”;
- (b) in paragraph (a) by deleting “he” and inserting instead —

- “ the Tribunal ”;
- (c) in paragraph (b) by deleting “Commissioner” and inserting instead —
- “ Tribunal ”;
- (d) by deleting “suspend the operation of a licence for such period as the Commissioner determines” and inserting instead —

“

order that the operation of a licence be suspended for such period as the Tribunal specifies in the order

”.

**249. Section 22 replaced**

Section 22 is repealed and the following section is inserted instead —

“

**22. Review**

- (1) Where the Commissioner makes a decision —
- (a) refusing to issue a licence upon application therefor duly made under this Act; or
- (b) refusing to restore a licence upon application therefor duly made under this Act,

the person affected by his decision may apply to the State Administrative Tribunal for a review of the decision.

- (2) Where the Commissioner does not, within 90 days after an application is duly made under this Act, issue a licence, or restore a licence, in accordance with the application or give the applicant notice in writing that his application is refused, the application is to be taken to have been refused at the expiry of that period of 90 days.

”.

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**250. Section 30A inserted**

After section 30 the following section is inserted —

“

**30A. Report**

On or before 31 December in each year the Commissioner shall submit to the Minister a report relating to the Commissioner's functions under this Act for the preceding year ending on 30 June setting out details of —

- (a) the number, nature, and outcome, of —
  - (i) investigations undertaken at the direction of, the Commissioner; and
  - (ii) matters that have been brought before the State Administrative Tribunal by the Commissioner;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged; and
- (d) forecasts of the workload of the Commissioner under this Act in the year after the year to which the report relates.

”.

**Division 38 — Dog Act 1976**

**251. The Act amended**

The amendments in this Division are to the *Dog Act 1976*\*.

[\* *Reprinted as at 9 November 2001.*]

**252. Section 7 amended**

Section 7(3)(aa) is amended by deleting “bringing” and inserting instead —

“ making ”.

**253. Section 14 amended**

Section 14(2) is amended by deleting “or a court”.

**254. Section 16A amended**

Section 16A(3) is amended by deleting all of the subsection after “may” in the first place where it occurs and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

**255. Section 17 amended**

- (1) Section 17(1) is amended by deleting all of the subsection after “be may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 17(2) is repealed.

- (3) Section 17(3) is amended as follows:

- (a) by deleting “Local Court” and inserting instead —

“ State Administrative Tribunal ”;

- (b) by deleting “on an appeal”;

- (c) by deleting “Court” in the second place where it occurs and inserting instead —

“ State Administrative Tribunal ”.

- (4) Section 17(3a) is amended by deleting “Local Court” and inserting instead —

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“ State Administrative Tribunal ”.

(5) Section 17(4) is amended as follows:

(a) by deleting “no appeal under subsection (1) is instituted within the prescribed time” and inserting instead —

“

an application is not made under subsection (1) within the time fixed for the making of the application

”;

(b) by deleting “appealed against” and inserting instead —  
“ applied for a review of ”;

(c) by deleting all of the subsection after “for the seizure of the dog” and inserting instead a full stop.

(6) Section 17(5) is repealed and the following subsections are inserted instead — “

“

(5) If an application is made under subsection (1) but the proceeding on the application in the State Administrative Tribunal is withdrawn, dismissed or struck out under section 46, 47 or 48 of the *State Administrative Tribunal Act 2004*, a Justice of the Peace may, on the application of the local government, make an order for the seizure of the dog.

- (6) If an order for the seizure of the dog is made under subsection (4) or (5), the local government may cause the dog to be seized and detained or destroyed or otherwise disposed of as though it had been found in a place in contravention of section 31, 32 or 33A and had not been claimed.

”.

**256. Section 26 amended**

- (1) Section 26(5) is amended by deleting all of the subsection after “may” in the second place where it occurs and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 26(6) is amended as follows:

- (a) by deleting “shall be lodged with the Minister not later than” and inserting instead —

“ cannot be made later than the expiry of a period of ”;

- (b) by deleting “that is appealable”.

**257. Section 27 amended**

- (1) Section 27(6) is amended by deleting “to expire at the end of the period specified in the notice” and inserting instead —

“

specifying a period at the end of which the licence is cancelled

”.

- (2) Section 27(7) is amended as follows:

- (a) in paragraph (b) by deleting “intention to cancel” and inserting instead —

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“ cancellation of ”;

- (b) by deleting all of the subsection after “be may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

**258. Section 29 amended**

Section 29(3)(b) is amended by deleting “17(4)” and inserting instead —

“ 17(6) ”.

**259. Section 33E amended**

Section 33E(3) is amended as follows:

- (a) by deleting “of objection and appeal”;
- (b) by inserting after “Division” in the second place where it occurs —

“ to object and to apply for a review ”.

**260. Section 33F amended**

- (1) Section 33F(2)(b)(i) is amended as follows:

- (a) by deleting “of appeal to a Local Court in the manner prescribed by regulations against any” and inserting instead —

“

to apply to the State Administrative Tribunal for a review of the

”;

- (b) by inserting after “government” in the second place where it occurs —

“ on the objection ”.



- (2) Section 33F(2)(b)(ii) is deleted and the following subparagraph is inserted instead —

“

- (ii) to apply directly to the State  
Administrative Tribunal for a review,

”.

- (3) Section 33F(3) is amended by deleting “appeal” and inserting instead —

“ application for review is ”.

- (4) Section 33F(4) is amended by deleting “appeal” in both place where it occurs and inserting instead —

“ application for review ”.

- (5) Section 33F(6)(a) is amended as follows:

- (a) by deleting “appeal to a Local Court in the manner prescribed by regulations” and inserting instead a comma;

- (b) by inserting after “objection” in the second place where it occurs —

“

, apply to the State Administrative Tribunal for  
a review of the decision

”.

- (6) Section 33F(6)(b) is amended as follows:

- (a) by inserting after “owner” —

“ stating ”;

- (b) by deleting “either upheld, varied or dismissed” and inserting instead —

“ setting out its determination on the objection ”;

- (c) by inserting after “declaration” a comma;

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(d) by deleting “appeal to a Local Court in the manner prescribed by regulations, within not more than” and inserting instead —

“ , within ”;

(e) by inserting after “subsection (1)” in the second place where it occurs —

“

, apply to the State Administrative Tribunal for a review of the decision to which the owner objected

”.

(7) Section 33F(8) is amended by deleting “appeal” and inserting instead —

“ review ”.

**261. Section 33G amended**

(1) Section 33G(2)(d) is amended as follows:

(a) in subparagraph (i) by deleting all of the subparagraph after “right” and inserting instead —

“

to apply to the State Administrative Tribunal for a review of the decision made by the local government on the objection;

”;

(b) by deleting subparagraph (ii) and inserting instead —

“

(ii) to apply directly to the State Administrative Tribunal for a review,

”.

(2) Section 33G(3) is amended by deleting “any appeal to a Local Court” and inserting instead —

“  
making an application to the State Administrative  
Tribunal for a review  
”.

(3) Section 33G(4)(a) is amended as follows:

- (a) by deleting “appeal to a Local Court in the manner prescribed by regulations” and inserting instead a comma;
- (b) by inserting after “objection” in the second place where it occurs —

“  
, apply to the State Administrative Tribunal for  
a review of the decision  
”.

(4) Section 33G(4)(b) is amended as follows:

- (a) by inserting after “owner” —  
“ stating ”;
- (b) by deleting “either upheld, varied or dismissed” and inserting instead —  
“ setting out its determination on the objection ”;
- (c) by inserting after “dog” a comma;
- (d) by deleting “appeal to a Local Court in the manner prescribed by regulations”;
- (e) by inserting after “subsection (2)” in the second place where it occurs —

“  
, apply to the State Administrative Tribunal for a  
review of the decision to which the owner  
objected  
”.

(5) Section 33G(6) is amended as follows:

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- (a) in paragraph (a)(i) by deleting “appeal” and inserting instead —  
“ application for review ”;
- (b) in paragraph (a)(ii) by inserting before “the applicant” —  
“ an application for review is made but ”;
- (c) in paragraph (a)(iii) by deleting “Local Court” and inserting instead —  
“ State Administrative Tribunal ”;
- (d) in paragraph (b) —
  - (i) by deleting “Local Court and” and inserting instead —  
“  
State Administrative Tribunal for a review and  
the State Administrative Tribunal affirms  
”,  
and
  - (ii) by deleting “is affirmed by an order of that court”;
- (e) by deleting “court” and inserting instead —  
“ State Administrative Tribunal ”.

**262. Section 33H amended**

- (1) Section 33H(4) is amended as follows:
  - (a) in paragraph (a) by deleting “appeal” and inserting instead —  
“ application for review ”;
  - (b) in paragraph (b) by deleting “this section” and inserting instead —  
“ subsection (1) ”.
- (2) Section 33H(5)(a) is amended as follows:

- (a) by deleting “appeal to a Local Court in the manner prescribed by regulations” and inserting instead a comma;
- (b) by inserting after “application” in the second place where it occurs —

“

, apply to the State Administrative Tribunal for a review of the decision

”.

- (3) Section 33H(5)(b) is amended as follows:

- (a) by inserting after “owner” —  
“ stating ”;
- (b) by deleting “either upheld, varied or dismissed” and inserting instead —  
“ setting out its determination on the objection ”;
- (c) by inserting after “subsection (1)” in the first place where it occurs a comma;
- (d) by deleting “appeal to a Local Court in the manner prescribed by regulations, within not more than” and inserting instead —  
“ , within ”;
- (e) by inserting after “subsection (1)” in the second place where it occurs —

“

, apply to the State Administrative Tribunal for a review of the decision on the application as if the application had been dismissed.

”.

**263. Section 33I amended**

- (1) Section 33I(1) is amended as follows:

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- (a) by deleting “appeal lies to a Local Court” and inserting instead —  
“ application may be made ”;
  - (b) by inserting after “Division” —  
“ to the State Administrative Tribunal for a review of ”;
  - (c) in paragraphs (a), (b) and (c) by deleting “against”.
- (2) Section 33I(2), (3) and (4) are repealed and the following subsection is inserted instead —

“

- (2) Where, under this Division, an application for a review is made to the State Administrative Tribunal, the orders that the State Administrative Tribunal may make include —
  - (a) where the dog is detained, an order for the release of the dog to the owner;
  - (b) on being satisfied that the dog will be kept without the likelihood of any contravention of this Act, an order cancelling any previous order made in respect of that dog by the State Administrative Tribunal.

”.

**264. Section 33J amended**

Section 33J is amended by deleting “Local Court” and inserting instead —

“ the State Administrative Tribunal ”.

**265. Section 33L amended**

Section 33L is amended by deleting “a Local Court” and inserting instead —

“ the State Administrative Tribunal ”.

**266. Section 36 amended**

Section 36(3) is amended as follows:

- (a) by deleting “in the prescribed manner and” in the second place where it occurs.
- (b) by deleting “appeal against the decision to the nearest Local Court” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision

”;

- (c) by deleting “that Local Court either affirms the decision or quashes the decision” and inserting instead —

“

the State Administrative Tribunal determines the application

”.

**267. Section 40 amended**

- (1) Section 40(1) is amended by inserting after “court” —

“

or the State Administrative Tribunal, according to which of them is dealing with the proceedings,

”.

- (2) Section 40(4) is amended by deleting “the court” in the second place where it occurs and inserting instead —

“

or the State Administrative Tribunal, as the case requires, that court or tribunal

”.

**268. Various references to “appeal” amended**

The Act is amended by deleting “appeal” in each place specified in the Table to this section and inserting instead —

“ application ”.

**Table**

- s. 7(3)(aa) (both places)
- s. 17(5) (3 places)
- s. 26(6)
- s. 33F(4) (in the third place)
- s. 33G(3) (in the second and third places)
- s. 33G(6)(a)(ii) and (iii)
- s. 33G(6)(b)

**Division 39 — East Perth Redevelopment Act 1991**

**269. The Act amended**

The amendments in this Division are to the *East Perth Redevelopment Act 1991*\*.

[\* Reprinted as at 27 August 1999.

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 110 and Act No. 24 of 2002.]*

**270. Section 45 replaced**

Section 45 is repealed and the following section is inserted instead —

“

**45. Review of certain decisions**

An applicant may apply to the State Administrative Tribunal for a review ,in accordance with Part V of the Town Planning Act, of a decision of the Authority under section 43 in respect of the applicant’s application.

”.



**271. Section 47 amended**

- (1) Section 47(2) is amended by deleting “appeal under Part V of the Town Planning Act against” and inserting instead —

“

apply to the State Administrative Tribunal for a review,  
in accordance with Part V of the Town Planning Act,  
of the decision to give

”.

- (2) Section 47(3) is amended by deleting “appeal” and inserting instead —

“ application ”.

- (3) Section 47(4) is amended as follows:

- (a) by deleting “The Town Planning Appeal Tribunal may, where it confirms or varies the direction,” and inserting instead —

“

If the State Administrative Tribunal confirms or varies  
the direction, it may,

”;

- (b) by deleting “such period, being” and inserting instead —  
“ a period ”;

- (c) by deleting “Town Planning Appeal Tribunal, as is specified in that notice” and inserting instead —

“

State Administrative Tribunal, as is specified in the  
notice

”.

- (4) Section 47(6) is amended as follows:

- (a) by deleting “in any court of competent jurisdiction”;

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(b) by deleting “it in so doing” and inserting instead —

“

the Authority in so doing as a debt in a court of competent jurisdiction

”.

**Division 40 — Electricity Act 1945**

**272. The Act amended**

The amendments in this Division are to the *Electricity Act 1945*\*.

[\* Reprinted as at 26 February 1997.

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 117.]*

**273. Section 32 amended**

Section 32(3) is amended as follows:

(a) in paragraph (f) by deleting all of the paragraph after “powers” and inserting instead —

“

, and provide for the Director to exercise disciplinary powers in respect of certain matters and specify disciplinary penalties, other than the suspension or cancellation of a licence, permit, or authorisation, that the Director may impose;

”;

(b) after paragraph (f) by inserting —

“

(faa) regulate the making of allegations in respect of disciplinary matters by the Director to the State Administrative Tribunal and specify the penalties that may be imposed and disciplinary action, including suspending or cancelling a

licence, permit or authorisation, that may be  
taken by the State Administrative Tribunal in  
dealing with an allegation;

”.

**274. Section 33 inserted**

After section 32 the following section is inserted —

“

**33. Annual reporting**

The annual report under the *Financial Administration  
and Audit Act 1985* of the department of the Public  
Service in which the Director is employed is to include  
details of —

- (a) the number, nature, and outcome, of —
  - (i) investigations and inquiries undertaken  
under this Act by, or at the direction of,  
the Director; and
  - (ii) matters that have been brought before  
the State Administrative Tribunal under  
this Act by the Director;
- (b) the number and nature of matters referred to in  
paragraph (a) that are outstanding;
- (c) any trends or special problems that may have  
emerged;
- (d) forecasts of the workload of the Director in  
performing functions under this Act in the year  
after the year to which the report relates; and
- (e) any proposals for improving the performance of  
the Director’s functions under this Act.

”.

**Division 41 — *Employment Agents Act 1976***

**275. The Act amended**

The amendments in this Division are to the *Employment Agents Act 1976*\*.

[\* *Reprinted as at 26 October 2001.*]

**276. Section 4 amended**

Section 4(1) is amended as follows:

- (a) by deleting the definitions of “authorised person”, “inspector” and “licensing officer”;
- (b) in the definition of “Commissioner” by inserting after “Act 1971” —

“

and, in the context of an investigation or inquiry for the purposes of this Act, includes any other person referred to in section 23 of the *Consumer Affairs Act 1971*

”.

**277. Section 10A amended**

- (1) Section 10A is amended by inserting before “The provisions” the subsection designation “(1)”.
- (2) At the end of the section 10A the following subsection is inserted —

“

- (2) The annual report of the Department in which the Commissioner is employed is to include details of —
  - (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the

Commissioner for the purposes of this Act; and

- (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Commissioner in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Commissioner's functions under this Act.

”.

**278. Section 11 repealed**

Section 11 is repealed.

**279. Sections 11B to 11D repealed**

Sections 11B, 11C and 11D are repealed.

**280. Section 11E amended**

Section 11E is amended as follows:

- (a) by deleting “Subject to the direction of the Commissioner, any” and inserting instead —  
“ Any ”;
- (b) by deleting “licensing officer or any inspector” and inserting instead —

“

Commissioner or any person appointed by the  
Commissioner to institute and conduct proceedings

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**Division 41** Employment Agents Act 1976

**s. 281**

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”.

**281. Section 19 amended**

- (1) Section 19(1)(d)(i) and (ii) and “and” after subparagraph (ii) are deleted.
- (2) Section 19(2) is amended by deleting “hear and”.

**282. Section 20 amended**

Section 20(3) is repealed.

**283. Section 22 amended**

- (1) Section 22(1) is amended by deleting “Subject to the Minister, where no objection to the grant or renewal of a licence is lodged with the licensing officer the licensing officer” and inserting instead —

“

After considering any objection to the grant or renewal of a licence lodged with the Commissioner, the Commissioner

”.

- (2) Section 22(2), (3), (4) and (5) are repealed and the following subsections are inserted instead —

“

- (2) If the application is for the grant or renewal of a general licence the Commissioner may instead grant a restricted licence.
- (3) The Commissioner shall give notice in writing of the Commissioner’s decision to the applicant and any person who made an objection setting out, in a notice given to a person who might be aggrieved by the decision, the reasons for his decision and informing the person to whom the notice is given of the right to apply

to the State Administrative Tribunal for a review of the decision.

- (4) If the applicant or a person who lodged an objection with the Commissioner is aggrieved by the Commissioner's decision on the application, the aggrieved person may apply to the State Administrative Tribunal for a review of the decision.

”.

**284. Sections 23 and 24 repealed**

Sections 23 and 24 are repealed.

**285. Section 25 amended**

- (1) Section 25(1) is repealed and the following subsection is inserted instead —

“

- (1) The Commissioner may allege to the State Administrative Tribunal that disciplinary action should be taken against a person, firm or body corporate to which this section applies because the person, firm or body corporate —
- (a) has been guilty of improper conduct in relation to the carrying on of the business of an employment agent; or
  - (b) has been guilty of any offence involving dishonest or fraudulent conduct, or of an offence against this Act.

”.

- (2) Section 25(2) is amended by deleting “and in relation to”.
- (3) Section 25(3) is repealed and the following subsection is inserted instead —

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“

- (3) Where the State Administrative Tribunal, on dealing with an allegation under subsection (1), is satisfied that a reason described in that subsection has been made out, it may order that the licence concerned be suspended for such period as the Tribunal determines or shall be cancelled and that any or all of such persons or any such firm or body corporate shall be disqualified from holding or taking the benefit of a licence either for such period as the Tribunal specifies in the order or permanently.

”.

- (4) Section 25(4) is amended as follows:

- (a) by deleting “The court” and inserting instead —  
“ The State Administrative Tribunal ”;
- (b) by deleting “clerk of the court and” and inserting instead —  
“ Commissioner and ”;
- (c) after “his licence” by deleting “clerk of the court”.

- (5) Section 25(6) is amended by deleting “court” and inserting instead —

“ State Administrative Tribunal ”.

**286. Section 28 amended**

Section 28 is amended by deleting “Act in” and inserting instead —

“

Act, other than a proceeding before the State Administrative Tribunal, in

”.



**287. Section 30 amended**

Section 30(4) is amended by deleting “required to show cause for the purposes of section 25(1) or to satisfy the court as to the question of fitness or repute upon any application for the grant or renewal of a licence” and inserting instead —

“ the subject of an allegation under section 25(1) ”.

**288. Section 31 amended**

Section 31 is amended as follows:

- (a) in paragraph (a) by deleting “licensing officer or any inspector” and inserting instead —

“

Commissioner or any person appointed by the  
Commissioner to institute and conduct  
proceedings on the Commissioner’s behalf

”;

- (b) in paragraph (b) by deleting “, licensing officer or any inspector” and inserting instead —

“ a person appointed by the Commissioner ”.

**289. Section 46 amended**

- (1) Section 46(1) is amended by deleting “an inspector or any other person duly authorised in that behalf by the Commissioner either generally or in any particular case” and inserting instead —

“

the Commissioner for the purposes of investigating  
whether this Act is being complied with or carrying out  
any other investigation for the purposes of this Act

”.

- (2) Section 46(2), (3), (4) and (5) are repealed.  
(3) Section 46(6) is amended as follows:

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**Division 41** Employment Agents Act 1976

**s. 290**

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- (a) by deleting the semicolon at the end of paragraph (a) and inserting a full stop instead;
- (b) by deleting paragraphs (b), (c) and (d), but not the penalty at the foot of paragraph (d).

**290. Section 47 amended**

(1) Section 47(1) is amended as follows:

- (a) by deleting “an inspector” in each place where it occurs and inserting instead —  
“ the Commissioner ”;
- (b) in paragraph (e) by deleting “the inspector” and inserting instead —  
“ the Commissioner ”;
- (c) in paragraph (g) by deleting “any inspector or any employee” and inserting instead —  
“ the Commissioner ”.

(2) Section 47(2) is repealed.

**291. Section 48 amended**

Section 48(1) is amended by deleting “an inspector” and inserting instead —

“ the Commissioner ”.

**292. Section 49 amended**

Section 49 is amended by deleting “, the licensing officer, an inspector”.

**293. Section 52 amended**

Section 52(2)(c) is amended by inserting after “Act” —

“  
other than the commencement of proceedings  
before the State Administrative Tribunal  
”.

**294. Various references to “licensing officer” amended**

The Act is amended by deleting “licensing officer” in each place specified in the Table to this section and inserting instead —

“ Commissioner ”.

**Table**

s. 13(1), (2), and (3)  
s. 15(2)  
s. 16(1)(a), (2), (3), (4), and (6)  
s. 17  
s. 18(1), (3), (4), (5), and (7)  
s. 19(1)(d)(iii) and (2)  
s. 20(1)  
s. 21(1)(b)(iv)  
s. 26(3)  
s. 27(1), (3), and (4)  
s. 31(c)  
s. 38(1)  
s. 43(1)  
s. 45

**Division 42 — *Energy Coordination Act 1994***

**295. The Act amended**

The amendments in this Division are to the *Energy Coordination Act 1994*\*.

[\* *Reprinted as at 5 May 2000.*  
*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 119.*]

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**Part 2** Various Acts amended to confer jurisdiction

**Division 42** Energy Coordination Act 1994

**s. 296**

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**296. Section 11I amended**

Section 11I(3)(b)(ii) is amended as follows:

- (a) by inserting after “an application” in the first place where it occurs—  
“ under section 11ZH ”;
- (b) by deleting “under section 11ZH” after “the decision”.

**297. Section 11ZH amended**

- (1) Section 11ZH(1) is repealed.
- (2) Section 11ZH(2) is amended by deleting all of the subsection after “may” and inserting instead —  
“  
apply to the State Administrative Tribunal for a review of the decision.  
”.
- (3) Section 11ZH(2a) is amended by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”.
- (4) Section 11ZH(3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13) are repealed and the following subsections are inserted instead —  
“  
(3) The President is to ensure that, when dealing with an application under subsection (2) or (2a), the Tribunal is constituted by 3 persons, being —
  - (a) a presiding member who may be either a judicial member or a senior member who is a qualified person; and
  - (b) 2 other Tribunal members each of whom has relevant expertise in industry, commerce or accounting.

- 
- (4) Without limiting the *State Administrative Tribunal Act 2004*, if a Tribunal member referred to in subsection (3)(b) is unable for any reason to continue with the proceeding the Tribunal constituted of the presiding member and the other member referred to in subsection (3)(b) may, if the presiding member so determines, continue and complete the proceeding.
- (5) A person chosen to act as a sitting member of the Tribunal who has a conflict of interest in relation to an application under subsection (2) or (2a) before, or about to come before, the Tribunal must disclose the nature of the conflict to each party concerned in the proceeding.  
Penalty: \$10 000.
- (6) A person chosen to act as a sitting member of the Tribunal who has a conflict of interest in relation to an application under subsection (2) or (2a) before the Tribunal must not take part in the proceeding or exercise any powers in relation to the proceeding unless each party to the proceeding consents.  
Penalty: \$10 000.
- (7) For the purposes of this section, a person has a conflict of interest in relation to an application if the person has any direct or indirect interest, pecuniary or otherwise, that conflicts or could conflict with the proper performance of the person's functions in relation to that application.
- (8) Section 144 of the *State Administrative Tribunal Act 2004* does not apply in relation to an application under subsection (2) or (2a).
- (9) Terms used in this section relating to members of the Tribunal have the meanings given to them in

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**Division 42** Energy Coordination Act 1994

**s. 298**

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section 3(1) of the *State Administrative Tribunal Act 2004*.

”.

**298. Section 11ZPC repealed**

Section 11ZPC is repealed.

**299. Section 11ZPH replaced and consequential amendment**

- (1) This section is of no effect unless it comes into operation before the *Energy Legislation Amendment Act 2003* section 19(4) comes into operation.
- (2) The *Energy Legislation Amendment Act 2003* section 19(4) is repealed.
- (3) Section 11ZPH is repealed and the following section is inserted instead —

“

**11ZPH. Conduct of review**

The provisions of section 11ZH, other than subsections (1), (2) and (2a), apply for the purposes of a review under this Division in the same way as they apply to a review and proceedings under subsection (2) of that section.

”.

**300. Section 24AC amended**

- (1) Section 24AC(1) is amended by deleting “Gas Review Board” and inserting instead —  
“ State Administrative Tribunal ”.
- (2) Section 24AC(2), (3), (4), and (5) are repealed.

**301. Various references to "Board" amended**

The Act is amended by deleting "Board" in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 11ZPD(1) and (2)
- s. 11ZPE
- s. 11ZPF(1) and (2)

**Division 43 — *Equal Opportunity Act 1984***

**302. The Act amended**

The amendments in this Division are to the *Equal Opportunity Act 1984*\*.

[\* *Reprinted as at 21 July 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 123.]*

**303. Section 4 amended**

Section 4(1) is amended as follows:

- (a) in the definition of "inquiry" by deleting "held under" and inserting instead —  
“ referred to in ”;
- (b) by deleting the definitions of "member" and "registrar”;
- (c) in the definition of "Tribunal" by deleting "Equal Opportunity Tribunal established by section 96" and inserting instead —

“

State Administrative Tribunal under the *State  
Administrative Tribunal Act 2004*

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 43** Equal Opportunity Act 1984

**s. 304**

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**304. Section 67 amended**

Section 67(1)(d) is amended by inserting after “proceeding” —  
“ commenced ”.

**305. Section 83 amended**

Section 83(2) is amended by deleting “or the registrar”.

**306. Section 93A amended**

Section 93A(1) is amended by deleting “under section 134(1)”  
and inserting instead —

“ against a decision of the Tribunal ”.

**307. Part VIII and Part VIII Division 1 headings replaced**

The headings to Part VIII and Part VIII Division 1 are deleted  
and the following headings are inserted instead —

“

**Part VIII — The Role of the State  
Administrative Tribunal**

**Division 1 — Constituting the Tribunal**

”.

**308. Section 96 replaced**

Section 96 is repealed and the following section is inserted  
instead —

“

**96. Presiding member**

- (1) When the Tribunal is exercising its jurisdiction under  
this Act, its presiding member has to be either a  
judicial member or a senior member.



- (2) Terms used in subsection (1) relating to members of the Tribunal have the meanings given to them in section 3(1) of the *State Administrative Tribunal Act 2004*.

”.

**309. Sections 97 to 106 repealed**

Sections 97, 98, 99, 100, 100A, 101, 102, 103, 104, 104A, 105 and 106 are repealed.

**310. Part VIII Division 2 heading amended**

The heading to Part VIII Division 2 is amended by deleting “of the Tribunal”.

**311. Section 107 amended**

After section 107(4) the following subsection is inserted —

“

- (5) No fee is payable in respect of a proceeding commenced before the Tribunal under this Act.

”.

**312. Sections 108 to 112 replaced by section 108**

Sections 108, 109, 110, 111 and 112 are repealed and the following section is inserted instead —

“

**108. Commissioner’s reference under section 93(1)**

For the purposes of a proceeding before the Tribunal that is commenced by a reference under section 93(1) the Commissioner is excluded from the definition of “applicant” in the *State Administrative Tribunal Act 2004* section 3(1) and the complainant is the applicant instead.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 43** Equal Opportunity Act 1984

**s. 313**

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**313. Sections 118 to 121 repealed**

Sections 118, 118A, 119, 120 and 121 are repealed.

**314. Section 122 amended**

Section 122(2) is amended by deleting “under section 121” and inserting instead —

“

or duties under the *State Administrative Tribunal Act 2004*

”.

**315. Sections 124 and 125 repealed**

Sections 124 and 125 are repealed.

**316. Section 126 amended**

Section 126 is amended by deleting “or, where the President of the Tribunal is of the opinion that it is expedient that the President alone should exercise the functions of the Tribunal under this section, the President,”.

**317. Sections 128 to 133 repealed**

Sections 128, 129, 130, 131, 132 and 133 are repealed.

**318. Section 134 amended**

(1) Section 134(1) is amended as follows:

(a) by deleting “125, 126, 127 or 128(2)” and inserting instead —

“ 126 or 127 ”;

(b) by deleting all of the subsection after “appeal” and inserting instead —

“  
under section 105 of the *State Administrative Tribunal  
Act 2004*.  
”.

(2) After section 134(1) the following subsection is inserted —

“  
(1a) An appeal may be brought on any ground that involves  
a question of law, a question of fact or a question of  
mixed law and fact.  
”.

(3) Section 134(2), (3) and (4) are repealed.

**319. Section 135 amended**

(1) Section 135(4) is repealed.

(2) Section 135(5) is amended as follows:

- (a) by deleting “Sections 112, 113, 120, 121, 122, 128 and  
129 shall, subject to necessary modifications, apply” and  
inserting instead —  
“ Section 113 applies ”;
- (b) by deleting “those sections apply” and inserting  
instead —  
“ that section applies ”.

**320. Section 136 amended**

(1) Section 136(2) is repealed.

(2) Section 136(3) is amended by deleting “or (2)”.

**321. Section 147 amended**

(1) Section 147 is amended as follows:

- (a) by inserting before “Where” the subsection designation  
“(1)”;

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**Division 43** Equal Opportunity Act 1984

**s. 322**

---

(b) by deleting “refer the matter to the Tribunal” and inserting instead —

“ hold an investigation into the matter ”.

(2) At the end of section 147 the following subsection is inserted —

“

(2) Except as otherwise provided by this Division, an investigation shall be held in such manner as the Director determines.

”.

**322. Section 148 repealed**

Section 148 is repealed.

**323. Section 149 amended**

Section 149 is amended as follows:

(a) by deleting “The Director or an authority in respect of which reference is made” and inserting instead —

“

An authority in respect of which an investigation is held under this Division

”;

(b) by deleting “an investigation under this Part into the reference” and inserting instead —

“ the investigation ”.

**324. Section 150 amended**

(1) Section 150(1) is amended as follows:

(a) by deleting “Tribunal may require the Director or” and inserting instead —

“ Director may require ”;

(b) in paragraphs (b), (c) and (d) by deleting “it” and inserting instead —

“ the Director ”.

- (2) Section 150(3) is amended as follows:
- (a) by deleting “The Director or an” and inserting instead —  
“ An ”;
  - (b) in paragraphs (b) and (c) by deleting “Director or”.
- (3) Section 150(4) is amended as follows:
- (a) by deleting “Tribunal” in each place where it occurs and inserting instead —  
“ Director ”;
  - (b) by deleting “to it” and inserting instead —  
“ to the Director ”;
  - (c) by deleting “Director or” in each place where it occurs;
  - (d) by deleting “, as the case may be,” in each place where it occurs.

**325. Section 152 amended**

Section 152 is amended as follows:

- (a) by deleting “in relation to a reference, the Tribunal” and inserting instead —  
“ held under this Division, the Director ”;
- (b) in paragraph (a) by deleting “to the Director or”;
- (c) in paragraph (b) by deleting “reference” and inserting instead —  
“ matter investigated ”.

**326. Section 153 amended**

Section 153(1) is amended by deleting “Tribunal” and inserting instead —

“Director ”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 43** Equal Opportunity Act 1984

**s. 327**

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**327. Section 154 amended**

Section 154(1) is amended by inserting after “by this Act” —  
“ or the *State Administrative Tribunal Act 2004* ”.

**328. Section 155 amended**

Section 155(1) is amended by deleting “a member of the Tribunal, the registrar,”.

**329. Section 165 amended**

Section 165(2)(a) is amended as follows:

- (a) by inserting after “with this Act” —  
“ or the *State Administrative Tribunal Act 2004* ”;
- (b) by inserting after “under this Act” —  
“ or that Act ”.

**330. Section 166 amended**

- (1) Section 166(1) is amended as follows:
  - (a) by deleting “Tribunal, a member of the Tribunal, the”;
  - (b) by deleting “the Tribunal or of”;
  - (c) by deleting “the Tribunal or” in the second place where it occurs.
- (2) Section 166(2)(b) is amended by deleting “the Tribunal or”.

**331. Section 167 amended**

- (1) Section 167(1) is amended as follows:
  - (a) by deleting “, a member of the Tribunal”;
  - (b) by deleting “the Tribunal or” in the second and third places where it occurs;
  - (c) by deleting “the Tribunal or on”.
- (2) Section 167(2) is amended as follows:

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Explosives and Dangerous Goods Act 1961 **Division 44**  
**s. 332**

---

- (a) by deleting “, a member of the Tribunal, or a member of the staff assisting the Tribunal”;
- (b) by deleting “the Tribunal or” in the first and second places where it occurs;
- (c) by deleting “the Tribunal or on”;
- (d) by deleting “this Act.” and inserting instead —

“  
this Act or the *State Administrative Tribunal Act 2004*.  
”.

- (3) After section 167(2) the following subsection is inserted —

- “
- (2a) This section also extends to a person who has at any time been —
    - (a) a member of;
    - (b) a member of the staff assisting; or
    - (c) a person authorised to perform or exercise any function of,  
the tribunal that was known as the Equal Opportunity Tribunal.
- ”.

**332. Section 169 amended**

Section 169(2)(d) is deleted.

**Division 44 — *Explosives and Dangerous Goods Act 1961***

**333. The Act amended**

- (1) The amendments in this Division are to the *Explosives and Dangerous Goods Act 1961*\*.

[\* *Reprinted as at 25 February 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 129.]*

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**Part 2** Various Acts amended to confer jurisdiction

**Division 45** Fair Trading Act 1987

**s. 334**

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- (2) This Division is of no effect if the *Explosives and Dangerous Goods Act 1961* is repealed and this Division has not come into operation before the repeal.

**334. Section 52 amended**

- (1) Section 52(1) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 52(2) is repealed.

**Division 45 — Fair Trading Act 1987**

**335. The Act amended**

The amendments in this Division are to the *Fair Trading Act 1987*\*.

[\* Reprinted as at 16 November 2001.]

**336. Section 5 amended**

Section 5(1) is amended by deleting the definition of “Commercial Tribunal”.

**337. Section 45 amended**

- (1) Section 45(1) is amended by deleting paragraph (a) and “and” after it.
- (2) Section 45(5) is amended by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”.



**338. Section 46 amended**

Section 46(1), (9) and (10) are repealed.

**339. Various references to “Commercial Tribunal” amended**

The Act is amended by deleting “Commercial Tribunal” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 44(b)
- s. 46(2)
- s. 46(3) (both places)
- s. 46(4) (both places)
- s. 46(5) (both places)
- s. 46(6)
- s. 46(7)
- s. 46(8)
- s. 47(1)(a) (both places)
- s. 47(2)
- s. 47(3) (3 places)
- s. 75(1) (both places)

**Division 46 — Finance Brokers Control Act 1975**

**340. The Act amended**

The amendments in this Division are to the *Finance Brokers Control Act 1975*\*.

[\* *Reprinted as at 3 March 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 132 and Act No. 21 of 2003.]*

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**Part 2** Various Acts amended to confer jurisdiction

**Division 46** Finance Brokers Control Act 1975

**s. 341**

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**341. Section 4 amended**

Section 4(1) is amended by deleting the definitions of “District Court” and “proceedings”.

**342. Heading to Part II Division 3 replaced**

The heading to Part II Division 3 is deleted and the following heading is inserted instead —

“

**Division 3 — Review of decisions of the Board**

”

**343. Sections 19 to 22 repealed**

Sections 19, 20, 21 and 22 are repealed.

**344. Section 23 replaced**

Section 23 is repealed and the following section is inserted instead —

“

**23. Application for review**

(1) Any person aggrieved by a reviewable decision of the Board may apply to the State Administrative Tribunal for a review of the decision.

(2) In subsection (1) —

**“person aggrieved”** means —

(a) a person whose licence or business certificate is affected by a reviewable decision or who, under Part III, applies for or objects to the grant of a licence or applies for the renewal of a business certificate; or

(b) a person affected by a decision of the Board under Part IV Division 2;

**“reviewable decision”** means —

- (a) a decision under Part III other than a determination of the form in which an application or objection is to be made;
- (b) a decision under Part IV Division 2.

”.

**345. Section 24 amended**

Section 24(5) is repealed.

**346. Section 25 amended**

Section 25(4) is repealed.

**347. Section 30 amended**

After section 30(4) the following subsection is inserted —

“

- (5) Despite the surrender by a person of a licence or a business certificate, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or certificate had not been surrendered.

”.

**348. Section 32 amended**

Section 32(5) is repealed.

**349. Section 33 amended**

Section 33(2) is repealed.

**350. Section 34 amended**

Section 34(4) is repealed.

**351. Sections 34A and 34B inserted**

After section 34 the following sections are inserted —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 46** Finance Brokers Control Act 1975

**s. 351**

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“

**34A. Unopposed applications**

- (1) Subject to this Part, a licence may be granted and a business certificate may be granted or renewed, (as long as there is no objection in respect of a licence and special conditions are not imposed or changed) by —
  - (a) the Board, in a meeting at any time and place;  
or
  - (b) the Registrar, at any time or place,without notice to the applicant, and the performance of a function by the Registrar under this subsection is to be treated as performance by the Board.
- (2) Where the Board or Registrar performs a function under subsection (1), the Registrar shall forthwith deliver the licence or business certificate or the renewed business certificate, as the case may be, to the applicant.
- (3) Sections 27, 28, and 29 apply to the Registrar in the performance of a function under subsection (1) as if a reference in any of those provisions to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

**34B. Suspension of licence by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by Part IV Division 3 or by the *State Administrative Tribunal Act 2004*.

”.

**352. Section 35 amended**

Section 35(6) is repealed.

**353. Section 56 repealed**

Section 56 is repealed.

**354. Section 82 replaced**

Section 82 is repealed and the following section is inserted instead —

“

**82. Disciplinary proceedings against finance brokers**

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 83(2).

”.

**355. Section 83 amended**

- (1) Section 83(1) is amended as follows:

- (a) by deleting “If after conducting an inquiry under section 82(1) the Board is satisfied that proper cause exists for disciplinary action, the Board” and inserting instead —

“

If, in a proceeding commenced by an allegation under section 82 against a finance broker, the State Administrative Tribunal is satisfied that proper cause

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 46** Finance Brokers Control Act 1975

**s. 356**

---

exists for disciplinary action, the State Administrative Tribunal

”;

(b) in paragraph (c) by deleting “Board” in each place where it occurs and inserting instead —

“ State Administrative Tribunal ”.

(2) Section 83(2)(d) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

(3) Section 83(3) is repealed.

**356. Section 86 amended**

After section 86(1) the following subsection is inserted —

“(1a) The Board’s annual report is to include details of —

(a) the number, nature, and outcome, of —

(i) investigations and inquiries undertaken by, or at the direction of, the Board or the Registrar; and

(ii) matters that have been brought before the State Administrative Tribunal under this Act;

(b) the number and nature of matters referred to in paragraph (a) that are outstanding;

(c) any trends or special problems that may have emerged;

(d) forecasts of the workload of the Board in the year after the year to which the report relates; and

(e) any proposals for improving the operation of the Board.

”.

**357. Section 95 amended**

Section 95(2) is amended as follows:

- (a) by deleting paragraph (b);
- (b) in paragraph (d) by inserting after “Act” —

“

, but not in connection with the commencement  
of a proceeding before the State Administrative  
Tribunal

”.

**358. Various references to “District Court” amended**

The Act is amended by deleting “District Court” in each place  
specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 35(5)
- s. 72(1) (3 places)
- s. 72(2) (both places)
- s. 72(4)
- s. 73(1) (4 places)
- s. 73(2) (3 places)
- s. 73(3) and (4)
- s. 77 (both places)
- s. 78(1) (both places)
- s. 78(3) and (4)

**Division 47 — *Fire and Emergency Services Authority of  
Western Australia Act 1998***

**359. The Act amended**

The amendments in this Division are to the *Fire and Emergency  
Services Authority of Western Australia Act 1998*\*.

[\* *Reprint 1 as at 4 April 2003.*]

**360. Section 36ZA amended**

Section 36ZA is amended as follows:

- (a) by deleting “hear an appeal” and inserting instead —  
“ review a decision ”;
- (b) by deleting “appeal” in the second and third places where it occurs and inserting instead —  
“ review ”.

**361. Part 6A Division 8 heading amended**

The heading to Part 6A Division 8 is amended by deleting “appeals” and inserting instead —

“ **review** ”.

**362. Section 36ZF amended**

Section 36ZF is amended by deleting “, within 60 days (or any further period that the Minister, for reasonable cause shown by the person, allows) after the date the notice of the determination was served, serve on the Minister a written notice requiring the Minister to treat the objection as an appeal against” and inserting instead —

“ apply to the State Administrative Tribunal for a review of ”.

**363. Section 36ZG repealed**

Section 36ZG is repealed.

**364. Section 36ZH amended**

- (1) Section 36ZH(1) is amended as follows:
  - (a) by deleting “or appeal” in each place where it occurs;
  - (b) in paragraph (a) by deleting “, or an appeal against,”.
- (2) Section 36ZH(2) is amended as follows:
  - (a) by deleting “or appeal” in the first place where it occurs;



- (b) by inserting after “subsection (1)” —  
“ or a review by the State Administrative Tribunal ”;
- (c) by deleting “appeal,” and inserting instead —  
“ review, ”.

**Division 48 — *Fire Brigades Act 1942***

**365. The Act amended**

The amendments in this Division are to the *Fire Brigades Act 1942*\*.

[\* *Reprint 6 as at 7 March 2003.*]

**366. Section 25A amended**

Section 25A(4) is repealed and the following subsection is inserted instead —

“

- (4) A person who is aggrieved by a direction of the Authority may apply to the State Administrative Tribunal for a review of the direction on the ground that the things directed to be installed and provided in or upon the premises are not reasonably required by the Authority for any of the purposes referred to in subsection (1)(b).

”.

**367. Section 33 amended**

Section 33(e)(ii) is amended as follows:

- (a) by deleting “, within 7 days after its receipt, appeal against such requisition to a magistrate sitting as a court of petty sessions within the district,” and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 49** Firearms Act 1973

**s. 368**

---

“

apply to the State Administrative Tribunal for a review of the requisition

”;

(b) by deleting “an appeal” and inserting instead —

“

the application or an appeal under section 105 of the *State Administrative Tribunal Act 2004*

”.

**Division 49 — Firearms Act 1973**

**368. The Act amended**

The amendments in this Division are to the *Firearms Act 1973*\*.

[\* *Reprinted as at 11 August 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 146.]*

**369. Section 22 amended**

(1) Section 22(1) is amended as follows:

- (a) by deleting the definitions of “appeal”, “firearms appeals tribunal” and “magistrate”;
- (b) in the definition of “decision” by deleting the semicolon and inserting instead a full stop.

(2) Section 22(2) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

(3) Section 22(3), (4), (5), (6), (7), (8) and (9) are repealed.

**370. Section 34 amended**

Section 34(2)(c) is deleted.

**371. Schedule 3 repealed**

Schedule 3 is repealed.

**Division 50 — *First Home Owner Grant Act 2000***

**372. The Act amended**

The amendments in this Division are to the *First Home Owner Grant Act 2000*\*.

[\* *Act No. 16 of 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 146 and  
Act No. 13 of 2003.]*

**373. Section 3 amended**

Section 3(1) is amended by inserting in the appropriate alphabetical position the following definition —

“

“**application**” means an application for a first home owner grant;

”.

**374. Part 2 Division 6 heading amended**

The heading to Part 2 Division 6 is amended by deleting “appeals” and inserting instead —

“ **review** ”.

**375. Part 2 Division 6 Subdivision 3 heading amended**

The heading to Part 2 Division 6 Subdivision 3 is amended by deleting “Appeals” and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 50** First Home Owner Grant Act 2000

**s. 376**

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“ **Review** ”.

**376. Section 31 amended**

- (1) Section 31(1) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 31(2) is amended by deleting “appeal is to be commenced” and inserting instead —

“ application for review is to be made ”.

- (3) Section 31(3) is repealed.

**377. Section 32 amended**

- (1) Section 32(1), (2) and (3) are repealed.

- (2) Section 32(4) is amended as follows:

- (a) by deleting “an appeal” and inserting instead —

“ an application for a review of the decision ”;

- (b) by deleting all of the subsection after “to the decision” and inserting instead —

“

to the date of the decision resulting from the application for review.

”.

**378. Part 2 Division 6 Subdivision 4 heading deleted**

The heading to Part 2 Division 6 Subdivision 4 is deleted.

**379. Section 33 repealed**

Section 33 is repealed.

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**Division 51 — *Fish Resources Management Act 1994***

**380. The Act amended**

The amendments in this Division are to the *Fish Resources Management Act 1994*\*.

[\* *Reprinted as at 28 April 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 147-8.]*

**381. Section 4 amended**

Section 4(1) is amended by deleting the definition of “tribunal”.

**382. Part 14 heading replaced**

The heading to Part 14 is deleted and the following heading is inserted instead —

“

**Part 14 — Right to object or apply for review**

”.

**383. Section 146 amended**

Section 146 is amended in the definition of “affected person” by deleting “proposal” in each place where it occurs and inserting instead —

“ decision ”.

**384. Section 147 amended**

(1) Section 147(1) is amended as follows:

(a) by inserting after “Before” —

“ giving effect to a decision to ”;

(b) in paragraphs (a), (d) and (e) by deleting “refusing” and inserting instead —

“ refuse ”;

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**Part 2** Various Acts amended to confer jurisdiction

**Division 51** Fish Resources Management Act 1994

**s. 385**

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- (c) in paragraph (b) by deleting “giving” and inserting instead —  
“ give ”;
- (d) in paragraph (c) by deleting “cancelling, suspending or refusing” and inserting instead —  
“ cancel, suspend or refuse ”;
- (e) in paragraph (f) by deleting “proposal” and inserting instead —  
“ decision ”;
- (f) by deleting paragraph (g) and inserting instead —  
“
  - (g) allow sufficient time for the person to make an application under this Division for a review of the decision and the application to be determined.”.

(2) Section 147(2) is amended as follows:

- (a) in paragraph (a) by deleting “proposal” and inserting instead —  
“ decision ”;
- (b) by deleting paragraph (b) and inserting instead —  
“
  - (b) state that the affected person may, under section 149, apply for a review of the decision.”.

**385. Section 148 amended**

(1) Section 148(1) is amended as follows:

- (a) by deleting “granting, varying or transferring” and inserting instead —  
“  
giving effect to a decision to grant, vary or transfer

- ”;
- (b) in paragraph (d) by deleting “proposal” and inserting instead —  
“ decision ”;
  - (c) by deleting paragraph (e) and inserting instead —  
“
    - (e) allow sufficient time for any affected person to make an application under this Division for a review of the decision and the application to be determined.”.

(2) Section 148(2) is amended as follows:

- (a) in paragraph (a) by deleting “proposal” and inserting instead —  
“ decision ”;
- (b) by deleting paragraph (b) and inserting instead —  
“
  - (b) state that an affected person may, under section 149, apply for a review of the decision.”.

**386. Section 149 amended**

Section 149 is repealed and the following section is inserted instead —

“

**149. Review**

- (1) An affected person may apply to the State Administrative Tribunal for a review of a decision referred to in section 147(1) or section 148(1).
- (2) An affected person applying under subsection (1) for a review is required to give the Executive Director a

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**Division 51** Fish Resources Management Act 1994

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---

copy of the application on the day on which it is lodged with the State Administrative Tribunal.

”.

**387. Section 150 amended**

Section 150 is amended as follows:

- (a) in paragraph (b) by deleting “proposes” and inserting instead —  
“ has decided ”;
- (b) in paragraph (c) by deleting “objected to the proposal in accordance with section 149” and inserting instead —  
“  
applied under section 149 for a review of the decision  
”;
- (c) by deleting all of the section after “until the” and inserting instead —  
“ application is determined. ”.

**388. Section 151 and 152 replaced**

Sections 151 and 152 are repealed and the following sections are inserted instead —

“

**151. Notice of when decision has effect**

- (1) Upon giving effect to a decision referred to in section 147(1), the Executive Director is to give each person who was given notice under section 147(1) of the decision notice that effect has been given to the decision.
- (2) The notice is to be given in writing or in such other manner as is prescribed.



- (3) Upon giving effect to a decision notice of which was published under section 148(1), the Executive Director is to cause notice to be published, in the same manner, that effect has been given to the decision, specifying when it was given effect.

**152. Notice of decision upon application for review**

- (1) Upon determining an application under section 149 for a review of a decision referred to in section 147(1) (the “**original decision**”), the State Administrative Tribunal is to give notice of its decision, and of the reasons for its decision, in writing or in such other manner as is prescribed, to each person who was given notice under section 147(1) of the original decision.
- (2) Upon determining an application under section 149 for a review of a decision referred to in section 148(1) (the “**original decision**”), the State Administrative Tribunal is to cause notice of its decision, and of the reasons for its decision, to be published in the manner in which notice of the original decision was published under section 148(1)(d).

”.

**389. Section 153 to 162 repealed**

Section 153, 154, 155, 156, 157, 158, 159, 160, 161 and 162 are repealed.

**390. Section 238 amended**

Section 238(4) is amended as follows:

- (a) in paragraph (a)(v) by inserting after “Part 14” —

“

, except the making of an application to the State Administrative Tribunal for a review

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 52** Fisheries Adjustment Schemes Act 1987

**s. 391**

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”.

(b) in paragraph (d) by deleting “a tribunal under section 156” and inserting instead —

“ the State Administrative Tribunal ”.

**391. Section 244 amended**

Section 244(1)(g) is deleted.

**392. Section 255 amended**

(1) Section 255(5) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the giving of that notice.

”.

(2) Section 255(6), (7) and (8) are repealed.

**393. Section 258 amended**

Section 258(zc)(i) is amended by inserting after “applications” —

“

, other than an application to the State Administrative Tribunal for a review

”.

**Division 52 — Fisheries Adjustment Schemes Act 1987**

**394. The Act amended**

The amendments in this Division are to the *Fisheries Adjustment Schemes Act 1987*\*.

[\* Reprinted as at 3 May 2002.]

**395. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definition of “member” and inserting instead —

“

“**member**”, in relation to a committee, means a member of the committee;

”;

- (b) by deleting the definition of “Tribunal”.

**396. Section 14J amended**

Section 14J(1) and (2) are amended by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”.

**397. Section 14L amended**

- (1) Section 14L(1) is amended by deleting “Tribunal to review” and inserting instead —

“

State Administrative Tribunal for a review of the Minister’s determination of

”.

- (2) Section 14L(2) is repealed.

**398. Section 14M amended**

Section 14M is amended by deleting “proceedings have been instituted before the Tribunal” and inserting instead —

“

an application has been made under section 14J or 14L to the State Administrative Tribunal

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 53** Fishing and Related Industries Compensation (Marine

**s. 399**

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**399. Section 14N amended**

Section 14N(1) is amended as follows:

(a) in paragraph (b) by deleting “Tribunal to review” and inserting instead —

“ State Administrative Tribunal for a review of ”;

(b) in paragraph (c) by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”.

**400. Part 4 Division 2 repealed**

Part 4 Division 2 is repealed.

**401. Section 15B amended**

Section 15B(1)(b) is amended by deleting “14M, 14O(2), 14P or 14Q” and inserting instead —

“ or 14M ”.

**Division 53 — *Fishing and Related Industries Compensation (Marine Reserves) Act 1997***

**402. The Act amended**

The amendments in this Division are to the *Fishing and Related Industries Compensation (Marine Reserves) Act 1997*\*.

[\* *Act No. 39 of 1997.*]

**403. Section 3 amended**

Section 3(1) is amended as follows:

(a) in the definition of “relevant event” by deleting the semicolon and inserting instead a full stop;

(b) by deleting the definition of “Tribunal”.

**404. Section 8 amended**

(1) Section 8(1) is amended as follows:

(a) by deleting “advise the person in writing as to whether or not the Minister considers that” and inserting instead —

“ decide whether or not ”;

(b) by inserting after “Act” —

“ and advise the person in writing of the decision ”.

(2) After section 8(1) the following subsection is inserted —

“

(1a) A person who receives advice from the Minister under subsection (1) that the person is not entitled to compensation under this Act may apply to the State Administrative Tribunal for a review of the decision.

”.

(3) Section 8(2) is repealed and the following subsection is inserted instead —

“

(2) If a person does not receive advice from the Minister within the period specified in subsection (1), the person may apply to the State Administrative Tribunal to determine whether or not the person is entitled to compensation under this Act.

”.

(4) Section 8(3) is amended by inserting after “subsection” —

“ (1a) or ”.

**405. Section 9 amended**

Section 9(1) is amended by deleting “that the Minister considers that” and inserting instead —

“ , or the State Administrative Tribunal determines, that ”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 53** Fishing and Related Industries Compensation (Marine

**s. 406**

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**406. Section 10 amended**

(1) Section 10(1) is amended as follows:

(a) by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”;

(b) by deleting “the Minister considers that” and inserting instead —

“

, or of the State Administrative Tribunal determining that,

”.

(2) Section 10(2) is amended by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”.

**407. Section 11 amended**

Section 11 is amended by deleting all of the subsection after “though” and inserting instead —

“

an application has been made under section 8 or 10 to the State Administrative Tribunal.

”.

**408. Section 12 amended**

Section 12(1)(b) is amended by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”.

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**Division 54 — Gas Standards Act 1972**

**409. The Act amended**

The amendments in this Division are to the *Gas Standards Act 1972*\*.

[\* Reprinted as at 7 July 2000.]

**410. Section 13A amended**

(1) Section 13A(3) is amended as follows:

- (a) in paragraph (d) by deleting “, suspension, cancellation,”;
- (b) in paragraph (e) by deleting “and other proceedings”;
- (c) in paragraph (f) by deleting “, and as to the hearing of inquiries, disciplinary proceedings, and appeal procedures”.

(2) Section 13A(11) is amended as follows:

- (a) by deleting “call upon that person to return his certificate, permit or authorisation to the Director, and appear before a prescribed person or body of persons authorised by the Director to show cause why he should not be dealt with in accordance with the provisions of this Act, and pending the holding of the inquiry” and inserting instead —

“

allege to the State Administrative Tribunal that there is proper cause for disciplinary action and, pending the holding of any proceedings commenced by the allegation,

”;

- (b) by deleting “the person required to show cause should be disqualified or suspended” and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 54** Gas Standards Act 1972

**s. 410**

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“

any disqualification or suspension be imposed on a person against whom an allegation could be made to the State Administrative Tribunal

”;

(c) by deleting “holding an inquiry” and inserting instead —

“

making an allegation to the State Administrative Tribunal

”.

(3) Section 13A(12) is amended as follows:

(a) by deleting “Where the Director calls for any person to return his certificate, permit or authorisation and appear before a prescribed person or body of persons authorised by the Director” and inserting instead —

“

For the purposes of investigating or dealing with a person referred to in subsection (11) (the “**holder**”)

”;

(b) by deleting paragraphs (a) and (b);

(c) in paragraph (c) —

(i) by deleting “at any inquiry held pursuant to this section of the person required to show cause” and inserting instead —

“ before the Director of the holder ”;

(ii) by deleting “at those proceedings”; and

(iii) by deleting “person required to show cause desires” and inserting instead —

“ holder desires ”;

(d) in paragraph (d) —

(i) by deleting “appearing” and inserting instead —

“ attending ”;



- (ii) by deleting “before an inquiry” in each place where it occurs; and
- (iii) by deleting “an appeal” and inserting instead —  
“  
proceedings before the State Administrative Tribunal commenced by an allegation  
”.
- (4) Section 13A(14) is amended as follows:
- (a) by deleting “at an inquiry” and inserting instead —  
“ in proceedings before the Director ”;
- (b) by deleting “at the inquiry”.
- (5) Section 13A(15) is amended as follows:
- (a) by deleting “an inquiry, or any part of an inquiry” and inserting instead —  
“  
proceedings before the Director under this section, or any part of them  
”;
- (b) by deleting “of the inquiry”;
- (c) by deleting “a Judge and shall be heard in Chambers, and the Judge” and inserting instead —  
“  
the State Administrative Tribunal, and the State Administrative Tribunal  
”;
- (d) by deleting “Judge thinks fit; and the decision of a Judge on any matter under this subsection is final” and inserting instead —  
“ State Administrative Tribunal thinks fit ”.
- (6) Section 13A(16) is amended as follows:

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**Division 54** Gas Standards Act 1972

**s. 411**

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- (a) by deleting “Where it appears to the Director, as the result of an inquiry held pursuant to this section, that the person required to show cause why he should not be dealt with according to the provisions of this Act has failed so to show cause, or if that person fails to appear at the inquiry without reasonable excuse, the Director” and inserting instead —

“

The State Administrative Tribunal dealing with an allegation against a person made under subsection (11)

”;

- (b) by deleting “and may endorse” and inserting instead —

“

and the Director dealing with a matter under that subsection may do anything referred to in paragraph (c) or (d) and the Director is required to endorse

”.

- (7) Section 13A(17) is amended by deleting “any case” and inserting instead —

“

dealing with a matter under subsection (11) instead of making an allegation to the State Administrative Tribunal

”.

- (8) Section 13A(19) is amended by inserting after “suspension” —

“ made by the Director ”.

**411. Section 13B replaced**

Section 13B is repealed and the following section is inserted instead —

“

**13B. Application for review**

- (1) Any person aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.
- (2) In subsection (1) —  
**“person aggrieved”** means —
  - (a) the holder of a certificate of competency, permit or authorisation; or
  - (b) a person who has applied for a certificate of competency, permit or authorisation;

**“reviewable decision”** means a decision made under this Act in relation to a certificate of competency, permit or authorisation, including a decision made in dealing with a person referred to in section 13A(11) but not including a decision to make an allegation to the State Administrative Tribunal.

”.

**412. Section 13C replaced by sections 13C and 13CA**

Section 13C is repealed and the following sections are inserted instead —

“

**13C. Surrender of licence**

Despite the surrender by a person of the person’s licence, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence had not been surrendered.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 55** Gender Reassignment Act 2000

**s. 413**

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**13CA. Annual reporting**

The annual report under the *Financial Administration and Audit Act 1985* of the department of the Public Service in which the Director is employed is to include details of —

- (a) the number, nature, and outcome, of —
  - (i) investigations and inquiries undertaken under this Act by, or at the direction of, the Director; and
  - (ii) matters that have been brought before the State Administrative Tribunal under this Act by the Director;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Director in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Director's functions under this Act.

”.

**Division 55 — Gender Reassignment Act 2000**

**413. The Act amended**

The amendments in this Division are to the *Gender Reassignment Act 2000*\*.

[\* *Act No. 2 of 2000.*]

**414. Section 17 amended**

Section 17(2)(b) is amended as follows:

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---

- (a) by deleting “appeal is commenced against” and inserting instead —  
“ application is made for a review of ”;
- (b) by deleting “the appeal” and inserting instead —  
“ the application ”.

**415. Section 21 amended**

- (1) Section 21(1) is amended by deleting “appeal to the Supreme Court against” and inserting instead —  
“ apply to the State Administrative Tribunal for a review of ”.
- (2) Section 21(2), (3) and (4) are repealed.

**Division 56 — Guardianship and Administration Act 1990**

**Subdivision 1 — Amendments to the Act**

**416. The Act amended**

The amendments in this Subdivision are to the *Guardianship and Administration Act 1990*\*.

[\* Reprinted as at 22 November 2002.]

**417. Long title amended**

The long title is amended by deleting “establish a Board with jurisdiction” and inserting instead —

“

**confer on the State Administrative Tribunal jurisdiction**

”.

**418. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definition of “application” and inserting instead —

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**Division 56** Guardianship and Administration Act 1990

**s. 418**

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“

**“application”** means an application to the State Administrative Tribunal under this Act;

”;

- (b) in the definition of “determination” —
  - (i) by inserting “and” after paragraph (g); and
  - (ii) by deleting paragraphs (i) and (j);
- (c) by deleting the definition of “member” and inserting the following definition instead —

“

**“member”** means a member of the State Administrative Tribunal;

”;

- (d) by deleting the definitions of “approved”, “Board”, “deputy president”, “date of the determination”, “executive officer”, “Full Board” and “president”;
- (e) by inserting in the appropriate alphabetical positions the following definitions —

“

**“Deputy President”** means a Deputy President of the State Administrative Tribunal;

**“executive officer”** has the meaning given to that term in the *State Administrative Tribunal Act 2004* section 3;

**“Full Tribunal”** means the State Administrative Tribunal constituted so as to consist of —

- (a) the President; or
- (b) a Deputy President, and 2 other members;

**“President”** means the President of the State Administrative Tribunal;

”.

**419. Section 3A inserted**

After section 3 the following section is inserted —

“

**3A. Inherent jurisdiction of Supreme Court not affected**

Nothing in this Act affects the inherent jurisdiction of  
the Supreme Court.

”.

**420. Section 4 amended**

Section 4(1) amended by deleting “the performance of its  
functions the Board” and inserting instead —

“

dealing with proceedings commenced under this Act  
the State Administrative Tribunal

”.

**421. Part 3 and Part 3 Division 1 headings replaced**

The headings to Part 3 and Part 3 Division 1 are deleted and the  
following headings are inserted instead —

“

**Part 3 — The State Administrative Tribunal**

**Division 1 — Constitution, functions and proceedings**

”.

**422. Section 5 replaced**

Section 5 is repealed and the following section is inserted  
instead —

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**Division 56** Guardianship and Administration Act 1990

**s. 423**

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“

**5. Constitution of State Administrative Tribunal under this Act**

- (1) For the purposes of exercising jurisdiction conferred by or under this Act, the State Administrative Tribunal must be constituted by either one or 3 members, and not otherwise.
- (2) This section has effect subject to section 56A.

”.

**423. Sections 6 to 12 repealed**

Sections 6, 6A, 6B, 7, 8, 9, 10, 11 and 12 are repealed.

**424. Part 3 Division 2 heading deleted**

The heading to Part 3 Division 2 is deleted.

**425. Section 13 amended**

Section 13 is amended as follows:

- (a) by deleting “The functions of the Board are” and inserting instead —

“

For the purposes of this Act, the State Administrative Tribunal has

”;

- (b) in paragraphs (a), (b), (c), (d) and (e) by inserting before “to” in the first place where it occurs —  
“ jurisdiction ”;
- (c) in paragraph (f) by deleting “to perform certain functions” and inserting instead —  
“ certain jurisdiction ”;
- (d) in paragraph (g) —



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- (i) by deleting “to perform the other functions” and inserting instead —  
“ any other jurisdiction ”; and
- (ii) by deleting “and any function vested in it by any other Act” and inserting instead —

“  
or any other Act in relation to matters of  
guardianship and administration  
”.

**426. Sections 14 to 15A repealed**

Sections 14, 15 and 15A are repealed.

**427. Section 16 amended**

- (1) Section 16(1) and (3) are repealed.
- (2) Section 16(4) is amended by inserting after “proceedings” in the first place where it occurs —  
“ commenced under this Act ”.
- (3) Section 16(5) is repealed and the following subsection is inserted instead —

“  
(5) Nothing in this section limits any other power of the State Administrative Tribunal under the *State Administrative Tribunal Act 2004*.  
”.

**428. Section 17 amended**

- (1) Section 17 is amended as follows:
  - (a) by inserting before “The” the subsection designation “(1)”;
  - (b) by deleting “the proceedings of the Board” and inserting instead —

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“  
proceedings of the State Administrative Tribunal  
commenced under this Act  
”.

(2) At the end of section 17 the following subsection is inserted —

“  
(2) Those provisions operate in addition to the provisions  
of the *State Administrative Tribunal Act 2004*.  
”.

**429. Section 17A amended**

(1) Section 17A(1) is amended by deleting “president” in each place where it occurs and inserting instead —

“ President ”.

(2) Section 17A(2) is amended by deleting “in the approved form and”.

**430. Section 17B amended**

(1) Section 17B(1) is amended by inserting after “review” —

“ commenced ”.

(2) Section 17B(2) is amended as follows:

(a) by deleting “shall be in the approved form and”;

(b) by deleting paragraph (b) and inserting instead —

“  
(b) in the case of the notice given to the applicant  
or the represented person, a summary of the  
provisions of section 16 and clause 13 of Part B  
of Schedule 1 of this Act and sections 39, 87  
and 88 of the *State Administrative Tribunal  
Act 2004* as they affect that person.  
”.





“ Public Trustee ”.

- (2) Section 80(1a) is repealed.
- (3) Section 80(2), (3), (4), (5) and (6) are amended by deleting “Board” in each place where it occurs and inserting instead —  
“ Public Trustee ”.
- (4) Section 80(6) is amended by deleting “executive officer” and inserting instead —  
“ Public Trustee ”.
- (5) After section 80(6) the following subsection is inserted —  
“  
(6a) A person aggrieved by a decision of the Public Trustee under subsection (3) may apply to the State Administrative Tribunal for a review of the decision.  
”.

**444. Section 82 amended**

- (1) Section 82(1) is amended as follows:
  - (a) by deleting “Supreme Court” and inserting instead —  
“ State Administrative Tribunal ”;
  - (b) by deleting “Court” in the second place where it occurs and inserting instead —  
“ Tribunal ”.
- (2) Section 82(2) is amended as follows:
  - (a) by deleting “Court” in the first place where it occurs and inserting instead —  
“ State Administrative Tribunal ”;
  - (b) in paragraph (b) by deleting “Court” and inserting instead —

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“ Tribunal ”.

**445. Section 85 amended**

(1) Section 85(2) is amended by deleting “the motion of the Board or on”.

(2) Section 85(3) is amended by deleting all of the subsection after “practicable after the” and inserting instead —

“ application for review is made. ”.

(3) After subsection (3) the following subsection is inserted —

“

(4) Where —

(a) a joint guardian or administrator dies; or

(b) an alternate guardian becomes the guardian under section 55 on the death of the original guardian,

the Public Advocate shall ensure that an application for review is made as soon as practicable after the date of death.

”.

**446. Section 86 amended**

(1) Section 86(1) is repealed and the following subsection is inserted instead —

“

(1) The State Administrative Tribunal may at any time on the application of —

(a) the Public Advocate;

(b) a represented person or a guardian or an administrator; or

(c) a person to whom leave has been granted under section 87,

review a guardianship order or an administration order.

”.

- (2) Section 86(2) is amended by deleting “(i)”.

**447. Section 87 amended**

Section 87(2) and (3) are repealed.

**448. Section 88 amended**

Section 88 is amended as follows:

- (a) by deleting “shall be made in the approved form and shall be lodged with the executive officer, and” and inserting instead a comma;
- (b) by inserting after “87” a comma.

**449. Section 89 amended**

- (1) Section 89(1) is amended by inserting after “review” —  
“ commenced ”.

- (2) Section 89(2) is amended as follows:

- (a) by deleting “shall be in the approved form and”;
- (b) in paragraph (c)(i) by inserting after “Schedule 1” —

“

, and sections 39, 87 and 88 of the *State Administrative Tribunal Act 2004*,

”.

**450. Section 90 amended**

- (1) Section 90 is amended by inserting before “Upon” the subsection designation “(1)”.
- (2) At the end of section 90 the following subsection is inserted —

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“

- (2) A review under this Part is in the State Administrative Tribunal’s original jurisdiction.

”.

**451. Section 97 amended**

Section 97(1) is amended as follows:

- (a) by deleting “section 40” and inserting instead —  
“ this Act ”;
- (b) in paragraph (b) by deleting “Board” and inserting instead —

“

State Administrative Tribunal commenced  
under this Act

”;

- (c) in paragraph (f)(i) by deleting “Board” and inserting instead —

“

State Administrative Tribunal conferred  
under this Act

”.

**452. Section 104A amended**

Section 104A(3) is amended by deleting “Sections 41(1) and (3) and 42” and inserting instead —

“ Section 41(1) and (3) ”.

**453. Section 106 amended**

Section 106(4) is amended by deleting “Sections 41(1) and (3) and 42” and inserting instead —

“ Section 41(1) and (3) ”.



**454. Section 108 amended**

- (1) Section 108(1)(a) is amended by deleting “board” and inserting instead —  
“ State Administrative Tribunal ”.
- (2) Section 108(4) is amended by deleting “Sections 41(1) and (3) and 42” and inserting instead —  
“ Section 41(1) and (3) ”.

**455. Section 111 amended**

Section 111(5) is amended by deleting “Board of its own motion or” and inserting instead —  
“ State Administrative Tribunal ”.

**456. Section 112 amended**

- (1) Section 112(1) and (2) are amended by inserting after “proceedings” in the first place where it occurs —  
“ commenced under this Act ”.
- (2) Section 112(3) is amended by deleting “or officer of the Board” and inserting instead —  
“  
of the State Administrative Tribunal or a member of  
staff of the Tribunal  
”.
- (3) Section 112(4) is amended by deleting “, or of its own motion”.

**457. Section 113 amended**

After section 113(2) the following subsection is inserted —  
“  
(3) The provisions of this section are in addition to, and do not derogate from, the provisions of the *State*

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*Administrative Tribunal Act 2004* relating to the disclosure of information and documents.

”.

**458. Section 114 amended**

Section 114(2) and (3) are repealed.

**459. Section 116 repealed**

Section 116 is repealed.

**460. Section 117 amended**

Section 117(3)(b) is amended by inserting after “section 16” —

“

of this Act or section 39, 87 or 88 of the *State Administrative Tribunal Act 2004*

”.

**461. Section 119A inserted**

After section 119 the following section is inserted —

“

**119A. No fee for application to State Administrative Tribunal**

No fee is payable in respect of an application made to the State Administrative Tribunal under this Act.

”.

**462. Section 120 amended**

Section 120(2) is repealed.

**463. Sections 121 to 123 repealed**

Sections 121, 122 and 123 are repealed.

**464. Schedule 1 amended**

- (1) Schedule 1 is amended before “Part A” by deleting “[sections 7 and 17]” and inserting instead —  
“ [section 17] ”.
- (2) Schedule 1 Part A is repealed.
- (3) Schedule 1 Part B clauses 1 to 10 are repealed.
- (4) Schedule 1 Part B clause 11(1) is repealed.
- (5) Schedule 1 Part B clause 11(2) is amended as follows:
  - (a) by deleting “the proceedings” in the first place where it occurs and inserting instead —  
“ proceedings commenced under this Act ”;
  - (b) by deleting “order” and inserting instead —  
“ direct ”.
- (6) Schedule 1 Part B clause 11(3) is amended by deleting “Board” and inserting instead —  
“  
State Administrative Tribunal commenced under this Act  
”.
- (7) Schedule 1 Part B clause 11(4) and the Penalty provision after it are repealed.
- (8) Schedule 1 Part B clause 12(1) and (2) are amended by inserting before “under” —  
“ commenced ”.
- (9) Schedule 1 Part B clause 13(1) and (3) are repealed.
- (10) Schedule 1 Part B clause 13(2)(a) and (b) are amended by deleting “the proceedings” and inserting instead —  
“ proceedings commenced under this Act ”.

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- (11) Schedule 1 Part B clause 13(4) is amended by deleting “Board” in the first place where it occurs and inserting instead —

“ State Administrative Tribunal commenced under this Act ”.

**465. Schedule 3 amended**

Schedule 3 Forms 1 and 2 are amended by deleting “Guardianship and Administration Board” and inserting instead —

“ State Administrative Tribunal ”.

**466. Various references to “Board” amended**

- (1) The Act is amended by deleting “Board” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

s. 3(1) (definitions of “determination” and “party”)

Pt. 2 heading

s. 4(2)(a), (b), (c), (d), (e) and (f)

s. 16(2)(a) and (b)

s. 16(4) (both places)

Pt. 3 Div. 2A heading

s. 17A(1) (in the first place)

s. 17B(3)

s. 18(2) (in the first place)

s. 19 (3 places)

s. 21(a)

s. 24(2) (in the first place)

s. 26(a)

s. 28(1) and (3)

s. 29(1)(a)

s. 29(2) (in the first place)

s. 30(1)(a)

s. 30(1)(c) (in the first place)

s. 30(2) (in the first place)

s. 30(3)

s. 31  
s. 40(1)  
s. 41(2)(b)(ii) and (3)  
s. 43(1) (in the first place)  
s. 43(2) and (3)  
s. 44(1), (2) and (5)  
s. 46  
s. 47(1) (in the first place)  
s. 47(3) and (4)  
s. 49(1) and (2)  
s. 51(1)  
s. 53(b)  
s. 56A (in the first place)  
s. 57(1)(a) and (2)(a)  
s. 58(1)  
s. 59(1)  
s. 60(2)(b)(ii) and (3)  
s. 63(1) and (2)  
s. 64(1) (in the first place)  
s. 64(2) and (3)  
s. 65(1) (in the first place)  
s. 66(1) (in the first place)  
s. 66(3) and (6)  
s. 67(2) and (3)  
s. 68(1), (2), (3) and (5)  
s. 69(1)  
s. 71(1), (3), (4) and (5)  
s. 71A(1) and (2)  
s. 72(1), (2) and (3)  
s. 74(1) (in the first place)  
s. 74(3) and (4)  
s. 75(b)  
s. 77(1) (in the first place)  
s. 78(1)(a)  
s. 81(1) and (2)  
s. 84  
s. 85(1) (in the first place)  
s. 87(1), (4)(b) and (5)  
s. 89(2)(c)(ii) and (3)  
s. 90

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s. 95(2), (3)  
s. 95(4) (in the first place)  
s. 97(1)(a) (in the first place)  
s. 102 (in the definition of “enduring power of attorney”)  
s. 104(1)(b)(ii)  
s. 104A(1)  
s. 104A(2) and (4) (both in the first place)  
s. 106(1) and (3)  
s. 106(2) and (5) (both in the first place)  
s. 107(1)(d) and (2)  
s. 108(1)(b), (1a) and (3) (all in the first place)  
s. 109(1) and (3) (both in the first place)  
s. 109(2), (4) and (5)  
s. 110  
s. 111(1), (2) and (4)  
s. 112(1), (2) and (4) (all in the first place)  
s. 112(5)  
s. 114(1) (in the first place)  
s. 117(1) (in the first place)  
s. 117(4)  
s. 118(2)  
Sch. 1 Pt B heading  
Sch. 1 Pt. B cl. 11(2), 12(2) and 13(2) (all in the first place)  
Sch. 1 Pt. B cl. 12(8)(d)  
Sch. 2 Pt. A it. 5 and 6 (both in the first place)  
Sch. 2 Pt. A it. 21  
Sch. 2 Pt. A it. 23 (in the first place)  
Sch. 2 Pt. B (in the first, second and third places)  
Sch. 5 cl. 3(1)

(2) The Act is amended by deleting “Board” in each place specified in the Table to this section and inserting instead —

“ Tribunal ”.

**Table**

s. 16(2) (in the third place)  
s. 17A(1) (in the second place)  
s. 17A(2) (both places)  
s. 18(2) (in the second and third places)

- s. 24(2) (in the second place)
- s. 29(2) (in the second place)
- s. 30(1)(c) and (2) (both in the second place)
- s. 43(1) (in the second place)
- s. 47(1) (in the second place)
- s. 56A (in the second place)
- s. 64(1) (in the second place)
- s. 65 (in the second place)
- s. 66(1) (in the second place)
- s. 74 (in the second place)
- s. 77(1) (in the second place)
- s. 85(1)(c) and (d)
- s. 95(4) (in the second place)
- s. 97(1)(a) (in the second place)
- s. 97(1)(b)(ii)
- s. 97(1)(b)(iii) (in each place)
- s. 104A(2) and (4) (both in the second place)
- s. 106(2) and (5) (both in the second place)
- s. 108(1)(b) (in the second place)
- s. 108(1a) (in the second and third places)
- s. 108(3)(b)
- s. 109(1) (in the second, third, fourth and fifth places)
- s. 109(3)(b)
- s. 111(5) (in the second place)
- s. 112(1) and (2) (both in the second place)
- s. 112(3) (in the second and third places)
- s. 112(4)(a)
- s. 114(1) (in the second place)
- s. 117(1) (in the second place)
- Sch. 1 Pt. B cl. 11(2) (in the second, third and fourth places)
- Sch. 1 Pt. B cl. 12(2) (in the second place)
- Sch. 1 Pt. B cl. 13(2)(a) and (b)
- Sch. 1 Pt. B cl. 13(4) (in the second place)
- Sch. 2 Pt. A it. 5 and 6 (both in the second place)
- Sch. 2 Pt. A it. 23 (in the second and third places)
- Sch. 2 Pt. B para (h) (in the second place)

**Subdivision 2 — Amendments needed because Act amended**

**467. Disability Services Act 1993 amended**

- (1) The amendments in this section are to the *Disability Services Act 1993*\*.

[\* *Reprint approved 26 May 2000.*  
*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 105.*]

- (2) Section 52(1)(c) is amended by deleting “Guardianship and Administration Board established” and inserting instead —  
“ State Administrative Tribunal commenced ”.

**468. Electoral Act 1907 amended**

- (1) The amendments in this section are to the *Electoral Act 1907*\*.

[\* *Reprint approved 15 December 2000.*  
*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 115.*]

- (2) Section 51AA(1) is amended by deleting “Guardianship and Administration Board established by that Act” and inserting instead —  
“ State Administrative Tribunal ”.

**469. Industrial Relations Act 1979 amended**

- (1) The amendments in this section are to the *Industrial Relations Act 1979*\*.

[\* *Reprint as at 8 November 2002.*  
*For subsequent amendments see Act No. 20 of 2003.*]

- (2) Section 97WR is amended as follows:  
(a) by deleting the definition of “Guardianship and Administration Board” or “Board”;  
(b) by inserting in the appropriate alphabetical position —



“

**“Public Advocate”** has the meaning given to that term  
in the *Guardianship and Administration Act 1990*  
section 3;

”.

- (3) Section 97WU(1) is amended by deleting “it must” and  
inserting instead —  
“ he or she must ”.
- (4) Section 97WU(3) is amended as follows:  
(a) in paragraph (b), by inserting before “subsequently” —  
“ the State Administrative Tribunal ”;  
(b) by deleting “it must” and inserting instead —  
“ the Public Advocate must ”.
- (5) Section 97XI(1) is amended by deleting “Guardianship and  
Administration Board, in accordance with the regulations,” and  
inserting instead —  
“ State Administrative Tribunal ”.
- (6) Section 97XL(1)(b) is amended by deleting “and (3)”.
- (7) Section 97XL(2) is amended by deleting “, 3 and 4” and  
inserting instead —  
“ and 3 ”.
- (8) The Act is amended in each place described in the Table to this  
subsection by deleting “Guardianship and Administration  
Board” and inserting instead —  
“ Public Advocate ”.

**Table**

s. 97WT(1)  
s. 97WZ(3)(b)  
s. 97XN(2)(b)

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- (9) The Act is amended in each place described in the Table to this subsection by deleting “Board” and inserting instead —

“ Public Advocate ”.

**Table**

s. 97WT(4)  
s. 97WU(1) and (3)

- (10) The Act is amended in each place described in the Table to this subsection by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

**Table**

s. 97XI(2)(b)  
s. 97XK(1), (2), (3), and (4) (in each place)  
s. 97XL(2)

**Division 57 — Hairdressers Registration Act 1946**

**470. The Act amended**

The amendments in this Division are to the *Hairdressers Registration Act 1946*\*.

[\* Reprint 2 as at 7 March 2003.]

**471. Section 7 amended**

Section 7(1)(b) and (c) are deleted.

**472. Section 14C amended**

After section 14C(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —

(a) the number, nature, and outcome, of —

- (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
- (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Board.

”.

**473. Section 16 amended**

- (1) Before section 16(1) the following subsection is inserted —

“

- (1a) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), against a hairdresser.

”.

- (2) Section 16(1) is amended as follows:

- (a) by deleting “The registration (whether in respect of one or more prescribed classes) of any person as a hairdresser under this Act — ” and inserting instead —

“

There is proper cause for disciplinary action against a hairdresser —

”;

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**Division 57** Hairdressers Registration Act 1946

**s. 473**

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- (b) in paragraph (c) by deleting “in the opinion of the Board,”;
- (c) by deleting paragraph (d) and inserting instead —  
“  
(d) who, for any other reason is no longer a fit and proper person to practise as a hairdresser.  
”;
- (d) by deleting “may be cancelled or suspended by order of the Board and upon the making of the order of cancellation or during the period specified in the order of suspension such person shall cease to be registered as a hairdresser: Provided that no such cancellation or suspension shall take effect until after the expiration of one month from making of the order of cancellation or suspension or in the event of an appeal therefrom pursuant to subsection (5) until judgment is given on such appeal.”.
- (3) After section 16(1) the following subsection is inserted —  
“  
(1aa) If, in a proceeding commenced by an allegation under this section against a hairdresser, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may cancel or suspend the hairdresser’s registration.  
”.
- (4) Section 16(2) is amended by deleting “The cancellation or suspension of the registration of any person may at any time and for such reasons as the Board thinks fit by order of the Board be annulled but” and inserting instead —  
“  
Subject to subsection (3), a hairdresser whose registration has been cancelled or suspended may at any time apply to the Board for re-registration but

”.

- (5) Section 16(3) is repealed and the following subsection is inserted instead —

“

- (3) If the registration of a hairdresser has been cancelled or suspended by an order made by the State Administrative Tribunal then the power of the Board under subsection (2) is to be exercised subject to the terms of that order.

”.

- (6) Section 16(4) is amended by inserting after “person being made” —

“ by the State Administrative Tribunal ”.

- (7) Section 16(5) and (6) are repealed.

**474. Section 16A inserted**

After section 16 the following section is inserted —

“

**16A. Application for review**

- (1) A person aggrieved by a reviewable decision of the Board in relation to that person may apply to the State Administrative Tribunal for a review of the decision.

- (2) In subsection (1) —

**“person aggrieved”** means a person —

- (a) whose registration as a hairdresser is affected by a reviewable decision; or  
(b) who applies for registration;

**“reviewable decision”** means a decision of the Board —

- (a) refusing or suspending registration; or

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**Division 57** Hairdressers Registration Act 1946

**s. 475**

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- (b) granting registration on a condition or conditions.

”.

**475. Section 18 amended**

Section 18 is amended by deleting “by order of the Board”.

**476. Section 18A and 18B inserted**

After section 18 the following sections are inserted —

“

**18A. Surrender of registration or certificate**

Despite the surrender by a person of the person’s registration, or a certificate issued to the person under this Act, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the registration or certificate had not been surrendered.

**18B. Suspension of registration by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a hairdresser and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the person’s registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

”.

**477. Section 19 amended**

Section 19(1)(a) is amended by deleting “order or”.

**Division 58 — *Health Act 1911***

**478. The Act amended**

The amendments in this Division are to the *Health Act 1911*\*.

[\* *Reprinted as at 31 March 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 168.]*

**479. Section 36 amended**

- (1) Section 36(1) is amended by deleting “in any case in which the local government is empowered to recover any expenses incurred by it may, within 21 days after notice of such order or decision, appeal against such order or decision to a magistrate sitting as a court of petty sessions within the district” and inserting instead —

“

may apply to the State Administrative Tribunal for a review of the order or decision

”.

- (2) Subsections (2) and (3) are repealed and the following subsection is inserted instead —

“

- (2) Upon the local government being given a copy of an application made under subsection (1) for review of a decision or order, any proceedings commenced by the local government under the decision or order to recover expenses incurred by it shall be stayed.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 58** Health Act 1911

**s. 480**

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**480. Section 37 repealed**

Section 37 is repealed.

**481. Section 62 amended**

Section 62 is amended by deleting “by a compensation court duly constituted”.

**482. Section 63 amended**

Section 63(1) is amended by inserting after “appeal” —  
“ or review ”.

**483. Section 137 amended**

Section 137 is amended in paragraph (ii) of the proviso by deleting “shall have a right of appeal against such notice, and, in relation to any such appeal, the provisions of section 36 shall mutatis mutandis apply” and inserting instead —

“  
may apply to the State Administrative Tribunal  
for a review of the decision  
”.

**484. Section 165 amended**

Section 165(1) is amended by deleting “Subject to section 37, the” and inserting instead —

“ The ”.

**485. Section 166 amended**

Section 166(1) is amended by deleting “Subject to section 37 the” and inserting instead —

“ The ”.



**486. Section 187 amended**

- (1) Section 187(1) is amended by deleting “, or in case of appeal, as hereinafter provided, of the Executive Director, Public Health”.
- (2) Section 187(2) is repealed.

**487. Section 192 amended**

- (1) Section 192(2) is repealed and the following subsection is inserted instead —

“

- (2) Without limiting section 36, that section applies to any decision of the local government to grant or renew the registration or to refuse to grant or renew the registration.

”.

- (2) Section 192(3) is repealed.

**488. Section 244 amended**

- (1) Section 244(1) is amended by deleting “appeal in manner prescribed against the decision to a Judge sitting in open court or in chambers, as that Judge may determine” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision

”.

- (2) Section 244(2) is repealed.

**489. Section 246Y amended**

- (1) Section 246Y(6) is amended by deleting “, within 14 days after the date of that refusal, appeal to a Local Court against that refusal” and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 58** Health Act 1911

**s. 490**

---

“  
apply to the State Administrative Tribunal for a review  
of the decision  
”.

(2) Section 246Y(7) and (8) are repealed.

(3) Section 246Y(10)(b) is amended as follows:

(a) by deleting “an appeal made” and inserting instead —

“ on a review in proceedings commenced ”;

(b) by deleting “has not been allowed” and inserting  
instead —

“ , the decision has not been set aside, ”.

**490. Section 246ZG amended**

(1) Section 246ZG(1) is amended by deleting “make application in the prescribed form to a Local Court for an order directing the environmental health officer to release the article seized and detained by him” and inserting instead —

“  
apply to the State Administrative Tribunal for a review  
of the decision  
”.

(2) Section 246ZG(3), (4), (5) and (6) are repealed.

**491. Section 246ZI amended**

Section 246ZI(1)(a) is amended by deleting “its release” and  
inserting instead —

“ review of the decision ”.

**Division 59 — Health Services (Conciliation and Review)  
Act 1995**

**492. The Act amended**

The amendments in this Division are to the *Health Services (Conciliation and Review) Act 1995*\*.

[\* Reprinted as at 1 June 2001.]

**493. Section 10 amended**

Section 10(3) is amended as follows:

- (a) by inserting after “registration board” —

“

or the State Administrative Tribunal, as the case may  
be

”;

- (b) in paragraph (a) by deleting “and cross-examine or call  
and examine witnesses” and inserting instead —

“

or the State Administrative Tribunal and call  
witnesses and otherwise adduce evidence

”.

**494. Section 26 amended**

Section 26(2) is amended as follows:

- (a) after “a court” by deleting “or” and inserting instead —

“ , the State Administrative Tribunal, ”;

- (b) after “the court,” by deleting “industrial”.

**495. Section 46 amended**

Section 46(1)(c) is amended by deleting “exercising the right to  
be heard conferred by section 54(1)” and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 59** Health Services (Conciliation and Review) Act 1995

**s. 496**

---

“  
facilitating the Director’s participation in any  
further proceeding relating to the matter  
”.

**496. Section 52 amended**

(1) Section 52(1) is amended as follows:

(a) after paragraph (a) by inserting —

“  
(aa) becomes aware that the issue has been  
determined by a registration board;  
”;

(b) in paragraph (b) after “initiated before” by inserting —  
“ the State Administrative Tribunal or ”;

(c) in paragraph (c) by deleting “or a registration board”  
and inserting instead —  
“ or the State Administrative Tribunal ”;

(d) after “provider’s registration board” by inserting —  
“ and the State Administrative Tribunal ”.

(2) Section 52(2) is amended by deleting “exercising the right to be heard conferred by section 54(1)” and inserting instead —

“  
facilitating the Director’s participation in any further  
proceeding relating to the matter  
”.

**497. Section 54 amended**

Section 54(1) is amended as follows:

(a) in paragraph (a) by deleting “an inquiry should be held”  
and inserting instead —  
“ further action should be taken ”;

- (b) by deleting at the end of paragraph (a) the semicolon and “and” after it and inserting instead a full stop;
- (c) by deleting paragraph (b).

**498. Section 55 amended**

- (1) Section 55 is amended before “Where” by inserting the subsection designation “(1)”.
- (2) At the end of section 55 the following subsection is inserted —  
“
  - (2) Without limiting subsection (1), the registration board must advise the Director if, and as soon as, a proceeding relating to an issue raised in the complaint is commenced before the State Administrative Tribunal.”.

**Division 60 — *Heritage of Western Australia Act 1990***

**499. The Act amended**

The amendments in this Division are to the *Heritage of Western Australia Act 1990*\*.

[\* *Reprinted as at 1 June 2001.*]

*For subsequent amendments see Act No. 24 of 2002.*]

**500. Section 3 amended**

Section 3(1) is amended as follows:

- (a) at the end of the definition of “this Act” by deleting the semicolon and inserting instead a full stop;
- (b) by deleting the definition of “Town Planning Appeal Tribunal” or “Tribunal”.

**501. Section 30 amended**

Section 30(5) is amended by deleting “Registrar” and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 60** Heritage of Western Australia Act 1990

**s. 502**

---

“ executive officer ”.

**502. Section 37 amended**

Section 37(5)(c) is amended by deleting “due where” and inserting instead —

“ due were ”.

**503. Section 42 amended**

(1) Section 42(1) is amended as follows:

- (a) by deleting “one month from” and inserting instead —  
“ the period of 28 days after ”;
- (b) by deleting “Supreme Court” and inserting instead —  
“ State Administrative Tribunal ”;
- (c) by deleting “the Court” in each place where it occurs and inserting instead —  
“ the State Administrative Tribunal ”.

(2) Section 42(2) is amended as follows:

- (a) by deleting “Supreme Court” and inserting instead —  
“ State Administrative Tribunal ”;
- (b) by deleting “the Court” in each place where it occurs and inserting instead —  
“ the State Administrative Tribunal ”.

(3) Section 42(3) is amended by deleting “Court” and inserting instead —

“ State Administrative Tribunal ”.

**504. Section 59 amended**

(1) Section 59(7)(d) by deleting “Planning Appeal” and inserting instead —

“ State Administrative ”.

- (2) Section 59(10) is amended by deleting “Town Planning Appeals” and inserting instead —  
“ State Administrative ”.
- (3) Section 59(19) is amended as follows:
- (a) by deleting “appeal” and inserting instead —  
“ application ”;
  - (b) after “section 60(1)(a)” by inserting —  
“ for a review ”;
  - (c) by deleting “heard or determined” and inserting instead —  
“ made ”.

**505. Section 60 amended**

- (1) Section 60(1) is amended as follows:
- (a) in paragraph (a) by deleting “appeal referred” and inserting instead —  
“ application made ”;
  - (b) in paragraph (a) by inserting after “section 59” —  
“ for a review of the Order ”;
  - (c) by deleting all of the subsection after “paragraph (b) by the Minister” and inserting instead a full stop.
- (2) Section 60(2) is amended as follows:
- (a) by deleting “On a referral” and inserting instead —  
“ On an application or referral ”;
  - (b) in paragraph (c) by deleting “appeal” and inserting instead —  
“ application or referral ”.
- (3) Section 60(3) is amended by deleting “appeal” and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 60** Heritage of Western Australia Act 1990

**s. 506**

---

“ application ”.

**506. Section 76 amended**

Section 76(1) is amended as follows:

(a) in paragraph (a) by deleting “30A” and inserting instead —

“ 30 ”;

(b) by deleting “Registrar” and inserting instead —

“ executive officer ”.

**507. Various references to “Tribunal” amended**

The Act is amended by deleting “Tribunal” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 30(2) (both places)
- s. 30(4) (6 places)
- s. 30(5) (3 places)
- s. 37(3) (in the second place)
- s. 37(5) (both places)
- s. 59(7)(d) and (10) (each in the second place)
- s. 60(1) (in the second place)
- s. 60(2)(b) and (c)
- s. 60(3) (both places)
- s. 73(4) (in the second place)
- s. 73(5)
- s. 73(7) (both places)
- s. 76(1) (5 places)



**508. Various references to “Town Planning Appeal Tribunal”  
amended**

The Act is amended by deleting “Town Planning Appeal Tribunal” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 30(1)
- s. 37(3) and (4)
- s. 60(1) and (2)
- s. 73(4)

**Division 61 — *Hire-Purchase Act 1959***

**509. The Act amended**

The amendments in this Division are to the *Hire-Purchase Act 1959*\*.

[\* *Reprinted as at 12 May 2000.*

*For subsequent amendments see Acts Nos. 13 and 24 of 2000.]*

**510. Section 3 amended**

(1) Section 3(4f) is amended as follows:

(a) by deleting “a Local Court” and inserting instead —

“

the State Administrative Tribunal on an application

”;

(b) by deleting “(4h)” and inserting instead —

“ (4g) ”.

(2) Section 3(4g) is amended as follows:

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 61** Hire-Purchase Act 1959

**s. 511**

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- (a) by deleting “, within the period of 7 days from the date of service on him of the decision,”;
  - (b) by deleting “a Local Court for” and inserting instead —  
“  
the State Administrative Tribunal for a review of  
”;
  - (c) by deleting “to be varied or set aside”.
- (3) Sections 3(4h) and (4j) are repealed.

**511. Section 12A amended**

- (1) Section 12A(2) is amended as follows:
- (a) by deleting “a Local Court for an order declaring that” and inserting instead —  
“  
the State Administrative Tribunal for a review of  
”;
  - (b) by deleting “was unreasonable in the circumstances of the case, and where an order is made that consent shall be deemed to have been given”.
- (2) Section 12A(3) is repealed.

**512. Section 36A amended**

- (1) Section 36A(5) is amended by deleting “a Local Court” and inserting instead —  
“ the State Administrative Tribunal on an application ”.
- (2) Section 36A(6) is amended as follows:
- (a) by deleting “, within the period of 7 days from the date of service on him of the decision,”;
  - (b) by deleting “a Local Court for” and inserting instead —

“  
the State Administrative Tribunal for a review of  
”;

(c) by deleting “to be varied or set aside”.

(3) Sections 36A(7) and (8) are repealed.

**Division 62 — Hope Valley-Wattleup Redevelopment Act 2000**

**513. The Act amended**

The amendments in this Division are to the *Hope Valley-Wattleup Redevelopment Act 2000*\*.

[\* *Act No. 77 of 2000.*

*For subsequent amendments see Act No. 24 of 2002.]*

**514. Section 29 amended**

(1) Section 29(1) is amended as follows:

(a) by deleting “appeal” and inserting instead —

“  
apply to the State Administrative Tribunal for a review  
”;

(b) by deleting “from” and inserting instead —

“ of ”.

(2) Section 29(2) is repealed.

**515. Section 31 amended**

(1) Section 31(2) is amended by deleting all of the subsection after “may” and inserting instead —

“  
apply to the State Administrative Tribunal for a review,  
in accordance with Part V of the Town Planning Act,  
of the decision to give the direction.  
”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 62** Hope Valley-Wattleup Redevelopment Act 2000

**s. 515**

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- (2) Section 31(3) is amended by deleting “appeal” and inserting instead —  
“ application ”.
- (3) Section 31(4) is amended as follows:
- (a) by deleting “Town Planning Appeal Tribunal” in the first place where it occurs and inserting instead —  
“ State Administrative Tribunal ”;
  - (b) by deleting “the Town Planning Appeal Tribunal” in the second place where it occurs and inserting instead —  
“ it ”.
- (4) Section 31(6) is amended as follows:
- (a) by deleting “appeal” in each place where it occurs and inserting instead —  
“ application ”;
  - (b) by deleting “brought” and inserting instead —  
“ made ”;
  - (c) by deleting “in any court of competent jurisdiction”;
  - (d) by deleting “it in so doing” and inserting instead —  
“  
the Commission in so doing as a debt in a court of  
competent jurisdiction  
”.

**Division 63 — Hospitals and Health Services Act 1927**

**Subdivision 1 — Amendments to the Act**

**516. The Act amended**

The amendments in this Subdivision are to the *Hospitals and Health Services Act 1927*\*.

[\* Reprinted as at 15 October 1999.

For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 172-4.*]

**517. Section 26H amended**

- (1) Section 26H(1) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the cancellation or non-renewal.

”.

- (2) Section 26H(2) is repealed.
- (3) Section 26H(3) is amended as follows:
- (a) by deleting “or subsection (2)(b)”;
  - (b) by deleting “appeals against” and inserting instead —  
“ applies for a review of ”;
  - (c) by deleting “an appeal” and inserting instead —  
“ the application ”.

**Subdivision 2 — Amendment needed because Act amended**

**518. Acts Amendment (Hospitals) Act 1985 amended**

- (1) The amendment in this section is to the *Acts Amendment (Hospitals) Act 1985*\*.

[\* Act No. 53 of 1985.]

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 64** Housing Societies Act 1976

**s. 519**

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- (2) Section 31 is repealed.

**Division 64 — *Housing Societies Act 1976***

**519. The Act amended**

The amendments in this Division are to the *Housing Societies Act 1976*\*.

[\* *Reprinted as at 9 November 2001.*

*For subsequent amendments see Act No. 20 of 2003.*]

**520. Section 87 amended**

Section 87(2) is amended by deleting all of the subsection after “he may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Registrar.

”.

**Division 65 — *Human Reproductive Technology Act 1991***

**521. The Act amended**

The amendments in this Division are to the *Human Reproductive Technology Act 1991*\*.

[\* *Reprinted as at 12 July 2002.*]

**522. Section 3 amended**

Section 3(1) is amended by deleting the definition of “licensing authority”.

**523. Section 14 amended**

- (1) Section 14(1)(b)(ii) is amended by deleting “, having regard to any findings made by, or report received from, a committee of inquiry appointed under section 38”.

- (2) Section 14(3) is amended by deleting “, if necessary by disciplinary action under section 38,”.

**524. Section 19 amended**

- (1) Section 19(2)(a) is amended by deleting “39(2)(a)” and inserting instead —  
“ 39(2)(b) ”.
- (2) Section 19(2)(b)(ii) is amended by deleting “the licensing authority” and inserting instead —

“

the Commissioner of Health and the  
State Administrative Tribunal

”.

**525. Section 29 amended**

- (1) Section 29(3) is amended as follows:
- (a) by deleting “it” after “enable” and inserting instead —  
“ him or her ”;
  - (b) by deleting “it” after “application,” and inserting instead —  
“ the Commissioner ”;
  - (c) by deleting “it” after “as and after “provided”” and inserting instead —  
“ he or she ”.
- (2) Section 29(4)(c) is amended by deleting “, pursuant to an Order made in disciplinary proceedings under this Act”.

**526. Section 32 amended**

Section 32(1) is amended by deleting “licensing authority” in the second place where it occurs and inserting instead —

“ Commissioner ”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 65** Human Reproductive Technology Act 1991

**s. 527**

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**527. Section 33 amended**

Section 33(2)(h) is amended by deleting “licensing authority” and inserting instead —

“ Commissioner ”.

**528. Section 36 amended**

(1) Section 36(2) is amended as follows:

(a) by deleting from “relates — ” through to “(b) with” and inserting instead —

“ relates with ”.

(b) by deleting from “public interest,” through to “appeal under” and inserting instead —

“

public interest, but a licensee thereby affected may apply for a review of the decision under

”.

(2) After section 36(2) the following subsections are inserted —

“

(2a) The Commissioner of Health may by notice suspend the operation of any licence or exemption with immediate effect, by reason of any requirement of public health, where in the opinion of the Commissioner of Health imminent risk of serious harm to a person may occur.

(2b) A notice under subsection (2a) is to state that the Commissioner of Health will refer the matter to the State Administrative Tribunal within 14 days of giving the notice.

(2c) The Commissioner of Health may, by notice given to the person to whom the notice made under subsection (2a) was given, revoke or vary a notice



made under subsection (2a) at any time before referring the matter to the State Administrative Tribunal under section 36A.

”.

(3) Section 36(3) is amended as follows:

- (a) by deleting “, cancellation or revocation has been imposed with immediate effect pursuant to section 36(2)(a) and the licensee has commenced an appeal under section 42 then, unless a Judge” and inserting instead —

“

has been imposed with immediate effect pursuant to subsection (2a) and the matter has been referred to the State Administrative Tribunal under section 36A then, unless the Tribunal

”;

- (b) before “shall” by deleting “, cancellation or revocation”;
- (c) after “such” by deleting “appeal” and inserting instead —
- “ referral ”.

**529. Section 36A inserted**

After section 36 the following section is inserted —

“

**36A. Referring to State Administrative Tribunal a matter leading to a section 36(2a) notice**

Within 14 days of giving a notice under section 36(2a), if that notice is not revoked under section 36(2c), the Commissioner of Health shall refer the matter in respect of which the notice was made to the State Administrative Tribunal.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 65** Human Reproductive Technology Act 1991

**s. 530**

---

**530. Section 37 amended**

- (1) Section 37(1) is amended by deleting all of the subsection after “summarily” and inserting instead a full stop.
- (2) After section 37(1) the following subsection is inserted —  
“
  - (1a) The Commission of Health shall seek the advice of the Council before making a summary determination under subsection (1).”.
- (3) Section 37(3)(b) is amended by deleting “referred to a committee of inquiry” and inserting instead —  
“ brought before the State Administrative Tribunal ”.

**531. Section 38 replaced**

Section 38 is repealed and the following section is inserted instead —

“

**38. Disciplinary action**

- (1) Where —
  - (a) the licensee or other person liable to a warning or penalty does not consent to a summary determination or submit to the discretion of the Commissioner of Health under section 37; or
  - (b) it appears to the Commissioner that a penalty provided by section 40(1)(a) to (f) may not be appropriate or that effect has not been given under section 37(3) to the summary penalty imposed,

the Commissioner may make an allegation to the State Administrative Tribunal in respect of the matter.

- (1a) If the Commissioner of Health makes an allegation to the State Administrative Tribunal under subsection (1)(a), the Commissioner shall advise the Council that the allegation has been made.
- (1b) If the Commissioner of Health proposes to make an allegation to the State Administrative Tribunal under subsection (1)(b), the Commissioner shall first consult the Council.

”.

**532. Section 39 amended**

- (1) Section 39(1) is repealed.
- (2) Section 39(2) is amended as follows:
  - (a) in paragraph (d)(iii) by deleting “, in the opinion of the Commissioner,”;
  - (b) in paragraph (n) by inserting after “section 37 or” —  
“  
by the State Administrative Tribunal in  
proceedings commenced under section

”.

**533. Section 40 amended**

- (1) Section 40(1) is amended as follows:
  - (a) by deleting “this Act, by Order of which notice in writing shall be given to the person liable to the penalty,” and inserting instead —  
“ section 37, by Order ”;
  - (b) at the end of paragraph (f) by deleting the semicolon and inserting instead a comma;
  - (c) by deleting paragraphs (g), (h), (j), (k) and (m) and the “or” preceding paragraph (m);

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**Division 65** Human Reproductive Technology Act 1991

**s. 533**

---

- (d) by deleting “licensing authority” and inserting instead —  
“ Commissioner ”.
- (2) After section 40(1) the following subsection is inserted —  
“
- (1a) If in a proceeding commenced by a referral under section 36A or an allegation under section 38(1), the State Administrative Tribunal is of the opinion that cause exists for disciplinary action, the Tribunal may impose any one or more of the following penalties —
- (a) a reprimand;
  - (b) the imposition of a condition to which a licence or exemption is to be subject, limiting the authority conferred by the licence or exemption;
  - (c) the variation or cancellation of a term or condition to which a licence or exemption is subject;
  - (d) a requirement that a person to whom the licence applies or who is interested in the licence or exemption enter into a written undertaking or a bond, or give a prescribed security, for future conduct;
  - (e) a requirement as to the conduct of the reproductive technology practice under the licence or exemption, contravention of which may result in its mandatory suspension;
  - (f) a requirement that specified action be taken by the person responsible within a specified period, contravention of which may result in mandatory suspension of the licence or exemption;

- (g) the suspension of the operation of a licence or exemption —
  - (i) until further order; or
  - (ii) for a specified period;
- (h) the suspension of the operation of the licence or exemption for so long as a person to whom subsection (2) applies is —
  - (i) the holder of a position of authority in a body that holds a licence; or
  - (ii) directly or indirectly materially interested in a reproductive technology practice carried on under a licence or exemption,  
subject to subsection (3);
- (i) the cancellation of a licence, or the revocation of an exemption;
- (j) the disqualification, for such period as the Tribunal thinks fit, of a licensee from holding a licence or exemption; or
- (k) an order that the person to whom the licence applies pay to the Crown a monetary penalty not exceeding the prescribed amount.

”.

- (3) Section 40(2) is amended by deleting “subsection (1)(d), (e) or (j)” and inserting instead —

“ subsection (1)(d) or (e) ”.

- (4) After section 40(2) the following subsection is inserted —

“

- (2a) Where the State Administrative Tribunal finds that a proper cause for disciplinary action exists in relation to a licence or an exemption held by a proprietary company, any penalty that by subsection (1)(d), (e) or

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**Part 2** Various Acts amended to confer jurisdiction

**Division 65** Human Reproductive Technology Act 1991

**s. 534**

---

(j) might have been imposed in relation to the licence or exemption, whether or not a penalty is imposed on the licensee, may be imposed on or in relation to any person who occupies a position of authority in that company or any related body corporate, subject to subsection (3).

”.

(5) Section 40(3) is amended as follows:

(a) by deleting “licensing authority” and inserting instead —

“

Commissioner of Health and the State Administrative Tribunal

”;

(b) by deleting “(1)(j) or subsection (2)” and inserting instead —

“ , (1a)(i), (2) or (2a) ”.

**534. Heading to Part 4 Division 4 amended**

The heading to Part 4 Division 4 is amended by deleting “Supreme Court” and inserting instead —

“ **State Administrative Tribunal** ”.

**535. Section 42 amended**

Section 42(2), (3), (4), (5), (6) and (7) are repealed and the following subsections are inserted instead —

“

(2) An applicant or licensee may apply to the State Administrative Tribunal for a review of a decision of the kind to which subsection (1) refers to which effect is given.

(3) Any person liable to a penalty thereunder or to be adversely affected thereby, may apply to the State

Administrative Tribunal for a review of any decision made by the Commissioner of Health by way of a summary determination in respect of a disciplinary matter.

”.

**536. Section 43 amended**

Section 43(1) is amended as follows:

- (a) by deleting “Supreme Court” and inserting instead —  
“ State Administrative Tribunal ”;
- (b) by deleting “the Court” and inserting instead —  
“ the Tribunal ”.

**537. Section 49 amended**

Section 49(4)(a)(ii) is amended by deleting “licensing authority” and inserting instead —

“ State Administrative Tribunal ”.

**538. Section 54 amended**

Section 54(3)(a)(i) is amended by deleting “, suspension and revocation” and inserting instead —

“ and suspension ”.

**539. Section 57 amended**

Section 57(4) is amended by deleting “licensing authority” and inserting instead —

“ Commissioner ”.

**540. Various references to “licensing authority” amended**

The Act is amended by deleting “licensing authority” in each place specified in the Table to this section and inserting instead —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 66** Jetties Act 1926

**s. 541**

---

“ Commissioner of Health ”.

**Table**

- s. 3(5)(c)
- s. 15(4)
- s. 29(3), (4), (5), (6), (7), and (8)
- s. 30(4)(a)
- s. 32(1) (in the first place)
- s. 32(2) and (3)
- s. 35(1)(b)
- s. 40(2)
- s. 42(1)
- s. 50(1)(a)
- s. 51(6)
- s. 54(3)(a)(i)
- s. 57(1)(e), (5), and (10)

**Division 66 — Jetties Act 1926**

**541. The Act amended**

The amendments in this Division are to the *Jetties Act 1926*\*.

[\* Reprinted as at 4 February 2000.]

**542. Section 7 amended**

- (1) Section 7(1) is amended by deleting “Minister” and inserting instead —

“ Chief Executive Officer ”.

- (2) Section 7(2) is amended as follows:

- (a) by deleting “Minister” and inserting instead —

“ Chief Executive Officer ”;

- (b) by deleting “Chief Executive Officer” and inserting instead —

“ an officer ”.



**543. Section 7A amended**

(1) Section 7A(1) is amended as follows:

- (a) in paragraph (a) by deleting “by the Chief Executive Officer pursuant to the power delegated to him under section 7”;
- (b) in paragraph (b) by deleting “by the Chief Executive Officer pursuant to the power delegated to him under section 7”;
- (c) by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision

”.

(2) Section 7A(2) is repealed.

**Division 67 — Land Administration Act 1997**

**Subdivision 1 — Amendments to the Act**

**544. The Act amended**

The amendments in this Subdivision are to the *Land Administration Act 1997*\*.

[\* *Reprinted as at 22 June 2001.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 203.]*

**545. Section 125 amended**

(1) Section 125(2) is amended as follows:

- (a) by deleting “or appeal”;
- (b) by deleting “rent, but” and inserting instead —

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“  
rent or a notice has been given requiring the assessment to be referred to the State Administrative Tribunal for a review, but the matter  
”.

- (2) Section 125(3) is amended by deleting “appeal” and inserting instead —

“ review ”.

**546. Section 126 amended**

Section 126 is amended by deleting “appeals” and inserting instead —

“ review ”.

**547. Section 151 amended**

After section 151(2) the following subsection is inserted —

“  
(3) Terms used in Part 10 relating to members of the State Administrative Tribunal have the meanings given to them in section 3(1) of the *State Administrative Tribunal Act 2004*.  
”.

**548. Section 207 amended**

Section 207(1) is amended by deleting “a Judge” and inserting instead —

“ the State Administrative Tribunal ”.

**549. Section 210 amended**

- (1) Section 210(1) is amended by deleting “a Judge of the Supreme Court” and inserting instead —

“ the State Administrative Tribunal ”.

- (2) Section 210(2) is amended by deleting “Judge” and inserting instead —  
“ State Administrative Tribunal ”.
- (3) Section 210(3) is amended as follows:
- (a) by deleting “Judge” and inserting instead —  
“ State Administrative Tribunal ”;
  - (b) by deleting “a Compensation Court, the Judge” and inserting instead —  
“ it, it ”.

**550. Section 214 amended**

Section 214(2) is amended by deleting “a Judge of the Supreme Court may” and inserting instead —

“  
the State Administrative Tribunal constituted by a  
judicial member may, on an application under this  
subsection,  
”.

**551. Section 218 amended**

Section 218 is amended by inserting after “any court” —

“ or before the State Administrative Tribunal ”.

**552. Section 222 amended**

- (1) Section 222(1) is amended by deleting “a Judge of the Supreme Court” and inserting instead —  
“ the State Administrative Tribunal ”.
- (2) Section 222(2) is amended by deleting “Judge” and inserting instead —  
“ State Administrative Tribunal ”.

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(3) Section 222(4) is repealed.

(4) Section 222(5) is amended as follows:

(a) by deleting “Judge” in the first place where it occurs and inserting instead —

“ State Administrative Tribunal ”;

(b) by deleting “the Compensation Court” and inserting instead —

“ it ”;

(c) by deleting “Judge may appoint an assessor on behalf of ” and inserting instead —

“

President of the State Administrative Tribunal may, in specifying who is to constitute the Tribunal, choose any consenting person as if the person had been appointed as an assessor by

”.

**553. Section 224 amended**

(1) Section 224(4) is amended by deleting “apply to the Principal Registrar of the Supreme Court for the appointment of an assessor to act for the acquiring authority and the Principal Registrar of the Supreme Court is to appoint an assessor” and inserting instead —

“

request the President of the State Administrative Tribunal, in specifying who is to constitute the Tribunal for the purpose of determining the claim, to choose a consenting person as if the person had been appointed as an assessor by the acquiring authority and the President is to act

”.

(2) Section 224(5) is amended by deleting “Compensation Court is to determine” and inserting instead —

“  
President of the State Administrative Tribunal is to  
specify who is to constitute the Tribunal for the  
purpose of determining  
”.

(3) After section 224(5) the following subsection is inserted —

“  
(5a) For the purposes of subsection (5)(a), the claimant or  
the acquiring authority is to be regarded as having  
appointed a person as an assessor if circumstances have  
arisen in which the President of the State  
Administrative Tribunal may, in specifying who is to  
constitute the Tribunal, choose any consenting person  
as if the person had been appointed as an assessor by  
the claimant or the acquiring authority, as the case  
requires.  
”.

(4) Section 224(6) is repealed and the following subsection is  
inserted instead —

“  
(6) Upon receiving notice of the appointment of an  
assessor by the acquiring authority or notice that the  
President of the State Administrative Tribunal has  
chosen a person as if the person had been appointed as  
an assessor by the acquiring authority, the claimant  
must at once file a copy of the claim and of all notices  
and other particulars in the State Administrative  
Tribunal.  
”.

**554. Section 225 amended**

Section 225(2) is amended by deleting “court in which the claim  
is to be filed under section 224(6)” and inserting instead —

“ State Administrative Tribunal ”.

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**555. Sections 226 and 227 replaced**

Sections 226 and 227 are repealed and the following sections are inserted instead —

“

**226. State Administrative Tribunal**

- (1) Except as otherwise stated in this section, when the State Administrative Tribunal is dealing with a claim for compensation under this Part, it is to be constituted by —
  - (a) a judicial member or a senior member who is a qualified person;
  - (b) the person appointed as an assessor by the claimant; and
  - (c) the person appointed as an assessor by the acquiring authority.
- (2) If the claimant and the acquiring authority agree in writing, the State Administrative Tribunal may be constituted solely by a judicial member or a senior member who is a qualified person.
- (3) The agreement may be limited according to who is to be the member by whom the State Administrative Tribunal is to be constituted.
- (4) When dealing with an application under section 222(1), the State Administrative Tribunal is to be constituted by a judicial member or a senior member who is a qualified person.

**227. Assessors**

- (1) The President may specify a person appointed as an assessor by the claimant or the acquiring authority to be one of the persons by whom the State Administrative Tribunal is to be constituted even

though the person does not hold office as a member of the State Administrative Tribunal.

- (2) For the purposes of dealing with the matter for which the person was appointed as an assessor, the person is to be regarded as being an ordinary member and the *State Administrative Tribunal Act 2004* applies to the person as if, when acting in that capacity, the person were an ordinary member.

”.

**556. Section 228 repealed**

Section 228 is repealed.

**557. Section 229 amended**

Section 229 is amended as follows:

- (a) by deleting “A Compensation Court” and inserting instead —  
“ The State Administrative Tribunal ”;
- (b) by deleting “Court” in the second place where it occurs and inserting instead —  
“ State Administrative Tribunal ”.

**558. Section 230 amended**

- (1) Section 230(1) is amended as follows:

- (a) by deleting “president” and inserting instead —  
“ President of the State Administrative Tribunal ”;
- (b) by deleting “, order the assessor to be discharged.” and inserting instead —

“

objecting, require the party appointing the assessor to appoint another assessor instead.

”.

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- (2) Section 230(2) is repealed and the following subsection is inserted instead —

“

- (2) Unless the party required to appoint another assessor does so within 10 days after being required to do so, the President of the State Administrative Tribunal may, in specifying who is to constitute the Tribunal, choose any consenting person as if the person had been appointed as an assessor by the person to whom the requirement was given.

”

**559. Section 231 replaced**

Section 231 is repealed and the following section is inserted instead —

“

**231. Case of assessor member dying or unable to act**

If, for the purpose of dealing with a claim, the State Administrative Tribunal is constituted by persons any of whom was appointed as an assessor by one of the parties (an “**assessor member**”) and, before the award is given, an assessor member dies or becomes incapable of acting, or resigns or refuses to act, the assessor member’s place is to be taken by a person specified by the President of the State Administrative Tribunal on the appointment of the party who had appointed the assessor member or, if that party fails to make such an appointment within 10 days, by any other person whom the President of the State Administrative Tribunal may specify as if the person had been appointed by that party, and the matter is to proceed as if no change in constitution had taken place.

”



**560. Sections 232 to 240 repealed**

Sections 232, 233, 234, 235, 236, 237, 238, 239 and 240 are repealed.

**561. Section 241 amended**

- (1) Section 241(6)(e) is amended by deleting “or the court” and inserting instead —  
“ , the court, or the State Administrative Tribunal ”.
- (2) Section 241(8) is amended by inserting after “court or” —  
“ the State Administrative Tribunal or ”.
- (3) Section 241(9) is amended by inserting after “court” —  
“ or the State Administrative Tribunal ”.
- (4) Section 241(10)(b) is amended by deleting “or the court” and inserting instead —  
“ , the court, or the State Administrative Tribunal ”.
- (5) Section 241(11)(c) is amended by deleting “other” and inserting instead —  
“ the ”.

**562. Section 243 amended**

Section 243 is amended as follows:

- (a) by deleting “the court” in the second place where it occurs and inserting instead —  
“ the State Administrative Tribunal or the court ”;
- (b) by deleting “the opinion of the court” and inserting instead —  
“ its opinion ”.

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**563. Section 244 amended**

Section 244(2) and (3) are amended by inserting after “The” —  
“ State Administrative Tribunal or the ”.

**564. Sections 245 to 247 repealed**

Sections 245, 246 and 247 are repealed.

**565. Section 249 amended**

Section 249(1)(a) is amended by deleting “has been filed in the Supreme Court” and inserting instead —  
“ is made ”.

**566. Section 256 amended**

Section 256 is amended as follows:

- (a) in paragraph (a) by inserting after “offer, and” —  
“ the State Administrative Tribunal or ”;
- (b) in paragraph (b) by inserting before “the court” —  
“ the State Administrative Tribunal or ”.

**567. Various references to “appeal” amended**

The Act is amended by inserting after “appeal” in each place specified in the Table to this section —

“ or review ”.

**Table**

s. 168(2)  
s. 170(5)(d)  
s. 183(2)(b)  
s. 186(3)(b)

**568. Various references to “a Compensation Court” amended**

The Act is amended by deleting “a Compensation Court” in each place specified in the Table to this section and inserting instead —

“ the State Administrative Tribunal ”.

**Table**

s. 210(2)  
s. 222(2)  
s. 249(3)

**569. Various references to “Compensation Court” amended**

The Act is amended by deleting “Compensation Court” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

s. 210(4)  
s. 220(c)  
s. 221(1)(b)  
s. 222(1)(b)  
s. 223(5)  
s. 224(1) and (2)  
Pt. 10 Div. 4 heading  
s. 241(11)(c)  
s. 243  
s. 244(1)  
s. 249(1)(a)  
s. 249(3) (in the first place)  
s. 253  
s. 254  
s. 256

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**Subdivision 2 — Amendments needed because Act amended**

**570. Mining Act 1978 amended**

- (1) The amendments in this section are to the *Mining Act 1978*\*.

[\* Reprinted as at 7 September 2001.

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 254.]*

- (2) Section 21(4) is amended as follows:

- (a) by deleting “a Compensation Court constituted under Part 10 of the *Land Administration Act 1997*” and inserting instead —

“ the State Administrative Tribunal ”;

- (b) by deleting “that Court” and inserting instead —

“ the State Administrative Tribunal ”.

**571. Water Agencies (Powers) Act 1984 amended**

- (1) The amendments in this section are to the *Water Agencies (Powers) Act 1984*\*.

[\* Reprinted as at 4 January 2000.]

- (2) Section 62(2) is amended by deleting all of the subsection after “shall be” and inserting instead —

“

referred to the State Administrative Tribunal and dealt with as if it had come before the Tribunal under Part 10 of the *Land Administration Act 1997*.

”.

**Division 68 — *Land Drainage Act 1925***

**572. The Act amended**

The amendments in this Division are to the *Land Drainage Act 1925*\*.

[\* *Reprint 3 as at 21 March 2003.*]

**573. Section 85 amended**

Section 85(6) is amended by deleting “appeal against” and inserting instead —

“ seek a review of ”.

**574. Heading to Part VII Division 4 amended**

The heading to Part VII Division 4 is amended by deleting “appeals” and inserting instead —

“ **review** ”.

**575. Section 98 amended**

Section 98(6) is amended as follows:

- (a) by deleting “an appeal against” and inserting instead —  
“ a review of ”;
- (b) by deleting “be made” and inserting instead —  
“ be sought ”.

**576. Section 99 amended**

(1) Section 99(1) is amended as follows:

- (a) by deleting “treat the objection as an appeal against” and inserting instead —  
“ refer ”;
- (b) after “records” by inserting —

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“ to the State Administrative Tribunal for a review ”.

- (2) Section 99(2) is amended by deleting “objection to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal” and inserting instead —

“

relevant entry in the rating records to the State Administrative Tribunal for a review

”.

- (3) After section 99(2) the following subsection is inserted —

“

- (3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the relevant entry in the rating records; and  
(b) the reasons, if any, for the entry.

”.

**577. Section 99A amended**

- (1) Section 99A(1) is amended as follows:

- (a) by deleting “treat an objection to an entry in the rating records as an appeal against that entry” and inserting instead —

“

refer the relevant entry in the rating records to the State Administrative Tribunal for a review

”;

- (b) by deleting “such” and inserting instead —

“ the ”;

- (c) by deleting “to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal” and inserting instead —

“

to refuse to extend time to the State Administrative Tribunal for a review

”.

- (2) Section 99A(2) is amended by deleting “a Land Valuation Tribunal as an appeal” and inserting instead —

“ the State Administrative Tribunal for a review ”.

- (3) After section 99A(2) the following subsection is inserted —

“

- (3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the decision to refuse to extend the time; and  
(b) the reasons, if any, for the decision.

”.

**578. Sections 99AA and 99AB inserted**

After section 99A the following sections are inserted —

“

**99AA. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal on a reference under section 99 or 99A, the State Administrative Tribunal may consider —
- (a) grounds in addition to those stated in the notice of objection; and

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- (b) reasons in addition to any reasons previously given for the Corporation's decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

**99AB. Written reasons for certain determinations to be given and published**

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 99 or 99A is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2004*.

”.

**579. Section 99B amended**

Section 99B is amended by deleting “appeal” and inserting instead —

“ review ”.

**580. Section 99C amended**

Section 99C is amended as follows:

- (a) by deleting “or an appeal”;



- (b) by deleting “or the appeal”.

**581. Section 99D amended**

- (1) Section 99D(1) is amended as follows:

- (a) by deleting “or an appeal”;  
(b) after “Act” by inserting —  
“ or under the *Valuation of Land Act 1978* ”;  
(c) after “such entry” by inserting —

“

or in consequence of a review by the State  
Administrative Tribunal

”.

- (2) Section 99D(2) is amended as follows:

- (a) by deleting “, in consequence of the allowance, wholly  
or in part, of an objection or an appeal under this Act or  
the *Valuation of Land Act 1978*,”;  
(b) after “necessary” by inserting —  
“ under subsection (1) ”.

**582. Section 108 amended**

Section 108(2) is amended as follows:

- (a) by deleting “appeal is brought against” and inserting  
instead —

“

application has been made to the State Administrative  
Tribunal for a review following the

”;

- (b) by deleting “on an appeal” and inserting instead —

“

in proceedings before the State Administrative  
Tribunal

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**Division 69 — Land Tax Assessment Act 2002**

**583. The Act amended**

The amendments in this Division are to the *Land Tax Assessment Act 2002*\*.

[\* *Act No. 52 of 2002.*]

**584. Glossary amended**

The Glossary clause 3(1)(c) is amended by deleting “the Minister allows an appeal under section 26 of that Act and by doing so” and inserting instead —

“

on an application for review under section 26 of that Act, the State Administrative Tribunal

”.

**Division 70 — Land Valuers Licensing Act 1978**

**585. The Act amended**

The amendments in this Division are to the *Land Valuers Licensing Act 1978*\*.

[\* *Reprinted as at 3 May 2002.*]

**586. Section 4 amended**

Section 4 is amended by deleting the definition of “District Court”.

**587. Part II Division 1 heading replaced**

The heading to Part II Division 1 is deleted and the following heading is inserted instead —

“

**Division 1 — Land Valuers Licensing Board**

”.

**588. Part II Division 2 heading replaced**

The heading to Part II Division 2 is deleted and the following heading is inserted instead —

“

**Division 2 — General**

”.

**589. Section 12 amended**

(1) Section 12(1) is amended as follows:

- (a) by inserting before “reasonable notice” —  
“ on an application for the grant of a licence ”;
- (b) by deleting all of the subsection after “unless” and inserting instead —  
“ there is no objection ”.

(2) Section 12(8) is repealed.

**590. Section 13 amended**

Section 13(1) is amended as follows:

- (a) by deleting “and functions under this Act” and inserting instead —  
“  
in proceedings on an application for the grant of a licence  
”;
- (b) in paragraph (e), by deleting “, including the person whose conduct is subject to an inquiry,”.

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**Division 70** Land Valuers Licensing Act 1978

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**591. Section 14 amended**

Section 14(2) and (3) are repealed.

**592. Sections 15 and 16 repealed and replaced**

Sections 15 and 16 are repealed and the following sections are inserted instead —

“

**15. Powers of investigation**

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
  - (a) determining any application or any other matter before the Board;
  - (b) determining whether or not a licensed valuer is or has been complying with the requirements of this Act;
  - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;
  - (d) detecting offences against this Act.
- (2) The Board may designate an officer of the Board to be an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
  - (a) require any person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to the person,in relation to any matter the subject of such inquiry;

- (b) require any person to produce any document to the investigator;
  - (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
  - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to any place specified in the requirement;
    - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
    - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
- (a) shall be made by notice in writing served on the person required to produce a document;

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- (b) shall specify the time at or within which the document is to be produced; and
- (c) may, by its terms, require that the document be produced —
  - (i) at any place specified in the requirement; and
  - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (8) Before entering any premises under this section the investigator —
  - (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
  - (b) shall display to the person, if any, giving the investigator entry, a document signed by the Board and certifying that the person is designated as an investigator by the Board.

**15A. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 15 a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 15B(1)(b).

**15B. Failure to comply with investigation**

- (1) Where under section 15 a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
  - (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

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- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 15, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 15, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
  - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

**15C. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 15.

Penalty: \$2 000.



**16. Application for review**

(1) Any person aggrieved by a reviewable decision of the Board may apply to the State Administrative Tribunal for a review of the decision.

(2) In subsection (1) —

**“person aggrieved”** means a person whose licence is affected by a reviewable decision or who, under Part III, applies for or objects to the grant of a licence or the renewal of a licence;

**“reviewable decision”** means a decision under Part III other than a determination of the form in which an application or objection is to be made.

”.

**593. Section 19 amended**

(1) Section 19(1) is amended as follows:

- (a) by deleting the subsection designation “(1)”;  
(b) by deleting paragraph (a) and “or” after it.

(2) Section 19(2), (3) and (4) are repealed.

**594. Section 19A inserted**

After section 19 the following section is inserted —

“

**19A. Unopposed applications**

(1) Subject to this Part, a licence may be granted (as long as there is no objection) by the Board, in a meeting at any time and place without notice to the applicant.

(2) Where the Board performs a function under subsection (1), the Registrar shall forthwith deliver the licence to the applicant.

”.

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**595. Section 20A inserted**

After section 20 the following section is inserted —

“

**20A. Suspension of licence by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a licensed valuer and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

”.

**596. Section 21 amended**

After section 21(2) the following subsection is inserted —

“

- (3) Despite the surrender by a person of a licence, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence had not been surrendered.

”.

**597. Section 27 replaced**

Section 27 is repealed and the following section is inserted instead —

“

**27. Disciplinary proceedings against licensed valuers**

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 28(2), against a licensed valuer.

”.

**598. Section 28 amended**

(1) Section 28(1) is amended as follows:

(a) by deleting “after conducting an inquiry under section 27(1) the Board” and inserting instead —

“

, in a proceeding commenced by an allegation under section 27 against a licensed valuer, the State Administrative Tribunal

”;

(b) by deleting “Board” in the second place where it occurs and inserting instead —

“ State Administrative Tribunal ”;

(c) in paragraph (c) by deleting “Board, or until the further order of the Board” and inserting instead —

“ Tribunal ”.

(2) Section 28(2)(d) is amended by deleting “, in the opinion of the Board,”.

(3) Section 28(3) is repealed.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 70** Land Valuers Licensing Act 1978

**s. 599**

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**599. Section 31 amended**

After section 31(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the performance of the Board’s functions.

”.

**600. Section 36 amended**

Section 36(2)(b) is deleted and the following paragraph is inserted instead —

“

- (b) provide for the enforcement of an order of the Board under section 14 for the payment of costs;

”.

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**Division 71 — *Legal Contribution Trust Act 1967***

**601. The Act amended**

The amendments in this Division are to the *Legal Contribution Trust Act 1967*\*.

[\* *Reprinted as at 5 February 1999.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 212.]*

**602. Section 28 amended**

Section 28(2) is amended by deleting all of the subsection after “section may” and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of the decision.

”.

**Division 72 — *Legal Practice Act 2003***

**603. The Act amended**

The amendments in this Division are to the *Legal Practice Act 2003*\*.

[\* *Act No. 64 of 2003.*]

**604. Section 3 amended**

Section 3 is amended as follows:

- (a) by deleting the definition of “Disciplinary Tribunal”;
- (b) in paragraph (a) of the definition of “regulatory authority” —
  - (i) by inserting after “Court,” —  
“ the State Administrative Tribunal, ”;
  - (ii) by deleting “the Disciplinary Tribunal”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 72** Legal Practice Act 2003

**s. 605**

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**605. Section 17 amended**

After section 17(1) the following subsections are inserted —

“

- (1a) The annual report is to include details of —
- (a) the number, nature, and outcome of —
    - (i) inquiries undertaken by the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal under this Act;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.
- (1b) The executive officer of the State Administrative Tribunal and the Law Complaints Officer are to provide the Board with information it may request for the purpose of making its annual report.

”.

**606. Section 38 amended**

Section 38(2) is amended as follows:

- (a) by deleting “, 185 or 191” and inserting instead —  
“ or 185 ”;

- (b) in paragraph (c) by deleting “or 191(1)(b)” and inserting instead —

“

or section 87 or 88 of the *State Administrative Tribunal Act 2004* in relation to proceedings commenced under this Act

”.

**607. Section 39 amended**

Section 39(1) is amended in paragraph (c) of the definition of “unfit practitioner” by deleting “by the Complaints Committee or Disciplinary Tribunal” and inserting instead —

“

under, or in a proceeding commenced under, this Act by a regulatory authority

”.

**608. Section 40 amended**

Section 40(4) is repealed.

**609. Section 44 amended**

Section 44 is amended by deleting “appeal to the Supreme Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 72** Legal Practice Act 2003

**s. 610**

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**610. Section 63 amended**

Section 63(3) is amended by deleting “the powers of the Complaints Committee or Disciplinary Tribunal, the Complaints Committee and the Disciplinary Tribunal may exercise their” and inserting instead —

“

any other powers of any regulatory authority, a regulatory authority may exercise its

”.

**611. Section 71 amended**

Section 71(1) is amended by deleting “the Disciplinary Tribunal” and inserting instead —

“

the President of the State Administrative Tribunal or a member of its staff,

”.

**612. Section 85 amended**

Section 85(3) is amended by deleting “the powers of the Complaints Committee and the Disciplinary Tribunal, the Complaints Committee and the Disciplinary Tribunal may exercise their” and inserting instead —

“

any other powers of any regulatory authority, a regulatory authority may exercise its

”.

**613. Section 132 amended**

Section 132(2)(a) and (b) are amended by deleting “Supreme Court” and inserting instead —

“ Tribunal ”.



**614. Section 149 amended**

Section 149(3) is amended by deleting “A Judge” and inserting instead —

“ The State Administrative Tribunal ”.

**615. Section 156 amended**

- (1) Section 156(3) is amended by deleting “the Judge” in the first place where it occurs and inserting instead —

“ the State Administrative Tribunal ”.

- (2) Section 156(4) is amended by deleting “A Judge” and inserting instead —

“ The State Administrative Tribunal ”.

**616. Section 164 amended**

Section 164(1)(f) is deleted and the following paragraph is inserted instead —

“

- (f) if the Complaints Committee considers it appropriate to do so, and whether or not it has conducted an inquiry, to institute professional disciplinary proceedings against a legal practitioner before the State Administrative Tribunal;

”.

**617. Part 12 Division 2 Subdivision 2 repealed**

Part 12 Division 2 Subdivision 2 is repealed.

**618. Section 176 amended**

Section 176(3)(a) is amended by inserting before “Tribunal” —

“ State Administrative ”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 72** Legal Practice Act 2003

**s. 619**

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**619. Section 180 amended**

Section 180(3) is repealed.

**620. Section 181 amended**

Section 181(2), (3) and (4) are repealed.

**621. Part 12 Division 5 heading amended**

The heading to Part 12 Division 5 is amended by deleting “Disciplinary Tribunal” and inserting instead —

“ **State Administrative Tribunal** ”.

**622. Sections 183 and 184 repealed**

Sections 183 and 184 are repealed.

**623. Sections 191 to 193 repealed**

Sections 191, 192 and 193 are repealed.

**624. Section 194 amended**

Section 194(1) is amended by deleting “, subject to section 202(2),”.

**625. Part 12 Division 6 heading amended**

The heading to Part 12 Division 6 is amended by deleting “of disciplinary bodies generally”.

**626. Section 196 amended**

Section 196(1) is repealed and the following subsection is inserted instead —

“

(1) Before the Complaints Committee —

(a) a complainant;

- (b) a person making a complaint on the authority of or on behalf of the complainant; or
- (c) any legal practitioner,

may be represented by a legal practitioner or, subject to the approval of the chairperson, a representative who is not a legal practitioner.

”.

**627. Section 197 amended**

- (1) Section 197(1) is amended by deleting “under this Part” and inserting instead —  
“ before the Complaints Committee ”.
- (2) Section 197(2) is amended by deleting “, or the Disciplinary Tribunal,”.
- (3) Section 197(3) is amended as follows:
  - (a) by deleting “or the Disciplinary Tribunal”;
  - (b) by deleting “the Complaints Committee or Disciplinary Tribunal” and inserting instead —  
“ it ”.
- (4) Section 197(5) and (6) are repealed.

**628. Section 198 amended**

- (1) Section 198(1) is amended as follows:
  - (a) by deleting “Committee,” in the first place where it occurs and inserting instead —  
“ Committee or ”;
  - (b) by deleting “, the Disciplinary Tribunal or a member of the Tribunal”;
  - (c) in paragraph (e) by deleting “Disciplinary Tribunal or the”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 72** Legal Practice Act 2003

**s. 629**

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- (2) Section 198(2) is amended by deleting “or Disciplinary Tribunal,”.

**629. Section 199 amended**

- (1) Section 199(1) is amended as follows:
- (a) by deleting “, or a person nominated by the chairperson of the Disciplinary Tribunal for that purpose, may on behalf of the Committee or Tribunal” and inserting instead —  
“ may on behalf of the Complaints Committee ”;
  - (b) by inserting after “delivered” —  
“ to the Complaints Committee ”.

**630. Section 201 amended**

- (1) Section 201(1) is amended as follows:
- (a) by inserting after “information” in the first place where it occurs —  
“ to be disclosed to the Complaints Committee ”;
  - (b) in paragraph (a) by deleting “or Disciplinary Tribunal”.

**631. Section 202 replaced**

Section 202 is repealed and the following section is inserted instead —

“

**202. Application for review**

Any person aggrieved by a finding or order made by the Complaints Committee under section 177 may apply to the State Administrative Tribunal for a review of the finding or order.

”.

**632. Section 205 amended**

Section 205 is amended by inserting after “this Part” in the first place where it occurs —

“ before the Complaints Committee ”.

**633. Section 248 amended**

- (1) Section 248(3)(c) and (d) are deleted.
- (2) Section 248(4) is amended as follows:
  - (a) after paragraph (a) by inserting —  
“ or ”;
  - (b) at the end of paragraph (b) by deleting the semicolon and “or” and inserting instead a comma;
  - (c) by deleting paragraph (c);
  - (d) by deleting “or of the Disciplinary Tribunal”.

**634. Section 249 amended**

Section 249 is amended as follows:

- (a) by deleting paragraph (a) and the “and” after it;
- (b) in paragraph (b)(i) by deleting “, the Complaints Committee and the Disciplinary Tribunal” and inserting instead —  
“ and the Complaints Committee ”;
- (c) by deleting paragraph (b)(ii).

**635. Section 250 amended**

Section 250(b) is amended by deleting “or of the Disciplinary Tribunal”.

**636. Section 250A inserted**

After section 250 the following section is inserted —

“

**250A. Constitution of State Administrative Tribunal under this Act**

- (1) Subject to subsections (2) and (3), for the purpose of exercising jurisdiction conferred by or under this Act, the State Administrative Tribunal is to be constituted by 3 members being —
  - (a) by —
    - (i) the President of the Tribunal;
    - (ii) a Deputy President of the Tribunal or a senior member who is a legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2004*; and
    - (iii) a person who is not a legal practitioner but has knowledge and understanding of the interests of a person dealing with a legal practitioner;
  - or
  - (b) by —
    - (i) a Deputy President of the Tribunal;
    - (ii) a senior member of the Tribunal who is a legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2004*; and
    - (iii) a person who is not a legal practitioner but has knowledge and understanding of the interests of a person dealing with a legal practitioner.

- (2) The State Administrative Tribunal is not to exercise its powers under section 185(2)(a), or order the suspension of a legal practitioner from practice, unless the Tribunal is constituted so as to include the President.
- (3) In a directions hearing or other procedural hearing, the State Administrative Tribunal is to be constituted by, or so as to include, the President or a Deputy President of the Tribunal.

”.

**637. Section 251 amended**

Section 251(1) is amended as follows:

- (a) by deleting the comma after “17(2)” and inserting instead —  
“ or ”;
- (b) by deleting “or 174(2)”.

**638. Section 252 amended**

- (1) Section 252(1)(u) is amended by deleting “and, subject to the concurrence of the chairperson of the Disciplinary Tribunal, to the convening and functions of the Disciplinary Tribunal”.
- (2) Section 252(2) is amended by inserting after “this Act” —  
“  
other than proceedings before the State Administrative Tribunal

”.

**639. Schedule 2 amended**

- (1) Schedule 2 clause 1(2) is amended by deleting “, or to hold office under section 169(1)(d)”.
- (2) Schedule 2 clause 3(3) is repealed.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 72** Legal Practice Act 2003

**s. 640**

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**640. Schedule 3 repealed**

Schedule 3 is repealed.

**641. Various references to “appeal to the Supreme Court” amended**

The Act is amended by deleting “appeal to the Supreme Court” in each place specified in the Table to this section and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision

”.

**Table**

s. 20(9)  
s. 26(2)  
s. 28(5)  
s. 34(4)  
s. 113  
s. 135

**642. Various references to “Disciplinary Tribunal” amended**

The Act is amended by deleting “Disciplinary Tribunal” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

s. 39(2) and (3)  
s. 41(1)(a)  
s. 60(3)  
s. 94(4)  
s. 105(3)  
s. 176(2)(b) and (c)  
s. 180(1) (in the first place)



- s. 181(1)
- s. 185(1) and (2)
- s. 185(3) (in the first place)
- s. 186(1), (2) and (3)
- s. 187(1)
- s. 188(2), (3), (4) and (8) (in the first place)
- s. 188(5), (6), (7) and (9)
- s. 189(1) (in the first place)
- s. 189(2)
- s. 190(1), (2), (3), (4)(a) and (b) and (6)
- s. 194(1) and (2)
- s. 204(3)(b) and (6)

**643. Various references to “Supreme Court” amended**

The Act is amended by deleting “Supreme Court” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 69(1)
- s. 70(1) and (2)
- s. 87(2) and (3)
- s. 132(2) (in the first place)
- s. 132(3)
- s. 177(5)
- s. 182(1) and (2)

**644. Various references to “the Court” amended**

The Act is amended by deleting “the Court” in each place specified in the Table to this section and inserting instead —

“ the Tribunal ”.

**Table**

- s. 69(1) (both places)
- s. 69(2)
- s. 70(1) (both places)

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s. 87(2)(a), (b) and (c)

**645. Various references to “Judge” amended**

- (1) The Act is amended by deleting “a Judge” in each place specified in the Table to this subsection and inserting instead —  
“ the State Administrative Tribunal ”.

**Table**

s. 149(1)  
s. 150(1)  
s. 153(b)  
s. 155  
s. 156(1)

- (2) The Act is amended by deleting “the Judge” in each place specified in the Table to this subsection and inserting instead —  
“ the Tribunal ”.

**Table**

s. 149(1) and (2)  
s. 150(1)  
s. 153(b)  
s. 156(1) (3 places)  
s. 156(3) ( in the second place)

**646. Various references to “Disciplinary” deleted**

The Act is amended by deleting “Disciplinary” in each place specified in the Table to this section.

**Table**

s. 180(1) (in the second place)  
s. 182(1)(b) and (c)  
s. 185(3) (in the second place)  
s. 187(4)(b)  
s. 188(2), (3), (4) and (8) (all in the second place)  
s. 189(1) (in the second place)

**Division 73 — *Licensed Surveyors Act 1909***

**647. The Act amended**

The amendments in this Division are to the *Licensed Surveyors Act 1909*\*.

[\* *Reprinted as at 22 November 2002.*]

**648. Section 8 amended**

Section 8(1) is amended as follows:

- (a) by inserting at the end of paragraph (a) —  
“ or ”;
- (b) by deleting “; or” after “with” and inserting instead a comma;
- (c) by deleting paragraph (c);
- (d) by inserting after “other person” —  
“ for the purposes of dealing with the application ”.

**649. Sections 8A to 8D inserted**

After section 8 the following sections are inserted —

“

**8A. Powers of investigation**

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
  - (a) determining any application or any other matter before the Board;
  - (b) determining whether or not a licensed surveyor is or has been complying with the requirements of this Act;
  - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;

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**Division 73** Licensed Surveyors Act 1909

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- (d) detecting offences against this Act.
- (2) The Board may designate an officer of the Board to be an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
  - (a) require any person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to the person,  
in relation to any matter the subject of such inquiry;
  - (b) require any person to produce any document to the investigator;
  - (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
  - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
  - (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;

- (ii) be given at or sent or delivered to any place specified in the requirement;
  - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
  - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
- (a) shall be made by notice in writing served on the person required to produce a document;
  - (b) shall specify the time at or within which the document is to be produced; and
  - (c) may, by its terms, require that the document be produced —
    - (i) at any place specified in the requirement; and
    - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.

- (8) Before entering any premises under this section the investigator —
- (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
  - (b) shall display to the person, if any, giving the investigator entry, a document signed by the chairman of the Board and certifying that the person is designated as an investigator by the Board.

**8B. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 8A a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 8C(1)(b).

**8C. Failure to comply with investigation**

- (1) Where under section 8A a person is required to give any information, answer any question, or produce any

document and that person, without reasonable excuse (proof of which shall lie on him) —

- (a) fails to give that information or answer that question at or within the time specified in the requirement;
- (b) gives any information or answer that is false in any particular; or
- (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
  - (a) that, in the case of an alleged offence arising out of a requirement made orally under section 8A, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 8A, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
  - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the

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requirement would materially assist in the inquiry being carried out.

**8D. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 8A.

Penalty: \$2 000.

”.

**650. Section 20A amended**

- (1) Section 20A(1) is amended by deleting “whose conduct is not the subject of an inquiry under section 22”.
- (2) After section 20A(4) the following subsection is inserted —

“

- (5) Despite the surrender by a person of a licence or a practising certificate or its cancellation under this section, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or practising certificate had not been surrendered or cancelled.

”.

**651. Section 20B inserted**

After section 20A the following section is inserted —

“

**20B. Disciplinary proceedings against licensed surveyors**

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 21(1), against a licensed surveyor.



”.

**652. Section 21 amended**

(1) Section 21(1) is amended as follows:

- (a) by deleting “Upon a charge duly made and after inquiry, if it is shown with respect to any person who was at the relevant time a licensed surveyor that —” and inserting instead —

“

There is proper cause for disciplinary action in respect of a licensed surveyor if —

”;

- (b) by deleting the comma and all of the subsection after paragraph (g) and inserting instead a full stop.

(2) After section 21(1) the following subsection is inserted —

“

(1aa) If, in a proceeding commenced by an allegation under section 20B against a licensed surveyor, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may make an order —

- (a) reprimanding or cautioning that person;
- (b) imposing on that person a fine not exceeding \$1 000;
- (c) imposing conditions on the licence or practising certificate, or both, of that person, if that person is —
- (i) still a licensed surveyor; or
- (ii) an applicant for a licence or practising certificate, or both, or for the renewal of a practising certificate;

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- (d) suspending the licence or practising certificate of a person who is still a licensed surveyor and his entitlement to apply for a renewal of that practising certificate, if any, or for another licence or practising certificate —
  - (i) for such period not exceeding 3 years as is specified in the order; or
  - (ii) until any condition referred to in paragraph (c) has been complied with,whichever is the shorter period;
- (e) suspending the entitlement of a person who is no longer a licensed surveyor to apply for another licence —
  - (i) for such period not exceeding 3 years as is specified in the order; or
  - (ii) until any condition referred to in paragraph (c) has been complied with,whichever is the shorter period;
- (f) if that person is still a licensed surveyor, cancelling his licence;
- (g) if that person is not still a licensed surveyor, cancelling his entitlement to apply for another licence; or
- (h) if that person is still a licensed surveyor, cancelling —
  - (i) his practising certificate; or
  - (ii) his entitlement to apply for a renewal of his expired practising certificate or for another practising certificate,

or make in relation to that person any 2 or more of the orders referred to in paragraphs (a) to (h) and applicable to that person and, if the State Administrative Tribunal thinks fit, make any one or

more of the orders specified in subsection (1a) in  
relation to that person.

”.

(3) Section 21(1a) is amended as follows:

- (a) in paragraph (a) by deleting “Board” and inserting  
instead —  
“ State Administrative Tribunal ”;
- (b) after paragraph (b) by inserting “and”;
- (c) at the end of paragraph (c) by deleting the semicolon  
and “and” and inserting instead a full stop;
- (d) by deleting paragraph (d).

(4) Section 21(1b), (1c) and (2) are repealed.

(5) Section 21(4) and (5) are amended by deleting “(1)(m) or (n)”  
and inserting instead —

“ (1aa)(f) or (g) ”.

(6) Section 21(6) is amended as follows:

- (a) by deleting “Board may, on the application of” and  
inserting instead —

“

State Administrative Tribunal may, on the application  
of the Board or

”;

- (b) in paragraph (a) by deleting “(1)(k)” and inserting  
instead —

“ (1aa)(d) ”;

- (c) in paragraph (b) by deleting “(1)(l)” and inserting  
instead —

“ (1aa)(e) ”;

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- (d) in paragraph (c) by deleting “(1)(m),” and inserting instead —  
“ (1aa)(f), order that the Board ”;
  - (e) in paragraph (d) by deleting “(1)(n),” and inserting instead —  
“ (1aa)(g), order that the Board ”;
  - (f) in paragraph (e) by deleting “(1)(o)” and inserting instead —  
“ (1aa)(h) ”;
  - (g) in paragraph (e) by deleting “that subsection,” and inserting instead —  
“ subsection (1aa)(h), order that the Board ”;
  - (h) by inserting after “so doing” —  
“ order that the Board ”;
  - (i) by deleting “Board” in the second place where it occurs and inserting instead —  
“ State Administrative Tribunal ”.
- (7) Section 21(7)(a) is amended by deleting “one or more of subsection (1)(h) to (o)” and inserting instead —  
“ subsection (1aa) ”.

**653. Section 21AA inserted**

After section 21 the following section is inserted —

“

**21AA. Suspension of licence by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a licensed surveyor or the holder of a practising certificate and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may

order that the person's licence or practising certificate be suspended until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

”.

**654. Section 22 replaced**

Section 22 is repealed and the following section is inserted instead —

“

**22. Charge against surveyor**

- (1) Every charge that there is proper cause for disciplinary action against a person under section 21 shall be submitted to the Board in writing signed by the person making the charge.
- (2) Subsection (1) does not prevent the Board from commencing an investigation on its own initiative.

”.

**655. Section 22A replaced**

Section 22A is repealed and the following section is inserted instead —

“

**22A. Application for review**

- (1) A person aggrieved by a reviewable decision of the Board may apply to the State Administrative Tribunal for a review of the decision.

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**Division 73** Licensed Surveyors Act 1909

**s. 656**

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(2) In subsection (1) —

**“person aggrieved”** means a person whose licence or practising certificate is affected by a reviewable decision or who applies for the grant or renewal of a licence or practising certificate;

**“reviewable decision”** means a decision of the Board in respect of an application for the grant or renewal of a licence or practising certificate or the imposition of a condition on a licence or practising certificate.

”.

**656. Section 25C amended**

After section 25C(1) the following subsection is inserted —

“

(1a) The Board’s annual report is to include details of —

(a) the number, nature, and outcome, of —

(i) investigations and inquiries undertaken by, or at the direction of, the Board; and

(ii) matters that have been brought before the State Administrative Tribunal by the Board;

(b) the number and nature of matters referred to in paragraph (a) that are outstanding;

(c) any trends or special problems that may have emerged;

(d) forecasts of the workload of the Board in the year after the year to which the report relates; and

(e) any proposals for improving the performance of the Board’s functions.

”.

**657. Section 26 amended**

Section 26(1)(1) is deleted.

**Division 74 — Litter Act 1979**

**658. The Act amended**

The amendments in this Division are to the *Litter Act 1979*\*.

[\* *Reprinted as at 4 January 1999.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 220.]*

**659. Section 25 amended**

(1) Section 25(5) is amended as follows:

- (a) by deleting “appeal in respect” and inserting instead —  
“ application for a review ”;
- (b) by deleting “lodged” and inserting instead —  
“ made ”.

(2) Section 25(6) is amended by deleting all of the subsection after  
“subsection (2) may” and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of the requirement or direction.

”.

(3) Section 25(7) and (8) are repealed.

**Division 75 — Local Government (Miscellaneous Provisions)  
Act 1960**

**660. The Act amended**

The amendments in this Division are to the *Local Government (Miscellaneous Provisions) Act 1960*.\*

[\* Reprinted as at 28 July 1999.

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 229.]*

**661. Section 295 amended**

(1) Section 295(3) is amended as follows:

- (a) in paragraph (d) by deleting “, within 30 days after the requirement is communicated to him, appeal in writing against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”;

- (b) in paragraph (d) by deleting “to the Minister for Local Government”;

- (c) by deleting paragraph (e).

(2) Section 295(4) is amended as follows:

- (a) in paragraph (d) by deleting “appeal to the Minister for Local Government against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”;

- (b) in paragraph (d) by deleting “, and, if of opinion that the owner has caused a street to be so constructed and drained, and that the street gives such access to lots in



the subdivision, that the local government should have granted the consent, the Minister may give his consent to the disposal of the lots and the decision of the Minister is final”.

- (3) Section 295(4a) is amended by deleting “of appeal conferred by that subsection” and inserting instead —

“

conferred by subsection (4)(d) to apply for a review.

”.

**662. Section 374 amended**

- (1) Section 374(2)(a) is amended as follows:

- (a) by deleting “appeal in writing from” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”;

- (b) by deleting “to the Minister, who may uphold, reverse, or vary the decision of the local government and make such order as he thinks fit and the order of the Minister is final and not subject to appeal”.

- (2) Section 374(2)(b) is amended as follows:

- (a) by deleting “purposes of exercising his powers” and inserting instead —

“

purpose of enabling effect to be given to an order it makes upon an application

”;

- (b) by deleting “Minister” and inserting instead —

“ State Administrative Tribunal ”;

- (c) by deleting “in his” and inserting instead —

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“ in its ”;

(d) by deleting “warrant his” and inserting instead —

“ warrant its ”.

**663. Section 374A amended**

Section 374(3) is amended as follows:

(a) by deleting “appeal in writing to the Minister, who may confirm or vary ” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”;

(b) by deleting “, and the order of the Minister is final and not subject to appeal”.

**664. Section 377 amended**

Section 377(5) is amended by deleting all of the subsection after “conditions may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision with which the person is dissatisfied.

”.

**665. Section 378 amended**

(1) Section 378(3) is amended by deleting all the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for an order under subsection (4) or (5).

”.

(2) After section 378(3) the following subsections are inserted —

“

- (4) If satisfied that the amount realised as the net proceeds of a sale under subsection (2) is less than the amount that could reasonably have been expected to be realised by sale on the open market, the State Administrative Tribunal may order the local government to calculate the surplus or deficiency under subsection (2) using the greater amount.
- (5) If satisfied in relation to a sale under subsection (2) that the total amount of expenses (under subsection (1) and of and incidental to the sale) is greater than the total amount of expenses that the local government could reasonably have been expected to incur, the State Administrative Tribunal may order the local government to calculate the surplus or deficiency under subsection (2) using the lesser amount.

”.

**666. Section 380 amended**

Section 380(3) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision to make the requisition.

”.

**667. Section 389 amended**

Section 389 is amended as follows:

- (a) by deleting “the difference is determinable only by referees mentioned in Division 19, who have the power, by their award, to” and inserting instead —

“

either owner may apply to the State Administrative Tribunal for a determination in relation to that

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difference and the State Administrative Tribunal, in making the determination, may

”;

- (b) by deleting “referees” and inserting instead —  
“ State Administrative Tribunal ”.

**668. Section 392 amended**

Section 392(1) is amended by deleting “is settled by the referees mentioned in Division 19,” and inserting instead —

“

such security as the State Administrative Tribunal on the application of either of the owners directs be given,

”.

**669. Section 395 amended**

Section 395(1) is amended by deleting “a difference for determination under Division 19, is to be regarded as having arisen between them.” and inserting instead —

“

the account is to be settled, on the application of either of the parties, by the State Administrative Tribunal.

”.

**670. Section 399 amended**

Section 399(5) is amended as follows:

- (a) by deleting “appeal from” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”;

- (b) by deleting “to the Minister, who may uphold, reverse, or vary the decision of the local government, and make

such order as he thinks fit, and the decision of the Minister is not subject to appeal”.

**671. Section 401 amended**

- (1) Section 401(1) is amended by deleting all of the subsection after “unless” and inserting instead —

“

he applies to the State Administrative Tribunal under subsection (3) for a review of the decision to make the requisition and the State Administrative Tribunal sets aside the decision.

”.

- (2) Section 401(2) is repealed.

- (3) Section 401(3) is amended as follows:

- (a) by deleting “(b) or (c)”;
- (b) by deleting “within 35 days of the service of the notice upon him”;
- (c) by deleting “appeal to the Minister in the manner prescribed by the regulations, and the Minister may decide the appeal and his decision is not subject to appeal” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision to make the requisition

”.

- (4) Section 401(7) is amended as follows:

- (a) in paragraph (a) by deleting “an appeal under” and inserting instead —  
“ an application for review as described in ”;
- (b) in paragraph (b) by deleting “an appeal under this section is” and inserting instead —

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- “ an application for review is made but is ”;
- (c) by deleting “subject of appeal under” and inserting instead —

“

subject of an application for review as described in

”.

**672. Section 401A amended**

- (1) Section 401A(4)(b) is amended by deleting “Minister on appeal” and inserting instead —

“

State Administrative Tribunal on an application for review

”.

- (2) Section 401A(6) is amended by deleting “appeal in writing to the Minister against all or any of the matters set out in the notice, and the Minister may confirm, set aside, or vary the notice as he thinks fit” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the notice

”.

**673. Section 403 amended**

Section 403(6) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision to make the requisition.

”.

**674. Section 404 amended**

Section 404 is amended as follows:

- (a) by deleting “appeal under Division 19,” and inserting instead —

“

an application for review as described in  
section 403(6),

”.

- (b) by deleting “appeal under that Division,” and inserting instead —

“

application for review as described in  
section 403(6),

”.

**675. Section 408 amended**

- (1) Section 408(3) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of the decision to make the requisition.

”.

- (2) Section 408(4) is amended as follows:

- (a) by deleting “appeal under Division 19,” and inserting instead —

“ an application for review under subsection (3), ”;

- (b) by deleting “appeal under that Division,” and inserting instead —

“ an application for review under subsection (3), ”.

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**676. Section 409 amended**

- (1) Section 409(3) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision to make the requisition.

”.

- (2) Section 409(4) is amended as follows:

- (a) by deleting “appeal under Division 19,” and inserting instead —

“ an application for review under subsection (3), ”;

- (b) by deleting “appeal under that Division,” and inserting instead —

“ an application for review under subsection (3), ”.

**677. Section 409A amended**

- (1) Section 409A(3) is amended by deleting “by causing notice in writing setting out his grounds to be served upon the Minister, appeal against the making of” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

- (2) Section 409A(4) is repealed.

**678. Section 411 amended**

- (1) Section 411(3) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision to make the requisition.

”.



- (2) Section 411(4) is amended as follows:
- (a) by deleting “appeal under Division 19,” and inserting instead —  
“ an application for review under subsection (3), ”;
  - (b) by deleting “subject of appeal,” and inserting instead —  
“ subject of an application for review, ”.

**679. Section 413 amended**

- (1) Section 413(2) is amended by deleting “may, within 35 days of the service upon him of the requisition, appeal to the Minister, who may confirm or disallow the requisition, and the decision of the Minister is not subject to appeal” and inserting instead —  
“  
 , may apply to the State Administrative Tribunal for a review of the requisition  
 ”.
- (2) Section 413(3) is amended by deleting “so appeal to the Minister, or if the Minister” and inserting instead —  
“  
 apply to the State Administrative Tribunal for a review of the requisition, or if the State Administrative Tribunal  
 ”.

**680. Section 417 amended**

- (1) Section 417(1) is amended as follows:
- (a) by deleting “and” in the second place it occurs;
  - (b) by inserting before the full stop at the end of the subsection —  
“  
 and stating the monetary amount the local government will agree to pay as compensation for the injury which the owner or occupier will sustain by that removal  
 ”.

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**Division 75** Local Government (Miscellaneous Provisions) Act 1960

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- (2) Section 417(3) is amended by deleting all of the subsection after “of the local government” and inserting instead —

“

, or the amount of compensation stated in the notice, may apply to the State Administrative Tribunal for a review of the decision to make the requisition, the decision as to the amount of compensation, or each of those decisions.

”.

- (3) Section 417(4) and (5) are repealed.

**681. Section 418 amended**

Section 418 is amended by deleting “appeal under Division 19,” and inserting instead —

“ application for review under section 417(3), ”.

**682. Section 419 amended**

Section 419 is amended by deleting “as assessed by the referees under Division 19, or as agreed between the parties, as the case may be, together with the costs of the inquiry, if awarded to them,” and inserting instead —

“

agreed with the local government or, in the absence of agreement, the compensation stated in the notice under section 417 or determined following an application under section 417(3) for a review of the amount of compensation by the State Administrative Tribunal,

”.

**683. Part XV Divisions 18A and 19 repealed**

Part XV Divisions 18A and 19 are repealed.

**Division 76 — Local Government Act 1995**

**684. The Act amended**

The amendments in this Division are to the *Local Government Act 1995*.\*.

[\* *Reprinted as at 18 February 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 223 and  
Acts Nos. 20 and 21 of 2003.]*

**685. Section 2.27 amended**

- (1) Section 2.27(6) is amended by deleting “a court of summary jurisdiction” and inserting instead —

“ the State Administrative Tribunal ”.

- (2) Section 2.27(7) is amended by deleting “a court of summary jurisdiction” and inserting instead —

“ the State Administrative Tribunal ”.

- (3) Section 2.27(8) is repealed.

**686. Section 2.32 amended**

Section 2.32(d) is amended by deleting “a court of summary jurisdiction” and inserting instead —

“ the State Administrative Tribunal ”.

**687. Section 3.25 amended**

Section 3.25(5) is amended by deleting “appeal against it” and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of the decision to give the notice

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 76** Local Government Act 1995

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**688. Section 6.1 amended**

Section 6.1 is amended by deleting the definition of “Land Valuation Tribunal”.

**689. Section 6.3 amended**

Section 6.3(a) is amended by deleting “a Land Valuation Tribunal” and inserting instead —

“ the State Administrative Tribunal ”.

**690. Section 6.32 amended**

(1) Section 6.32(3)(b) is amended by deleting “a Land Valuation Tribunal” and inserting instead —

“ the State Administrative Tribunal ”.

(2) Section 6.32(4) is amended as follows:

(a) by deleting “a Land Valuation Tribunal” and inserting instead —

“ the State Administrative Tribunal ”;

(b) by deleting “legal”.

**691. Section 6.58 amended**

Section 6.58 is amended as follows:

(a) by deleting “on an appeal” and inserting instead —  
“ on an application ”;

(b) after “Subdivision 7” by inserting —  
“ for a review ”;

(c) by deleting “on appeal” and inserting instead —  
“ on an application ”;

(d) after “that Subdivision” by inserting —  
“ for a review ”.

**692. Section 6.59 amended**

Section 6.59 is amended as follows:

- (a) after “to hear an” by inserting —  
“ application for review or an ”;
- (b) by deleting “proceedings or appeal” and inserting  
instead —  
“ matter ”.

**693. Heading to Part 6 Division 6 Subdivision 7 amended**

The heading to Part 6 Division 6 Subdivision 7 is amended by deleting “appeals” and inserting instead —

“ **review** ”.

**694. Section 6.77 amended**

Section 6.77 is amended as follows:

- (a) by deleting “local government” and inserting instead —  
“ State Administrative Tribunal ”;
- (b) by deleting “give to the local government a notice  
requiring that it treat the objection as an appeal against  
the rate record” and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of the decision

”.

**695. Section 6.78 amended**

Section 6.78 is amended by deleting “or for service of a notice  
requiring it to treat an objection to the rate record as an appeal  
against the rate record may give to the local government a  
notice requiring it to refer the decision to a Land Valuation  
Tribunal as an appeal” and inserting instead —

“

may apply to the State Administrative Tribunal for a  
review of the decision

”.

**696. Section 6.79 replaced by sections 6.79 and 6.79B**

Section 6.79 is repealed and the following sections are inserted instead —

“

**6.79. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal under section 6.77 or 6.78, the State Administrative Tribunal may consider —
  - (a) grounds in addition to those stated in the notice of objection; and
  - (b) reasons in addition to any reasons previously given for the local government’s decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

**6.79B. Written reasons for certain determinations to be given and published**

If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 6.77 or 6.78 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.

”.

**697. Section 6.80 amended**

Section 6.80 is amended by deleting “appeal” and inserting instead —

“ review ”.

**698. Section 6.81 amended**

Section 6.81 is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by deleting “or appeal”.

**699. Section 6.82 amended**

(1) Section 6.82(1) is amended as follows:

- (a) by deleting “appeal to a Land Valuation Tribunal” and inserting instead —

“

refer the question to the State Administrative Tribunal

”;

- (b) by deleting “have the question” and inserting instead —

“ have it ”.

(2) Section 6.82(3) is amended as follows:

- (a) by deleting “Land Valuation Tribunal hearing an appeal” and inserting instead —

“

State Administrative Tribunal dealing with a matter referred to it

”;

- (b) by deleting “the opinion of the Tribunal” and inserting instead —

“ its opinion ”.

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**Division 76** Local Government Act 1995

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**700. Section 7.13 amended**

Section 7.13(d)(iii) is amended as follows:

- (a) by deleting “appeals to the Local Court against” and inserting instead —

“

applications to the State Administrative Tribunal for the review of

”;

- (b) by deleting “and the procedure relating to such appeals”.

[The notes to Part 9 are altered by deleting “appeals” and inserting “review” instead.]

**701. Heading to Part 9 Division 1 amended**

The heading to Part 9 Division 1 is amended by deleting “appeals” and inserting instead —

“ **review** ”.

**702. Section 9.4 amended**

Section 9.4 is amended by deleting “and appeal against” and inserting instead —

“ against, and apply for a review of, ”.

**703. Section 9.5 amended**

Section 9.5(1) is amended by deleting “lodged an appeal against” and inserting instead —

“ applied under this Division for a review of ”.



**704. Section 9.7 amended**

(1) Section 9.7(1) is amended as follows:

(a) by deleting “appeal against” and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of

”;

(b) in paragraph (b) after “objection but” by inserting —

“

, at the expiration of 35 days after it was  
lodged,

”;

(c) in paragraph (b) by deleting “at the expiration of 35 days  
after it was lodged”.

(2) Section 9.7(2) is amended by deleting “appeal against” and  
inserting instead —

“ apply to the State Administrative Tribunal for a review of ”.

(3) Section 9.7(3) is amended as follows:

(a) by deleting “appeal is made by preparing it in the  
prescribed form and lodging it in the prescribed manner”  
and inserting instead —

“ application is to be made ”;

(b) by deleting “of appeal” and inserting instead —

“ to make it ”;

(c) by deleting after “arose” to the end of the subsection and  
inserting instead —

“

*[i.e. —*

- *within 42 days after the original decision, for  
an application under subsection (1)(a),*

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- *more than 35 days, but within 77 days, after the objection was lodged, for an application under subsection (1)(b); or*
- *within 42 days after the objection was decided, for an application under subsection (2)].*

”.

(4) Section 9.7(4) is repealed.

**705. Section 9.8 repealed**

Section 9.8 is repealed.

**706. Section 9.9 amended**

Section 9.9(1) is amended as follows:

- (a) after “If an objection” by deleting “or appeal”;
- (b) after “against a decision” by inserting —

“

or an application has been made under this Division for a review of the decision

”;

- (c) by deleting “court authorised” and inserting instead —  
“ tribunal authorised ”;
- (d) before “has decided” by deleting “appeal” and inserting instead —  
“ application ”;
- (e) in paragraph (a) by deleting “court” and inserting instead —  
“ tribunal ”.

**707. Section 9.29 amended**

Section 9.29(1) is amended in paragraph (a) of the definition of “proceedings” after “sessions” by inserting —

“ or before the State Administrative Tribunal ”.

**708. Schedule 9.1 amended**

Schedule 9.1 item 12(3) is amended as follows:

- (a) by deleting “provide for” and inserting instead —  
“ state that ”;
- (b) by deleting “to have a right of appeal against” and  
inserting instead —

“

is an affected person for the purposes of Part 9 Division 1  
and that Part 9 Division 1 applies to

”.

**Division 77 — *Maritime Archaeology Act 1973***

**709. The Act amended**

The amendments in this Division are to the *Maritime  
Archaeology Act 1973*\*.

[\* *Act No. 66 of 1973.*]

**710. Section 18 amended**

- (1) Section 18(6) is amended by deleting “make application to a  
Judge in chambers” and inserting instead —

“ apply to the State Administrative Tribunal ”.

- (2) After section 18(6) the following subsections are inserted —

“

- (6a) The President of the State Administrative Tribunal is to  
ensure that the Tribunal is constituted by, or includes, a  
judicial member as defined in the *State Administrative  
Tribunal Act 2004* when dealing with an application  
under subsection (6).
- (6b) Subsection (6a) does not apply to —

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**Division 78** Marketing of Eggs Act 1945

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- (a) a directions hearing or other procedural hearing;
- (b) a compulsory conference; or
- (c) the appointment of a Tribunal member as a mediator.

”.

- (3) Section 18(7) is amended by deleting “Judge” and inserting instead —  
“ Tribunal ”.
- (4) Section 18(9) is amended as follows:
  - (a) by deleting “a Judge” and inserting instead —  
“ the Tribunal ”;
  - (b) after “undesirable” by deleting “he” and inserting instead —  
“ the Tribunal ”;
  - (c) after “amount as” by deleting “he” and inserting instead —  
“ it ”.
- (5) Section 18(10) is amended by deleting “Judge” in both places where it occurs and inserting instead in both places —  
“ Tribunal ”.
- (6) Section 18(11) is repealed.

**Division 78 — Marketing of Eggs Act 1945**

**711. The Act amended**

The amendments in this Division are to the *Marketing of Eggs Act 1945*\*.

[\* *Reprinted as at 22 February 2002.*]

**712. Section 32 amended**

Section 32(3) is amended by deleting “local court held nearest to the office of the Board” and inserting instead —

“ State Administrative Tribunal ”.

**713. Section 32H amended**

(1) Section 32H(1) is amended as follows:

(a) by deleting “appeal in writing” and inserting instead —

“

apply to the State Administrative Tribunal for a review,

”;

(b) by deleting “to the Minister against” and inserting instead —

“ , of ”;

(c) by deleting the comma at the end of paragraph (b) and inserting instead a full stop;

(d) by deleting “and the person shall set out in his appeal the reasons on which the appeal is made.”.

(2) Section 32H(2) is repealed.

**714. Section 32J amended**

Section 32J(3) is amended by deleting all of the subsection after “subsection (2) may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Board.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 79** Marketing of Potatoes Act 1946

**s. 715**

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**Division 79 — Marketing of Potatoes Act 1946**

**715. The Act amended**

The amendments in this Division are to the *Marketing of Potatoes Act 1946*\*.

[\* Reprinted as at 7 January 2000.]

**716. Section 19A replaced**

Section 19A is repealed and the following section is inserted instead —

“

**19A. Review of decision**

A person aggrieved by a decision made by the Corporation in exercise of a power conferred on the Corporation, may apply to the State Administrative Tribunal for a review of the decision.

”.

**717. Section 28 amended**

Section 28(3) is amended by deleting “appeal to the Minister under section 19A.” and inserting instead —

“ apply under section 19A for a review of the decision. ”.

**718. Section 31 amended**

Section 31 is amended as follows:

- (a) by deleting “a magistrate” and inserting instead —  
“ the State Administrative Tribunal ”;
- (b) by deleting “the magistrate” and inserting instead —  
“ the State Administrative Tribunal ”;
- (c) by deleting “summons by”.

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**Division 80 — Medical Act 1894**

**719. The Act amended**

The amendments in this Division are to the *Medical Act 1894*\*.

[\* *Reprinted as at 25 February 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 238 and  
Act No. 9 of 2003.]*

**720. Section 3 amended**

Section 3(1) is amended by inserting the following definition in  
the appropriate alphabetical position —

“

**“professional standards committee”** means the  
professional standards committee appointed under  
section 8AA;

”.

**721. Part II heading amended**

The Part II heading is amended by inserting after “Medical  
Board” —

**“ and professional standards committee ”.**

**722. Section 6 amended**

(1) Section 6(1)(d) is amended by deleting “and the conduct of the  
proceedings in connection with” and inserting instead —

**“ and handling ”.**

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- (2) Section 6(2) is amended by deleting “impose and provide for the recovery of fines and penalties from any person or persons subject thereto, and” and inserting instead —

“

create an offence and specify a fine of not more than \$2 000 by which the offence is punishable and may

”.

- (3) Section 6(3) is repealed.

**723. Section 8 amended**

Section 8(1) is amended by inserting after “court of law” —

“ and the State Administrative Tribunal ”.

**724. Section 8AA inserted**

After section 8 the following section is inserted —

“

**8AA. Professional standards committee**

- (1) The Board is to appoint persons to be members of a committee to be known as the professional standards committee.
- (2) Each member of the committee is to be a natural person chosen by the Board, and a member of the Board is not precluded from being a member of the committee.
- (3) The Board is to appoint one of the members of the committee to preside at a meeting of the committee and, if that person is unable to preside, a member chosen by the members present at the meeting is to preside.



- (4) The committee is to comply with any direction that the Board gives it about the conduct of its proceedings but otherwise is to determine its own procedures.
- (5) The committee is to ensure that —
  - (a) accurate records are made of the proceedings at its meetings, including details of each decision it makes; and
  - (b) those records are retained.

”.

**725. Section 8A amended**

Section 8A is amended as follows:

- (a) by inserting after “done by the Board” —  
“ or the professional standards committee ”;
- (b) by inserting after “any member of the Board” —  
“ or the professional standards committee ”;
- (c) by inserting after “subject the Board or any member” —  
“ of the Board or committee ”.

**726. Section 9 amended**

Section 9(3) is repealed.

**727. Section 10 amended**

Section 10(6) is amended by deleting “this section” and inserting instead —

“ subsection (5) ”.

**728. Sections 12BA to 12K inserted**

After section 12B the following sections are inserted —

“

**12BA. Interim constraint on practice**

- (1) If the Board is of the opinion that an activity of a medical practitioner, not being a body corporate, involves or will involve a risk of imminent injury or harm to the physical or mental health of any person, the Board may, without further inquiry, order that for a period of not more than 30 days specified in the order —
  - (a) either generally or in relation to particular circumstances or services as specified in the order, the medical practitioner is not to practise medicine;
  - (b) the medical practitioner is not to practise medicine except on any conditions and restrictions specified in the order;
  - (c) the medical practitioner is prohibited from carrying on an activity; or
  - (d) the medical practitioner is subject to any combination of the restrictions that could be imposed under paragraphs (a), (b), or (c).
- (2) An order under subsection (1) has no effect until it is given personally to the medical practitioner.
- (3) The order has to —
  - (a) state the Board's opinion that is the basis for the order;
  - (b) specify the activity that in the Board's opinion involves or will involve the risk and the matters that give or will give rise to the risk; and

- (c) advise the medical practitioner against whom the order is made of the right given by subsection (5) to apply to the State Administrative Tribunal for a review of the order.
- (4) The Board may, by a further order given to the medical practitioner, revoke or vary an order under subsection (1) at any time before making an allegation to the State Administrative Tribunal under section 12BB.
- (5) The person against whom an order is made under subsection (1) may apply to the State Administrative Tribunal for a review of the order.

**12BB. Allegation to be made**

- (1) Within a period of 14 days after the day on which the Board makes an order under section 12BA(1), the Board is required to —
  - (a) make an allegation to the State Administrative Tribunal of the matter because of which the order was made; or
  - (b) revoke the order under section 12BA(4).
- (2) Upon an allegation made under subsection (1) the State Administrative Tribunal may —
  - (a) make any order that it could make if an application had been for a review of the order under section 12BA(1); and
  - (b) make an order under section 13(3a).

**12BC. Power to make interim constraint additional to other powers**

The Board may deal under sections 12BA and 12BB with a matter even if —

- (a) the Board is already dealing with the matter under another provision of this Act; or
- (b) a complaint about the matter, or a matter involving substantially the same elements, has been made under the *Health Services (Conciliation and Review) Act 1995* or is being treated as a complaint that was made under that Act.

**12C. Appointment of investigator**

- (1) The Board may appoint a person to investigate a matter relevant to the performance of the Board's functions under this Act and report to the Board.
- (2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

**12D. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the Board requires prepare a report on the investigation, and make recommendations as to the manner in which the matter should be dealt with; and
  - (b) immediately after preparing the report, provide the Board with a copy of the report.

- (2) The investigator must return his or her certificate of appointment at the time the Board is provided with a copy of the report.

**12E. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —
- (a) enter and inspect the premises of a person named in a warrant issued under section 12G(1), and exercise the powers referred to in section 12G(2)(b) and (c);
  - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
  - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
  - (d) require a person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to that person,in relation to the matter the subject of the investigation; and
  - (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;

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- (b) must specify the time at or within which the document or other thing is to be produced;
  - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
  - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
    - (i) the document itself; and
    - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to a place specified in the requirement;
    - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
    - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is

required under this Act to give the information or answer the question.

- (5) An investigator must produce his or her certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

**12F. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a matter that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- (2) An application for a warrant must —
  - (a) be in writing;
  - (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating the matter that may involve a threat to the physical or mental health of a person;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
  - (a) the application does not comply with the requirements of this Act; or

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- (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**12G. Issue of warrant**

- (1) A magistrate to whom an application is made under section 12F may issue a warrant if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
  - (a) to enter and inspect the premises named in the warrant;
  - (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
  - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
  - (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and
  - (c) a description of the premises that may be entered.



- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**12H. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises to do so, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
- (a) at the end of the period of one month after its issue;
  - (b) if it is withdrawn by the magistrate who issued it; or
  - (c) when it is executed,

whichever occurs first.

**12I. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 12E a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he or she shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other

than proceedings in respect of an offence against section 12J(1)(b).

**12J. Failure to comply with investigation**

- (1) Where under section 12E a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him or her) —
- (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 12E, the investigator did not, when making the requirement, inform the defendant that he or she was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 12E, the notice did not state that he or she was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;

- (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him or her to comply with the requirement; or
- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

**12K. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his or her powers under section 12E.

Penalty: \$2 000.

”.

**729. Section 13 amended**

- (1) Section 13(1) is amended by deleting “the Board shall hold an inquiry into the matter.” and inserting instead —

“

the Board may allege to the State Administrative Tribunal that disciplinary action should be taken against the medical practitioner for that reason.

”.

- (2) Section 13(2) is amended by deleting “may without an inquiry order the suspension of the registration of the medical practitioner or the removal of the name of the medical practitioner from the register.” and inserting instead —

“

may allege to the State Administrative Tribunal that disciplinary action should be taken against the medical practitioner for that reason.

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”

(3) After section 13(2) the following subsections are inserted —

“

- (2a) Instead of making an allegation to the State Administrative Tribunal, if the Board is of the opinion that the nature of the matter might not warrant a proceeding before the Tribunal it may send the matter, and any material or report relating to the matter, to the professional standards committee.
- (2b) Sending a matter to the professional standards committee under subsection (2a) does not prevent the Board from making an allegation about it to the State Administrative Tribunal if the committee advises the Board to do so.

”

(4) Section 13(3) is repealed and the following subsections are inserted instead —

“

- (3) The State Administrative Tribunal may, on dealing with an allegation under subsection (1)(a), (b), (c) or (d) —
  - (a) order the removal of the name of the medical practitioner from the register;
  - (b) order that the registration of the medical practitioner be suspended for such period not exceeding 12 months as is specified in the order;
  - (c) impose a fine not exceeding \$10 000;
  - (d) reprimand the medical practitioner.
- (3a) The State Administrative Tribunal may, on dealing with an allegation under subsection (1)(e) —

- (a) order the removal of the name of the medical practitioner from the register;
  - (b) order that the registration of the medical practitioner be suspended; or
  - (c) impose restrictions or conditions or both on the practice of medicine by the medical practitioner.
- (3b) The State Administrative Tribunal may, on dealing with an allegation under subsection (2) —
- (a) order the removal of the name of the medical practitioner from the register; or
  - (b) order that the registration of the medical practitioner be suspended.
- ”.
- (5) Section 13(4) is amended as follows:
- (a) by deleting “(2) or (3), the Board may, in lieu of imposing a punishment referred to in subsection (2) or (3)(a) or (b) on a medical practitioner” and inserting instead —  
“  
(3) or (3b), the State Administrative Tribunal may, in lieu of making an order under subsection (3)(a) or (b) or (3b)  
”;
  - (b) by inserting after “written undertaking to” —  
“ the Board to ”;
  - (c) by deleting “as the Board” in both places where it occurs and inserting instead —  
“ as the Tribunal ”.

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- (6) Section 13(5), (6), (6a), (6b), (6c), (6d) and (6e) are repealed and the following subsections are inserted instead —

“

- (5) If, under subsection (2a), the Board sends a matter to the professional standards committee, the committee may, if —
- (a) it has given the medical practitioner the option of having the matter dealt with before the State Administrative Tribunal and the medical practitioner has not chosen that option by notice in writing to the committee; and
  - (b) it has given the medical practitioner an opportunity to make submissions about the matter,

make an order described in subsection (6), otherwise it has to advise the Board to make an allegation to the State Administrative Tribunal or to take no further action.

- (6) The orders that a professional standards committee may make are —
- (a) that the Board reprimand the medical practitioner;
  - (b) that the medical practitioner pay to the Board a fine of an amount not exceeding \$5 000 specified in the order;
  - (c) that the Board impose restrictions or conditions or both on the practice of medicine by the medical practitioner; or
  - (d) a combination of the orders described in paragraphs (a) to (c).
- (6a) The Board has to act according to any advice that the professional standards committee gives the Board under subsection (5) and has to give effect to an order

that the professional standards committee makes under subsection (6), and a fine that the professional standards committee imposes under subsection (6) is recoverable in a court of competent jurisdiction as a debt due to the Board.

”.

(7) Section 13(6f) is amended as follows:

- (a) by deleting “pursuant to subsection (5)”;
- (b) by deleting “the Board may” and inserting instead —

“

the Board may, and where an allegation is made to the State Administrative Tribunal under subsection (1)(e) the Tribunal may,

”;

- (c) by deleting “by the Board” where it first occurs and inserting instead —  
“ in the direction ”;
- (d) in paragraphs (a) and (b) by deleting in both places where it occurs “appointed by the Board” and inserting instead —  
“ appointed by the body giving the direction ”.

(8) Section 13(6g) is repealed.

(9) Section 13(6h) is amended by inserting after “Board” in each place where it occurs —

“ or the Tribunal ”.

(10) Section 13(6i) is repealed.

(11) Section 13(8) is repealed and the following subsection is inserted instead —

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“

- (8) Any person who is or was registered as a medical practitioner and who is aggrieved by any decision of the Board or the professional standards committee, other than a decision to make or advise the making of an allegation to the State Administrative Tribunal, may apply to the State Administrative Tribunal for a review of the decision.

”.

- (12) Section 13(9)(b) is amended by deleting “and (9b)” and inserting instead —

“, (9b) and (9ba) ”.

- (13) Section 13(9b) is amended by deleting “order that —” and paragraphs (a) and (b) and inserting instead —

“

order that the period of suspension be extended for a period of not more than 30 days specified in the order.

”.

- (14) After section 13(9b) the following subsections are inserted —

“

- (9ba) If the Board makes an order under subsection (9b) (an “**interim order**”) it is required to refer the making of the order to the State Administrative Tribunal, within 14 days after the order is made, and the State Administrative Tribunal may affirm or revoke the interim order or order that —

- (a) the period of suspension be extended for such further period not exceeding 12 months, as the Tribunal thinks fit; or
- (b) the name of that person be removed from the Register immediately upon the expiration of the period of suspension.



(9bb) A person against whom an interim order is made may apply to the State Administrative Tribunal for a review of the interim order.

”.

(15) Section 13(9d) is amended as follows:

(a) by inserting after “The Board” —

“

, the professional standards committee, or the State Administrative Tribunal

”;

(b) by deleting “it commences an inquiry under this section the person the subject of the inquiry” and inserting instead —

“

it does so the person concerned

”.

**730. Section 16A amended**

Section 16A(4)(c) is amended by deleting “has not been convicted or adjudged as mentioned in section 13(1),” and inserting instead —

“

is not and has not been the subject of an order under section 13(3), (3a), (3b), or (9b),

”.

**731. Section 17 amended**

Section 17(5) is amended by deleting “or inquiry”.

**732. Section 17A inserted**

After section 17 the following section is inserted —

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“

**17A. Making false statement to the professional standards committee**

A person who wilfully makes a false statement to the professional standards committee in relation to a matter being dealt with by the committee under this Act commits an offence.

Penalty: Imprisonment for 3 years.

”.

**733. Section 21CA amended**

Section 21CA(8) is amended by deleting “within 30 days of that decision appeal to the District Court in accordance with the rules of court.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

**734. Section 21CD amended**

(1) Section 21CD(1) is amended as follows:

- (a) by deleting “The Board shall cancel or suspend a certificate of approval given under section 21CA if the Board is satisfied that —” and inserting instead —

“

Where it appears to the Board that a certificate of approval given under section 21CA should be cancelled or suspended because —

”;

- (b) by deleting the full stop at the end of paragraph (e) and inserting instead a comma;
- (c) by inserting below paragraph (e) —

“

the Board shall refer the matter to the State  
Administrative Tribunal which may suspend or  
cancel the certificate of approval.

”.

- (2) Section 21CD(2) is amended by deleting “Board” and inserting  
instead —

“ Tribunal ”.

- (3) Section 21CD(3) is repealed.

- (4) Section 21CD(4) is amended by deleting “Board” in the 3  
places where it occurs and inserting instead —

“ Tribunal ”.

**735. Section 21G amended**

After section 21G(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken  
by, or at the direction of, the Board;
    - (ii) matters that have been referred to the  
professional standards committee; and
    - (iii) matters that have been brought before  
the State Administrative Tribunal by the  
Board;
  - (b) the number and nature of matters referred to in  
paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have  
emerged;

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- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Board.

”.

**736. Section 22 amended**

- (1) Section 22(2) is repealed.
- (2) Section 22(3) is repealed and the following subsection is inserted instead —

“

- (3) All —
  - (a) fees paid under this Act or the rules; and
  - (b) fines imposed by the Board or the professional standards committee under this Act or the rules that are paid to or recovered by the Board,

shall be credited to the Board.

”.

**737. Section 22A inserted**

After section 22 the following section is inserted —

“

**22A. Constitution of State Administrative Tribunal  
under this Act**

- (1) For the purpose of exercising jurisdiction conferred by or under this Act, the State Administrative Tribunal is to be constituted by 4 members being —
  - (a) one person who is a legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2004*;
  - (b) 2 persons who are medical practitioners with extensive or special experience as medical practitioners; and
  - (c) one person who is not a medical practitioner but is familiar with the interests of medical practitioners or has knowledge and experience enabling understanding of those interests.
- (2) Despite subsection (1), if the President is satisfied that it is appropriate to do so in particular circumstances, the President can specify that the Tribunal is to be constituted by 4 members as referred to in subsection (1) and a fifth member who is to be a person of a kind referred to in subsection (1)(a) or (c).
- (3) The member referred to in subsection (1)(a) is to be the presiding member.
- (4) Subsections (1), (2), and (3) do not apply when the Tribunal is holding a directions hearing or other procedural hearing.

”.

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**Division 81 — Mental Health Act 1996**

**738. The Act amended**

The amendments in this Division are to the *Mental Health Act 1996*\*.

[\* *Act No. 68 of 1996.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 239 and Act No. 21 of 2003.]*

**739. Part 6 Division 2A inserted**

After section 148 the following Division is inserted —

“

**Division 2A — Applications to State Administrative Tribunal**

**148A. Application for review**

- (1) A person in respect of whom the Board makes a decision or order who is dissatisfied with the decision or order may, without payment of any fee, apply to the State Administrative Tribunal for a review of the decision or order.
- (2) Any other person who, in the opinion of the State Administrative Tribunal, has a sufficient interest in the matter may, with the leave of the Tribunal and without payment of any fee, appeal to the Tribunal against the decision or order.

**148B. Constitution of State Administrative Tribunal,  
generally**

- (1) Except as provided in section 148C, for the purpose of exercising jurisdiction conferred under section 148A the State Administrative Tribunal is to include —
  - (a) a person who is a legally qualified member of the Tribunal;
  - (b) a person who is a psychiatrist or, if subsection (2) allows it, a medical practitioner who is not a psychiatrist; and
  - (c) a person who is neither a legally qualified member nor a medical practitioner.
- (2) If a person who is a psychiatrist is not readily available but a medical practitioner is available, that other person may be included instead of the psychiatrist if the proceedings do not involve anything that requires a clinical judgment to be made about a patient's treatment.

**148C. Constitution of State Administrative Tribunal,  
psychosurgical matters**

For the purpose of exercising its jurisdiction under section 148A on an application for review of a decision or order under Part 5 Division 4, the State Administrative Tribunal is to include —

- (a) a person who is a legally qualified member;
- (b) a person who has experience and qualifications in neurosurgery and who was appointed to the State Administrative Tribunal after consultation by the Minister administering the *State Administrative Tribunal Act 2004* with the Minister administering the *Health Act 1911* after that Minister has consulted with the Royal Australasian College of Surgeons;

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- (c) 2 persons who are psychiatrists; and
- (d) a person who is neither a legally qualified member nor a medical practitioner.

**148D. Proceeding before State Administrative Tribunal**

Schedule 2A has effect with respect to a proceeding before the State Administrative Tribunal when exercising jurisdiction conferred by section 148A.

**148E. Application for determination of question of law**

Where a question of law arises in proceedings before the Board, the Board may apply to the State Administrative Tribunal for determination of the question.

”.

**740. Heading to Part 6 Division 3 amended**

The heading to Part 6 Division 3 is amended by deleting “, or case stated by, Board” and inserting instead —

“ **State Administrative Tribunal** ”.

**741. Section 149 amended**

(1) Section 149(1) is amended as follows —

- (a) by deleting “Board” and inserting instead —  
“ **State Administrative Tribunal** ”;
- (b) by deleting “appeal to the Supreme Court” and inserting instead —

“

without leave, appeal under section 105 of the *State Administrative Tribunal Act 2004*

”.

(2) Section 149(2) is amended as follows:



(a) after “interest in” by deleting “the” and inserting  
instead —

“ a ”;

(b) after “matter” by inserting —

“

in respect of which the State Administrative Tribunal  
has made a decision or order

”;

(c) by deleting “to the Supreme Court” and inserting  
instead —

“

under section 105 of the *State Administrative Tribunal  
Act 2004*

”.

**742. Section 150 amended**

Section 150 is amended as follows:

(a) by deleting “the appeal is made are to be clearly stated,  
and may be” and inserting instead —

“

an appeal may be made against a decision or order of  
the State Administrative Tribunal in the exercise of its  
jurisdiction under this Act are

”;

(b) in paragraph (a) by deleting “Board” and inserting  
instead —

“ State Administrative Tribunal ”.

**743. Section 151 amended**

Section 151 is amended as follows:

(a) after “An” by inserting —

“ application for leave to appeal or an ”;

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- (b) before “within” by deleting “brought” and inserting instead —  
“ made or brought ”;
- (c) by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”;
- (d) after “be made” by inserting —  
“ or brought ”.

**744. Section 152 amended**

Section 152 is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

**745. Sections 153, 154 and 155 repealed**

Sections 153, 154 and 155 are repealed.

**746. Schedule 2A inserted**

After Schedule 2 the following Schedule is inserted —

“

**Schedule 2A — Provisions concerning a proceeding before the State Administrative Tribunal**

[Section 148D]

**1. Representation**

- (1) A party to a proceeding before the State Administrative Tribunal may appear personally unless the State Administrative Tribunal, being of the opinion that the personal appearance of a person would be detrimental to the health of the person, orders that the person be represented.
- (2) The State Administrative Tribunal may arrange for a person to be represented in proceedings before it if the person wishes the State Administrative Tribunal to do so.

**2. Closed hearings**

- (1) A hearing before the State Administrative Tribunal is not open to the public unless the State Administrative Tribunal orders that it is open to the public.
- (2) The State Administrative Tribunal may permit specified persons to be, or preclude specified persons (which may include witnesses) from being, present at a hearing.
- (3) In this clause a reference to a hearing includes a reference to a part of a hearing.

**3. Suppression of publication**

- (1) A person is not to publish by any means —
  - (a) any account of any proceeding or part of a proceeding before the State Administrative Tribunal commenced under this Act;
  - (b) any evidence given before the State Administrative Tribunal in a proceeding commenced under this Act;
  - (c) the contents of any document produced to the State Administrative Tribunal in a proceeding commenced under this Act; or
  - (d) any other information relating to a proceeding before the State Administrative Tribunal commenced under this Act,that might identify —
  - (e) a person who is a party to the proceeding;
  - (f) a person who is related to, or associated with, a party to the proceeding or is, alleged to be, in any other way concerned in the matter to which the proceeding relates; or
  - (g) a witness in the proceeding.
- (2) Except as permitted by regulations a person is not to publish by any means (other than by the display of a notice in the premises of the State Administrative Tribunal), a list of

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proceedings to be dealt with by the State Administrative Tribunal identified by reference to the names of the parties to those proceedings.

- (3) Subclauses (1) and (2) do not apply to —
- (a) the communication to persons concerned in proceedings in any court or tribunal of any transcript of evidence or other document for use in connection with those proceedings;
  - (b) the communication of any transcript of evidence or any other document to a body that is responsible for disciplining members of the legal or medical profession or to persons concerned in proceedings before such a body;
  - (c) the communication to a body that grants assistance by way of legal aid of any transcript of evidence or any other document for the purpose of facilitating the making of a decision as to whether such assistance should be granted or continued in any particular case; or
  - (d) the publishing of a publication genuinely intended primarily for the use of members of any profession, being —
    - (i) a separate volume or part of a series of law reports; or
    - (ii) any other publication of a technical character.
- (4) Without limiting subclauses (1) and (2) the State Administrative Tribunal may in any particular case order that —
- (a) any evidence given before it;
  - (b) the contents of any document produced to it; or
  - (c) any other information relating to a proceeding before it,

must not be published, or must not be published except in the manner or to persons specified by the State Administrative Tribunal.

- (5) A person who contravenes subclause (1) or (2) commits an offence and is liable to a fine of \$5 000.

”.

**Division 82 — Metropolitan Region Town Planning Scheme  
Act 1959**

**747. The Act amended**

The amendments in this Division are to the *Metropolitan Region Town Planning Scheme Act 1959*\*.

[\* *Reprinted as at 7 September 2001.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 244-5 and Act No. 24 of 2002.]*

**748. Section 32A amended**

Section 32A(2) is amended as follows:

- (a) by deleting “an appeal” and inserting instead —  
“ an application ”;
- (b) by deleting “Town Planning Appeal Tribunal” and inserting instead —  
“ State Administrative Tribunal ”.

**749. Section 35F amended**

- (1) Section 35F(1) is amended as follows:

- (a) by deleting “appeal against that approval or refusal under” and inserting instead —

“

apply to the State Administrative Tribunal for a review,  
in accordance with

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”;

- (b) after “Act” by inserting —  
“ , of that approval or refusal ”.

(2) Section 35F(2) is amended as follows:

- (a) by deleting “appeal” and inserting instead —  
“ application ”;
- (b) after “subsection (1)” by inserting —  
“ for a review ”;
- (c) by deleting “section 56” and inserting instead —  
“ section 61 ”;
- (d) by deleting “thereto” and inserting instead —  
“ to the application referred ”.

**750. Section 36 amended**

Section 36(2b)(b) is deleted and the following paragraph inserted instead —

“

- (b) by the State Administrative Tribunal on the owner of the land applying to it for a determination of that value;

”.

**751. Section 43 amended**

(1) Section 43(3) is amended as follows:

- (a) by deleting “this section may appeal under” and inserting instead —

“

subsection (1) or (2) may apply to the State Administrative Tribunal for a review in accordance with

”;

- (b) by deleting “against” and inserting instead —  
“ of ”.
- (2) Section 43(3a) is amended as follows:
- (a) by deleting “If the Town Planning Appeal Tribunal” and inserting instead —  
“ If the State Administrative Tribunal ”;
- (b) by deleting “Town Planning Appeal Tribunal may” and inserting instead —  
“ it may ”.
- (3) Section 43(4) is repealed.
- (4) Section 43(5) is amended as follows:
- (a) by deleting paragraph (a)(ii) and inserting instead —  
“  
(ii) apply under subsection (3) for a review  
of any of the directions;  
”;
- (b) by deleting paragraph (b) and inserting instead —  
“  
(b) on an application by an owner of any land for a  
review of a direction specified in a notice served on  
the owner under subsection (1), the direction is  
confirmed or varied and the owner fails to carry out  
the direction as confirmed or varied within the time  
specified by the State Administrative Tribunal in  
the notice given under subsection (3a),  
”.

**Division 83 — Metropolitan Water Authority Act 1982**

**752. The Act amended**

The amendments in this Division are to the *Metropolitan Water Authority Act 1982*\*.

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**Division 83** Metropolitan Water Authority Act 1982

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[\* Reprinted as at 21 January 2000.]

**753. Section 4 amended**

Section 4(2) is amended by deleting the definition of “Land Valuation Tribunal”.

**754. Heading to Part IV amended**

The heading to Part IV is amended by deleting “appeals” and inserting instead —

“ review ”.

**755. Section 43 amended**

- (1) Section 43(1) is amended by deleting “appeal” and inserting instead —

“ review ”.

- (2) Section 43(2a) is amended by deleting “appeal to the Land Valuation Tribunal against the decision on that objection” and inserting instead —

“

reference of the decision on that objection to the State Administrative Tribunal for a review

”.

- (3) Section 43(9) is amended by deleting “an appeal against the decision may be made” and inserting instead —

“ a review of the decision may be sought ”.

- (4) Section 43(10) is amended by deleting “treat the objection as an appeal against the relevant assessment” and inserting instead —

“

refer the relevant assessment to the State Administrative Tribunal for a review

”.



- (5) Section 43(11) is amended by deleting “objection to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978*” and inserting instead —
- “
- relevant assessment to the State Administrative Tribunal for a review
- ”.
- (6) After section 43(11) the following subsection is inserted —
- “
- (11a) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —
- (a) the relevant assessment; and
- (b) the reasons, if any, for the assessment.
- ”.
- (7) Section 43(12) is amended by deleting “treat an objection as an appeal, may serve on the Corporation a notice requiring the Corporation to refer the decision to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal” and inserting instead —
- “
- refer the relevant assessment to the State Administrative Tribunal for a review, may serve on the Corporation a notice requiring the Corporation to refer the decision to refuse to extend time to the State Administrative Tribunal for a review
- ”.
- (8) Section 43(13) is amended by deleting “to a Land Valuation Tribunal as an appeal” and inserting instead —
- “ the State Administrative Tribunal for a review ”.

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(9) After section 43(13) the following subsection is inserted —

“

(13a) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the decision to refuse to extend the time; and
- (b) the reasons, if any, for the decision.

”.

(10) Section 43(14) is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by deleting “or appeal”.

(11) Section 43(15) is amended by deleting “or an appeal” and inserting instead —

“

or in consequence of a review by the State Administrative Tribunal,

”.

(12) Section 43(16) is amended as follows:

- (a) by deleting “, in consequence of the allowance, wholly or in part, of an objection or an appeal, whether in respect of an assessment in relation to any land or in respect of the use of land for residential purposes,”;
- (b) after “necessary” by inserting —  
“ under subsection (15) ”.

**756. Sections 44 and 45 inserted**

After section 43 the following sections are inserted —

“

**44. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal on a reference under section 43(11) or (13), the State Administrative Tribunal may consider —
  - (a) grounds in addition to those stated in the notice of objection; and
  - (b) reasons in addition to any reasons previously given for the Corporation's decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

**45. Written reasons for certain determinations to be given and published**

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 43(11) or (13) is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) This section is in addition to the provisions of the *State Administrative Tribunal Act 2004*.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 84** Metropolitan Water Supply, Sewerage, and Drainage Act 1909  
**s. 757**

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**Division 84 — Metropolitan Water Supply, Sewerage, and Drainage Act 1909**

**757. The Act amended**

The amendments in this Division are to the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*\*.

[\* Reprinted as at 29 January 1999.]

**758. Section 57D amended**

- (1) Section 57D(1) is amended by deleting “appeal to a Local Court established under the *Local Courts Act 1904* held at any place within the Area against” and inserting instead —

“  
apply to the State Administrative Tribunal for a review of  
”.

- (2) Section 57D(2), (3), (4) and (5) are repealed.

**759. Section 57G amended**

Section 57G(7) is amended by deleting “appeal against the decision, and the provisions of section 57D shall, with such modifications as circumstances require, apply to an in relation to, the appeal” and inserting instead —

“  
apply to the State Administrative Tribunal for a review  
of the decision  
”.

**760. Section 152 amended**

Section 152(2) is amended by deleting all of the subsection after “equitable basis” and inserting instead a full stop.

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**Division 85 — Midland Redevelopment Act 1999**

**761. The Act amended**

The amendments in this Division are to the *Midland Redevelopment Act 1999*\*.

[\* *Act No. 38 of 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 249 and Act No. 24 of 2002.]*

**762. Section 52 amended**

(1) Section 52(1) is amended as follows:

(a) by deleting “appeal” and inserting instead —

“

apply to the State Administrative Tribunal for a review

”;

(b) by deleting “from” and inserting instead —

“ of ”.

(2) Section 52(2) is repealed.

**763. Section 54 amended**

(1) Section 54(2) is amended by deleting “appeal under Part V of the Town Planning Act against” and inserting instead —

“

apply to the State Administrative Tribunal for a review,  
in accordance with Part V of the Town Planning Act,  
of the decision to give

”.

(2) Section 54(3) is amended by deleting “appeal” and inserting instead —

“ application ”.

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**Division 86** Motor Vehicle Dealers Act 1973

**s. 764**

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- (3) Section 54(4) is amended as follows:
- (a) by deleting “Town Planning Appeal Tribunal” in the first place where it occurs and inserting instead —  
“ State Administrative Tribunal ”;
  - (b) by deleting “the Town Planning Appeal Tribunal” in the second place where it occurs and inserting instead —  
“ it ”.
- (4) Section 54(6) is amended as follows:
- (a) by deleting “in any court of competent jurisdiction”;
  - (b) by deleting “it in so doing” and inserting instead —  
“  
the Authority in so doing as a debt in a court of  
competent jurisdiction  
”.

**Division 86 — Motor Vehicle Dealers Act 1973**

**764. The Act amended**

The amendments in this Division are to the *Motor Vehicle Dealers Act 1973*\*.

[\* Reprinted as at 14 November 1996.]

**765. Sections 13A to 13D inserted**

After section 13 the following sections are inserted —

“

**13A. Powers of investigation**

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
  - (a) determining any application or any other matter before the Board;

- 
- (b) determining whether or not a licensed or registered person is or has been complying with the requirements of this Act;
  - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;
  - (d) detecting offences against this Act.
- (2) The Board may designate a person who is made available for performing functions under this Act to be an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
- (a) require any person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to the person,in relation to any matter the subject of such inquiry;
  - (b) require any person to produce any document to the investigator;
  - (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
  - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;

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- (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to any place specified in the requirement;
    - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
    - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
- (a) shall be made by notice in writing served on the person required to produce a document;
  - (b) shall specify the time at or within which the document is to be produced; and
  - (c) may, by its terms, require that the document be produced —
    - (i) at any place specified in the requirement; and
    - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.



- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (8) Before entering any premises under this section the investigator —
- (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
  - (b) shall display to the person, if any, giving the investigator entry, a document executed by the Board and certifying that the person is designated as an investigator by the Board.

**13B. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 13A a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 13C(1)(b).

**13C. Failure to comply with investigation**

- (1) Where under section 13A a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
- (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 13A, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 13A, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or

- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

**13D. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 13A.

Penalty: \$2 000.

”.

**766. Section 14 repealed**

Section 14 is repealed.

**767. Section 18 amended**

- (1) Section 18(1) is amended as follows:
- (a) by inserting after “authorisation, if” —  
“ , in the opinion of the Board, ”;
  - (b) by deleting “order” and inserting instead —  
“ allegation ”.
- (2) Section 18(1a) is amended by deleting paragraph (a) and “and” after it.
- (3) Section 18(1b) is repealed.

**768. Section 18A amended**

Section 18A(6) is repealed.

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**769. Section 19A amended**

(1) After section 19A(2) the following subsection is inserted —

“

- (3) Despite the surrender by a person of an authorisation, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the authorisation had not been surrendered.

”.

**770. Section 20 amended**

(1) Section 20(1) is amended as follows:

- (a) by deleting “make one or more of the orders authorised by section 20A in respect of a person if the person has been found by the Board” and inserting instead —

“

allege to the State Administrative Tribunal that a person

”;

- (b) in paragraph (a) by deleting “to have” and inserting instead —

“ has ”;

- (c) in paragraph (b) —

- (i) by deleting “to have” and inserting instead —

“ has ”;

- (ii) by deleting “where in the opinion of the Board the act, omission or conduct” and inserting instead —

“ that ”.

- (2) Section 20(2) is amended as follows:
- (a) by deleting “make an order disqualifying” and inserting instead —  
“  
allege to the State Administrative Tribunal that  
”;
  - (b) by inserting after “constituting a firm,” —  
“ should be disqualified ”;
  - (c) by deleting “if the person or persons has or have been found by the Board” and inserting instead —  
“  
on the grounds that the person or persons has or have  
”;
  - (d) in paragraph (c) by deleting “not to have sufficient” and inserting instead —  
“ insufficient ”;
  - (e) in paragraph (d) by deleting “to have”.
- (3) Section 20(3) is amended by deleting “make an order revoking an authorisation of premises under section 20E or 21A if the Board is no longer satisfied that the premises” and inserting instead —  
“  
allege to the State Administrative Tribunal that an authorisation of premises under section 20E or 21A should be revoked on the grounds that the premises no longer  
”.
- (4) Section 20(4) and (5) are repealed.

**771. Section 20A amended**

- (1) Section 20A(1) is repealed and the following subsection is inserted instead —

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“

- (1) In a proceeding commenced by an allegation under section 20(1) the State Administrative Tribunal may, if the matter alleged is established, make any order provided for by this section.

”.

- (2) Section 20A(4) is amended by deleting “to the Board”.
- (3) Section 20A(7)(b) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

**772. Section 20C repealed and sections 20BA and 20C inserted**

Section 20C is repealed and the following sections are inserted instead —

“

**20BA. Order on allegation under section 20(2) and (3)**

In a proceeding commenced by an allegation under section 20(2) or (3) the State Administrative Tribunal may, if the grounds for making the order are established, make the order that it is alleged should be made.

**20C. Suspension of licence by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against the holder of an authorisation and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the authorisation until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

”.

**773. Section 20D amended**

Section 20D(1) is repealed.

**774. Section 22 replaced**

Section 22 is repealed and the following section is inserted instead —

“

**22. Application for review**

- (1) Any person aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.
- (2) In subsection (1) —
- “**person aggrieved**” means —
- (a) a person who applies for the grant, or renewal of an authorisation;
  - (b) a person who applies for —
    - (i) the authorisation of premises under section 20E or 21A;
    - (ii) the grant of an approval under section 20F or 21B; or
    - (iii) the grant of a temporary permit under section 20H;
- or
- (c) a person whose authorisation or temporary permit under section 20H is affected by a reviewable decision;

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**“reviewable decision”** means a decision of the Board —

- (a) refusing an application for —
    - (i) an authorisation; or
    - (ii) the renewal of an authorisation;
  - (b) refusing —
    - (i) to authorise premises under section 20E or 21A;
    - (ii) to grant an approval under section 20F or 21B; or
    - (iii) to grant a temporary permit under section 20H;
  - (c) in exercise of its powers in relation to conditions and restrictions under section 18A or 20H;
  - (d) revoking a temporary permit under section 20H(4); or
  - (e) refusing to approve of a change submitted to it under section 23.
- (3) When the Board makes a decision or order —
- (a) granting an application by a person for an authorisation or the renewal of an authorisation;
  - (b) authorising premises under section 20E or 21A;
  - (c) approving of any change submitted to it under section 23,

the Board is required to give the Commissioner a copy of the decision or order and the Commissioner may apply to the State Administrative Tribunal for a review of it.

”.



**775. Section 22A amended**

Section 22A(1) is amended as follows:

- (a) by deleting “the Board’s order,” and inserting instead —  
“ that decision, ”;
- (b) by deleting “Local Court” and inserting instead —  
“ State Administrative Tribunal ”.

**776. Section 32O amended**

Section 32O(4), (5) and (6) are repealed.

**777. Section 37B amended**

Section 37B(2) is amended by deleting all of the subsection after “section 37 may” and inserting instead —

“  
apply to the State Administrative Tribunal for a review  
of the determination or order.

”.

**778. Section 38 amended**

Section 38(2) is amended as follows:

- (a) by deleting “an appeal made pursuant to subsection (2) of section 37B and”;
- (b) in paragraph (b) by deleting “and section 37B” and “or appeal”.

**779. Section 51 amended**

After section 51(1) the following subsection is inserted —

“

- (1a) The annual report is to include details of —
  - (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and

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- (ii) matters that have been brought before the State Administrative Tribunal by the Board;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Board's functions.

”.

**780. Various references to “District Court” amended**

The Act is amended by deleting “District Court” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 32K(1) (3 places)
- s. 32K(2)(a) and (b)
- s. 32K(4)
- s. 32L(1) (3 places)
- s. 32L(2)
- s. 32L(3) (both places)
- s. 32M(1) and (2)
- s. 32N(1) (both places)
- s. 32N(3) and (4)

**Division 87 — Motor Vehicle Drivers Instructors Act 1963**

**781. The Act amended**

The amendments in this Division are to the *Motor Vehicle Drivers Instructors Act 1963*\*.

[\* Reprinted 8 February 2002.]

**782. Section 10 amended**

- (1) Section 10(2)(a) is amended by deleting “in the prescribed manner appeal to a Court of Petty Sessions against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

- (2) Section 10(2)(b) is deleted.  
(3) Section 10(3), (4) and (5) are repealed.

**Division 88 — Nurses Act 1992**

**783. The Act amended**

The amendments in this Division are to the *Nurses Act 1992*\*.

[\* Reprinted as at 18 May 1994.]

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 268 and  
Act No. 9 of 2003.*

**784. Section 4 amended**

Section 4 is amended by deleting the definition of “formal inquiry”.

**785. Section 20 amended**

After section 20(6) the following subsection is inserted —

“

- (7) The annual reports of the professional standards committee and the registration review committee are to include details of —

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**Division 88** Nurses Act 1992

**s. 786**

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- (a) the number, nature, and outcome, of investigations undertaken by the committee;
- (b) the number and nature of investigations referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the committee in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the committee.

”.

**786. Section 37 amended**

Section 37 is amended by deleting “inquiry” and inserting instead —

“ proceedings ”.

**787. Section 43 amended**

After section 43(2) the following subsection is inserted —

“

- (2a) The Board cannot grant an application under subsection (2) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

**788. Section 44 amended**

After section 44(2) the following subsection is inserted —

“

- (3) The Board cannot to any extent revoke a suspension that was imposed to give effect to an order of the State Administrative Tribunal under section 69 unless it has

applied for, and obtained, the approval of the State  
Administrative Tribunal to do so.

”.

**789. Section 54 amended**

Section 54(1) is amended as follows:

- (a) in paragraph (b) by deleting “pecuniary penalties,”;
- (b) in paragraph (b) by deleting “, 69”.

**790. Section 57 amended**

After section 57(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
  - (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board or a committee appointed by it; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.

”.

**791. Section 59 amended**

Section 59 is amended by deleting the definition of “affected person” and inserting the following definition instead —

“

“**affected person**” means a person to whom a complaint, investigation or proceeding relates or in respect of whom the Board has grounds under section 60(1) to appoint an investigator;

”.

**792. Sections 59A to 59C inserted**

After section 59 the following sections are inserted —

“

**59A. Interim orders of Board**

The Board may deal under sections 59B and 59C with a matter notwithstanding that —

- (a) the Board is already dealing with the matter under this Act, either directly or as part of another matter; or
- (b) a complaint about the same matter, or a complaint elements of which include the same matter, has been made under the *Health Services (Conciliation and Review) Act 1995* or is being treated as a complaint that was made under that Act.

**59B. Order to cease activity or interim restriction on practice**

- (1) If the Board is of the opinion that an activity of an affected person involves or will involve —
  - (a) a risk of imminent injury or harm to the physical or mental health of any person; or

- (b) a contravention or likely contravention of a provision of this Act,

the Board may, without further inquiry, do any or all of the following —

- (c) deliver to the affected person who is carrying on that activity an order prohibiting the carrying on of the activity for a period of not more than 30 days;
- (d) deliver to the affected person an order to comply, for a period of not more than 30 days, with such conditions and restrictions as the Board thinks fit in relation to the practice of nursing by that person; or
- (e) deliver to the affected person an order suspending the person from the practice of nursing, either generally or in relation to any specified circumstances or service, for a period of not more than 30 days.
- (2) An order made under subsection (1) must —
- (a) state that the Board is of the opinion that the activity of the affected person involves or will involve a risk of imminent injury or harm to the physical or mental health of any person or a contravention or likely contravention of a provision of this Act;
- (b) specify the activity that in the Board's opinion involves or will involve the risk or contravention and the matters that give or will give rise to the risk or contravention; and
- (c) advise that, within 14 days of the making of the order, the Board will revoke the order or make an allegation about the matter to the State Administrative Tribunal.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 88** Nurses Act 1992

**s. 793**

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- (3) The Board may, by order given to the person to whom the order made under subsection (1) was given, revoke or vary an order made under subsection (1) at any time before making an allegation about the matter to the State Administrative Tribunal under section 59C.
- (4) The person against whom an order is made under subsection (1) may apply to the State Administrative Tribunal for a review of any order made under this section.

**59C. What happens after making section 59B order**

- (1) Within 14 days of making an order under section 59B(1), if that order is not revoked under section 59B(3), the Board must make an allegation to the State Administrative Tribunal about the matter in respect of which the order was made.
- (2) Upon an allegation made under subsection (1) the State Administrative Tribunal may, in addition to any other order it may make, affirm or revoke an order under section 59B(1) or vary the order by extending the period for which it applies or in any other respect.

”.

**793. Section 60 amended**

Section 60(1) is amended as follows:

- (a) after paragraph (c) by inserting —  
“ or ”;
- (b) by deleting paragraph (d) and “or” after it.

**794. Section 63 amended**

- (1) Section 63(1)(b) is deleted and the following paragraph is inserted instead —



“  
(b) make an allegation about the matter to the State  
Administrative Tribunal.  
”.

- (2) Section 63(2) is amended by deleting “proceedings by way of a formal inquiry” and inserting instead —

“  
having an allegation about the matter made to the State  
Administrative Tribunal  
”.

**795. Section 64 amended**

- (1) Section 64(2)(g) is deleted and the following paragraph is inserted instead —

“  
(g) to make an allegation about the matter to the  
State Administrative Tribunal.  
”.

- (2) Section 64(3) is amended by deleting “does” and inserting instead —

“ do ”.

**796. Sections 65 to 68 repealed**

Sections 65, 66, 67 and 68 are repealed.

**797. Section 69 amended**

Section 69 is amended as follows:

- (a) by deleting “Where the committee reports to the Board under section 68 that a situation referred to in section 61 exists or has occurred in respect of a person, the Board may do any, or a combination of any, of the following — ” and inserting instead —

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“

The State Administrative Tribunal may, in dealing with an allegation made to it under this Part —

”;

- (b) in paragraph (d) by deleting “to the Board”;
- (c) after paragraph (e) by deleting the full stop and inserting a semicolon;
- (d) after paragraph (e) by inserting —

“

(f) if it is appropriate, do more than one of those things.

”.

**798. Section 70 amended**

- (1) Section 70(1) is repealed.
- (2) Section 70(2) is repealed and the following subsection is inserted instead —

“

(2) Where the Board under section 60(1)(e), the committee under section 64(2)(a) or the State Administrative Tribunal under section 69(a), declines to take any action under this Part in respect of a person the Board, the committee or the Tribunal may make a statement exonerating that person.

”.

- (3) Section 70(3) is amended by deleting “exercise any power under this Part in respect of” and inserting instead —

“

recommend to the Board that it make an allegation to the State Administrative Tribunal about

”.

- (4) Section 70(4) is repealed.

**799. Section 71 amended**

- (1) Section 71(1) is amended by deleting “(1) or”.
- (2) Section 71(2) is repealed.

**800. Section 73 amended**

- (1) Section 73(1) is amended as follows:
  - (a) by deleting “Board or the”;
  - (b) by deleting “or 69”;
  - (c) by deleting “or inquiry”;
  - (d) by deleting “Board” and inserting instead —  
“ committee ”.
- (2) Section 73(4) is amended by deleting “monetary penalty,”.

**801. Section 74 amended**

Section 74(1) is amended by inserting after “an order which the Board” —

“ or the State Administrative Tribunal ”.

**802. Section 76 amended**

Section 76 is amended by deleting “inquiry” and inserting instead —

“ proceeding ”.

**803. Section 77 amended**

Section 77(2)(a) is amended by deleting “69,”.

**804. Section 78 replaced**

Section 78 is repealed and the following section is inserted instead —

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“

**78. Review**

A person who is aggrieved by a decision referred to in section 77(2) may apply to the State Administrative Tribunal for a review of the decision.

”.

**805. Section 82 amended**

Section 82(2)(f) is amended by deleting “and inquiries”.

**Division 89 — Occupational Therapists Registration Act 1980**

**806. The Act amended**

The amendments in this Division are to the *Occupational Therapists Registration Act 1980* \*.

[\* Reprinted as at 6 December 2002.]

**807. Section 9 amended**

Section 9(1) is amended as follows:

- (a) in paragraph (e) by inserting after “this Act” —

“

other than for commencing a proceeding before the State Administrative Tribunal

”;

- (b) by deleting paragraph (g) and inserting instead —

“

- (g) regulating the manner of making to the Board any complaint against or concerning any occupational therapist;

”.

**808. Section 15 amended**

After section 15(1) the following subsection is inserted —

“

- (1aa) The Board cannot revoke or vary a condition that gives effect to an order of the State Administrative Tribunal unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

**809. Section 17 amended**

Section 17(1) is amended by inserting after “investigation” —

“ or proceedings in the State Administrative Tribunal ”.

**810. Section 21 amended**

- (1) Section 21(1) is amended by inserting after “pursuant to” —

“ an order of the State Administrative Tribunal under ”.

- (2) After section 21(1) the following subsection is inserted —

“

- (1aa) The Board cannot grant an application under subsection (1) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

**811. Section 23 amended**

After section 23(3) the following subsection is inserted —

“

- (4) The Board cannot to any extent revoke a suspension that was imposed to give effect to an order of the State Administrative Tribunal unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

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”.

**812. Section 27A amended**

After section 27A(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.

”.

**813. Part IVA inserted**

After section 27A the following Part heading and sections are inserted —

“

## **Part IVA — Investigation**

### **27B. Investigator**

- (1) The Board may appoint a person to investigate a complaint or any other matter relevant to the Board's functions and report to the Board.
- (2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

### **27C. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the Board requires prepare a report on the investigation, and make recommendations as to the manner in which the matter should be dealt with; and
  - (b) immediately after preparing the report, provide the Board with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the Board is provided with a copy of the report.

### **27D. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —
  - (a) enter and inspect the premises of a person named in a warrant issued under section 27F(1), and exercise the powers referred to in section 27F(2)(b) and (c);

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- (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
  - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
  - (d) require a person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to that person,in relation to the matter the subject of the investigation; and
  - (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
  - (b) must specify the time at or within which the document or other thing is to be produced;
  - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
  - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
    - (i) the document itself; and



- (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
  - (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to a place specified in the requirement;
    - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
    - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

**27E. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that

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entry to premises is necessary for the purpose of investigating a matter that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.

- (2) An application for a warrant must —
  - (a) be in writing;
  - (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of investigating a matter that may involve a threat to the physical or mental health of a person;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
  - (a) the application does not comply with the requirements of this Act; or
  - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**27F. Issue of warrant**

- (1) A magistrate to whom an application is made under section 27E may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and

inspection of the premises are necessary for the purpose referred to in that section.

- (2) A warrant under subsection (1) authorises the investigator —
  - (a) to enter and inspect the premises named in the warrant;
  - (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
  - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
  - (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and
  - (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**27G. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
  - (a) at the end of the period of one month after its issue;

- (b) if it is withdrawn by the magistrate who issued it; or
- (c) when it is executed,

whichever occurs first.

**27H. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 27D a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 27I(1)(b).

**27I. Failure to comply with investigation**

- (1) Where under section 27D a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
  - (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 27D, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 27D, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
  - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

**27J. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 27D.

Penalty: \$2 000.

”.

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**Division 89** Occupational Therapists Registration Act 1980

**s. 814**

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**814. Section 28 amended**

(1) Section 28(1) is amended as follows:

- (a) by deleting “, after an inquiry of the kind referred to in section 31,”;
- (b) by deleting all of the subsection after “may” and inserting instead —

“

allege to the State Administrative Tribunal that there are grounds for the Tribunal to make an order under this section and the Tribunal may order that his name shall be struck off the Register.

”.

(2) Section 28(2) is amended as follows:

- (a) by deleting “, after an inquiry of the kind referred to in section 31, the Board” and inserting instead —  
“ the Tribunal ”;
- (b) by deleting “Board may” and inserting instead —  
“ Tribunal may ”;
- (c) in paragraph (a) —
  - (i) by deleting “suspend that person” and inserting instead —  
“ order that the person be suspended ”; and
  - (ii) by inserting after “12 months” —  
“ specified in the order ”;
- (d) in paragraph (b) —
  - (i) by deleting “to the Board”; and
  - (ii) by deleting “Board” in the second place where it occurs and inserting instead —  
“ Tribunal ”.

(3) Section 28(3) is amended as follows:

- (a) by deleting “the holding of a formal inquiry is not warranted by the nature of the allegations the Board, after affording to” and inserting instead —

“

an allegation about a matter to the State Administrative Tribunal is not warranted by the nature of the matter, after affording

”;

- (b) by deleting “the option thereafter of proceedings by way of an inquiry of the kind referred to in section 31,”;
- (c) Section 28(5) is amended by inserting after “are ordered” —  
“ by the Board ”.

**815. Section 28A inserted**

After section 28 the following section is inserted —

“

**28A. Suspension of licence by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against an occupational therapist and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may order that the person be suspended from the practice of occupational therapy until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by this Act or by the *State Administrative Tribunal Act 2004*.

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”.

**816. Section 29 amended**

- (1) Section 29(1) is amended by deleting all of the subsection after “the undertaking,” and inserting instead —

“

make an allegation under section 28 to the State Administrative Tribunal about the matter that gave rise to the undertaking being given to the Board.

”.

- (2) Section 29(2) is repealed.

**817. Section 31 repealed**

Section 31 is repealed.

**818. Section 32 amended**

Section 32(c) is amended by inserting after “disciplinary powers” —

“ under section 28(3) ”.

**819. Section 33 replaced**

Section 33 is repealed and the following section is inserted instead —

“

**33. Review**

A person aggrieved by an order of the Board, or by the refusal of an application to the Board for registration or restoration to the Register, or as to any limitation, restriction or condition imposed, may apply to the State Administrative Tribunal for a review of the order, refusal, limitation, restriction or condition.

”.



**820. Section 34 amended**

Section 34(1) is amended by inserting after “which the Board” —

“ or the State Administrative Tribunal ”.

**821. Section 38 amended**

Section 38(d) is amended by deleting “or any inquiry,”.

**Division 90 — *Optical Dispensers Act 1966***

**822. The Act amended**

The amendments in this Division are to the *Optical Dispensers Act 1966*\*.

[\* Reprinted as at 21 January 1986.]

**823. Section 3 amended**

Section 3 is amended by inserting before the definition of “licence” the following definition —

“

“**chief executive officer**” means the chief executive officer under the *Public Sector Management Act 1994* of the department principally assisting the Minister with the administration of this Act;

”.

**824. Section 5 amended**

(1) Section 5(1) is amended by deleting “Permanent Head” and inserting instead —

“ chief executive officer ”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 90** Optical Dispensers Act 1966

**s. 825**

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- (2) Section 5(2) is repealed and the following subsection is inserted instead —

“

- (2) Where the chief executive officer is satisfied that an applicant for a licence is of good character and that the applicant holds any of the prescribed qualifications, the chief executive officer shall issue to the applicant a licence, in the prescribed form, to carry out optical dispensing, except in relation to haptic lenses.

”.

- (3) Section 5(3) is repealed.

- (4) Section 5(4) is amended as follows:

- (a) by deleting “of the Permanent Head” and inserting instead —

“ of the chief executive officer ”;

- (b) by deleting “, by notice in writing stating the grounds of his appeal, appeal to the Minister against that refusal, and the Minister may, as he thinks fit, confirm the refusal or direct the Permanent Head to issue a licence to that person” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the refusal

”.

**825. Section 6 amended**

Section 6(1) is amended by deleting “Permanent Head” in each place where it occurs and inserting instead —

“ chief executive officer ”.

**826. Sections 6A to 6I inserted**

After section 6 the following sections are inserted —

“

**6A. Investigator**

- (1) If the chief executive officer has reason to investigate any matter relevant to the performance of the chief executive officer's functions under this Act, the chief executive officer may designate a person employed in the chief executive officer's department to investigate the matter and report to the chief executive officer.
- (2) The chief executive officer is to issue to each person designated a certificate in an approved form of that person's designation as an investigator.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the designation to which the certificate purports to relate.

**6B. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the chief executive officer requires prepare a report on the investigation, and make recommendations as to the manner in which the matter should be dealt with; and
  - (b) immediately after preparing the report, provide the chief executive officer with a copy of the report.
- (2) The investigator must return his or her certificate of designation at the time the chief executive officer is provided with a copy of the report.

**6C. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —
  - (a) enter and inspect the premises of a person named in a warrant issued under section 6E(1), and exercise the powers referred to in section 6E(2)(b) and (c);
  - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
  - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
  - (d) require a person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to that person,  
in relation to the matter the subject of the investigation; and
  - (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
  - (a) must be made by notice in writing given to the person required to produce the document or other thing;
  - (b) must specify the time at or within which the document or other thing is to be produced;

- 
- (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
  - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
    - (i) the document itself; and
    - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to a place specified in the requirement;
    - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
    - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.

- (5) An investigator must produce his or her certificate of designation if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

**6D. Warrant to enter premises**

- (1) If the chief executive officer has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of investigating a matter that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- (2) An application for a warrant must —
- (a) be in writing;
  - (b) be accompanied by a notice in writing from the chief executive officer stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of investigating a matter that may involve a threat to the physical or mental health of a person;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
- (a) the application does not comply with the requirements of this Act; or
  - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.

- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**6E. Issue of warrant**

- (1) A magistrate to whom an application is made under section 6D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
- (a) to enter and inspect the premises named in the warrant;
  - (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
  - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and
  - (c) a description of the premises that may be entered.

- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**6F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
- (a) at the end of the period of one month after its issue;
  - (b) if it is withdrawn by the magistrate who issued it; or
  - (c) when it is executed,

whichever occurs first.

**6G. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 6C a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he or she shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 6H(1)(b).



**6H. Failure to comply with investigation**

- (1) Where under section 6C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him or her) —
- (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 6C, the investigator did not, when making the requirement, inform the defendant that he or she was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 6C, the notice did not state that he or she was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or

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**Division 90** Optical Dispensers Act 1966

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- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

**6I. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his or her powers under section 6C.

Penalty: \$2 000.

”.

**827. Section 7 amended**

(1) Section 7(1) is amended as follows:

- (a) after “Where the” by deleting “Permanent Head” and inserting instead —  
“ chief executive officer ”;
- (b) by deleting “Permanent Head shall, by writing under his hand, recommend to the Governor that the licence of that optical dispenser be revoked” and inserting instead —

“

may allege to the State Administrative Tribunal that there are grounds for the Tribunal to revoke the licence of that optical dispenser and if the Tribunal finds that the optical dispenser is no longer a fit and proper person to continue to be the holder of a licence, it may order that the licence is revoked

”.

(2) Section 7(2) is repealed.

(3) Section 7(3) is amended as follows:

- (a) after “to the” by deleting “Permanent Head” and inserting instead —  
“ chief executive officer ”;
  - (b) by deleting “Governor may, on the recommendation of the Permanent Head,” and inserting instead —  
“ chief executive officer may ”.
- (4) After section 7(3) the following subsection is inserted —  
“
- (4) The chief executive officer cannot grant an application under subsection (3) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.
- ”.

**828. Section 8 amended**

Section 8(1) is amended as follows:

- (a) by deleting “Permanent Head” and inserting instead —  
“ chief executive officer ”;
- (b) by deleting “section 7 (2)” and inserting instead —  
“ section 7(1) ”.

**829. Section 10 amended**

- (1) Section 10(1) is amended by deleting “Permanent Head” and inserting instead —  
“ chief executive officer ”.
- (2) Section 10(2) is amended by deleting “Permanent Head” and inserting instead —  
“ chief executive officer ”.

**830. Section 11 amended**

Section 11 is amended by deleting “Permanent Head” and inserting instead —

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“ chief executive officer ”.

**831. Section 11A inserted**

After section 11 the following section is inserted —

“

**11A. Reporting**

The annual report under the *Financial Administration and Audit Act 1985* of the department principally assisting the Minister in the administration of this Act is to include details of —

- (a) the number, nature, and outcome, of —
  - (i) investigations and inquiries undertaken by, or at the direction of, the chief executive officer; and
  - (ii) matters that have been brought before the State Administrative Tribunal by the chief executive officer;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload under this Act of the department in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of functions under this Act.

”.

**Division 91 — *Optometrists Act 1940***

**832. The Act amended**

The amendments in this Division are to the *Optometrists Act 1940*\*.

[\* Reprint 3 as at 7 March 2003.]

**833. Section 17 amended**

Section 17(1) is amended as follows:

- (a) in paragraph (i) by deleting “, and the inquiry by the Board into such charge or complaint”;
- (b) by deleting paragraphs (l) and (o).

**834. Section 21 amended**

Section 21(1) is amended by deleting “Board” in the third place where it occurs and inserting instead —

“ State Administrative Tribunal ”.

**835. Sections 25A to 25I inserted**

After section 25 the following sections are inserted —

“

**25A. Investigator**

- (1) The Board may appoint a person to investigate a matter relevant to the performance of the Board’s functions under this Act and report to the Board.
- (2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

**25B. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the Board requires prepare a report on the investigation, and make

recommendations as to the manner in which the matter investigated should be dealt with; and

- (b) immediately after preparing the report, provide the Board with a copy of the report.
- (2) The investigator must return his or her certificate of appointment at the time the Board is provided with a copy of the report.

**25C. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —
- (a) enter and inspect the premises of a person named in a warrant issued under section 25E(1), and exercise the powers referred to in section 25E(2)(b) and (c);
  - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
  - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
  - (d) require a person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to that person,in relation to the matter the subject of the investigation; and
  - (e) exercise other powers conferred on an investigator by the regulations.

- 
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
  - (b) must specify the time at or within which the document or other thing is to be produced;
  - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
  - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
    - (i) the document itself; and
    - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to a place specified in the requirement;
    - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
    - (iv) be verified by statutory declaration.

- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his or her certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

**25D. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a suspicion that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- (2) An application for a warrant must —
  - (a) be in writing;
  - (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a suspicion that may involve a threat to the physical or mental health of a person;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —



- (a) the application does not comply with the requirements of this Act; or
  - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**25E. Issue of warrant**

- (1) A magistrate to whom an application is made under section 25D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
- (a) to enter and inspect the premises named in the warrant;
  - (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
  - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and

- (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**25F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
  - (a) at the end of the period of one month after its issue;
  - (b) if it is withdrawn by the magistrate who issued it; or
  - (c) when it is executed,

whichever occurs first.

**25G. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 25C a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he or she shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in

evidence in any proceedings against the person other than proceedings in respect of an offence against section 25H(1)(b).

**25H. Failure to comply with investigation**

- (1) Where under section 25C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him or her) —
  - (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
  - (a) that, in the case of an alleged offence arising out of a requirement made orally under section 25C, the investigator did not, when making the requirement, inform the defendant that he or she was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 25C, the notice did not state that he or she was required under this Act to give the information, answer the question, or

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produce the document or thing, as the case may be;

- (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him or her to comply with the requirement; or
- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

**25I. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his or her powers under section 25C.

Penalty: \$2 000.

”.

**836. Section 26 amended**

(1) Section 26(1) is amended as follows:

- (a) after “The Board” by deleting “may” and inserting instead —

“

may, upon investigating a complaint against or concerning any registered optometrist or on its own initiative, allege to the State Administrative Tribunal that there are grounds for the State Administrative Tribunal to exercise its powers under this section in respect of a registered optometrist and, in dealing with the allegation, the State Administrative Tribunal may by order

”;

- (b) after “any registered optometrist, or” by deleting “cause” and inserting instead —  
“ order ”;
  - (c) by deleting “the Board, after inquiry as prescribed and by reason of the conclusive proof of the complaint, allegation or charge made,” and inserting instead —  
“ the Tribunal ”;
  - (d) in paragraph (f) by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”.
- (2) Section 26(2) is amended by deleting “Board” in each place where it occurs and inserting instead —  
“ Tribunal ”.
- (3) Section 26(4), (5), (6) and (7) are repealed.

**837. Section 27 amended**

Section 27 is amended in subsection (1) by deleting paragraph (a).

**838. Section 28 amended**

- (1) Section 28(1) is amended as follows:
- (a) by deleting “Board, or” and inserting instead —  
“ State Administrative Tribunal, or ”;
  - (b) by deleting “Board, in the manner prescribed,” and inserting instead —  
“ Tribunal ”;
  - (c) after “suspension annulled, or” by inserting —  
“ apply to the Board ”.

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(2) Section 28(2) is amended as follows:

(a) by deleting “Board” and inserting instead —

“

State Administrative Tribunal or Board, as the case may be,

”;

(b) after “subsection (1)” by inserting —

“

except that the Board cannot grant a person’s application for the re-entry in the Register of the person’s name unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so

”.

(3) Section 28(3) is repealed.

**839. Section 29 amended**

Section 29 is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

**840. Section 30 amended**

Section 30(1) is amended by deleting “or direction of the Board” and inserting instead —

“ of the State Administrative Tribunal ”.

**841. Section 31 replaced**

Section 31 is repealed and the following section is inserted instead —

“

**31. Review**

Whenever the Board makes a decision —

- (a) refusing to register any person as an optometrist; or
- (b) refusing to re-enter in the Register the name of any person whose name has previously been withdrawn from or removed from the Register,

the person affected by the decision of the Board may apply to the State Administrative Tribunal for a review of the decision.

”.

**842. Section 42 amended**

- (1) Section 42(2) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

- (2) Section 42(3) is amended as follows:

- (a) by deleting “Board as” and inserting instead —

“ State Administrative Tribunal as ”;

- (b) by deleting “remove” and inserting instead —

“

refer the matter to the State Administrative Tribunal which may order the removal of

”.

**Division 92 — *Osteopaths Act 1997***

**843. The Act amended**

The amendments in this Division are to the *Osteopaths Act 1997*\*.

[\* *Act No. 58 of 1997.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 272 and Act No. 21 of 2003.]*

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**844. Section 3 amended**

Section 3 is amended by deleting the definition of “formal inquiry”.

**845. Section 10 amended**

Section 10(1)(e) is amended by deleting “the disciplinary and”.

**846. Section 11 amended**

Section 11(1) is amended by deleting “and the power to conduct a formal inquiry”.

**847. Section 15 amended**

Section 15(7) is repealed.

**848. Section 20 amended**

Section 20(4) is amended by deleting “, 36(5) or” and inserting instead —

“

or 36(5) or to give effect to an order of the State Administrative Tribunal under

”.

**849. Section 28 amended**

Section 28(2)(g) is amended by inserting after “person” —

“

or any order made in a proceeding before the State Administrative Tribunal under Part 5

”.



**850. Section 31 amended**

Section 31(1) is amended by inserting after “under Part 5” —

“

or a proceeding before the State Administrative  
Tribunal commenced under Part 5

”.

**851. Section 36 amended**

After section 36(3) the following subsection is inserted —

“

- (3a) The Board cannot grant an application under subsection (3) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

**852. Section 37 amended**

(1) Section 37(1) is amended as follows:

- (a) after “Where” by deleting “a person is suspended”;  
(b) by deleting “, 70(1)(l) or 74” and inserting instead —

“

or 74 or to give effect to an order of the State  
Administrative Tribunal under section 70(1)(l)

”;

- (c) in paragraph (a) by inserting before “from” —  
“ a person is suspended ”;  
(d) in paragraph (b) by inserting before “from” —  
“ a person is suspended ”.

(2) After section 37(2) the following subsection is inserted —

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“

- (3) The Board cannot to any extent revoke a suspension that was imposed to give effect to an order of the State Administrative Tribunal under section 70(1)(l) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

**853. Section 41 amended**

Section 41(1) is amended as follows:

- (a) by inserting after paragraph (b) —  
“ and ”;
- (b) by deleting paragraph (c) and the “and” that follows it.

**854. Section 44 amended**

After section 44(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
- (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
- (ii) matters that have been brought before the State Administrative Tribunal by the Board;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and

- (e) any proposals for improving the operation of the Board.

”.

**855. Section 48 amended**

- (1) Section 48(1)(b) is amended by deleting “, or of its own motion in the course of a formal inquiry”.
- (2) Section 48(3) is repealed and the following subsection is inserted instead —

“

- (3) If the examination was ordered on the request of the complaints assessment committee, the report of the examination is to be given by the Board to the committee for consideration.

”.

**856. Section 49 amended**

Section 49(3) is amended by deleting “hold a formal inquiry into” and inserting instead —

“

make an allegation to the State Administrative Tribunal based on

”.

**857. Section 50 amended**

Section 50(2) is amended by deleting paragraph (e) and “or” after it and inserting instead —

“

- (e) make an allegation to the State Administrative Tribunal based on the complaint; or

”.

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**858. Section 54 amended**

- (1) Section 54(2) is amended by deleting paragraph (c) and inserting the following paragraph instead —

“

- (c) advise that, within 14 days of the making of the order, the Board will revoke the order or make an allegation about the matter to the State Administrative Tribunal.

”.

- (2) Section 54(3) is amended by deleting “commencing a formal inquiry into the matter under” and inserting instead —

“

making an allegation about the matter to the State Administrative Tribunal as required by

”.

**859. Section 55 amended**

- (1) Section 55(1) is amended as follows:

- (a) in paragraph (a) by deleting “commence a formal inquiry into” and inserting instead —

“

make an allegation under section 70 to the State Administrative Tribunal about

”;

- (b) in paragraph (b) —

- (i) by deleting “commenced”; and  
(ii) by inserting after “matter” —  
“ commenced ”.

- (2) Section 55(2) is repealed.

**860. Section 63 amended**

Section 63(4)(b) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

**861. Section 64 amended**

Section 64(f) is deleted and the following paragraph is inserted instead —

“

- (f) make an allegation under section 70 about the matter to the State Administrative Tribunal.

”.

**862. Heading to Part 5 Division 6 replaced**

The heading to Part 5 Division 6 is repealed and the following heading is inserted instead —

“

**Division 6 — Role of the State Administrative Tribunal**

”.

**863. Sections 65 to 69 repealed**

Sections 65, 66, 67, 68 and 69 are repealed.

**864. Section 70 amended**

- (1) Section 70(1) is amended as follows:

- (a) by inserting after “The Board” —

“

may, on a complaint made or on its own initiative, allege to the State Administrative Tribunal that a disciplinary matter exists or has occurred, or may exist or have occurred, in respect of a person who is an osteopath or who was an osteopath at the relevant time and the State Administrative Tribunal

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- ”;
- (b) by deleting “a matter under this Division in respect of an osteopath, do any one or more of the following” and inserting instead —  
“ the allegation ”;
  - (c) in paragraph (d)(i) by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”;
  - (d) in paragraph (d)(iii) by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”;
  - (e) in paragraph (e) by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”;
  - (f) in paragraph (f) —
    - (i) by deleting “require” and inserting instead —  
“ order that ”;
    - (ii) by deleting “to”; and
    - (iii) by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”;
  - (g) in paragraph (h) by deleting “such educational or clinical courses or both as are specified by the Board or to practise under such supervision as is specified by the Board for a period specified by the Board” and inserting instead —  
“  
educational or clinical courses, or both, as specified in the order or to practise under supervision as specified in the order for a period specified in the order  
”;

- (h) in paragraph (i) by deleting “by the Board” in each place where it occurs and inserting instead —  
“ in the order ”;
- (i) in paragraph (j) by deleting “to the Board”;
- (j) in paragraph (l) —
  - (i) by deleting “suspend the person” and inserting instead —  
“ order that the person be suspended ”; and
  - (ii) by deleting “years.” and inserting instead —  
“ years specified in the order; or ”;
- (k) after paragraph (l) by inserting —  
“
  - (m) if it is appropriate, do more than one of those things.”.

(2) Section 70(2) is amended as follows:

- (a) by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”;
- (b) by deleting “a matter under this Division” and inserting instead —  
“  
an allegation under this Part in respect of a matter ”;
- (c) by deleting “its powers” and inserting instead —  
“ the powers it would have ”;
- (d) by deleting after “and (j)” —  
“ if the person were an osteopath ”.

**865. Sections 71 to 73 repealed**

Sections 71, 72 and 73 are repealed.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 92** Osteopaths Act 1997

**s. 866**

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**866. Section 74 amended**

Section 74(1) is amended as follows:

(a) in paragraph (a) by inserting after “that the Board” —  
“ or the State Administrative Tribunal ”;

(b) in paragraph (b) —

(i) by deleting “the Board does not have” and  
inserting instead —

“

neither the Board or the State Administrative  
Tribunal has

”;

and

(ii) by deleting “, after due inquiry,” and inserting  
instead —

“

refer to the State Administrative Tribunal the  
question whether it should

”.

**867. Section 80 amended**

Section 80 is amended as follows:

(a) by inserting at the end of paragraph (a) —  
“ or ”;

(b) at the end of paragraph (b) by deleting the semicolon  
and “or” and inserting instead a full stop;

(c) by deleting paragraph (c).

**868. Section 81 amended**

(1) Section 81(1) is amended by deleting “or 69”.



- (2) Section 81(2) (but not the penalty) is repealed and the following subsection is inserted instead —

“

- (2) A person must not, without lawful excuse, refuse or fail to give information or answer a question when required to do so under section 59.

”.

**869. Section 83 repealed**

Section 83 is repealed.

**870. Section 87 amended**

Section 87(2) is amended by deleting “, inquiry or hearing”.

**871. Section 88 amended**

Section 88(2) is amended as follows:

- (a) in paragraph (a) by deleting “70, 71, 72 or”;
- (b) in paragraph (b) by deleting “the refusal of” and inserting instead —  
“ any decision refusing ”;
- (c) in paragraph (c) by deleting “the removal of” and inserting instead —  
“ any decision to remove ”;
- (d) in paragraph (d) by deleting “the imposition of” and inserting instead —  
“ any decision to impose ”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 92** Osteopaths Act 1997

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**872. Section 89 replaced**

Section 89 is repealed and the following section is inserted instead —

“

**89. Review**

A person who is aggrieved by an order under section 54 or a decision or order referred to in section 88(2) may apply to the State Administrative Tribunal for a review of the order or decision.

”.

**873. Section 90 amended**

(1) Section 90(1) is amended as follows:

- (a) by deleting “Board or” and inserting instead —  
“ Board, the ”;
- (b) by inserting after “committee” —  
“ or the State Administrative Tribunal ”.

(2) Section 90(3) is amended as follows:

- (a) by deleting “Board or” and inserting instead —  
“ Board, ”;
- (b) by inserting after “committee” —  
“ or the State Administrative Tribunal ”.

**874. Schedule 1 amended**

Schedule 1 clause 5(2) is repealed and the following subclause is inserted instead —

“

- (2) A quorum for a meeting of the Board is 4 members.

”.

**Division 93 — *Painters' Registration Act 1961***

**875. The Act amended**

The amendments in this Division are to the *Painters' Registration Act 1961*\*.

[\* Reprinted as at 26 February 1999.]

**876. Section 14B amended**

Section 14B(3) is amended by deleting “by ” and inserting instead —

“ as a result of the commencement of proceedings under ”.

**877. Section 16 amended**

- (1) Section 16(1), (2) and (3) are repealed and the following subsections are inserted instead —

“

- (1) The Board may allege to the State Administrative Tribunal that disciplinary action should be taken against a registered painter for a reason described in subsection (2).
- (2) In a proceeding commenced by an allegation under subsection (1) the State Administrative Tribunal may cancel or suspend the registration of any painter under this Act where —
  - (a) the registration was obtained by fraud or misrepresentation;
  - (b) the painter has been guilty of fraudulent conduct, negligence or incompetence in carrying out painting;
  - (c) the painter has been convicted of an offence against section 16G;

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**Part 2** Various Acts amended to confer jurisdiction

**Division 93** Painters' Registration Act 1961

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- (d) the painter, being a partnership or company or other body corporate, has failed to comply with any provision of section 14B; or
  - (e) the painter, being a partnership, company or other body corporate, has ceased to have registered under this Act at least one partner of the partnership, or one director of the company, or one member of the board of management of the body corporate or a person employed by the partnership, company or body corporate whose duty or part of whose duty it is to manage or supervise painting carried out by such partnership, company or other body corporate.
- (3) Where the registration under this Act of a partnership, company or body corporate has been cancelled or suspended by the State Administrative Tribunal, the State Administrative Tribunal may, if in all the circumstances of the case it considers it proper so to do and the person whose registration is to be cancelled or suspended has been joined as a party to the proceeding, by order cancel or suspend the registration under this Act of the partner, director, member of the board of management or employee by whom the painting to which the inquiry related was, or was required by this Act to be, managed and supervised.

”.

**878. Section 16A repealed**

Section 16A is repealed.

**879. Section 16B replaced**

Section 16B is repealed and the following section is inserted instead —

“

**16B. Re-registration of painter**

- (1) On the application of the Board or the painter whose registration has been cancelled or is suspended, the State Administrative Tribunal may order that the suspension of a registration is terminated or a registration that has been cancelled be reinstated.
- (2) An application for the termination of a suspension or the reinstatement of a registration that was cancelled cannot be made before the expiry of a period of 3 months after the day on which the registration was suspended or cancelled.

”.

**880. Section 16E amended**

Section 16E(1)(b) is amended by deleting “a magistrate” and inserting instead —

“ the State Administrative Tribunal ”.

**881. Section 16G amended**

Section 16G is amended as follows:

- (a) in paragraph (a) by deleting “appeal was duly brought under section 18 against the making of the order, or where such an appeal was brought but the order was not set aside or varied at the hearing of the appeal” and inserting instead —

“

application was duly made under section 18 for a review of the order, or where such an application

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**Division 93** Painters' Registration Act 1961

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was made but the order was not set aside or varied

”;

- (b) in paragraph (b) by deleting “by a magistrate at the hearing of an appeal under section 18 brought against the making” and inserting instead —

“

following an application under section 18 for a review

”.

**882. Section 16H amended**

- (1) Section 16H(1) is amended as follows:

- (a) by deleting “an appeal” and inserting instead —  
“ an application ”;
- (b) by deleting “brought against the making” and inserting instead —  
“ made for a review ”;
- (c) by deleting “the appeal” and inserting instead —  
“ the application ”.

- (2) Section 16H(2) is amended by deleting “by a magistrate” and inserting instead —

“ following an application ”.

**883. Section 16I amended**

Section 16I(b) is amended by deleting “(whether or not the Board also conducts a formal inquiry under section 16)”.

**884. Section 18 replaced by sections 18, 18A and 18B**

Section 18 is repealed and the following sections are inserted instead —

“

**18. Application for review**

- (1) Any person aggrieved by a reviewable decision of the Board may apply to the State Administrative Tribunal for a review of the decision.
- (2) In subsection (1) —  
**“person aggrieved”** means a person —
  - (a) whose registration as a painter is affected by a reviewable decision;
  - (b) who applies for registration or re-registration; or
  - (c) against whom an order is made under section 16D or 16E;

**“reviewable decision”** means —

- (a) a decision of the Board refusing, cancelling, or suspending registration, or refusing re-registration; or
- (b) an order of the Board under section 16D or 16E.

**18A. Surrender of registration or certificate**

Despite the surrender by a person of the person's registration, or a certificate issued to the person under this Act, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the registration or certificate had not been surrendered.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 93** Painters' Registration Act 1961

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**18B. Suspension of registration by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a registered painter and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by this Act or by the *State Administrative Tribunal Act 2004*.

”.

**885. Section 22 amended**

After section 22(3) the following subsection is inserted —

“

- (4) In this section—  
“**penalties**” does not include penalties ordered to be paid by the State Administrative Tribunal.

”.

**886. Section 23B amended**

After section 23B(1) the following subsection is inserted —

“

- (1a) The annual report is to include details of —
  - (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and



- (ii) matters that have been brought before the State Administrative Tribunal by the Board;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Board's functions.

”.

**Division 94 — Pawnbrokers and Second-hand Dealers Act 1994**

**887. The Act amended**

The amendments in this Division are to the *Pawnbrokers and Second-hand Dealers Act 1994*\*.

[\* Reprinted as at 6 December 2002.]

**888. Section 20 amended**

Section 20(c) is amended by inserting after “proceedings” —  
“ commenced ”.

**889. Section 22 amended**

- (1) Section 22(1) is amended by inserting after “for the decision” —

“

and informing the applicant of the right to apply to the State Administrative Tribunal for a review of the decision

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 94** Pawnbrokers and Second-hand Dealers Act 1994

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- (2) Section 22(2) is amended by inserting after “for the decision” —

“

and informing the applicant of the right to apply to the State Administrative Tribunal for a review of the decision

”.

**890. Section 27 amended**

- (1) Section 27(1) is repealed and the following subsection is inserted instead —

“

- (1) A licensing officer who is a member of the Police Force may, on receiving a complaint or on the licensing officer’s own initiative, make any investigation or inquiry necessary to decide whether an allegation should be made under subsection (2) by that or any other licensing officer.

”.

- (2) Section 27(2) is amended by deleting “exercise a power referred to in subsection (1)” and inserting instead —

“

make an allegation to the State Administrative Tribunal that it should take action against a specified licensee under this section

”.

- (3) Section 27(3) and (4) are repealed and the following subsections are inserted instead —

“

- (3) If the State Administrative Tribunal, on dealing with an allegation under subsection (2), is satisfied that a ground referred to in that subsection has been made out, it may —

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- (a) suspend a licence for such period as it thinks fit;
  - (b) revoke a licence; or
  - (c) disqualify a person from holding a licence or from having a licence held on the person's behalf, for such period as the Tribunal thinks fit or permanently.
- (4) A person whose licence is suspended or revoked by the State Administrative Tribunal, or who is disqualified by the State Administrative Tribunal from holding a licence, is required to deliver the person's licence, if any, to a licensing officer.
- Penalty: \$2 000.

”.

**891. Part 2 Division 3 heading replaced**

The heading to Part 2 Division 3 is deleted and the following heading is inserted instead —

“

**Division 3 — Review of licensing decisions**

”.

**892. Section 29 repealed**

Section 29 is repealed.

**893. Section 30 amended**

- (1) Section 30(1) is amended by deleting “appeal to a Court within 14 days after receiving notice” and inserting instead —

“

apply to the State Administrative Tribunal for a review

”.

- (2) Section 30(2), (3), (4) and (5) are repealed.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 94** Pawnbrokers and Second-hand Dealers Act 1994

**s. 894**

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**894. Section 31 repealed**

Section 31 is repealed.

**895. Section 32 amended**

(1) Section 32(1) is amended as follows:

(a) by deleting “clerk of a Court” and inserting instead —

“

executive officer of the State Administrative Tribunal

”;

(b) by deleting “clerk’s” and inserting instead —

“ executive officer’s ”.

(2) Section 32(2) is amended as follows:

(a) by deleting “appeal” and inserting instead —

“ application ”;

(b) by deleting “clerk of the Court” and inserting instead —

“

executive officer of the State Administrative Tribunal

”;

(c) by deleting “and where relevant, any licence that has been delivered up to the Court”.

**896. Section 33 amended**

Section 33 is amended as follows:

(a) by deleting paragraph (a) and “and” after it and inserting instead —

“

(a) an application has been made under this Division for a review; and

”;

(b) in paragraph (b) by deleting “appeal” and inserting instead —

“ application ”;

(c) by deleting “Court” and inserting instead —

“ State Administrative Tribunal ”.

**897. Section 34 amended**

Section 34(1)(b) is amended by deleting “impose” and inserting instead —

“ order the imposition of ”.

**898. Section 35 amended**

Section 35 is amended by deleting “the suspension or revocation of, or disqualification in relation to,”.

**899. Section 73 amended**

(1) Section 73(1) is amended by deleting the definition of “Tribunal” and inserting instead —

“

“**Tribunal**” means the State Administrative Tribunal;

”.

(2) Section 73(6) is repealed.

**900. Section 92 amended**

(1) Section 92 is amended by inserting before “The” the subsection designation “(1)”.

(2) At the end of section 92 the following subsection is inserted —

“

(2) The Department’s annual report is to include details of —

(a) the number, nature, and outcome, of —

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**Part 2** Various Acts amended to confer jurisdiction

**Division 94** Pawnbrokers and Second-hand Dealers Act 1994

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- (i) investigations and inquiries undertaken for the purposes of this Act by licensing officers; and
- (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of licensing officers in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the functions under this Act of licensing officers.

”.

**901. Section 93 amended**

- (1) Section 93(1) is amended as follows:
  - (a) by deleting “a court of petty sessions” and inserting instead —  
“the State Administrative Tribunal ”;
  - (b) by deleting “the court” and inserting instead —  
“ it ”.
- (2) Section 93(2) is amended by deleting “a court” and inserting instead —  
“ the State Administrative Tribunal ”.

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**Division 95 — *Pearling Act 1990***

**902. The Act amended**

The amendments in this Division are to the *Pearling Act 1990*\*.

[\* *Reprinted as at 3 November 2000.*]

**903. Section 23 amended**

Section 23(8) is amended by deleting “appeal” and inserting instead —

“ review ”.

**904. Section 31 amended**

Section 31(1) is amended by deleting paragraph (b) and “or” after it and inserting instead —

“

- (b) if an application for a review is made under Part 4 against a cancellation under section 30(2) but is then withdrawn, 3 months from the day on which the application is withdrawn;
- (ba) if, on an application for review made under Part 4 against a cancellation under section 30(2), an order is made by the State Administrative Tribunal that results in the lease remaining cancelled, 3 months after —
  - (i) the time fixed for applying for leave to appeal from the order under section 105 of the *State Administrative Tribunal Act 2004* has passed without an application having been made; or
  - (ii) leave to appeal has been refused; or
  - (iii) leave to appeal has been granted and the time fixed for instituting an appeal has

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**Part 2** Various Acts amended to confer jurisdiction

**Division 95** Pearling Act 1990

**s. 905**

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passed without an appeal having been instituted; or

- (iv) an appeal has been instituted and has been withdrawn, dismissed or otherwise determined unfavourably;

or

”.

**905. Part 4 heading amended**

The heading to Part 4 is amended by deleting “Appeals” and inserting instead —

“ **Review** ”.

**906. Section 33 amended**

- (1) Section 33(1) is amended by deleting “, within 14 days after publication of notice of that decision in the *Gazette* under section 23(8), appeal against that decision by serving on the Minister a statement in writing of the grounds of that appeal.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 33(2) is amended by deleting “appeal” and inserting instead —

“ review ”.

- (3) Section 33(3) is amended by deleting “, within 14 days after receiving notice of a decision under that subsection, appeal against that decision by serving on the Minister a statement in writing of the grounds of that appeal.” and inserting instead —



“  
apply to the State Administrative Tribunal for a review  
of the decision.

”.

- (4) Section 33(4) is repealed and the following subsection is inserted instead —

“

- (4) On receiving a copy of an application under subsection (3) the Executive Director shall cause a copy of the application to be given to the body known as the Pearl Producers' Association (Incorporated).

”.

- (5) Section 33(5), (6), (7), (8) and (9) are repealed.

**907. Section 34 amended**

Section 34 is amended as follows:

- (a) by inserting after “in this Act” —  
“ or the *State Administrative Tribunal Act 2004* ”;
- (b) by deleting “appeal under this Part from” and inserting instead —  
“ application under this Part for a review of ”.

**908. Schedule 2 amended**

Schedule 2 item 10 is amended by inserting after “this Act,” —

“

other than fees for applications to the State Administrative Tribunal,

”.

**Division 96 — Perth Parking Management Act 1999**

**909. The Act amended**

The amendments in this Division are to the *Perth Parking Management Act 1999*\*.

[\* *Act No. 14 of 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 288.]*

**910. Section 17 amended**

- (1) Section 17(1) and (2) are each amended by deleting “Minister” and inserting instead —

“ State Administrative Tribunal ”.

- (2) Section 17(3) and (4) are repealed.

**Division 97 — Petroleum (Submerged Lands) Act 1982**

**911. The Act amended**

The amendments in this Division are to the *Petroleum (Submerged Lands) Act 1982*\*.

[\* *Reprinted as at 6 August 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 293 and Act No. 20 of 2003.]*

**912. Section 87 amended**

- (1) Section 87(1) is amended by inserting after “courts” —

“ and tribunals ”.

- (2) Section 87(2) and (3) are each amended by inserting after “courts” —

“ , tribunals ”.

**913. Section 88 amended**

(1) Section 88(1) is amended as follows:

(a) by deleting “The Supreme Court may on the application of a” and inserting instead —

“ A ”;

(b) by deleting “make such order as it” and inserting instead —

“

may apply to the State Administrative Tribunal in its original jurisdiction for such order as the Tribunal

”.

(2) Section 88(2), (3) and (4) are each amended by deleting “Supreme Court” and inserting instead —

“ Tribunal ”.

**914. Section 92 amended**

(1) Section 92(1) is amended by deleting “appeal to the Supreme Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

(2) Section 92(2) is repealed.

**Division 98 — Petroleum Act 1967**

**915. The Act amended**

The amendments in this Division are to the *Petroleum Act 1967*.\*.

[\* Reprinted as at 14 January 2000.

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 290 and Act No. 20 of 2003.]*

**916. Section 12 amended**

Section 12(4) is amended as follows:

- (a) by deleting “Compensation Court” and inserting instead —  
“ State Administrative Tribunal ”;
- (b) by deleting “the Court” and inserting instead —  
“ the Tribunal ”.

**917. Section 81 amended**

- (1) Section 81(1) is amended by inserting after “courts” —  
“ and tribunals ”.
- (2) Section 81(2) and (3) are each amended by inserting after “courts” —  
“ , tribunals ”.

**918. Section 82 amended**

- (1) Section 82(1) is amended as follows:
  - (a) by deleting “The Supreme Court may, on the application of a” and inserting instead —  
“ A ”;

- (b) by deleting “make such order as it” and inserting instead —

“

may apply to the State Administrative Tribunal in its original jurisdiction for such order as the Tribunal

”.

- (2) Section 82(2), (3) and (4) are each amended by deleting “Supreme Court” and inserting instead —

“ Tribunal ”.

**919. Section 85 amended**

- (1) Section 85(2) is amended by deleting “appeal to the Supreme Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

- (2) Section 85(3) is repealed.

**Division 99 — *Petroleum Pipelines Act 1969***

**920. The Act amended**

The amendments in this Division are to the *Petroleum Pipelines Act 1969*\*.

[\* *Reprinted as at 12 May 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 291 and Act No. 20 of 2003.]*

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 100** Petroleum Retailers Rights and Liabilities Act 1982

**s. 921**

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**921. Section 54 amended**

(1) Section 54(1) is amended as follows:

(a) by deleting “The Supreme Court may, on the application of a” and inserting instead —

“ A ”;

(b) by deleting “make such order as it” and inserting instead —

“

may apply to the State Administrative Tribunal in its original jurisdiction for such order as the Tribunal

”.

(2) Section 54(2), (3) and (4) are each amended by deleting “Supreme Court” and inserting instead —

“ Tribunal ”.

**Division 100 — *Petroleum Retailers Rights and Liabilities Act 1982***

**922. The Act amended**

The amendments in this Division are to the *Petroleum Retailers Rights and Liabilities Act 1982*\*.

[\* Reprinted as at 22 November 2002.]

**923. Section 5 amended**

(1) Section 5(4c)(a) is amended as follows:

(a) by deleting “appeal against” and inserting instead —  
“ application for a review of ”;

(b) by deleting “appeal having” and inserting instead —  
“ application having ”.

- (2) Section 5(4c)(b) is amended as follows:
- (a) by deleting “appeal against” and inserting instead —  
“ application for a review of ”;
  - (b) by deleting “appeal has” and inserting instead —  
“ application has ”.
- (3) After section 5(4c) the following subsection is inserted —  
“
- (4d) For the purposes of subsection (4c), an application is not finally disposed of until —
- (a) the time fixed for applying for leave to appeal under section 105 of the *State Administrative Tribunal Act 2004* has passed without an application having been made; or
  - (b) leave to appeal has been refused; or
  - (c) leave to appeal has been granted and the time fixed for instituting an appeal has passed without an appeal having been instituted; or
  - (d) an appeal has been instituted and has been withdrawn or finally disposed of.
- ”.
- (4) Section 5(10) is amended by deleting all of the subsection after “may” and inserting instead —  
“
- apply to the State Administrative Tribunal for a review of the determination within 7 days of that determination.
- ”.

**Division 101 — Pharmacy Act 1964**

**924. The Act amended**

The amendments in this Division are to the *Pharmacy Act 1964*\*.

[\* *Reprinted as at 29 January 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 294 and Acts Nos. 9 and 20 of 2003.]*

**925. Section 16C amended**

After section 16C(1) the following subsection is inserted —

“

- (1a) The Council’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Council; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Council;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Council in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Council.

”.



**926. Sections 17 and 18 repealed**

Sections 17 and 18 are repealed.

**927. Section 22 amended**

Section 22(3) is amended by deleting “appeal against such refusal in the manner prescribed by section 27 and the regulations to a Judge of the Supreme Court.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the refusal.

”.

**928. Section 23 amended**

Section 23(4) is amended by deleting “appeal against the decision of the Council in the manner prescribed by section 27 and the regulations to a Judge of the Supreme Court.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the refusal.

”.

**929. Section 26 amended**

- (1) Section 26(3) is amended by deleting “appeal against the decision of the Council in the manner prescribed by section 27 and the regulations to a Judge of the Supreme Court.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 101** Pharmacy Act 1964

**s. 930**

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- (2) Section 26(5) is repealed and the following subsection is inserted instead —

“

- (5) If a registered pharmaceutical chemist is convicted of an offence under subsection (1) the Council may refer the matter to the State Administrative Tribunal and the Tribunal may order that his name be erased from the register for such period and subject to such conditions as the Tribunal may specify in the order.

”.

**930. Section 27 repealed**

Section 27 is repealed.

**931. Sections 31A to 31I inserted**

After section 31 the following sections are inserted —

“

**31A. Investigator**

- (1) The Council may appoint a person to investigate a matter relevant to the performance of the Council's functions under this Act and report to the Council.
- (2) The Council is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

**31B. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the Council requires prepare a report on the investigation, and make

recommendations as to the manner in which the matter should be dealt with; and

- (b) immediately after preparing the report, provide the Council with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the Council is provided with a copy of the report.

**31C. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —
- (a) enter and inspect the premises of a person named in a warrant issued under section 31E(1), and exercise the powers referred to in section 31E(2)(b) and (c);
  - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
  - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
  - (d) require a person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to that person,in relation to the matter the subject of the investigation; and
  - (e) exercise other powers conferred on an investigator by the regulations.

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**Division 101** Pharmacy Act 1964

**s. 931**

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- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
  - (b) must specify the time at or within which the document or other thing is to be produced;
  - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
  - (d) where the document required is not in a readable format, must be treated as a requirement to produce —
    - (i) the document itself; and
    - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to a place specified in the requirement;
    - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
    - (iv) be verified by statutory declaration.

- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

**31D. Warrant to enter premises**

- (1) If the Council has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of an investigation, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- (2) An application for a warrant must —
  - (a) be in writing;
  - (b) be accompanied by a notice in writing from the Council stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of the investigation;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
  - (a) the application does not comply with the requirements of this Act; or

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- (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**31E. Issue of warrant**

- (1) A magistrate to whom an application is made under section 31D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
  - (a) to enter and inspect the premises named in the warrant;
  - (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
  - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
  - (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and
  - (c) a description of the premises that may be entered.

- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**31F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
- (a) at the end of the period of one month after its issue;
  - (b) if it is withdrawn by the magistrate who issued it; or
  - (c) when it is executed,

whichever occurs first.

**31G. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 31C a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 31H(1)(b).

**31H. Failure to comply with investigation**

- (1) Where under section 31C a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
- (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 31C, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 31C, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or



- (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation being carried out.

**31I. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 31C.

Penalty: \$2 000.

”.

**932. Section 32 replaced**

Section 32 is repealed and the following section is inserted instead —

“

**32. Disciplinary matters**

- (1) There is proper cause for disciplinary action if a pharmaceutical chemist, company or friendly society —
- (a) has been convicted of an offence that renders that person, company or friendly society unfit to continue to be engaged in carrying on the practice of a pharmaceutical chemist;
  - (b) being a pharmaceutical chemist, is by reason of mental or physical incapacity, alcohol, or addiction to any deleterious drug unfit to continue to practise;
  - (c) is guilty of carelessness, incompetence, impropriety, misconduct or infamous conduct in a professional respect;

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- (d) is guilty of the breach of an undertaking given by or on behalf of that party pursuant to previous proceedings commenced under this section; or
  - (e) is guilty of contravening the regulations relating to advertising.
- (2) The Council may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), against a pharmaceutical chemist, company or friendly society.
- (3) If in a proceeding commenced by an allegation under this section the State Administrative Tribunal is of the opinion that proper cause exists for disciplinary action, the Tribunal may —
- (a) where that person is a pharmaceutical chemist, —
    - (i) order that his name be erased from the register;
    - (ii) order that for such period as is specified in the order, not being a period in excess of 3 years, he be prohibited from carrying on the practice of a pharmaceutical chemist, and that his licence be accordingly suspended;
    - (iii) impose on him a fine not exceeding \$500; or
    - (iv) censure him;
  - (b) in the case of a company or friendly society —
    - (i) impose on it a fine not exceeding \$500; or
    - (ii) censure it;
- and

- 
- (c) in any case —
- (i) by order require any party to the proceedings to give an undertaking to the Council in such terms as the Tribunal specifies in the order, either personally or in the case of a company or friendly society under the hand of a proper officer; and
  - (ii) by order impose or vary any condition in relation to a licence or registration.
- (4) Instead of making an allegation to the Tribunal under subsection (2), if the Council —
- (a) is of the opinion that a proceeding before the Tribunal is not warranted by the nature of the matter involved;
  - (b) has afforded to the person concerned the opportunity of giving an explanation to the Council either in person or in writing and is not satisfied by any explanation offered; and
  - (c) has afforded to the person concerned the option of the matter proceeding before the Tribunal and that option has not been taken up,
- the Council may deal with the matter as described in subsection (3)(a)(iii) or (iv), (3)(b), or (3)(c) except that it cannot impose a fine of more than \$2 500.
- (5) The Council may, in addition to or instead of imposing 1 or more penalties under provisions referred to in subsection (4), order the person concerned to pay all or any of the costs and expenses of or incidental to the proceedings.
- (6) The amount of any penalty, costs, or expenses that the Council orders under subsection (4) or (5) that a person

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pay is recoverable by the Council in any court of competent jurisdiction as a debt due to the Council.

”.

**933. Section 32B replaced**

Section 32B is repealed and the following section is inserted instead —

“

**32B. Appeals in disciplinary matters**

A person, company or friendly society that is aggrieved by a penalty imposed under section 32(4), an order made under section 32(5) for the payment of costs or expenses, or the peremptory suspension of a licence or registration under section 32A may apply to the State Administrative Tribunal for a review of the decision.

”.

**934. Section 33 amended**

- (1) Section 33(1) and (2) are each amended by deleting “section 32” and inserting instead —

“ an order of the State Administrative Tribunal ”.

- (2) Section 33(3) is amended by deleting “section 32 or 32A” and inserting instead —

“

an order of the State Administrative Tribunal or section 32A

”.

**935. Section 34 amended**

Section 34 is amended by inserting before the full stop at the end of the section —

“ or the State Administrative Tribunal ”.

**936. Section 47 amended**

Section 47(2) is amended in paragraph (j) by deleting “this Act” and inserting instead —

“ section 40A(3) ”.

**Division 102 — *Physiotherapists Act 1950***

**937. The Act amended**

The amendments in this Division are to the *Physiotherapists Act 1950*\*.

[\* Reprinted as at 12 October 2001.]

**938. Section 7C amended**

After section 7C(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.

”.

**939. Section 8 amended**

Section 8(1)(d) is amended by deleting “and the holding of an inquiry by the Board into the charge or complaint”.

**940. Sections 10A to 10I inserted**

After section 10 the following sections are inserted —

“

**10A. Investigator**

- (1) The Board may appoint a person to investigate any matter relevant to the performance of the Board’s functions under this Act and report to the Board.
- (2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.
- (3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

**10B. Report of investigator**

- (1) An investigator must —
  - (a) within such period as the Board requires prepare a report on the investigation; and
  - (b) immediately after preparing the report, provide the Board with a copy of the report.
- (2) The investigator must return his certificate of appointment at the time the Board is provided with a copy of the report.

**10C. Powers of investigator**

- (1) An investigator may for the purposes of an investigation —

- 
- (a) enter and inspect the premises of a person named in a warrant issued under section 10E(1), and exercise the powers referred to in section 10E(2)(b) and (c);
  - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
  - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
  - (d) require a person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to that person,in relation to the matter the subject of the investigation; and
  - (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
  - (b) must specify the time at or within which the document or other thing is to be produced;
  - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and

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**Part 2** Various Acts amended to confer jurisdiction

**Division 102** Physiotherapists Act 1950

**s. 940**

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- (d) where the document required is not in a readable format, must be treated as a requirement to produce —
  - (i) the document itself; and
  - (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
  - (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to a place specified in the requirement;
    - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
    - (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.



**10D. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- (2) An application for a warrant must —
  - (a) be in writing;
  - (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person;
  - (c) set out the grounds for seeking the warrant; and
  - (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
  - (a) the application does not comply with the requirements of this Act; or
  - (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

**10E. Issue of warrant**

- (1) A magistrate to whom an application is made under section 10D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
  - (a) to enter and inspect the premises named in the warrant;
  - (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
  - (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
  - (a) the purpose for which the warrant is issued;
  - (b) the name of the person to whom the warrant is issued; and
  - (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

**10F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.
- (2) A warrant ceases to have effect —
  - (a) at the end of the period of one month after its issue;
  - (b) if it is withdrawn by the magistrate who issued it; or
  - (c) when it is executed,

whichever occurs first.

**10G. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 10C a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 10H(1)(b).

**10H. Failure to comply with investigation**

- (1) Where under section 10C a person is required to give any information, answer any question, or produce any

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**Division 102** Physiotherapists Act 1950

**s. 940**

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document and that person, without reasonable excuse (proof of which shall lie on him) —

- (a) fails to give that information or answer that question at or within the time specified in the requirement;
- (b) gives any information or answer that is false in any particular; or
- (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
  - (a) that, in the case of an alleged offence arising out of a requirement made orally under section 10C, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 10C, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document or thing, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
  - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the

requirement would materially assist in the investigation being carried out.

**10I. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 10C.

Penalty: \$2 000.

”.

**941. Section 16 amended**

After section 16(a) the following paragraph is inserted —

“

- (aa) for regulating the making of allegations in respect of disciplinary matters by the Board to the State Administrative Tribunal and specifying the penalties that may be imposed and disciplinary action, including suspending or cancelling the registration of a physiotherapist, that may be taken by the State Administrative Tribunal in dealing with an allegation;

”.

**Division 103 — *Pig Industry Compensation Act 1942***

**942. The Act amended**

The amendments in this Division are to the *Pig Industry Compensation Act 1942*\*.

[\* Reprinted as at 21 June 2002.]

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**Part 2** Various Acts amended to confer jurisdiction

**Division 104** Plant Diseases Act 1914

**s. 943**

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**943. Section 8 amended**

- (1) Section 8(3) is amended by deleting all of the subsection after “owner may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of such valuation.

”.

- (2) After section 8(3) the following subsection is inserted —

“

- (3a) The State Administrative Tribunal may order that all or any of its costs of obtaining the assistance of an expert in determining a value under this section are to be paid from the Fund, and section 13(3) applies to the payment of an amount ordered to be paid as if it were towards payment of a claim for compensation.

”.

**Division 104 — *Plant Diseases Act 1914***

**944. The Act amended**

The amendments in this Division are to the *Plant Diseases Act 1914*\*.

[\* *Reprinted as at 21 December 2001.*]

**945. Section 18 amended**

- (1) Section 18(1) is amended by deleting “and subject to an appeal to”.

- (2) After section 18(3) the following subsection is inserted —

“

- (4) The occupier or owner on whom an inspector serves a notice under subsection (1) may apply to the State Administrative Tribunal for a review of the inspector’s decision to serve the notice.

”.

**946. Section 22 amended**

- (1) Section 22(5) is amended by deleting “appeal to the Minister in the prescribed manner to review “and inserting instead —  
“ apply to the State Administrative Tribunal for a review of ”.
- (2) Section 22(6) is repealed.
- (3) Section 22(7) is amended by deleting “Without limiting subsection (6) the lodging of an appeal with the Minister” and inserting instead —  
“ The making of an application ”.

**Division 105 — *Plant Pests and Diseases (Eradication Funds)  
Act 1974***

**947. The Act amended**

The amendments in this Division are to the *Plant Pests and Diseases (Eradication Funds) Act 1974*\*.

[\* *Reprinted as at 30 July 1999.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 299.]*

**948. Section 13 amended**

Section 13(6) is amended by deleting “appeal to a local court constituted under the *Local Courts Act 1904*, and the decision of the court is final.” and inserting instead —

“

apply to the State Administrative Tribunal for a  
determination of the value.

”.

**Division 106 — Podiatrists Registration Act 1984**

**949. The Act amended**

The amendments in this Division are to the *Podiatrists Registration Act 1984*\*.

[\* *Reprint 1 as at 11 April 2003.*]

**950. Section 8 amended**

(1) Section 8(1) is amended as follows:

(a) in paragraph (e) by inserting after “under this Act” —

“

, other than the commencement of a proceeding  
before the State Administrative Tribunal

”;

(b) in paragraph (g) by deleting “, and the conduct of the  
inquiry by the Board into such charge or complaint”.

**951. Section 16 amended**

Section 16(1) is amended by inserting after “subject of  
investigation” —

“

or a disciplinary proceeding before the State  
Administrative Tribunal commenced under this Act

”.

**952. Section 22 amended**

Section 22(3) is repealed and the following subsection is  
inserted instead —

“

(3) On the application of the Board or the person  
suspended, the State Administrative Tribunal may  
order that the suspension of a person from the practice  
of podiatry is terminated either generally or to a  
specified extent.



”.

**953. Section 27A amended**

After section 27A(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.

”.

**954. Section 28 amended**

(1) Section 28(1) is amended as follows:

- (a) by deleting “Where the Board, after an inquiry of the kind referred to in section 31, is satisfied —” and inserting instead —

“

There is proper cause for disciplinary action in respect of a person registered under this Act if —

”;

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**Part 2** Various Acts amended to confer jurisdiction

**Division 106** Podiatrists Registration Act 1984

**s. 954**

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- (b) in paragraph (a) by deleting “that the registration of a” and inserting instead —  
“ the registration of the ”;
  - (c) by deleting paragraph (b) and inserting instead —  
“  
(b) the person has been convicted of an offence that renders him unfit to practise as a podiatrist;  
”;
  - (d) in paragraph (c) by deleting “that” where it first occurs;
  - (e) in paragraph (c) by deleting “name of a person has ceased” and inserting instead —  
“ name of the person has ceased ”;
  - (f) in paragraph (c) by deleting “in the opinion of the Board”;
  - (g) in paragraph (d) by deleting “that a” and inserting instead —  
“ the ”;
  - (h) in paragraph (e) by deleting “that a” and inserting instead —  
“ the ”;
  - (i) in paragraph (e) by deleting the comma and instead inserting a full stop;
  - (j) by deleting “the Board may order that his name shall be struck off the Register and the Registrar shall comply with the order of the Board.”.
- (2) After section 28(1) the following subsections are inserted —
- “
- (1a) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), against a person registered under this Act.

- (1b) If in a proceeding commenced by an allegation under this section against a person registered under this Act, the State Administrative Tribunal is of the opinion that proper cause exists for disciplinary action the Tribunal may order that the name of the person be struck off the Register.

”.

- (3) Section 28(2) is amended as follows:

- (a) by deleting “Where after an inquiry of the kind referred to in section 31, the Board considers that a matter does not in the public interest require that the name of the person concerned should be struck off the Register, the Board may —” and inserting instead —

“

Where the State Administrative Tribunal considers that a matter does not in the public interest require that the name of the person concerned be struck off the Register, the Tribunal may —

”;

- (b) in paragraph (b) by deleting “to the Board”;  
(c) by deleting paragraph (c) and inserting instead —

“

- (c) deal with that person in the manner described in paragraph (d), (e), or (f) of section 28A(1).

”.

- (4) Section 28(3) to (5) are repealed.

**955. Section 28A inserted**

After section 28 the following section is inserted —

“

**28A. Alternative to bringing proceeding**

- (1) Instead of making an allegation to the State Administrative Tribunal, if the Board —
  - (a) is of the opinion that a proceeding before the Tribunal is not warranted by the nature of the allegations;
  - (b) has afforded to the person concerned the opportunity of giving an explanation to the Board either in person or in writing and is not satisfied by any explanation offered; and
  - (c) has afforded to the person concerned the option of the matter proceeding before the Tribunal and that option has not been taken up,the Board may —
  - (d) order that the particulars entered in the Register in relation to that person be amended;
  - (e) censure that person;
  - (f) require that person to give an undertaking, either with or without security, for such period as is specified —
    - (i) in relation to his future conduct as a podiatrist; or
    - (ii) to comply with such conditions as are specified in relation to his practice; or
  - (g) order that person to pay to the Board a penalty not exceeding \$250.
- (2) The Board may, in addition to or instead of imposing one or more of the penalties specified in subsection (1), order the person concerned to pay such costs and expenses of or incidental to the proceedings as the Board thinks fit.

- (3) Where any penalty, costs or expenses are ordered to be paid under this section the amount ordered to be paid shall be recoverable in any court of competent jurisdiction as a debt due to the Board.

”.

**956. Section 29 replaced**

Section 29 is repealed and the following section is inserted instead —

“

**29. Breach of undertaking**

- (1) Where the Board is satisfied that a person who has given an undertaking to the Board under section 28A has at any time during the currency of the undertaking been in breach of that undertaking, or failed to comply with any condition imposed, the Board may refer the matter to the State Administrative Tribunal.
- (2) The State Administrative Tribunal may, with or without discharging the person from any obligation under the undertaking, impose on him —
- (a) a penalty or suspension that the State Administrative Tribunal could have imposed in a proceeding in respect of the original matter as a consequence of which he was required to give the undertaking; and
  - (b) whether or not imposing a penalty or suspension in relation to the original matter, a penalty in relation to the conduct or omission giving rise to the breach of the undertaking or the failure to comply with the conditions.

”.

**957. Section 30 repealed**

Section 30 is repealed.

**958. Section 31 replaced by sections 31 to 31C**

Sections 31 is repealed and the following sections are inserted instead —

“

**31. Powers of investigation**

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
  - (a) determining any application or any other matter before the Board;
  - (b) determining whether or not a person registered under this Act is or has been acting in conformity with the conditions, if any, of his registration and is or has been complying with the requirements of this Act;
  - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;
  - (d) detecting offences against this Act.
- (2) The Board may appoint an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
  - (a) require any person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to the person,in relation to any matter the subject of such inquiry;
  - (b) require any person to produce any document to the investigator;

- (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
  - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to any place specified in the requirement;
    - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
    - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
- (a) shall be made by notice in writing served on the person required to produce a document;
  - (b) shall specify the time at or within which the document is to be produced; and

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**Division 106** Podiatrists Registration Act 1984

**s. 958**

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- (c) may, by its terms, require that the document be produced —
  - (i) at any place specified in the requirement; and
  - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (8) Before entering any premises under this section the investigator —
  - (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
  - (b) shall display to the person, if any, giving the investigator entry, a document executed by the Board and certifying that the person is an investigator appointed by the Board.



**31A. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 31 a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

the person shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 31B(1)(b).

**31B. Failure to comply with investigation**

- (1) Where under section 31 a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
  - (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

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- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 31, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 31, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
  - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

**31C. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 31.

Penalty: \$2 000.

”.

**959. Section 32 amended**

Section 32(c) is deleted and the following paragraph is inserted instead —

“

- (c) makes any order or takes any other action against a person under section 28A,

”.

**960. Section 33 replaced**

Section 33 is repealed and the following section is inserted instead —

“

**33. Review**

A person aggrieved by an order of the Board, or by the refusal of an application to the Board for registration or restoration to the Register, or by any limitation, restriction or condition imposed, may apply to the State Administrative Tribunal for a review of the decision.

”.

**961. Section 34 amended**

- (1) Section 34(1) is repealed and the following subsection is inserted instead —

“

- (1) Subject to subsection (2), where under the law of a place outside the State an order is made against a person similar in kind to an order which the Board has power to make under this Act or the State Administrative Tribunal can make in the exercise of jurisdiction conferred on it by this Act, the Board may make a like order to take effect in the State for a period not extending beyond the period of the order made under the law of that place.

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”.

- (2) Section 34(2) is amended by deleting “and had failed to satisfy the board or authority thereon”.

**962. Section 35 amended**

Section 35(1) is amended by deleting “, inquiry or findings before or” and inserting instead —

“ before, or findings by, ”.

**963. Section 38 amended**

Section 38(d) is amended by deleting “, or any inquiry or disciplinary proceedings held by or on behalf of the Board”.

**Division 107 — Poisons Act 1964**

**964. The Act amended**

The amendments in this Division are to the *Poisons Act 1964*\*.

[\* *Reprinted as at 22 January 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 300 and Act No. 9 of 2003.]*

**965. Section 29 amended**

- (1) Section 29(1) is amended by deleting “appeal against the same to a stipendiary magistrate sitting as a court of summary jurisdiction.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the refusal or order.

”.

- (2) Section 29(2) and (3) are repealed.

**966. Section 64 amended**

Section 64(2)(k) is deleted.

**Division 108 — *Psychologists Registration Act 1976***

**967. The Act amended**

The amendments in this Division are to the *Psychologists Registration Act 1976*\*.

[\* *Reprint 1 as at 3 January 2003.*]

**968. Section 3 amended**

Section 3 is amended in the definition of “improper conduct in a professional respect” by deleting “, in the opinion of the Board,”.

**969. Section 18A amended**

After section 18A(1) the following subsection is inserted —

“

- (1a) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and

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**s. 970**

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- (e) any proposals for improving the operation of the Board.

”.

**970. Section 21 amended**

Section 21(1) is amended as follows:

- (a) in paragraph (f) by inserting after “under this Act” —

“

, other than the commencement of a proceeding before the State Administrative Tribunal

”;

- (b) by deleting paragraph (i).

**971. Section 29 amended**

Section 29(1) is amended by inserting after “investigation” —

“

or a disciplinary proceeding before the State Administrative Tribunal commenced under this Act

”.

**972. Section 35 amended**

Section 35(3) is repealed and the following subsection is inserted instead —

“

- (3) On the application of the Board or the person suspended, the State Administrative Tribunal may order that the suspension of a person from the practice of psychology is terminated either generally or to a specified extent.

”.

**973. Section 39 amended**

(1) Section 39(1) is amended as follows:

- (a) by deleting “Where the Board, after an inquiry of the kind referred to in section 42, is satisfied” and inserting instead —

“

There is proper cause for disciplinary action in respect of a person who is a registered psychologist if

”;

- (b) in paragraph (a) —
- (i) by deleting “that”; and
- (ii) by deleting “of a” and inserting instead —  
“ of the ”;
- (c) in paragraph (b) —
- (i) by deleting “that a” and inserting instead —  
“ the ”; and
- (ii) by deleting “, in the opinion of the Board,”;
- (d) in paragraph (c) —
- (i) by deleting “that as a” and inserting instead —  
“ as a ”;
- (ii) by deleting “a person” and inserting instead —  
“ the person ”; and
- (iii) by deleting “in the opinion of the Board”;
- (e) in paragraph (d) by deleting “that a” and inserting instead —  
“ the ”;
- (f) in paragraph (e) —
- (i) by deleting “that a” and inserting instead —  
“ the ”; and

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- (ii) by deleting the comma at the end of the paragraph and inserting instead a full stop;
  - (g) by deleting “the Board may order that his name shall be struck off the Register and the Registrar shall comply with the order of the Board.”.
- (2) After section 39(1) the following subsections are inserted —
  - “
  - (1a) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), against a registered psychologist.
  - (1b) If in a proceeding commenced by an allegation under this section against a registered psychologist, the State Administrative Tribunal is of the opinion that proper cause exists for disciplinary action the Tribunal may order that the name of the person be struck off the Register.
  - (1c) Where the State Administrative Tribunal considers that a matter does not in the public interest require that the name of the person concerned be struck off the Register, the Tribunal may —
    - (a) suspend that person from the practice of psychology, either generally or in relation to any specified circumstances or service, for a period not exceeding 12 months;
    - (b) order the person to pay a penalty not exceeding \$1 000; or
    - (c) deal with the person in any of the ways described in paragraph (a), (b) or (c) of section 39A(1).
  - ”.
- (3) Section 39(2) is repealed.



**974. Section 39A inserted**

After section 39 the following section is inserted —

“

**39A. Alternative to bringing proceedings**

- (1) Instead of making an allegation to the State Administrative Tribunal, if the Board is of the opinion that a proceeding before the Tribunal is not warranted by the nature of the allegations the Board, after affording to the person concerned the opportunity of giving an explanation to the Board either in person or in writing and the option thereafter of the matter proceeding before the Tribunal, may —
  - (a) order that the particulars entered in the Register in relation to that person be amended;
  - (b) censure that person;
  - (c) require that person to give an undertaking, either with or without security, for such period as is specified —
    - (i) in relation to his future conduct in a professional respect; or
    - (ii) to comply with such conditions as are specified in relation to his practice;or
  - (d) order that person to pay to the Board a penalty not exceeding \$100.
- (2) The Board may, in addition to or in lieu of imposing any one or more of the penalties specified in subsection (1), order the person concerned to pay such costs and expenses of or incidental to the proceedings as the Board thinks fit.
- (3) Where any penalty, costs or expenses are ordered to be paid under this section the amount ordered to be paid

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shall be recoverable in any court of competent jurisdiction as a debt due to the Board.

”.

**975. Section 40 replaced**

Section 40 is repealed and the following section is inserted —

“

- (1) Where the Board is satisfied that a person who has given an undertaking to the Board required of him under section 39A has at any time during the currency of the undertaking been in breach of that undertaking, or failed to comply with any condition imposed, the Board, after giving to the person concerned an opportunity to show cause why he should not so be dealt with, may refer the matter to the State Administrative Tribunal.
- (2) The State Administrative Tribunal may, with or without discharging the person from any obligation under the undertaking, impose on the person a penalty or suspension that the State Administrative Tribunal could have imposed in a proceeding in respect of the original matter as a consequence of which the person was required to give the undertaking.

”.

**976. Section 41 amended**

Section 41(1) and (2) are each amended by deleting “disciplinary proceedings under this Act.” and inserting instead —

“ action under section 39A. ”.

**977. Section 42 replaced**

Section 42 is repealed and the following section is inserted instead —

“

**42. Powers of investigation**

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
  - (a) determining any application or any other matter before the Board;
  - (b) determining whether or not a registered psychologist is or has been acting in conformity with the conditions, if any, of his licence and is or has been complying with the requirements of this Act;
  - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;
  - (d) detecting offences against this Act.
- (2) The Board may appoint an investigator to carry out an inquiry and report to the Board under this section.
- (3) For the purposes of carrying out an inquiry under this section, the investigator may —
  - (a) require any person —
    - (i) to give the investigator such information as the investigator requires; and
    - (ii) to answer any question put to the person,  
in relation to any matter the subject of such inquiry;
  - (b) require any person to produce any document relating to the investigator;

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- (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
  - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
  - (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to any place specified in the requirement;
    - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
    - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
  - (a) shall be made by notice in writing served on the person required to produce a document;
  - (b) shall specify the time at or within which the document is to be produced; and

- 
- (c) may, by its terms, require that the document be produced —
- (i) at any place specified in the requirement; and
  - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (8) Before entering any premises under this section the investigator —
- (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
  - (b) shall display to the person, if any, giving the investigator entry, a document executed by the Board and certifying that the person is an investigator appointed by the Board.

”.

**978. Sections 42A, 42B and 42C inserted**

After section 42 the following sections are inserted —

“

**42A. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 42 a person is required to —

- (a) give any information;
- (b) answer any question; or
- (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 42B(1)(b).

**42B. Failure to comply with investigation**

- (1) Where under section 42 a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —

- (a) fails to give that information or answer that question at or within the time specified in the requirement;
- (b) gives any information or answer that is false in any particular; or
- (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 42, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 42, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
  - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
  - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

**42C. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 42.

Penalty: \$2 000.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 108** Psychologists Registration Act 1976

**s. 979**

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**979. Section 43 amended**

Section 43(c) is amended as follows:

- (a) by inserting after “order” —  
“ or takes other action ”;
- (b) by deleting “in the exercise of its disciplinary powers”  
and inserting instead —  
“ under section 39A ”.

**980. Section 44 replaced**

Section 44 is repealed and the following section is inserted  
instead —

“

**44. Application for review**

A person aggrieved by an order of the Board, or by the refusal of an application to the Board for registration or restoration to the Register, or as to any limitation, restriction or condition imposed, may apply to the State Administrative Tribunal for a review of the decision.

”.

**981. Section 45 amended**

Section 45(1) is amended by inserting after “under this Act” —

“

or the State Administrative Tribunal has power to make  
in the exercise of jurisdiction conferred on it by this  
Act

”.

**982. Section 46 amended**

- (1) Section 46(1) is amended by deleting “, inquiry or findings  
before or” and inserting instead —

“ before or findings ”.



- (2) Section 46(2) is amended by inserting before “under this Act” —

“ in proceedings commenced ”.

**983. Section 47 amended**

Section 47(1) is amended as follows:

- (a) by deleting “the Board” and inserting instead —  
“ the State Administrative Tribunal ”;
- (b) by inserting after “disciplinary proceedings” —  
“ commenced ”.

**984. Section 48 amended**

Section 48(1) is amended by inserting before “under this Act” —

“ in proceedings commenced ”.

**985. Section 50 amended**

Section 50(d) is amended by deleting “, or any inquiry, examination, or disciplinary proceedings held by or on behalf of the Board”.

**Division 109 — *Public Meetings and Processions Act 1984***

**Subdivision 1 — Amendments to the Act**

**986. The Act amended**

The amendments in this Subdivision are to the *Public Meetings and Processions Act 1984*\*.

[\* *Reprinted as at 16 August 2002.*]

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 109** Public Meetings and Processions Act 1984

**s. 987**

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**987. Section 3 amended**

Section 3 is amended by deleting the definitions of “magistrate” and “order”.

**988. Section 4 amended**

Section 4(2) is amended by deleting “, or an order made by a magistrate,”.

**989. Section 8 amended**

- (1) Section 8(1) is amended by deleting all of the subsection after “or” after paragraph (b) and inserting instead —

“

- (c) believes that the application has been dealt with unreasonably, as described in subsection (2),

that person or body may apply to the State Administrative Tribunal for a review of the refusal of the permit, any condition or limitation specified in the permit, or how the application has been dealt with.

”.

- (2) Section 8(2), (3), (4), (5), (6) and (7) are repealed and the following subsection is inserted instead —

“

- (2) For the purposes of subsection (1) an application is dealt with unreasonably if —

- (a) the application for the permit has not been granted and there is reason to apprehend that it may not be dealt with sufficiently expeditiously; or
- (b) otherwise, there is good cause why it should be reviewed.

”.

**990. Section 9 amended**

Section 9(3)(a) is amended by deleting “or the making of the order”.

**991. Various references to “or order” deleted**

The Act is amended by deleting “or order” in each place specified in the Table to this section.

**Table**

s. 4(1) (3 places)  
s. 4(2)  
s. 9(1)  
s. 9(1)(b)  
s. 9(2)(a) and (b)  
s. 9(3)  
s. 9(3)(b)

**Subdivision 2 — Amendment needed because Act amended**

**992. Police Act 1892 amended**

- (1) The amendment in section is to the *Police Act 1892*\*.

[\* *Reprinted as at 12 January 2001.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 304.]*

- (2) Section 52(1)(a) is amended by deleting “or order”.

**Division 110 — Radiation Safety Act 1975**

**993. The Act amended**

The amendments in this Division are to the *Radiation Safety Act 1975*\*.

[\* *Reprinted as at 25 February 2000.*

*For subsequent amendments see Act No. 9 of 2003.]*

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 111** Rail Safety Act 1998

**s. 994**

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**994. Section 12 amended**

- (1) Section 12(1) is amended by deleting “appeal therefrom to the Supreme Court.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 12(2), (3) and (4) are repealed.

**995. Section 54 amended**

- (1) Section 54(3) is amended by deleting “appeal against the same to a Court of Petty Sessions, constituted by a Stipendiary Magistrate sitting alone” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision

”.

- (2) Section 54(4) is amended by deleting “appeal” and inserting instead —

“ application for review ”.

**Division 111 — Rail Safety Act 1998**

**996. The Act amended**

The amendments in this Division are to the *Rail Safety Act 1998*\*.

[\* *Act No. 32 of 1998.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 325.]*

**997. Section 16 amended**

Section 16(c) is amended by deleting “appeal” and inserting instead —

“ review ”.

**998. Section 17 amended**

Section 17(6)(c) is amended by deleting “appeal” and inserting instead —

“ review ”.

**999. Section 18 amended**

Section 18(5)(b) is amended by deleting “appeal” and inserting instead —

“ review ”.

**1000. Section 20 amended**

- (1) Section 20(1)(e) is amended by deleting “appeal to the District Court.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the matter.

”.

- (2) Section 20(2) is amended as follows:

- (a) by deleting “or appeal”;
- (b) by inserting after “subsection (1)” —  
“ (d) ”.

- (3) Section 20(3) is amended as follows:

- (a) by inserting after “subsection (1)” —  
“ (d) ”;

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- (b) by deleting “within one month after the conclusion of the proceedings, appeal to the District Court.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the outcome of conciliation or mediation proceedings.

”.

- (4) Section 20(4) is amended by deleting “an appeal.” and inserting instead —

“ a review. ”.

- (5) Section 20(5) is amended by deleting “or the District Court”.

- (6) Section 20(6) and (7) are repealed.

**1001. Schedule 1 amended**

Schedule 1 clause 28 is amended by inserting after “of any matter” —

“

, other than an application to the State Administrative Tribunal,

”.

**Division 112 — *Real Estate and Business Agents Act 1978***

**1002. The Act amended**

The amendments in this Division are to the *Real Estate and Business Agents Act 1978*\*.

[\* *Reprinted as at 9 March 2001.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 328 and Act No. 21 of 2003.]*

**1003. Part II Division 3 heading amended**

The heading to Part II Division 3 is amended by deleting  
“Proceedings before” and inserting instead —

“ **Proceedings of, and review of decision of,** ”.

**1004. Sections 19 to 21 amended and section 22 repealed**

- (1) Section 19 is amended as follows:
  - (a) at the end of subsection (1)(a) by inserting —  
“ or ”;
  - (b) by deleting all of subsection (1) after “changed” in  
paragraph (b) and inserting instead a full stop;
  - (c) by repealing subsections (9), (9a), and (9b).
- (2) Section 20(1)(e) is amended by deleting “, including the person  
whose conduct is subject to an inquiry”.
- (3) Section 21(2) and (3) are repealed.
- (4) Section 22 is repealed.

**1005. Section 23 replaced**

Section 23 is repealed and the following section is inserted  
instead —

“

**23. Application for review**

- (1) Any person aggrieved by a reviewable decision of the  
Board may apply to the State Administrative Tribunal  
for a review of the decision.
- (2) In subsection (1) —  
“**person aggrieved**” means —
  - (a) a person whose licence or triennial certificate  
is affected by a reviewable decision or who,  
under Part III, applies for or objects to the

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grant of a licence or applies for the renewal of a triennial certificate;

- (c) a person whose certificate of registration is affected by a reviewable decision or who, under Part IV, applies for the grant or renewal of a certificate of registration;
- (c) a licensee who has, or seeks, the Board's approval under section 56 to carry on business pursuant to a franchising agreement or another party to the agreement;
- (d) a person affected by a decision of the Board under Part VI;
- (e) a person claiming against, or seeking the leave of the Board to commence an action in relation to, the Fidelity Fund; or
- (f) a person affected by an order of the Board for costs under section 21;

**“reviewable decision”** means —

- (a) a decision under Part III other than a determination of the form in which an application or objection is to be made;
- (b) a decision under Part IV other than a determination of the form in which an application is to be made;
- (c) a decision under section 56;
- (d) a decision under Part VI;
- (e) a decision under section 116 or 117; or
- (f) an order for costs under section 21.

”.



**1006. Section 30 amended**

After section 30(3) the following subsection is inserted —

“

- (4) Despite the surrender by a person of a licence or triennial certificate, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or certificate had not been surrendered.

”

**1007. Section 31 amended**

Section 31(4) is repealed.

**1008. Sections 34A and 34B inserted**

After section 34 the following sections are inserted —

“

**34A. Unopposed applications**

- (1) Subject to this Part, a licence may be granted and a triennial certificate may be granted or renewed, (as long as there is no objection in respect of a licence and special conditions are not imposed or changed) by —
- (a) the Board, in a meeting at any time and place;  
or
  - (b) the Registrar, at any time or place,
- without notice to the applicant, and the performance of a function by the Registrar under this subsection is to be treated as performance by the Board.
- (2) Where the Board or Registrar performs a function under subsection (1), the Registrar shall forthwith deliver the licence or triennial certificate or the

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renewed triennial certificate, as the case may be, to the applicant.

- (3) Sections 27, 28, and 29 apply to the Registrar in the performance of a function under subsection (1) as if a reference in any of those provisions to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

**34B. Suspension of licence by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by Part VII or by the *State Administrative Tribunal Act 2004*.

”.

**1009. Section 48 amended**

Section 48(6) is repealed.

**1010. Sections 50A and 50B inserted**

After section 50 the following section is inserted —

“

**50A. Unopposed applications**

- (1) Subject to this Part, a certificate of registration may be granted or renewed, (as long as special conditions are not imposed or changed) by —
  - (a) the Board, in a meeting at any time and place;  
or
  - (b) the Registrar, at any time or place,without notice to the applicant, and the performance of a function by the Registrar under this subsection is to be treated as performance by the Board.
- (2) Where the Board or Registrar performs a function under subsection (1), the Registrar shall forthwith deliver the certificate of registration or the renewed certificate of registration, as the case may be, to the applicant.
- (3) Section 47 applies to the Registrar in the performance of a function under subsection (1) as if a reference in that provision to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

**50B. Suspension of registration by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a sales representative and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

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- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by Part VII or by the *State Administrative Tribunal Act 2004*.

”.

**1011. Section 53 amended**

- (1) Section 53 is amended by inserting before “A” the subsection designation “(1)”.
- (2) At the end of section 53 the following subsection is inserted —

“

- (2) Despite the surrender by a person of a certificate of registration, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the certificate had not been surrendered.

”.

**1012. Section 76 repealed**

Section 76 is repealed.

**1013. Section 102 amended**

- (1) Section 102(1), (2), (3), (4) and (5) are repealed and the following subsection is inserted instead —

“

- (1) The Board may allege to the State Administrative Tribunal that —
- (a) there is proper cause for disciplinary action, as mentioned in section 103(2), against an agent;  
or

- (b) there is proper cause for disciplinary action, as mentioned in section 103(4), against a sales representative.

”.

- (2) Section 102(6) is amended as follows:

- (a) by deleting “application” in the first place where it occurs and inserting instead —  
“ allegation ”;
- (b) by deleting “the conduct of ” in the first place where it occurs;
- (c) by deleting “such an application, the Board may hold an inquiry under this section into the conduct of that sales representative and” and inserting instead —

“

the allegation, the State Administrative Tribunal may

”.

**1014. Section 103 amended**

- (1) Section 103(1) is amended as follows:

- (a) by deleting “after conducting an inquiry under section 102(1) into the conduct of an agent” and inserting instead —

“

, in a proceeding commenced by an allegation under section 102(1) against an agent,

”;

- (b) in paragraph (c) by deleting “Board or until the further order of the Board” and inserting instead —

“ State Administrative Tribunal ”.

- (2) Section 103(3) is amended as follows:

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- (a) by deleting “after conducting an inquiry under section 102(1) into the conduct of a sales representative” and inserting instead —

“

, in a proceeding commenced by an allegation under section 102(1) against a sales representative,

”;

- (b) in paragraph (c) by deleting “Board or until the further order of the Board” and inserting instead —

“ State Administrative Tribunal ”.

- (3) Section 103(5)(a) and “and” after it are deleted.

**1015. Section 124B amended**

Section 124B is amended as follows:

- (a) in paragraph (d) by deleting “103 or”;
- (b) in paragraph (e) by inserting after “fines” —

“

, other than those imposed by the State Administrative Tribunal, that are

”.

**1016. Section 135 amended**

After section 135(1) the following subsection is inserted —

“

- (2) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
- (i) investigations and inquiries undertaken by, or at the direction of, the Board or the Registrar;
- (ii) matters that have been brought before the State Administrative Tribunal under this Act; and

- (iii) matters that have been dealt with through the conciliation process under this Act;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Board.

”.

**1017. Section 139 amended**

- (1) Section 139(2) is amended by inserting after “court” —  
“ , the Board, ”.
- (2) Section 139(3) is amended by deleting “21(2)” and inserting instead —  
“ 34B(1) ”.

**1018. Section 145 amended**

Section 145(2) is amended as follows:

- (a) by deleting paragraph (b) and inserting the following paragraph instead —

“

- (b) provide for the enforcement of orders of the Board for costs under section 21;

”;

- (b) in paragraph (d) by inserting after “Act” —

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“

, but not in connection with the initiation of a proceeding before the State Administrative Tribunal;

”.

**1019. Schedule amended**

The Schedule is amended by deleting the heading “Transitional” and all the items and headings under it.

**1020. Various references to “Board” amended**

The Act is amended by deleting “Board” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

s. 23C(3)  
s. 102(6) (in the first place)  
s. 103(1) (both places)  
s. 103(1)(d)  
s. 103(1)(d)(i)  
s. 103(1)(e) (both places)  
s. 103(2)(d)  
s. 103(3) (both places)  
s. 103(3)(d) (both places)  
s. 103(4)(d)  
s. 103(5)  
s. 103(6)  
s. 105(2)  
s. 139(2)

**1021. Various references to “District Court” amended**

The Act is amended by deleting “District Court” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.



**Table**

- s. 92(1) (3 places)
- s. 92(2) (both places)
- s. 92(4)
- s. 93(1) (4 places)
- s. 93(2) (3 places)
- s. 93(3) (both places)
- s. 93(4)(b) (both places)
- s. 97 (both places)
- s. 98(1) (both places)
- s. 98(3) and (4)

**Division 113 — Retirement Villages Act 1992**

**1022. The Act amended**

The amendments in this Division are to the *Retirement Villages Act 1992*\*.

[\* *Reprinted as at 22 January 1999.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 334-5.]*

**1023. Section 3 amended**

Section 3(1) is amended by deleting the definitions of “referee”, “registrar” and “Tribunal”.

**1024. Part 4 Division 1 heading replaced**

The heading to Part 4 Division 1 is deleted and the following heading is inserted instead —

“ **Division 1 — General** ”.

**1025. Sections 23 to 26 repealed**

Sections 23 to 26 are repealed.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 113** Retirement Villages Act 1992

**s. 1026**

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**1026. Part 4 Divisions 2 and 3 repealed**

Part 4 Divisions 2 and 3 are repealed.

**1027. Part 4 Division 4 heading deleted**

The heading to Part 4 Division 4 is deleted.

**1028. Sections 38 to 41 repealed**

Sections 38 to 41 are repealed.

**1029. Section 42 replaced**

Section 42 is repealed and the following section is inserted instead —

“

**42. Use of other means of resolution**

The State Administrative Tribunal may decline to entertain an application if it considers that the matter in dispute could be adequately dealt with under an applicable code or applicable residence rules or by negotiation by the Department under section 8(1)(d).

”

**1030. Section 43 repealed**

Section 43 is repealed.

**1031. Section 44 amended**

Section 44(1) is amended as follows:

- (a) by inserting before “Tribunal” —  
“ State Administrative Tribunal ”;
- (b) by deleting “of its own motion or”.

**1032. Sections 45 to 47 repealed**

Sections 45, 46 and 47 are repealed.

**1033. Section 48 amended**

Section 48 is amended by deleting “the Tribunal” in the second place where it occurs and inserting instead —

“ it ”.

**1034. Sections 49 to 51 repealed**

Sections 49 to 51 are repealed.

**1035. Part 4 Division 5 heading amended**

The heading to Part 4 Division 5 is amended by deleting “Tribunal” and inserting instead —

“ **State Administrative Tribunal** ”.

**1036. Sections 53 and 55 repealed**

Sections 53 and 55 are repealed.

**1037. Section 56 amended**

Section 56(2) is repealed.

**1038. Sections 71 to 73 repealed**

Sections 71 to 73 are repealed.

**1039. Section 74 amended**

Section 74 is amended as follows:

- (a) by deleting “a member of the Tribunal, the Tribunal,”;
- (b) by deleting “the registrar,”;
- (c) by deleting “the Tribunal or” in both places where it occurs.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 113** Retirement Villages Act 1992

**s. 1040**

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**1040. Section 75 amended**

Section 75(4) is amended by deleting “the Tribunal” in the third place where it occurs and inserting instead —

“ it ”.

**1041. Section 76 repealed**

Section 76 is repealed.

**1042. Section 81 repealed**

Section 81 is repealed.

**1043. Section 82 amended**

Section 82(2)(a) and (d) are deleted.

**1044. Various references to “Tribunal” amended**

The Act is amended by deleting “Tribunal” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 9(3)(c) (both places)
- s. 9(3)(e) (both places)
- s. 9(6) (3 places)
- s. 17(1)(d)
- s. 19(2)
- s. 48 (in the first and third places)
- s. 52(1)
- s. 54
- s. 56(1)
- s. 56(3) (3 places)
- s. 56(4) (both places)
- s. 57(1) (both places)
- s. 57(2)
- s. 57(3) (both places)

- s. 57(4) (both places)
- s. 57(6)
- s. 58(1)
- s. 58(2) (3 places)
- s. 58(3)
- s. 58(4) (both places)
- s. 58(5) (both places)
- s. 59(1)
- s. 59(2) (both places)
- s. 59(3) (both places)
- s. 59(4) (both places)
- s. 61 (both places)
- s. 62(1) (both places)
- s. 62(2) (3 places)
- s. 63(1) (both places)
- s. 63(2) (3 places)
- s. 64(1) (both places)
- s. 64(2) (both places)
- s. 64(3) (4 places)
- s. 66(1)
- s. 67(2) (both places)
- s. 68(1) (both places)
- s. 68(2)
- s. 69(3) (both places)
- s. 70(1)
- s. 70(2) (both places)
- s. 70(3) and (4)
- s. 75(4) (both places)

**Division 114 — *Rights in Water and Irrigation Act 1914***

**1045. The Act amended**

The amendments in this Division are to the *Rights in Water and Irrigation Act 1914*\*.

[\* *Reprinted as at 10 January 2001.*]

**1046. Section 26B amended**

- (1) Section 26B(4)(d) is amended as follows:

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**Part 2** Various Acts amended to confer jurisdiction

**Division 114** Rights in Water and Irrigation Act 1914

**s. 1047**

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- (a) by deleting “appeal” and inserting instead —  
“ an application ”;
  - (b) by inserting after “section 26GI” —  
“ for review ”.
- (2) Section 26B(5)(d) is amended as follows:
- (a) by deleting “appeal” and inserting instead —  
“ an application ”;
  - (b) by inserting after “section 26GI” —  
“ for review ”.

**1047. Part III Division 3B amended**

The heading to Part III Division 3B is amended by deleting “Appeals” and inserting instead —

“ **Review** ”.

**1048. Section 26GG amended**

- (1) Section 26GG(1) is amended by deleting “appeal under Schedule 2” and inserting instead —
- “  
apply to the State Administrative Tribunal for a review  
of the decision  
”.
- (2) Section 26GG(2) is amended as follows:
- (a) by deleting “may appeal” and inserting instead —  
“ may apply ”;
  - (b) by inserting after “subsection (1)” —  
“ for a review ”;
  - (c) by deleting “the appeal” and inserting instead —  
“ the application ”.

**1049. Section 26GH amended**

(1) Section 26GH(1) is amended as follows:

- (a) by deleting “appeal under Schedule 2” and inserting  
instead —

“

apply to the State Administrative Tribunal for a review  
of the decision to give the direction or variation

”;

- (b) by deleting “direction or variation.” and inserting  
instead —

“ decision. ”.

(2) Section 26GH(2) is amended by deleting “appeal under  
Schedule 2” and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of the decision

”.

**1050. Section 26GI amended**

Section 26GI is amended by deleting “appeal under Schedule 2”  
and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of the decision

”.

**1051. Section 26GJ replaced**

Section 26GJ is repealed and the following section is inserted  
instead —

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**Division 114** Rights in Water and Irrigation Act 1914

**s. 1052**

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“

**26GJ. Notice to relevant water resources management committee**

- (1) The State Administrative Tribunal is to give notice of its final order in a proceeding commenced by an application under this Part, and of the reasons for its final order, to any relevant water resources management committee.
- (2) In subsection (1) —  
**“relevant water resources management committee”**  
means a water resources management committee established under Part III Division 3C for a locality to which the subject matter of the application relates.
- (3) A notice under subsection (1) has to be given in writing or in any other manner prescribed.
- (4) The obligation imposed by subsection (1) is in addition to any obligation under the *State Administrative Tribunal Act 2004*.

”.

**1052. Section 26M amended**

Section 26M(g) is amended by deleting “appeals against” and inserting instead —

“

applications to the State Administrative Tribunal  
for review of

”.

**1053. Section 27B amended**

Section 27B(h) is amended by deleting “appeals against” and inserting instead —



“

applications to the State Administrative Tribunal  
for review of

”.

**1054. Section 39E amended**

Section 39E(7) is amended by deleting “an appeal against the  
decision may be made.” and inserting instead —

“ a review of the decision may be sought. ”.

**1055. Section 39F amended**

- (1) Section 39F(1) is amended by deleting “treat the objection as an  
appeal against the relevant entry.” and inserting instead —

“

refer the relevant entry to the State Administrative  
Tribunal for a review.

”.

- (2) Section 39F(2) is amended by deleting “objection to a Land  
Valuation Tribunal under the *Land Valuation Tribunals  
Act 1978* as an appeal.” and inserting instead —

“

relevant entry in the records to the State Administrative  
Tribunal for a review.

”.

- (3) After section 39F(2) the following subsection is inserted —

“

- (3) The Corporation is to effect the reference by  
forwarding the notice to the executive officer of the  
State Administrative Tribunal together with the  
objection and a copy certified by or on behalf of the  
Corporation of —

- (a) the relevant entry in the records; and

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**Division 114** Rights in Water and Irrigation Act 1914

**s. 1056**

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(b) the reasons, if any, for the entry.

”.

**1056. Section 39G amended**

- (1) Section 39G(1) is amended by deleting “treat an objection as an appeal may serve on the Corporation a notice requiring the Corporation to refer the decision to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal.” and inserting instead —

“

refer the relevant entry in the records to the State Administrative Tribunal for a review may serve on the Corporation a notice requiring the Corporation to refer the decision to refuse to extend time to the State Administrative Tribunal for a review.

”.

- (2) Section 39G(2) is amended by deleting “such a Tribunal as an appeal.” and inserting instead —

“ the State Administrative Tribunal for a review. ”.

- (3) After section 39G(2) the following subsection is inserted —

“

(3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the decision to refuse to extend the time; and  
(b) the reasons, if any, for the decision.

”.

**1057. Sections 39GA and 39GB inserted**

After section 39G the following sections are inserted —

“

**39GA. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal on a reference under section 39F or 39G, the State Administrative Tribunal may consider —
  - (a) grounds in addition to those stated in the notice of objection; and
  - (b) reasons in addition to any reasons previously given for the Corporation’s decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

**39GB. Written reasons for certain determinations to be given and published**

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 39F or 39G is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2004*.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 115** Road Traffic Act 1974

**s. 1058**

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**1058. Section 39H amended**

Section 39H is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by deleting “or the appeal”.

**1059. Section 39I amended**

(1) Section 39I(1) is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by inserting after “under this Act” —

“

or in consequence of a review by the State  
Administrative Tribunal

”.

(2) Section 39I(2) is amended as follows:

- (a) by deleting “, in consequence of the allowance, wholly or in part, of an objection or appeal under this Act,”;
- (b) by inserting after “an assessment is necessary” —  
“ under subsection (1) ”.

**1060. Schedule 2 repealed**

Schedule 2 is repealed.

**Division 115 — Road Traffic Act 1974**

**1061. The Act amended**

The amendments in this Division are to the *Road Traffic Act 1974*\*.

[\* Reprint 8 as at 16 July 2004 and see Act No. 10 of 2004.]

**1062. Section 25 amended**

- (1) Section 25(1) is amended by deleting “There shall be an appeal to a court of petty sessions, whose order shall be final,” and inserting instead —

“

An application for review may be made to the State  
Administrative Tribunal

”.

- (2) Section 25(2) is repealed.

**1063. Section 48 amended**

- (1) Section 48(4) is amended by deleting “, within 30 days after the receipt of the notice, apply, by way of complaint, to a court of petty sessions” and inserting instead —

“ apply to the State Administrative Tribunal ”.

- (2) Section 48(5) and (6) are repealed.

- (3) Section 48(8) is amended by deleting “under subsection (5) or (6)” and inserting instead —

“ after an application to the State Administrative Tribunal ”.

**1064. Section 49 amended**

After section 49(2) the following subsection is inserted —

“

- (2a) In subsection (2)(a), a reference to anything done under section 48 does not include anything for the review of which an application has been made to the State Administrative Tribunal if the application has not been determined when the offence is committed.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 116** Royal Agricultural Society Act 1926

**s. 1065**

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**Division 116 — *Royal Agricultural Society Act 1926***

**1065. The Act amended**

The amendments in this Division are to the *Royal Agricultural Society Act 1926*\*.

[\* *Reprinted as at 24 August 2001.*]

**1066. Section 2 amended**

Section 2 is amended by deleting the definition of “Minister”.

**1067. Section 3 amended**

Section 3(3) is amended as follows:

- (a) by deleting “there shall be an appeal to the Minister from” and inserting instead —

“

an application may be made to the State Administrative Tribunal for a review of

”;

- (b) by deleting all of the subsection after “other body of persons”.

**Division 117 — *Security and Related Activities (Control) Act 1996***

**1068. The Act amended**

The amendments in this Division are to the *Security and Related Activities (Control) Act 1996*\*.

[*Act No. 27 of 1996.*]

**1069. Section 48 amended**

Section 48(4) is amended as follows:

- (a) by deleting “an appeal lies” and inserting instead —

- “ a review is available ”;
- (b) in paragraph (a) by deleting “bringing an appeal” and inserting instead —
- “ applying for a review ”;
- (c) in paragraph (b) by deleting “an appeal is brought” and inserting instead —
- “ an application for a review is made ”.

**1070. Section 55 amended**

Section 55 is amended as follows:

- (a) by inserting after “sufficient grounds” —
- “ to make an allegation under section 67(1) or ”;
- (b) by deleting “under section 67” and inserting instead —
- “ under section 67(3) or 81(1) ”.

**1071. Part 7 Division 4 heading replaced**

The heading to Part 7 Division 4 is deleted and the following heading is inserted instead —

“

**Division 4 — Disciplinary proceedings against licensees**

”.

**1072. Section 67 amended**

- (1) Section 67(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) The Commissioner may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1a), against a licensee.
- (1a) There is proper cause for disciplinary action against a licensee —

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- (a) if the licensee no longer meets the requirements described in section 52(c), (e), (f) or (i);
  - (b) where the licence is held on behalf of a partnership or body corporate, if the partnership and any of the partners or the body and any of the body's officers, as the case may be, no longer meet the requirements described in section 52(c), (d), (e) or (f);
  - (c) if there is power to cancel an endorsement on the licence under section 68;
  - (d) if the licensee has committed a breach of a code of conduct prescribed as being a proper cause for disciplinary action against a licensee under section 94(2); or
  - (e) if the licensee or a person referred to in paragraph (b) has contravened, or failed to comply with —
    - (i) a provision of this Act; or
    - (ii) the licence or a condition or restriction to which the licence is subject.
- (2) If, in a proceeding commenced by an allegation under subsection (1) against a licensee, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may revoke the licence of the licensee or cancel an endorsement on the licence under section 24 or 26.

”.

- (2) Section 67(3) is amended by deleting “stating the grounds on which the revocation is made, and the licence is revoked when the notice is received or deemed to be received by the licensee.” and inserting instead —

“

—



- (a) stating the grounds on which the revocation is made; and
- (b) advising that the Commissioner will refer the matter to the State Administrative Tribunal within 14 days of the making of the notice,

and the licence is revoked when the notice is received or deemed to be received by the licensee.

”.

- (3) After section 67(3) the following subsections are inserted —

“

- (3a) A copy of a notice given under subsection (3) is to be given to the Commissioner by the licensing officer who gave the notice as soon as is practicable, but in any event not later than 3 days, after giving the notice.
- (3b) Within 14 days of a notice being given under subsection (3) the Commissioner must —
  - (a) refer the matter in respect of which the notice was given to the State Administrative Tribunal; and
  - (b) ensure that any other proceedings under this Division in respect of the matter commenced before the notice was given are discontinued.

”.

**1073. Section 68 amended**

- (1) Section 68(2) is repealed and the following subsections are inserted instead —

“

- (2) Subject to subsection (2a), a cancellation of an endorsement is not effective unless a licensing officer —
  - (a) has given to the licensee written notice of the intention to cancel the endorsement stating the

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grounds on which the cancellation is intended to be made and allowing the licensee 21 days within which to respond to the notice;

(b) has had due regard to any response to the notice made within that time; and

(c) has given to the licensee written notice of cancellation of the endorsement at least 14 days before the cancellation is to take effect, stating the grounds on which the cancellation is made.

(2a) If in the opinion of the licensing officer the safety or welfare of members of the public is or may be at risk from the continuance in force of an endorsement the licensing officer may give to the licensee written notice of the cancellation stating the grounds on which the cancellation is made, and the endorsement is cancelled when the notice is received or deemed to be received by the licensee.

(2b) A person to whom notice of cancellation of an endorsement is given must comply with any directions of a licensing officer in relation to delivering up the licence and the identity card issued to the person.

Penalty: \$2 000.

”.

(2) Section 68(3) is amended by deleting “section 67(4) as applied by subsection (2),” and inserting instead —

“ subsection (2b) ”.

**1074. Part 7 Division 5 heading replaced**

The heading to Part 7 Division 4 is deleted and the following heading is inserted instead —

“

**Division 5 — Review of licensing decisions**

”.

**1075. Section 71 repealed**

Section 71 is repealed.

**1076. Section 72 replaced**

Section 72 is repealed and the following section is inserted instead —

“

**72. Application for review**

(1) Any person aggrieved by a reviewable decision of a licensing officer may apply to State Administrative Tribunal for a review of the decision.

(2) In subsection (1) —

“**person aggrieved**” means a person whose licence is affected by a reviewable decision or who applies for the grant or renewal of a licence;

“**reviewable decision**” means a decision —

- (a) to refuse to issue or renew a licence or refuse to grant an endorsement under section 24 or 26;
- (b) as to the period for which a licence is issued or renewed;
- (c) as to a condition or restriction which is attached to a licence or an endorsement under section 24 or 26;
- (d) to revoke a licence; or
- (e) to cancel an endorsement under section 24 or 26;

”.

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**1077. Sections 73 and 74 replaced**

Sections 73 and 74 are repealed and the following sections are inserted instead —

“

**73. Surrender of licence**

Despite the surrender by a person of the person's licence, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence had not been surrendered.

**74. Suspension of licence by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the person's licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by the *State Administrative Tribunal Act 2004*.

”.

**1078. Section 81 amended**

Section 81(2) is repealed and the following subsections are inserted instead —

“

- (2) Subject to subsection (3), a revocation under subsection (1) of a crowd controller's licence is not effective unless a licensing officer —
  - (a) has given to the licensee written notice of the intention to revoke the licence stating the grounds on which the revocation is intended to be made and allowing the licensee 21 days within which to respond to the notice;
  - (b) has had due regard to any response to the notice made within that time; and
  - (c) has given to the licensee written notice of revocation of the licence at least 14 days before the revocation is to take effect, stating the grounds on which the revocation is made.
- (3) Nothing in this section limits the power of a licensing officer to give to the licensee a written notice of revocation under section 67(3).
- (4) A person to whom notice of revocation of a licence is given under this section must comply with any directions of a licensing officer in relation to delivering up the licence and the identity card issued to the person.

Penalty: \$2 000.

”.

**1079. Section 94 amended**

Section 94(2)(b) is amended by deleting “ground on which a licence may be revoked under section 67.” and inserting instead —

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“

proper cause for disciplinary action against a licensee under section 67(1a)(d).

”.

**Division 118 — Settlement Agents Act 1981**

**1080. The Act amended**

The amendments in this Division are to the *Settlement Agents Act 1981*\*.

[\* Reprinted as at 3 November 2000.

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 354 and Act No. 21 of 2003.]*

**1081. Section 3 amended**

Section 3(1) is amended by deleting the definition of “proceedings”.

**1082. Part II Division 3 heading replaced**

The heading to Part II Division 3 is deleted and the following heading is inserted instead —

“

**Division 3 — Proceedings of, and review of decision of, Board**

”.

**1083. Sections 19 to 21 amended and section 22 repealed**

(1) Section 19 is amended as follows:

- (a) by deleting all of subsection (1) after “imposed” in paragraph (a) and inserting instead a full stop;
- (b) by repealing subsection (9).

- (2) Section 20(1)(e) is amended by deleting “, including the person whose conduct is subject to an inquiry,”.
- (3) Section 21(2) and (3) are repealed.
- (4) Section 22 is repealed.

**1084. Section 23 replaced**

Section 23 is repealed and the following section is inserted instead —

“

**23. Application for review**

- (1) Any person aggrieved by a reviewable decision of the Board may apply to the State Administrative Tribunal for a review of the decision.
- (2) In subsection (1) —  
**“person aggrieved”** means —
  - (a) a person whose licence or triennial certificate is affected by a reviewable decision or who, under Part III, applies for or objects to the grant of a licence or applies for the renewal of a triennial certificate;
  - (b) a person affected by a decision of the Board under Part IV Division 2;
  - (c) a person claiming against, or seeking the leave of the Board to commence an action in relation to, the Fidelity Guarantee Fund; or
  - (d) a person affected by an order of the Board for costs under section 21;

**“reviewable decision”** means —

- (a) a decision under Part III other than —
  - (i) a decision under section 35; or

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- (ii) a determination of the form in which an application or objection is made;
- (b) a decision under Part IV Division 2;
- (c) a decision under section 93 or 95; or
- (d) an order for costs under section 21.

”.

**1085. Section 30 amended**

After section 30(4) the following subsection is inserted —

“

- (5) Despite the surrender by a person of a licence or triennial certificate, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or certificate had not been surrendered.

”.

**1086. Section 34 amended**

Section 34(4) is repealed.

**1087. Section 34A and 34B inserted**

After section 34 the following sections are inserted —

“

**34A. Unopposed applications**

- (1) Subject to this Part, a licence may be granted and a triennial certificate may be granted or renewed, (as long as there is no objection in respect of a licence and special conditions are not imposed or changed) by —
  - (a) the Board, in a meeting at any time and place;or



(b) the Registrar, at any time or place,

without notice to the applicant, and the performance of a function by the Registrar under this subsection is to be treated as performance by the Board.

- (2) Where the Board or Registrar performs a function under subsection (1), the Registrar shall forthwith deliver the licence or triennial certificate or the renewed triennial certificate, as the case may be, to the applicant.
- (3) Sections 27, 28, and 29 apply to the Registrar in the performance of a function under subsection (1) as if a reference in any of those provisions to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

**34B. Suspension of licence by State Administrative Tribunal**

- (1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by Part IV Division 3 or by the *State Administrative Tribunal Act 2004*.

”.

**1088. Section 57 repealed**

Section 57 is repealed.

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**Division 118** Settlement Agents Act 1981

**s. 1089**

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**1089. Section 83 replaced**

Section 83 is repealed and the following section is inserted instead —

“

**83. Disciplinary proceedings against settlement agents**

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 84(2).

”.

**1090. Section 84 amended**

(1) Section 84(1) is amended as follows:

- (a) by deleting “If after conducting an inquiry under section 83(1) the Board is satisfied that proper cause exists for disciplinary action, the Board” and inserting instead —

“

If, in a proceeding commenced by an allegation under section 83 the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal

”;

- (b) in paragraph (c) by deleting “Board” in both places where it occurs and inserting instead —

“ State Administrative Tribunal ”.

(2) Section 84(2) is amended as follows:

- (a) in paragraph (a) by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”;

- (b) in paragraph (d) by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

- (3) Section 84(3) is amended as follows:
- (a) by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”;
  - (b) by deleting paragraph (a) and “and” after it.
- (4) Section 84(4) is amended by deleting “Board” and inserting instead —  
“ State Administrative Tribunal ”.

**1091. Section 102B amended**

Section 102B is amended as follows:

- (a) by deleting paragraph (d);
- (b) in paragraph (e) by inserting after “fines” —  
“  
, other than those imposed by the State  
Administrative Tribunal, that are  
”;
- (c) in paragraph (f) by deleting “, (d)”.

**1092. Section 112 amended**

After section 112(1) the following subsection is inserted —

“

- (2) The Board’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
    - (i) investigations and inquiries undertaken by, or at the direction of, the Board or the Registrar; and
    - (ii) matters that have been brought before the State Administrative Tribunal under this Act;

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- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Board.

”.

**1093. Section 123 amended**

Section 123(2) is amended as follows:

- (a) by deleting paragraph (b) and inserting the following paragraph instead —

“

- (b) provide for the enforcement of orders of the Board for costs under section 21;

”;

- (b) in paragraph (f) by inserting after “of this Act” —

“

, but not in connection with the initiation of a proceeding before the State Administrative Tribunal

”.

**1094. Various references to “District Court” amended**

The Act is amended by deleting “District Court” in each place specified in the Table to this section and inserting instead —

“ State Administrative Tribunal ”.

**Table**

- s. 73(1) (3 places)
- s. 73(2) (both places)

- s. 73(4)
- s. 74(1) (4 places)
- s. 74(2) (3 places)
- s. 74(3) (both places)
- s. 74(4)(b) (both places)
- s. 78 (both places)
- s. 79(1) (both places)
- s. 79(3) and (4)

**Division 119 — *Soil and Land Conservation Act 1945***

**1095. The Act amended**

The amendments in this Division are to the *Soil and Land Conservation Act 1945*\*.

[\* *Reprinted as at 12 August 1997.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 359.]*

**1096. Section 25B amended**

Section 25B(4) is amended as follows:

- (a) by deleting “of the allowance, wholly or in part,”;
- (b) by deleting “or an appeal”;
- (c) by inserting after “*Valuation of Land Act 1978*” —  
“ or a review by the State Administrative Tribunal ”.

**1097. Section 33 repealed**

Section 33 is repealed.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 119** Soil and Land Conservation Act 1945

**s. 1098**

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**1098. Section 34 amended**

- (1) Section 34(1) is amended by deleting “, within 30 days of service of the notice, appeal against the notice to the Minister by causing written grounds of his objection to be served on the Minister.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Commissioner to issue the notice.

”.

- (2) Section 34(2) and (3) are repealed.

- (3) Section 34(4) is amended as follows:

- (a) by deleting “appeal” in the first, third and fourth places where it occurs and inserting instead —

“ application for review ”;

- (b) by deleting “appeal” in the second place where it occurs and inserting instead —

“ application ”.

**1099. Section 34A amended**

Section 34A(3) is amended as follows:

- (a) in paragraph (a) by deleting “quashed under section 33 or 34” and inserting instead —

“

withdrawn as a result of an application under section 34

”;

- (b) in paragraph (b) by deleting “or 39”;

- (c) by inserting after “soil conservation notice was quashed” —

“ , withdrawn ”.

**1100. Section 39 amended**

- (1) Section 39(1) is amended by deleting “appeal against the refusal to the Minister by causing written grounds of his appeal to be served on the Minister.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the refusal.

”.

- (2) Section 39(2) and (3) are repealed.

**1101. Section 39A repealed**

Section 39A is repealed.

**1102. Section 48 amended**

Section 48(2)(j) is deleted.

**Division 120 — State Superannuation Act 2000**

**1103. The Act amended**

The amendments in this Division are to the *State Superannuation Act 2000*\*.

[\* *Act No. 42 of 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 370 and Act No. 21 of 2003.]*

**1104. Section 13 amended**

- (1) Section 13(3)(a) is amended by deleting “appeal to a Judge” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision

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**Division 121** Strata Titles Act 1985

**s. 1105**

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”

- (2) Section 13(4) is repealed and the following subsection is inserted instead —

“

- (4) A referral under subsection (3)(b) is to be made and dealt with in accordance with the regulations.

”

- (3) Section 13(5) is amended by deleting “an appeal or”.

**1105. Section 38 amended**

Section 38(2)(1) is deleted and the following paragraph is inserted instead —

“

- (1) reviews, other than by the State Administrative Tribunal, of decisions of the Board.

”

**Division 121 — Strata Titles Act 1985**

**1106. The Act amended**

The amendments in this Division are to the *Strata Titles Act 1985*\*.

[\* *Reprinted as at 1 July 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 376-7.]*

**1107. Section 3 amended**

Section 3(1) is amended by deleting the definition of “referee”.

**1108. Section 3B amended**

Section 3B(7) is amended by deleting “under Division 4” and inserting instead —



“ against the refusal ”.

**1109. Section 16 amended**

- (1) Section 16(1) and (2) are amended by deleting “a Land Valuation Tribunal” in each place where it occurs and inserting instead —

“ the State Administrative Tribunal ”.

- (2) Section 16(3) is amended as follows:

- (a) in paragraph (b) by deleting “the Land Valuation Tribunal” and inserting instead —

“ the State Administrative Tribunal ”;

- (b) by deleting all of the subsection after “of the application” and inserting instead a full stop.

- (3) After section 16(3) the following subsection is inserted —

“

- (3a) Subsection (3) does not limit the ability of the State Administrative Tribunal to order that a person be joined as a party to the proceedings.

”.

- (4) Section 16(4) is amended as follows:

- (a) by deleting “the Land Valuation Tribunal” and inserting instead —

“ the State Administrative Tribunal ”;

- (b) by deleting “the Tribunal” and inserting instead —

“ the State Administrative Tribunal ”.

- (5) Section 16(6) is amended as follows:

- (a) by deleting “The Land Valuation Tribunal” and inserting instead —

“ The State Administrative Tribunal ”;

- (b) by deleting “the Tribunal” and inserting instead —

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“ the State Administrative Tribunal ”.

**1110. Section 21G amended**

Section 21G(1)(b) is amended by deleting “a referee” and inserting instead —

“ the executive officer of the State Administrative Tribunal ”.

**1111. Section 21T amended**

Section 21T(1)(a) is amended by deleting “a referee” and inserting instead —

“ the executive officer of the State Administrative Tribunal ”.

**1112. Section 23 amended**

- (1) Section 23(1)(a) is amended by deleting all of the paragraph after “local government” and inserting instead —

“

at first instance, or as a result of a review by the State Administrative Tribunal;

”.

- (2) Section 23(3) is amended by deleting “or on appeal by order of the relevant Minister” and inserting instead —

“

or as a result of a review by the State Administrative Tribunal

”.

**1113. Section 24 amended**

Section 24(7) is amended by deleting “8” and inserting instead —

“ 8A ”.

**1114. Section 25 amended**

Section 25(2) is amended by deleting “8” and inserting instead —

“ 8A ”.

**1115. Section 25A amended**

Section 25A(3) is amended by deleting “paragraph (c) of section 27(3) instead of the period of 40 days mentioned in that paragraph.” and inserting instead —

“

section 27(4) instead of the period of 40 days mentioned in that subsection.

”.

**1116. Section 25B amended**

- (1) Section 25B(3) is repealed.
- (2) Section 25B(4)(a) is amended by deleting “certificate under subsection (3);” and inserting instead —

“

certificate of the executive officer of the State Administrative Tribunal to the effect that a successful application has been made to the State Administrative Tribunal for a review of the Commission’s refusal or failure to give an approval referred to in subsection (2);

”.

**1117. Section 26 amended**

- (1) Section 26(1)(l) is amended by deleting “8(3)(e)” and inserting instead —  
“ 8A(f) ”.
- (2) Section 26(3)(b) is amended as follows:

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**s. 1117**

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- (a) by deleting “to appeal against the refusal”;
  - (b) by inserting after “this section” —  
“ to apply for a review of the refusal ”.
- (3) Section 26(4) is amended as follows:
- (a) by deleting “appeal to the Minister to whom the administration of the *Local Government (Miscellaneous Provisions) Act 1960* is for the time being committed by the Governor against” and inserting instead —  
“  
apply to the State Administrative Tribunal for a review of  
”;
  - (b) in paragraph (a) by deleting “of the kind referred to in subsection (1)(a), (b), (d), (h), (i) and (l)(i);” and inserting instead —  
“ ; or “;
  - (c) in paragraph (b) by deleting “of the kind referred to in subsection (1)(i); or” and inserting instead a full stop;
  - (d) by deleting paragraph (c).
- (4) Section 26(5) is amended as follows:
- (a) by deleting “Subject to this section, an applicant may appeal under” and inserting instead —  
“ A review is to be in accordance with “;
  - (b) by deleting “against” and inserting instead —  
“ , if the review is of ”;
  - (c) by inserting after paragraph (a) —  
“ or ”;
  - (d) by deleting at the end of paragraph (b) the semicolon and “or” after it and inserting instead a full stop;
  - (e) by deleting paragraph (c).

(5) After section 26(5) the following subsection is inserted —

“

(6) For the purposes of subsections (4) and (5), if a local government fails to notify its approval of an application to the applicant within 40 days of receiving the application, it is taken to have refused the application at the end of that period.

”.

(6) Section 26(7) is amended as follows:

(a) by deleting “appeal” and inserting instead —

“ application ”;

(b) by deleting “commenced” and inserting instead —

“ made ”;

(c) by deleting all of the subsection after “referred to in” and inserting instead —

“ subsection (6), as the case may be. ”.

(7) Section 26(8), (9), (10), (11) and (12) are repealed.

**1118. Section 27 amended**

(1) Section 27(3) is amended as follows:

(a) by deleting “appeal under” and inserting instead —

“

apply to the State Administrative Tribunal for a review,  
in accordance with

”;

(b) by deleting “against” and inserting instead —

“ , of ”;

(c) by inserting after paragraph (a) —

“ or ”;

(d) by deleting at the end of paragraph (b) the semicolon and “or” after it and inserting instead a full stop;

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- (e) by deleting paragraph (c).
- (2) After section 27(3) the following subsection is inserted —
  - “
  - (4) For the purposes of subsection (3), if the Commission fails to notify its approval of an application to the applicant within 40 days of receiving the application, it is taken to have refused the application at the end of that period.
  - ”.
- (3) Section 27(6) is amended as follows:
  - (a) by deleting “appeal” and inserting instead —
    - “ application ”;
  - (b) by deleting “Town Planning Appeal Tribunal may be commenced” and inserting instead —
    - “ State Administrative Tribunal may be made ”;
  - (c) by deleting all of the subsection after “referred to in” and inserting instead —
    - “ subsection (4), as the case may be. ”.
- (4) Section 27(7), (8), (9) and (10) are repealed.

**1119. Section 38 amended**

Section 38(3) is amended by deleting “, tribunal or a referee” and inserting instead —

“ or tribunal ”.

**1120. Section 39 amended**

Section 39(1)(e) is amended by deleting “, tribunal or referee” and inserting instead —

“ or tribunal ”.

**1121. Section 39A amended**

Section 39A(5) is amended by deleting “The referee” and inserting instead —

“ The State Administrative Tribunal ”.

**1122. Section 47 amended**

- (1) Section 47(2)(a) is amended by deleting “, by the referee;” and inserting instead —

“

by the State Administrative Tribunal by an order made on the application of the council of the strata company or a person concerned;

”.

- (2) Section 47(2)(d)(ii) is amended by deleting “or the referee”.

- (3) After section 47(2) the following subsection is inserted —

“

- (2a) The provisions of Part VI apply to an application made to the State Administrative Tribunal under subsection (2)(a) and to an order made by the State Administrative Tribunal in the same way as they apply to an application and an order made under that Part.

”.

**1123. Section 62 amended**

Section 62(2) is amended by deleting “appeal against” and inserting instead —

“ review of ”.

**1124. Section 64 amended**

Section 64(1) is amended as follows:

- (a) by deleting “appeal” in the first place where it occurs and inserting instead —

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“ review ”;

(b) by deleting “appeal against” and inserting instead —

“ seek a review of ”.

**1125. Part VI Division 1 repealed**

Part VI Division 1 is repealed.

**1126. Section 77 amended**

Section 77 is amended as follows:

(a) by deleting by deleting “An” and inserting instead —

“

In addition to complying with any requirements of the  
*State Administrative Tribunal Act 2004*, an

”;

(b) by deleting paragraph (a);

(c) by inserting after paragraph (b) —

“ and ”;

(d) by deleting at the end of paragraph (c) the semicolon  
and “and” after it and inserting instead a full stop;

(e) by deleting paragraph (d).

**1127. Section 77A repealed**

Section 77A is repealed.

**1128. Section 79 amended**

(1) Section 79(1) is repealed.

(2) Section 79(2) is amended by deleting “under subsection (1)(a)  
or (c)” and inserting instead —

“

of an application to the State Administrative Tribunal  
under this Part

”.



**1129. Part VI Division 2A repealed**

Part VI Division 2A is repealed.

**1130. Part VI Division 3 heading amended**

The heading to Part VI Division 3 is amended by deleting  
“referee” and inserting instead —

“ **State Administrative Tribunal** ”..

**1131. Section 81 amended**

- (1) Section 81(1) is repealed and the following subsection is  
inserting instead —

“

- (1) The State Administrative Tribunal may make  
an order sought by the applicant and an order  
made may be expressed in terms different  
from the order sought, so long as it does not  
differ in substance from the order sought.

”.

- (2) Section 81(2a) is repealed.

- (3) Section 81(7) is amended as follows:

- (a) by deleting “Subject to sections 79(1)(d) and 103H(8), a  
referee may not” and inserting instead —

“ The State Administrative Tribunal cannot ”.

- (b) by deleting the full stop at the end of the subsection and  
inserting instead —

“

except —

- (c) when allowing an applicant to amend the  
application, to compensate persons for time  
unnecessarily spent in connection with the  
application; or

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(d) under section 103H(8).

”.

(4) Section 81(8) and (9) are repealed.

**1132. Section 82 amended**

(1) Section 82(2) is amended by deleting “he” in the third place where it occurs and inserting instead —

“ it ”.

(2) Section 82(3) is repealed and the following subsection is inserted instead —

“

(3) An interim order may be made or renewed notwithstanding that the time within which a person may make a written submission has not expired.

”.

(3) Section 82(4) is amended as follows:

(a) in paragraph (b) by deleting “District Court under section 106 or by a referee under subsection (5), when it is so revoked” and inserting instead —

“

Supreme Court on appeal from the State  
Administrative Tribunal

”;

(b) in paragraph (c) by deleting “where” and inserting instead —

“

if the State Administrative Tribunal (or the  
Supreme Court on appeal from the State  
Administrative Tribunal)

”;

(c) in paragraph (c)(i) and (ii) by deleting “a referee”;

(d) in paragraph (c) by deleting all of the paragraph after “application” in paragraph (c)(ii) and inserting instead a full stop.

- (4) Section 82(5) is amended by deleting “he does so, he” and inserting instead —

“ it does so, ”.

- (5) Section 82(6) is repealed.

**1133. Section 83 amended**

Section 83(5) is amended by deleting “by the District Court”.

**1134. Section 84 amended**

- (1) Section 84(1)(a), (b) and (c) are amended by deleting “him” and inserting instead —

“ it ”.

- (2) Section 84(3) is amended by deleting “the referee” and inserting instead —

“ it ”.

**1135. Section 85 amended**

Section 85 is amended by deleting “the referee” in the second place where it occurs and inserting instead —

“ it ”.

**1136. Section 89 amended**

Section 89 is amended by deleting “by him”.

**1137. Section 97 amended**

Section 97(2) is amended by deleting “he” and inserting instead —

“ it ”.

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**1138. Section 98 amended**

Section 98 is amended by deleting “to a Land Valuation Tribunal”.

**1139. Section 99 amended**

Section 99(2) is amended as follows:

- (a) by deleting “of a referee”;
- (b) in paragraphs (a) and (b) by deleting “of the referee” in each place where it occurs.

**1140. Section 99A amended**

Section 99A(4) is amended by deleting “him” and inserting instead —

“ it ”.

**1141. Section 102 amended**

(1) Section 102(2) is amended as follows:

- (a) by deleting “A referee who” and inserting instead —  
“ If it ”;
- (b) by inserting after “subsection (1)” —  
“ , the State Administrative Tribunal ”.

(2) Section 102(5) is amended by deleting “the referee specifies” and inserting instead —

“ are specified ”.

**1142. Section 103F amended**

Section 103F(5) is amended by deleting “The referee” and inserting instead —

“ The State Administrative Tribunal ”.

**1143. Section 103H amended**

Section 103H(6) is amended by deleting “referee” and inserting instead —

“ executive officer of the State Administrative Tribunal ”.

**1144. Section 104 amended**

- (1) Section 104(1) is amended by deleting “An order by a referee shall be made in writing and a copy, certified by the referee to be a true copy, shall be served by the referee” and inserting instead —

“

A copy of an order by the State Administrative Tribunal shall be served

”.

- (2) Section 104(2) is amended by deleting “the referee’s” and inserting instead —

“ the State Administrative Tribunal’s ”.

**1145. Sections 105, 106 and 107 repealed**

Sections 105, 106 and 107 are repealed.

**1146. Section 110 repealed**

Section 110 is repealed.

**1147. Section 111 amended**

Section 111(1) is amended by deleting “District Court under this Division” and inserting instead —

“

Supreme Court from the State Administrative Tribunal

”.

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**1148. Section 113 amended**

- (1) Section 113(1) is repealed.
- (2) Section 113(2) is amended as follows:
  - (a) by deleting “sent to the referee under subsection (1), the referee shall cause a copy of the order, certified by him to be a true copy,” and inserting instead —  
“  
made by the Supreme Court on appeal from the State Administrative Tribunal , the executive officer of the State Administrative Tribunal shall cause a copy of the order  
”;
  - (b) by deleting paragraph (c).

**1149. Section 114 amended**

- (1) Section 114(2) is amended by deleting “by the referee”.
- (2) Section 114(5) is amended as follows:
  - (a) by inserting after paragraph (a) —  
“ and ”;
  - (b) in paragraph (b) by deleting the semicolon and inserting instead a full stop;
  - (c) by deleting paragraphs (c) and (d) and “and” after paragraph (c).
- (3) Section 114(6) is repealed.

**1150. Section 115 amended**

Section 115(1)(b) is amended as follows:

- (a) by deleting “referee to be registered” and inserting instead —  
“ State Administrative Tribunal to be recorded ”;

(b) by deleting “referee” and inserting instead —

“  
executive officer of the State Administrative Tribunal  
”.

**1151. Sections 116 to 120 repealed**

Sections 116, 116A, 117, 118, 119 and 120 are repealed.

**1152. Sections 128 repealed**

Section 128 is repealed.

**1153. Section 130 amended**

Section 130 is amended as follows:

- (a) in paragraph (b) —
  - (i) by deleting “including” and inserting instead —  
“ except ”; and
  - (ii) by deleting “referees” and inserting instead —  
“ the State Administrative Tribunal ”;
- (b) after paragraph (f) by inserting “and”;
- (c) by deleting paragraphs (g) and (h) and “and” after paragraph (h).

**1154. Schedule 3 amended**

- (1) Schedule 3 clause 12(11) is repealed and the following subclause is inserted instead —

“  
(11) An application for an order referred to in subclause (10) cannot be accepted unless the proprietor satisfies the State Administrative Tribunal that the justice of the case requires that the application be accepted.  
”.

- (2) Schedule 3 clause 13A(7) is repealed and the following subclause is inserted instead —

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“

- (7) An application under subclause (5) cannot be accepted unless the proprietor satisfies the State Administrative Tribunal that the justice of the case requires that the application be accepted.

”.

- (3) Schedule 3 clause 13A(8) is amended by deleting “he” and inserting instead —

“ it ”.

**1155. Schedule 4 amended**

Schedule 4 clause 2(8) is repealed and the following subclause is inserted instead —

“

- (8) An application for an order referred to in subclause (7) cannot be accepted unless the proprietor satisfies the State Administrative Tribunal that the justice of the case requires that the application be accepted.

”.

**1156. Various references to “referee” amended**

- (1) The Act is amended by deleting “a referee” in each place specified in the Table to this subsection and inserting instead —

“ the State Administrative Tribunal ”.

**Table**

- s. 3(1) (in the definition of “administrator”)
- s. 39A(7)
- s. 42(2)(b)
- s. 77
- s. 78(1) (both places)
- s. 78(2)
- s. 83(4) and (5)
- s. 84(2) and (3)
- s. 93(1) and (3)



s. 94(1)  
s. 95(1)  
s. 97(1)  
s. 99(1)  
s. 99A(1)  
s. 100(1)  
s. 101  
s. 102(1), (3) and (4)  
s. 103(1)  
s. 103A(1) and (3)  
s. 103B(1)  
s. 103C(1)  
s. 103D(1)  
s. 103E(1) and (3)  
s. 103F(1) and (3)  
s. 103G(1) and (4)  
s. 103H(1) and (3)  
s. 103I(1)  
s. 103J(1) and (3)  
s. 103K(1)  
s. 103L(1) and (3)  
s. 103M(1)  
s. 103N(1)  
s. 103O(1) (both places)  
s. 103P(1)  
s. 103Q(1)  
s. 103R(1)  
s. 114(4)(b)  
s. 121  
s. 125(3)  
Sch. 3 item 12(10) (both places)  
Sch. 3 item 13A(5) and (6)  
Sch. 4 item 2(7)(a) and (b)

(2) The Act is amended by deleting “A referee” in each place specified in the Table to this subsection and inserting instead —

“ The State Administrative Tribunal ”.

**Table**

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**Part 2** Various Acts amended to confer jurisdiction

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**s. 1156**

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s. 81(3) and (4)  
s. 82(5)  
s. 83(1)  
s. 84(1)  
s. 94(2)  
s. 97(2)  
s. 103H(8)  
s. 103I(4)

- (3) The Act is amended by deleting “the referee” in each place specified in the Table to this subsection and inserting instead —  
“ the State Administrative Tribunal ”.

**Table**

s. 3B(7)(c)  
s. 39A(4)(c)(ii)  
s. 39A(7)  
s. 42A(2)  
s. 81(2)  
s. 82(2) and (4)(a)  
s. 85  
s. 86 (both places)  
s. 87 (both places)  
s. 88 (both places)  
s. 89 (both places)  
s. 90 (both places)  
s. 91 (both places)  
s. 92 (3 places)  
s. 95 (both places)  
s. 97(1)  
s. 98 (both places)  
s. 99(1)  
s. 99A(4)  
s. 100(1)  
s. 101  
s. 103(2) and (3)  
s. 103B(2) and (3)  
s. 103C(3)  
s. 103D(4)

s. 103H(2) and (8)  
s. 103I(3)  
s. 103K(3) and (4)  
s. 103L(2)  
s. 103M(4)  
s. 103N(5)  
s. 103O(5)  
s. 103P(3)  
s. 103Q(3)  
s. 103R(3)  
s. 104(1)(c)  
s. 114(1)  
s. 121 (both places)  
Sch. 2A item 14  
Sch. 3 item 13A(6) and (8)

**1157. Various references to “by a referee” deleted**

The Act is amended by deleting “by a referee” in each place specified in the Table to this section.

**Table**

s. 3AB(2)(b)  
s. 21F(2)(c)  
s. 21Q(2)(c)

**1158. Various references to “he is” deleted**

The Act is amended by deleting “he is” in each place specified in the Table to this section.

**Table**

s. 39A(5)  
s. 82(2)  
s. 93(3)  
s. 94(2)  
s. 103A(3)  
s. 103B(3)  
s. 103C(3)  
s. 103D(4)

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**Part 2** Various Acts amended to confer jurisdiction

**Division 122** Subiaco Redevelopment Act 1994

**s. 1159**

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- s. 103E(3)
- s. 103F(3)
- s. 103G(4)(a) and (b)
- s. 103H(3)
- s. 103I(3)
- s. 103J(3)
- s. 103K(3) and (4)
- s. 103L(3)
- s. 103M(4)
- s. 103N(5)
- s. 103O(5)
- s. 103P(3)
- s. 103Q(3)
- s. 103R(3)

**Division 122 — Subiaco Redevelopment Act 1994**

**1159. The Act amended**

The amendments in this Division are to the *Subiaco Redevelopment Act 1994*\*.

[\* *Reprinted as at 25 February 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 378.]*

**1160. Section 52 amended**

(1) Section 52(1) is amended as follows:

(a) by deleting “appeal” and inserting instead —

“

apply to the State Administrative Tribunal for a review

”;

(b) by deleting “from” and inserting instead —

“ of ”.

(2) Section 52(2) is repealed.

**1161. Section 54 amended**

- (1) Section 54(2) is amended by deleting “appeal under Part V of the Town Planning Act against” and inserting instead —
- “
- apply to the State Administrative Tribunal for a review,  
in accordance with Part V of the Town Planning Act,  
of the decision to give
- ”.
- (2) Section 54(3) is amended by deleting “appeal” and inserting instead —
- “ application ”.
- (3) Section 54(4) is amended as follows:
- (a) by deleting “Town Planning Appeal Tribunal” in the first place where it occurs and inserting instead —
- “ State Administrative Tribunal ”;
- (b) by deleting “the Town Planning Appeal Tribunal” in the second place where it occurs and inserting instead —
- “ it ”.
- (4) Section 54(6) is amended as follows:
- (a) by deleting “in any court of competent jurisdiction”;
- (b) by deleting “it in so doing” and inserting instead —
- “
- the Authority in so doing as a debt in a court of  
competent jurisdiction
- ”.

**Division 123 — *Swan River Trust Act 1988***

**1162. The Act amended**

The amendments in this Division are to the *Swan River Trust Act 1988*\*.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 124** Taxation Administration Act 2003

**s. 1163**

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[\* Reprinted as at 1 December 2000.]

**1163. Section 68 amended**

- (1) Section 68(2) is amended by deleting all of the subsection after “the notice” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the direction.

”.

- (2) Section 68(3) by deleting “appeal” and inserting instead —

“ application for a review ”.

- (3) Section 68(4) is repealed.

**Division 124 — Taxation Administration Act 2003**

**1164. The Act amended**

The amendments in this Division are to the *Taxation Administration Act 2003*\*.

[\* Act No. 1 of 2003.]

**1165. Section 16 amended**

Section 16(1)(b) is amended by deleting “of a court or tribunal hearing an appeal under section 41” and inserting instead —

“ given in the course of review proceedings ”.

**1166. Section 17 amended**

Section 17(2) is amended by deleting paragraph (a) and “or” after it and inserting instead —

“

- (a) the Commissioner has been directed, in the course of review proceedings, to make the reassessment; or

”.

**1167. Part 4 heading amended**

The heading to Part 4 is amended by deleting “appeals” and inserting instead —

“ **review proceedings** ”.

**1168. Section 31 amended**

Section 31 is amended as follows:

(a) by deleting “and appeal” and inserting instead —  
“ or review ”;

(b) in paragraph (a) by deleting “ appeal under this Act” and inserting instead —  
“ in review proceedings ”.

**1169. Section 32 amended**

Section 32 is amended by deleting “or appeal”.

**1170. Section 33 replaced**

Section 33 is repealed and the following section is inserted instead —

“

**33. Continuing obligation to pay assessed tax**

- (1) An obligation to pay tax is not suspended or deferred by an objection or case stated or by review proceedings.
- (2) An order cannot be made in review proceedings if it would have the effect of suspending or deferring an obligation to pay tax before those proceedings are finally determined.

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 124** Taxation Administration Act 2003

**s. 1171**

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**1171. Section 34 amended**

- (1) Section 34(2)(c) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

- (2) Section 34(4) is amended as follows:

- (a) by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”;

- (b) by deleting “a Small Claims Tribunal constituted by a Magistrate for the decision to be reconsidered.” and inserting instead —

“

the State Administrative Tribunal for a review of the decision.

”.

- (3) Section 34(5) is repealed.

**1172. Section 38 amended**

- (1) Section 38(4) is amended by deleting “appeal body” and inserting instead —

“ State Administrative Tribunal ”.

- (2) Section 38(5) is amended by deleting “appeal body” and inserting instead —

“ State Administrative Tribunal ”.

- (3) Section 38(6) is repealed and the following subsection is inserted instead —

“

- (6) The State Administrative Tribunal may decide the questions raised by the referred objection.

”.



- (4) Section 38(8) is repealed.

**1173. Part 4 Division 3 heading amended**

The heading to Part 4 Division 3 is amended by deleting  
“Appeals” and inserting instead —

**“ Reviews ”.**

**1174. Section 40 amended**

- (1) Section 40(1) is amended by deleting “appeal against” and  
inserting instead —

“

apply to the State Administrative Tribunal for a  
review of

”.

- (2) Section 40(2) is repealed.

**1175. Section 41 repealed**

Section 41 is repealed.

**1176. Section 42 amended**

- (1) Section 42(1) is amended as follows:

- (a) by deleting “appeal must be commenced” and inserting  
instead —

“

application to the State Administrative Tribunal for a  
review of a decision must be made

”;

- (b) by deleting “to which it relates”.

- (2) Section 42(2) is repealed.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 124** Taxation Administration Act 2003

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**1177. Section 43 amended**

- (1) Section 43(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) When the State Administrative Tribunal is dealing with a matter brought before it under this Act other than a matter to which subsection (2) or (2aa) applies, the State Administrative Tribunal is to be constituted by, or include —
- (a) its President or a Deputy President of it; or
  - (b) a senior member of it, as defined in subsection (1) of section 3 of the *State Administrative Tribunal Act 2004*, who is a legal practitioner as defined in that subsection.
- (2) When the State Administrative Tribunal is dealing with a matter brought before it under this Act that relates to an assessment or decision under or for the purposes of the *Debts Tax Assessment Act 2002*, the *Pay-roll Tax Assessment Act 2002*, or the *Stamp Act 1921*, the State Administrative Tribunal is to be constituted by its President, or a Deputy President of it, sitting alone unless subsection (2aa) applies.
- (2aa) A proceeding brought before the State Administrative Tribunal under this Act is included in the operation of section 93 of the *State Administrative Tribunal Act 2004* if it is —
- (a) a proceeding of a kind described in paragraph (a) of the definition of “minor proceeding” in subsection (1) of that section or included by regulations referred to in paragraph (b) of that definition;
  - (b) a proceeding for the review of a directly reviewable decision; or

- (c) a proceeding for the review of a decision of the Commissioner under section 47 in connection with extending time for payment of tax or approving payment of tax in instalments,

but the effect of a no appeals election made under that section in relation to the proceeding is modified as described in subsection (2ab).

- (2ab) The no appeals election does not prevent the Commissioner from making an appeal under the *State Administrative Tribunal Act 2004* Part 5, without leave, against the decision in the proceeding on a question of law if the Treasurer —

- (a) certifies in writing that the question is significant for the protection of the revenue of the State; and
- (b) agrees to indemnify each other party to the proceeding in respect of any cost involved in the appeal,

but a decision made by the Supreme Court in dealing with the appeal does not affect the decision in the proceeding from which the appeal arose and the matter cannot be sent back to the State Administrative Tribunal for reconsideration.

- (2a) For the purposes of subsections (1) and (2) —
- (a) a person appointed as a supplementary President of the State Administrative Tribunal under section 139 of the *State Administrative Tribunal Act 2004* is not to be regarded as its President unless the person is a Judge, acting Judge or auxiliary judge of the Supreme Court; and
- (b) a person appointed as a supplementary Deputy President of the State Administrative Tribunal under section 141 of the *State Administrative*

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*Tribunal Act 2004* is not to be regarded as a Deputy President of it unless the person is a Judge, acting Judge or auxiliary Judge of the District Court.

- (2b) Subsections (1) and (2) apply to the constitution of the State Administrative Tribunal at every stage of a proceeding before it, including a directions hearing or other hearing of a procedural nature before the Tribunal.

”.

- (2) Section 43(4) is amended as follows:

- (a) in paragraph (a) by deleting “at the direction of a court or tribunal” and inserting instead —

“ as directed in the course of review proceedings ”.

- (b) in paragraph (b) by deleting “of appeal against the decision” and inserting instead —

“ to take review proceedings ”.

**1178. Section 43A inserted**

After section 43 the following section is inserted —

“

**43A. Appeal from decision of State Administrative Tribunal**

- (1) An appeal from a decision of the State Administrative Tribunal can be brought on a question of law, of fact, or mixed law and fact, without having first obtained leave to appeal.
- (2) The appeal has to be instituted in accordance with the rules of the Supreme Court and within the period of 28 days after —
- (a) the day on which the Tribunal’s decision is made; or

- (b) if the Tribunal gives oral reasons for the decision and the appellant then requests it to give written reasons under section 78 of the *State Administrative Tribunal Act 2004*, the day on which the written reasons are given to the appellant.

”.

**1179. Section 47 amended**

Section 47(8) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

**1180. Section 56 amended**

Section 56(3) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

**1181. Section 57 amended**

Section 57(3) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

**1182. Section 59 amended**

- (1) Section 59 is amended by inserting before “No action” the subsection designation “(1)”.
- (2) At the end of section 59 the following subsection is inserted —
- “
- (2) Subsection (1) does not prevent an appeal from a decision of the State Administrative Tribunal.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 125** Taxi Act 1994

**s. 1183**

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**1183. Glossary amended**

The Glossary is amended by deleting the definition of “non-reviewable decision” and inserting the following definitions in the appropriate alphabetical positions —

“

“**directly reviewable decision**” means a decision under a taxation Act that is expressed by the Act to be directly reviewable;

“**review proceedings**” means —

- (a) proceedings on an application under section 40;
- (b) proceedings on appeal under Part 5 of the *State Administrative Tribunal Act 2004* (as affected by section 43A) from a decision on an application under section 40; or
- (c) proceedings on appeal from a decision on an appeal referred to in paragraph (b) or this paragraph;

”.

**Division 125 — Taxi Act 1994**

**1184. The Act amended**

The amendments in this Division are to the *Taxi Act 1994*\*.

[\* *Reprinted as at 11 October 2002.*]

**1185. Section 20 amended**

- (1) Section 20(4) is amended by deleting “, within 14 days of being notified of the imposition of that condition, appeal to a Local Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

- (2) Section 20(5) is repealed.

**1186. Section 22 amended**

- (1) Section 22(2) is amended by deleting “, within 14 days of being served with the relevant notice, appeal to a Local Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

- (2) Section 22(3) is repealed.

**1187. Section 23 amended**

- (1) Section 23(3) is amended by deleting “appealed under subsection (4)” and inserting instead —

“ applied under subsection (4) for a review ”.

- (2) Section 23(4) is amended as follows:

- (a) by inserting after “14 days” —

“ after the day ”;

- (b) by deleting “appeal to a Local Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

- (3) Section 23(5) is repealed.

**1188. Section 30 amended**

- (1) Section 30(2)(b) is amended by deleting “appeal is lodged” and inserting instead —

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“ application for review is made ”.

(2) Section 30(3) is amended as follows:

(a) by inserting after “14 days after” —

“ the day of ”;

(b) by deleting “appeal to a Local Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”;

(c) by deleting “7 days after the notice is served until the appeal is determined.” and inserting instead —

“

14 days after the notice is served until the State Administrative Tribunal disposes of the matter raised in the application.

”.

(3) Section 30(4) is repealed.

(4) Section 30(5) is amended by deleting “appeal” and inserting instead —

“ make an application ”.

**1189. Section 37 amended**

(1) Section 37(2) is amended by deleting “, within 14 days of service of the notice under that subsection, appeal to a Local Court against” and inserting instead —

“ apply to the State Administrative Tribunal for a review of ”.

(2) Section 37(3) is repealed.

**1190. Section 38 repealed**

Section 38 is repealed.



**Division 126 — Town Planning and Development Act 1928**

**Subdivision 1 — Amendments to the Act**

**1191. The Act amended**

The amendments in this Subdivision are to the *Town Planning and Development Act 1928*\*.

[\* *Reprinted as at 3 November 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 397.]*

**1192. Section 2 amended**

(1) Section 2(1) is amended by deleting the definitions of “appeal”, “deputy President”, “member”, “party”, “President”, “Principal Registrar” and “Tribunal”.

(2) Section 2(1) is amended in the definition of “legal practitioner” by deleting “practitioner within the meaning of the *Legal Practitioners Act 1893*” and inserting instead —

“

person entitled to practise as a barrister and  
solicitor of the Supreme Court

”.

(3) Section 2(1) is amended in the definition of “regulations” by deleting “section 75” and inserting instead —

“ the *State Administrative Tribunal Act 2004* ”.

(4) Section 2(1) is amended in the definition of “rules” as follows:

(a) by inserting before “Tribunal” —

“ State Administrative ”;

(b) by deleting “section 74” and inserting instead —

“ the *State Administrative Tribunal Act 2004* ”.

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**1193. Section 7B amended**

(1) Section 7B(6) is amended as follows:

- (a) in paragraph (a) by deleting “appeal under Part V.” and inserting instead —

“

apply to the State Administrative Tribunal for a review, in accordance with Part V, of the decision to refuse or to impose the conditions.

”;

- (b) in paragraph (c) by deleting “appeal” and inserting instead —

“ application for a review ”;

- (c) in paragraph (d) by deleting “appeal” and inserting instead —

“ apply for a review ”.

(2) Section 7B(8) is amended as follows:

- (a) in paragraph (b) by deleting “appeal under Part V against” and inserting instead —

“

apply to the State Administrative Tribunal for a review, in accordance with Part V, of the decision to give

”;

- (b) in paragraph (ba) by inserting before “Tribunal” —

“ State Administrative ”;

- (c) in paragraph (ba) by deleting “a direction appealed against” and inserting instead —

“ the direction ”.

- (3) Section 7B(12)(a)(ii) is deleted and the following subparagraph is inserted instead —

“

- (ii) any decision for the review of which the claimant has made an application under subsection (6) has been affirmed in whole or in part by the State Administrative Tribunal.

”.

**1194. Section 8A amended**

- (1) Section 8A(1) is amended as follows:

- (a) by deleting “appeal against” and inserting instead —

“

apply to the State Administrative Tribunal for a review, in accordance with Part V, of

”;

- (b) by deleting “under Part V”.

- (2) Section 8A(2) is repealed and the following subsection is inserted instead —

“

- (2) Subsection (1) does not affect the operation of a right given or taken to be given by a town planning scheme to apply for a review of a decision; but, where rights are given or taken to be given by a scheme and under subsection (1), the exercise of one of those rights extinguishes the other right to apply for a review of the same decision.

”.

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**1195. Section 8B amended**

Section 8B is amended by deleting “appeal against that decision under Part V.” and inserting instead —

“

apply to the State Administrative Tribunal for a review, in accordance with Part V, of the decision.

”.

**1196. Section 10AA amended**

Section 10AA is repealed and the following section is inserted instead —

“

**10AA. Review of section 10 direction**

A person to whom a direction is given under section 10 may apply to the State Administrative Tribunal for a review, in accordance with Part V, of the decision to give the direction.

”.

**1197. Section 17 amended**

Section 17(3) is repealed and the following subsection is inserted instead —

“

(3) A local government may apply to the State Administrative Tribunal for a review, in accordance with Part V, of any order of the Minister under this section.

”.

**1198. Section 18 amended**

(1) Section 18(2a) is amended by inserting before “Tribunal” —

“ State Administrative ”.

- (2) Section 18(2b) is amended by deleting “appeal.” and inserting instead —  
“ application for review. ”.
- (3) Section 18(2c) is amended by inserting before “Tribunal” —  
“ State Administrative ”.

**1199. Section 26 amended**

- (1) Section 26(1) is amended as follows:
- (a) in paragraph (a) by deleting “appeal under Part V against” and inserting instead —  
“  
apply to the State Administrative Tribunal for a review, in accordance with Part V, of  
”;
- (b) in paragraph (ab) by deleting “appeal under Part V” and inserting instead —  
“  
apply to the State Administrative Tribunal for a review, in accordance with Part V,  
”;
- (c) in paragraph (ad) by deleting “appeal under Part V from” and inserting instead —  
“  
apply to the State Administrative Tribunal for a review, in accordance with Part V, of  
”;
- (d) by deleting paragraph (c).
- (2) Section 26(2) is amended as follows:
- (a) by deleting “appeal under” and inserting instead —  
“ application under ”;

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- (b) by deleting “appeal from” and inserting instead —  
“ application for a review of ”.

**1200. Section 28A amended**

Section 28A(5) is repealed.

**1201. Part V heading replaced**

The heading to Part V is deleted and the following heading is inserted instead —

“

**Part V — Applications for review**

”.

**1202. Sections 36 and 37 replaced**

Sections 36 and 37 are repealed and the following sections are inserted instead —

“

**36. When this Part applies**

- (1) This Part applies if this Act or a planning scheme or any other written law gives the State Administrative Tribunal jurisdiction to carry out a review in accordance with this Part.
- (2) Even if a planning scheme does not expressly give a person a right to apply to the State Administrative Tribunal for a review, in accordance with this Part, of a decision or matter, the planning scheme is taken to give that right if —
  - (a) the planning scheme is expressed as conferring on the person a right to appeal against the decision, or to refer the matter, under Part V of this Act; or

- (b) the planning scheme is expressed as conferring on the person a right to appeal or apply for review in respect of the matter and the matter involves the exercise by the responsible authority of a discretionary power.
- (3) Subsection (2) applies even if the planning scheme provides for the appeal, referral or application to be made otherwise than to the State Administrative Tribunal or, in the circumstances described in paragraph (b) of that subsection, otherwise than in accordance with Part V of this Act.
- (4) A provision in a planning scheme of the kind described in subsection (2)(a) or (b) has no effect other than the effect given to that provision by subsection (2).
- (5) In subsections (2), (3) and (4) —  
**“planning scheme”** means —
- (a) a town planning scheme in force under this Act;
  - (b) the Metropolitan Region Scheme;
  - (c) a regional planning scheme; or
  - (d) any other instrument that the regulations specify to be a planning scheme for the purposes of subsection (2).

**37. Terms used in this Part**

In this Part, unless the contrary intention appears —

**“ordinary member”** has the meaning given to that term in section 3(1) of the *State Administrative Tribunal Act 2004*;

**“party”** has the meaning given to that term in section 36 of the *State Administrative Tribunal Act 2004*;

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“**President**” means the President of the State Administrative Tribunal;

“**regional planning scheme**” has the meaning given to that term in section 3 of the *Western Australian Planning Commission Act 1985*.

”.

**1203. Section 38 amended**

- (1) Section 38(1) is amended by deleting “Each member is to be a person who, in the opinion of the Minister,” and inserting instead —

“

The member constituting the State Administrative Tribunal, or each of them if there is more than one, is to be a person who

”.

- (2) Section 38(2) is repealed.
- (3) Section 38(3) to (5) are repealed and the following subsections are inserted instead —

“

(3) If the application is for a review of a decision referred to in section 8B or a decision relating to an environmental condition, the member constituting the State Administrative Tribunal, or at least one of them if there is more than one, is to be a person who has knowledge of and experience in the field of environmental science.

(4) Unless this subsection does not apply because of subsection (5), the State Administrative Tribunal is to be constituted by an ordinary member sitting alone when dealing with —

- (a) an application for a review of —



- (i) the determination of, or conditions imposed in respect of, a planning application to commence a development of a value of less than \$250 000 or such other amount as is prescribed by the regulations;
  - (ii) the determination of, or conditions imposed in respect of, a planning application to commence a development of a single house on a single lot of a value that is less than \$500 000 or such other amount as is prescribed by the regulations, or any development ancillary to that development; or
  - (iii) the determination of, or conditions imposed in respect of, an application for approval to subdivide a lot into not more than 3 lots;
- or
- (b) an application that the applicant, with the agreement of each other party, has elected at the time of making the application to have determined by an ordinary member sitting alone.
- (5) Subsection (4) does not apply if the President is of the opinion that the application is likely to raise complex or significant planning issues.

”.

**1204. Section 39 repealed**

Section 39 is repealed.

**1205. Part V Divisions 2 and 3 repealed**

Part V Divisions 2 and 3 are repealed.

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**1206. Part V Division 4 heading deleted**

The heading to Part V Division 4 is deleted.

**1207. Sections 47 to 57 repealed**

Sections 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 57 are repealed.

**1208. Section 58 amended**

(1) Section 58(1) and (2) are repealed.

(2) Section 58(3) is amended as follows:

(a) by deleting “An appellant in an appeal referred to in section 40(3)” and inserting instead —

“

In the case of an application described in section 38(4)(a), the applicant

”;

(b) by deleting “appeal is commenced” and inserting instead —

“ application is made ”;

(c) by deleting “appeal” and inserting instead —

“ application ”.

(3) Section 58(4) is amended as follows:

(a) by deleting “appellant” in each place where it occurs and inserting instead —

“ applicant ”;

(b) by deleting “appeal” in the first place where it occurs and in paragraph (b) and inserting instead —

“ application ”;

(c) in paragraph (a) by deleting “has given a direction under section 40(4) in respect of the appeal” and inserting instead —



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“ application. ”.

(2) Section 61(2) is amended as follows:

(a) by deleting “appeal” in both places where it occurs and inserting instead —

“ application ”;

(b) by inserting before “Tribunal” —

“ State Administrative ”.

(3) Section 61(3) is amended as follows:

(a) by deleting “appeal against” and inserting instead —

“ application for a review of ”;

(b) by deleting “appellant” and inserting instead —

“ applicant ”;

(c) by inserting before “Tribunal” in each place where it occurs —

“ State Administrative ”.

**1212. Section 62 replaced**

Section 62 is repealed and the following section is inserted instead —

“

**62. Submissions from persons who are not parties**

The State Administrative Tribunal may receive or hear submissions in respect of an application from a person who is not a party to the application if the Tribunal is of the opinion that the person has a sufficient interest in the matter.

”.

**1213. Sections 63 to 65 repealed and section 63 inserted**

Sections 63, 64 and 65 are repealed and the following section is inserted instead —

“

**63. Exclusion of powers to join parties**

Section 38 of the *State Administrative Tribunal Act 2004* does not apply in a proceeding for a review in accordance with this Part.

”.

**1214. Section 66 amended**

- (1) Section 66(1) is repealed and the following subsection is inserted instead —

“

- (1) The State Administrative Tribunal constituted by the President may, of its own motion or upon an application made under subsection (3), review a direction, determination or order upon a matter involving a question of law that was made by the State Administrative Tribunal when constituted without a legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2004*.

”.

- (2) Section 66(2) is amended by inserting before “Tribunal” in both places where it occurs —

“ State Administrative ”.

- (3) Section 66(3) is amended as follows:

- (a) by inserting before “review of a direction” —

“ a ”;

- (b) by deleting “to the appeal”.

- (4) Section 66(4) is amended by deleting “under section 63”.

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- (5) Section 66(5) is amended by inserting before “Tribunal” —  
“ State Administrative ”.

**1215. Sections 67 and 68 repealed**

Sections 67 and 68 are repealed.

**1216. Part V Division 5 heading deleted**

The heading to Part V Division 5 is deleted.

**1217. Section 69 amended**

- (1) Section 69(1) is amended as follows:
- (a) by inserting before “Tribunal” in the 3 places where it occurs —  
“ State Administrative ”;
  - (b) by deleting “appeal” in both places where it occurs and inserting instead —  
“ application. ”.
- (2) Section 69(2) is amended as follows:
- (a) by deleting “appeal” in both places where it occurs and inserting instead —  
“ application. ”;
  - (b) by inserting before “Tribunal” —  
“ State Administrative ”.
- (3) Section 69(3) is amended by deleting “appeal” in both places where it occurs and inserting instead —  
“ application ”.
- (4) Section 69(4) is amended by inserting before “Tribunal” —  
“ State Administrative ”.

- (5) Section 69(5) is amended as follows:
- (a) in paragraph (a) by deleting “appeal is situate” and inserting instead —  
“ application is situated ”;
  - (b) in paragraph (b) by deleting “appeal is situate” and inserting instead —  
“ application is situated ”.

**1218. Section 70 amended**

- (1) Section 70(1) is amended by deleting “appeal” in each place where it occurs and inserting instead —  
“ application ”.
- (2) Section 70(2) is amended as follows:
- (a) by deleting “appeal” in the both places where it occurs and inserting instead —  
“ application ”;
  - (b) in paragraph (a) by deleting “Principal Registrar” and inserting instead —  
“ President ”;
  - (c) in paragraph (b) by inserting before “Tribunal” —  
“ State Administrative ”.
- (3) Section 70(3) is amended as follows:
- (a) in paragraphs (a) and (c) by deleting “appeal” and inserting instead —  
“ application ”;
  - (b) by deleting paragraph (b) and “or” after it and inserting instead —  
“  
(b) more than 14 days after the application was made to the State Administrative Tribunal; or

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**s. 1219**

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- ”.
- (4) Section 70(4) is amended by inserting after “laid before” —  
“  
    , or transmitted in accordance with section 72(1) to the  
    Clerk of,  
”.
- (5) Section 70(5) is amended by deleting “appeal” and inserting  
instead —  
“ proceeding ”.
- (6) Section 70(7) is amended as follows:  
    (a) in paragraph (a) by deleting “to the appeal”;  
    (b) in paragraph (b) by deleting “the regulations” and  
    inserting instead —  
    “ regulations made under section 34 ”.

**1219. Section 71 amended**

- (1) Section 71(1) and (2) are amended by deleting “appeal” and  
inserting instead —  
“ application ”.
- (2) Section 71(3) is amended as follows:  
    (a) deleting “an appeal” and inserting instead —  
    “ an application ”;  
    (b) by deleting “Registrar” and inserting instead —  
    “  
    executive officer of the State Administrative Tribunal  
”;  
    (c) in paragraph (a) by deleting “to the appeal”.
- (3) Section 71(4)(a) is amended by deleting “appeal” and inserting  
instead —



“ application ”.

**1220. Part V Division 6 heading deleted**

The heading to Part V Division 6 is deleted.

**1221. Section 72 replaced**

Section 72 is repealed and the following section is inserted instead —

“

**72. Laying before House of Parliament that is not sitting**

(1) If section 70(4) requires the Minister, as soon as is practicable, to cause a copy of a direction to be laid before, or transmitted in accordance with this subsection to the Clerk of, each House of Parliament and —

- (a) at the commencement of the period of 14 days after the day on which the direction is given, a House of Parliament is not sitting; and
- (b) the Minister is of the opinion that the House will not sit during that period,

the Minister is to transmit a copy of the direction to the Clerk of that House.

(2) A copy of a direction transmitted to the Clerk of a House is to be regarded as having been laid before that House.

(3) The laying of a copy of a direction that is to be regarded as having occurred under subsection (2) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 126** Town Planning and Development Act 1928

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**1222. Sections 73 to 75 repealed**

Sections 73, 74 and 75 are repealed.

**1223. The First Schedule amended**

The First Schedule clause 27A is amended as follows:

- (a) by deleting “of a right of appeal to the Tribunal”;
- (b) by inserting after “exercise of that power” —

“

of a right to apply to the State Administrative Tribunal for a review of the exercise of the power

”.

**1224. Schedules 3 and 4 repealed**

Schedules 3 and 4 are repealed.

**Subdivision 2 — Amendments needed because Act amended**

**1225. *Planning Appeals Amendment Act 2002* amended**

- (1) The amendments in this section are to the *Planning Appeals Amendment Act 2002*\*.

[\* *Act No. 24 of 2002.*]

- (2) Section 12 is repealed.
- (3) Section 17(4) is repealed.
- (4) Section 18 is repealed.

**Subdivision 3 — Transitional provisions**

**1226. Ministerial referrals**

- (1) In this section —

“**appeal**” means an appeal within the meaning of section 37 of the repealed Part V of the *Town Planning and Development*

*Act 1928 as repealed by section 11 of the Planning Appeals  
Amendment Act 2002;*

**“Minister”** means the Minister administering the *Town  
Planning and Development Act 1928*.

- (2) If an appeal has been made to the Minister after 1 July 2001 but not finally determined or referred to the Town Planning Appeal Tribunal under section 17(4) of the *Planning Appeals Amendment Act 2002* before the commencement of this Division, the appeal may be referred by the Minister to the State Administrative Tribunal for determination and the State Administrative Tribunal has the same powers and functions in relation to the appeal as if it were an application for a review of the matter made to the State Administrative Tribunal.
- (3) Section 167 of the *State Administrative Tribunal Act 2004* extends to an appeal made to the Minister after 1 July 2001 and referred to the Town Planning Appeal Tribunal under section 17(4) of the *Planning Appeals Amendment Act 2002* before the commencement of this section.

#### **1227. References to Committee and Tribunal**

- (1) Unless the context otherwise requires, where in any written law or in any document of any other kind there is a reference to an appeal to the Town Planning Appeal Committee or the Town Planning Appeal Tribunal that reference is to be read and construed as a reference to an application for review made to the State Administrative Tribunal.
- (2) Unless the context otherwise requires, where in any written law or in any document of any other kind there is a reference to a decision or determination of the Town Planning Appeal Committee or the Town Planning Appeal Tribunal that reference is to be read and construed as a reference to a decision or determination of the State Administrative Tribunal.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 127** Transport Co-ordination Act 1966

**s. 1228**

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**1228. Entitlements**

(1) In this section —

**“former President”** means the person who was the President of the Town Planning Appeal Tribunal immediately before the commencement of section 1202;

**“unexpired term”** means that portion of the term of office of the former President that had not expired before the commencement of section 1202.

(2) Despite section 119(1) of the *State Administrative Tribunal Act 2004*, the rates of remuneration and allowances to which the former President is entitled in respect of any service as a member of the State Administrative Tribunal during the unexpired term are not to be less than the rates of remuneration and allowances to which he or she would have been entitled in respect of the performance of his or her functions as the President of the Town Planning Appeal Tribunal during the unexpired term if this Act had not been enacted.

**Division 127 — Transport Co-ordination Act 1966**

**1229. The Act amended**

The amendments in this Division are to the *Transport Co-ordination Act 1966*\*.

[\* Reprinted as at 11 May 2001.

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 402-3.]*

**1230. Section 47Z amended**

Section 47Z(1) is amended by deleting the definition of “Local Court”.

**1231. Section 47ZF amended**

Section 47ZF(1)(l) is deleted and the following paragraph is inserted instead —

“

- (l) providing for an application to the State Administrative Tribunal for a review of a decision of the Minister suspending, cancelling or refusing to renew a licence;

”.

**1232. Section 57 amended**

(1) Section 57(3) is amended as follows:

- (a) by deleting “appeal lies to a stipendiary magistrate against” and inserting instead —

“

application may be made to the State Administrative Tribunal for a review of

”;

- (b) by deleting “, and the provisions of this section apply to any such appeal”.

(2) Section 57(4) is repealed and the following subsection is inserted instead —

“

- (4) A person applying under subsection (3) for a review shall lodge in the State Administrative Tribunal an amount of \$20, by way of security for the costs of his application; and the application shall not be heard until such time as that amount is so lodged.

”.

(3) Section 57(5) and (6) are repealed.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004**

**Part 2** Various Acts amended to confer jurisdiction

**Division 128** Travel Agents Act 1985

**s. 1233**

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**1233. Section 60 amended**

Section 60(2)(n) is amended by inserting after “under this Act” —

“

other than applications to the State  
Administrative Tribunal for a review

”.

**Division 128 — *Travel Agents Act 1985***

**1234. The Act amended**

The amendments in this Division are to the *Travel Agents Act 1985*\*.

[\* *Reprinted as at 22 April 1997.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 402-3.]*

**1235. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definitions of “inspector”, “the Chairman”, “the Registrar” and “the Tribunal”;
- (b) in the definition of “the Compensation Trustees” by deleting the semicolon and inserting a full stop.

**1236. Section 9 amended**

Section 9(5) is amended by deleting “or the Registrar” in both places where it occurs.

**1237. Section 10 amended**

- (1) Section 10(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) When an application has been made in accordance with section 9, the Commissioner shall as soon as practicable publish in a newspaper circulating generally throughout Western Australia a notice giving particulars of the application.
- (2) The Commissioner may make such inquiries about the applicant and matters relevant to the application as the Commissioner considers necessary.

”.

- (2) Section 10(3) is amended by deleting “both an application a copy of which is sent to the Commissioner under subsection (1)” and inserting instead —

“ matters relevant to an application ”.

**1238. Section 11 amended**

- (1) Section 11(1) is amended by deleting “Tribunal in a particular case allows, the Commissioner may with the consent of the Minister, and any other person may, lodge with the Tribunal” and inserting instead —

“

Commissioner in a particular case allows, any person may lodge with the Commissioner

”.

- (2) Section 11(2)(c) is amended by deleting “Commissioner or other”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 128** Travel Agents Act 1985

**s. 1239**

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**1239. Section 12 amended**

- (1) Section 12(1) is repealed and the following subsection is inserted instead —

“

- (1) Unless subsection (2) or (4) requires it to be refused, the Commissioner shall grant an application as soon as practicable after the expiration of the period allowed by or under section 11(1) for the lodging of an objection to the granting of an application.

”.

- (2) Section 12(5) is amended as follows:

- (a) by deleting “Tribunal is satisfied that that ground has been made out after it” and inserting instead —  
“ Commissioner ”;
- (b) in paragraph (a) by deleting “and has held a hearing in respect of the application”;
- (c) in paragraph (b) by deleting “appear at the hearing referred to in paragraph (a) and to”.

- (3) Section 12(6) is repealed and the following subsection is inserted instead —

“

- (6) When an application is refused, the Commissioner shall forthwith, by notice in writing, inform the applicant and each objector (if any) to the granting of the application of that refusal and of the ground on which that refusal is based and inform the applicant of the right to apply to the State Administrative Tribunal for a review of the refusal, and the Commissioner shall, as soon as practicable, refund to the applicant so much of the relevant application fee as is appropriate to be refunded.

”.



- (4) Section 12(7) is amended as follows:
- (a) in subparagraph (a)(i) by inserting after “applicant” —
- “
- of the granting of the application and  
the right to apply to the State  
Administrative Tribunal for a review of  
any condition imposed
- ”;
- (b) in subparagraph (a)(ii) by deleting “objector,” and  
inserting instead —
- “
- objector of the granting of the  
application and the right to apply to the  
State Administrative Tribunal for a  
review of the decision to grant the  
application;
- ”;
- (c) in paragraph (a) by deleting “of the granting of the  
application;”.
- (5) Section 12(8) is amended by deleting “appeared personally  
before” and inserting instead —
- “ attended personally on ”.

**1240. Section 13 amended**

- (1) Section 13(3) is repealed and the following subsection is  
inserted instead —
- “
- (3) The Commissioner shall not under subsection (1)  
impose conditions to which a licence is to be subject,  
or vary conditions to which a licence is subject, unless  
the Commissioner has first afforded the applicant for,  
or, as the case requires, the holder of, the licence an  
opportunity to make written submissions with respect

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to the conditions that are proposed to be imposed or varied.

”.

(2) Section 13(4) is repealed.

**1241. Section 18 amended**

Section 18(1) is amended by deleting “or 61 (5)”.

**1242. Section 20 amended**

Section 20(2) is repealed and the following subsection is inserted instead —

“

(2) If the Commissioner makes an allegation under section 21 against the holder of a licence, the licence cannot be surrendered under subsection (1) until after effect has been given to any order made by the State Administrative Tribunal in disposing of the allegation or by the court dealing with an appeal from an order of the State Administrative Tribunal.

”.

**1243. Section 21 amended**

(1) Section 21(1) to (3) are repealed and the following subsections are inserted instead —

“

(1) Any person may, at any time make to the Commissioner a complaint in writing about the holding of a licence by a specified licensee if the complaint complies with subsection (2).

(2) For a complaint to comply with this subsection —  
(a) the complaint has to specify the licensee and the grounds of the complaint; and

- (b) the grounds of the complaint have to be capable of reasonably giving rise to a belief described in subsection (4).

”.

- (2) Section 21(4) is amended as follows:

- (a) by deleting all of the subsection after the subsection designation but before paragraph (a) and inserting instead —

“

The Commissioner may, on receiving a complaint under subsection (1) or on the Commissioner’s own initiative, make any investigation or inquiry that the Commissioner considers necessary to decide whether there are grounds for believing that —

”;

- (b) in paragraph (b) by deleting “of the Tribunal”;  
(c) by deleting all of the subsection after “licence” at the end of paragraph (i) and inserting instead a full stop.

- (3) Section 21(5) to (7) are repealed and the following subsections are inserted instead —

“

- (5) If the Commissioner decides that it is appropriate to do so, the Commissioner may make an allegation to the State Administrative Tribunal that there are reasonable grounds for a belief described in subsection (4) concerning a specified licensee.  
(6) If the Commissioner decides not to make an allegation concerning a licensee about whom a complaint was made to the Commissioner under subsection (1), the Commissioner is required to notify the person who made the complaint of that decision and the reason for it.

”.

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**1244. Section 22 amended**

(1) Section 22(1) is amended —

- (a) by deleting all of the subsection after the subsection designation but before paragraph (a) and inserting instead —

“

If the State Administrative Tribunal, on dealing with an allegation under section 21(5), is satisfied that any ground for a belief referred to in section 21(4) has been made out, it may —

”;

- (b) in paragraph (b) by deleting “to the Registrar”;
- (c) in paragraph (f) by deleting “impose” and inserting instead —
- “ order the imposition of ”.

(2) Section 22(2) and (3) are repealed.

(3) Section 22(5) is amended by deleting “61(5) or”.

(4) Section 22(7) is amended by deleting “an inquiry under section 21,” and inserting instead —

“

a proceeding before the State Administrative Tribunal upon an allegation under section 21(5),

”.

**1245. Part II Division 4 heading amended**

The heading to Part II Division 4 is amended by deleting “Appeal” and inserting instead —

“ **Review** ”.

**1246. Section 23 replaced**

Section 23 is repealed and the following section is inserted instead —

“

**23. Application for review**

(1) A person aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

(2) In subsection (1) —

“**person aggrieved**” means —

- (a) a person upon whose application a reviewable decision is made or a person who lodged an objection to the application;
- (b) the holder of the licence to which a reviewable decision relates; or
- (c) a person referred to in paragraph (d) of the definition of “reviewable decision”;

“**reviewable decision**” means —

- (a) a decision under section 12 to grant or refuse an application for a licence;
- (b) a decision under section 13 to impose or vary a condition;
- (c) a decision under section 33(3) to grant or refuse an application or impose a condition;  
or
- (d) a decision that either prevents a person from participating in the Compensation Scheme or terminates a person’s participation in the Compensation Scheme, other than a decision of the person whose participation the decision concerns.

”.

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**1247. Section 24 replaced**

Section 24 is repealed and the following section is inserted instead —

“

**24. Decisions about participation in the Compensation Scheme**

- (1) When the State Administrative Tribunal deals with an application for a review of a decision described in paragraph (d) of the definition of “reviewable decision” in section 23(2) it may —
  - (a) if the decision prevents a person from participating in the Compensation Scheme, order that the person be admitted to participation in the Compensation Scheme conditionally on the appellant being or becoming licensed; or
  - (b) if the decision terminates a person’s participation in the Compensation Scheme, annul that termination.
- (2) An order under subsection (4)(b) or (c) shall be given effect as if the corresponding decision had been made in accordance with the law governing the Compensation Scheme.

”.

**1248. Section 25 repealed**

Section 25 is repealed.

**1249. Section 30 amended**

Section 30(1)(e) is amended by deleting “section 19(6), 22(1)(g) or (4) or 61(5).” and inserting instead —

“ section 19(6) or 22(1)(g) or (4). ”.

**1250. Section 33 amended**

Section 33(2) and (3) are repealed and the following subsections are inserted instead —

“

- (2) The Commissioner may make any investigation or inquiry that the Commissioner considers necessary for the purpose of dealing with the application.
- (3) The Commissioner shall grant or refuse the application and, on granting the application, may impose conditions subject to which the business to which the application relates may be carried on.

”.

**1251. Section 37 amended**

Section 37(3) is amended as follows:

- (a) by deleting paragraph (a) and “and” after it and inserting instead —

“

- (a) the Commissioner cannot make an allegation under section 21(5) to the State Administrative Tribunal; and

”;

- (b) in paragraph (b) by deleting “shall not” and inserting instead —

“ cannot ”.

**1252. Section 38 amended**

Section 38(1)(a) and “and” after it are deleted.

**1253. Section 39 amended**

Section 39(1) is amended by deleting “after inquiry”.

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**1254. Sections 42 to 47 repealed**

Sections 42, 43, 44, 45, 46 and 47 are repealed.

**1255. Section 52 amended**

(1) Section 52(1) is amended as follows:

(a) by deleting paragraph (b) and inserting instead —

“

(b) a member of, or the Registrar of, the former Commercial Tribunal that existed under the *Commercial Tribunal Act 1984* before that Act was repealed;

”;

(b) after paragraph (d) by deleting the semicolon and inserting a full stop instead;

(c) by deleting paragraphs (e) and (f).

(2) Section 52(3)(a) is amended by deleting “*Commercial Tribunal Act 1984*” and inserting instead —

“ *State Administrative Tribunal Act 2004* ”.

**1256. Section 54 repealed**

Section 54 is repealed.

**1257. Section 58 amended**

After section 58(1) the following subsection is inserted —

“

(1a) The Commissioner’s annual report is to include details of —

(a) the number, nature, and outcome, of —

(i) investigations and inquiries undertaken by, or at the direction of, the



Commissioner for the purposes of this  
Act; and

- (ii) matters that have been brought before  
the State Administrative Tribunal under  
this Act;
- (b) the number and nature of matters referred to in  
paragraph (a) that are outstanding;
- (c) any trends or special problems that may have  
emerged;
- (d) forecasts of the workload of the Commissioner  
in performing functions under this Act in the  
year after the year to which the report relates;  
and
- (e) any proposals for improving the performance of  
the Commissioner's functions under this Act.

”.

**1258. Part V repealed**

Part V is repealed.

**1259. Various references to “Tribunal” amended**

- (1) The Act is amended by deleting “Tribunal” in each place  
specified in the Table to this section and inserting instead —  
“ Commissioner ”.

**Table**

- s. 9(1), (4), and (5) (3 places)
- s. 11(2)(b)
- s. 12(2), (3), (4) (both places), and (8) (5 places)
- s. 13(1)
- s. 15(2)
- s. 20(3)
- s. 21(4)(e)
- s. 22(4) (in the second place)

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- s. 30(1)
- s. 34(2) (both places) and (3)
- s. 41(1)(d)
- (2) The Act is amended by deleting “Tribunal” in each place specified in the Table to this section and inserting instead —  
“ State Administrative Tribunal ”.

**Table**

- s. 35
- s. 36(d)
- s. 37(1)(b)
- s. 38(5)
- s. 39(1), (2), and (3) (all in the first place)
- s. 39(4)
- s. 40

**1260. Various references to “Registrar” amended**

The Act is amended by deleting “Registrar” in each place specified in the Table to this section and inserting instead —

“ Commissioner ”.

**Table**

- s. 12(7) (4 places)
- s. 13(2a)(b)
- s. 15(1)(a) and (3) (both places)
- s. 16(1) and (2)
- s. 17(1), (3), and (4)
- s. 19(2), (4), (5), (6), and (8)
- s. 20(1)
- s. 22(5) (3 places)
- s. 33(1) (both places)
- s. 35 (3 places)
- s. 59(2)(c)

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**Division 129 — Valuation of Land Act 1978**

**1261. The Act amended**

The amendments in this Division are to the *Valuation of Land Act 1978*\*.

[\* *Reprinted as at 15 June 2001.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 412.]*

**1262. Section 4 amended**

Section 4(1) is amended by deleting the definition of “Land Valuation Tribunal”.

**1263. Section 13 amended**

Section 13(3) is amended by deleting “a Land Valuation Tribunal” and inserting instead —

“ the State Administrative Tribunal ”.

**1264. Part IV heading amended**

The heading to Part IV is amended by deleting “appeals” and inserting instead —

“ **review** ”.

**1265. Section 32 amended**

Section 32(9) is amended by deleting “an appeal against the decision may be made” and inserting instead —

“ a review of the valuation may be sought ”.

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**Division 129** Valuation of Land Act 1978

**s. 1266**

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**1266. Section 33 amended**

- (1) Section 33(1) is amended by deleting “treat the objection as an appeal against the valuation” and inserting instead —

“

refer the valuation to the State Administrative Tribunal  
for a review

”.

- (2) Section 33(2) is amended by deleting “objection to a Land Valuation Tribunal as an appeal” and inserting instead —

“

valuation to the State Administrative Tribunal for a  
review

”.

- (3) After section 33(2) the following subsection is inserted —

“

- (3) The Valuer-General is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Valuer-General of —

- (a) the record of the valuation; and  
(b) the reasons, if any, for the valuation.

”.

**1267. Section 34 amended**

Section 34 is amended by deleting “treat an objection to the valuation as an appeal” and inserting instead —

“

refer the valuation to the State Administrative  
Tribunal for a review

”.

**1268. Section 34A amended**

Section 34A is amended by deleting “or an appeal against a valuation” and inserting instead —

“

a valuation or consequent upon a review by the  
State Administrative Tribunal

”.

**1269. Section 35 amended**

(1) Section 35(1) is amended as follows:

(a) by deleting “treat an objection to a valuation as an appeal against the valuation” and inserting instead —

“

refer the valuation to the State Administrative Tribunal  
for a review

”;

(b) by deleting “to a Land Valuation Tribunal as an appeal”  
and inserting instead —

“

the decision to refuse to extend time to the State  
Administrative Tribunal for a review

”.

(2) Section 35(2) is amended by deleting “to a Land Valuation Tribunal as an appeal” and inserting instead —

“

to the State Administrative Tribunal for a review

”.

(3) After section 35(2) the following subsection is inserted —

“

(3) The Valuer-General is to effect the reference by  
forwarding the notice to the executive officer of the  
State Administrative Tribunal together with the

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objection and a copy certified by or on behalf of the Valuer-General of —

- (a) the decision to refuse to extend the time; and
- (b) the reasons, if any, for the decision.

”.

**1270. Section 36 amended**

- (1) Section 36(1) is amended by deleting “appeal to a Land Valuation Tribunal to have the question resolved” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the question

”.

- (2) Section 36(2) is amended by deleting “appeal” and inserting instead —

“ apply ”.

- (3) Section 36(3) is repealed.

**1271. Sections 36A and 36B inserted**

After section 36 the following sections are inserted —

“

**36A. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal on a referral under section 33 or 35, the State Administrative Tribunal may consider —
  - (a) grounds in addition to those stated in the notice of objection; and
  - (b) reasons in addition to any reasons previously given for the Valuer-General’s decision that is under review.

- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

**36B. Written reasons for certain determinations to be given and published**

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a referral under section 33 or 35 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) Subsection (1) has effect in addition to the provisions of the *State Administrative Tribunal Act 2004*.

”.

**Division 130 — *Veterinary Preparations and Animal Feeding Stuffs Act 1976***

**1272. The Act amended**

The amendments in this Division are to the *Veterinary Preparations and Animal Feeding Stuffs Act 1976*\*.

[\* *Reprinted as at 20 August 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 413.]*

**1273. Section 40 amended**

- (1) Section 40(3) is amended by deleting all of the subsection after “such seizure” and inserting instead —

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“  
apply to the State Administrative Tribunal for a review  
of the seizure or detention.  
”.

- (2) Section 40(4) is amended by deleting “appeal” and inserting instead —

“ review ”.

- (3) Section 40(5) is amended as follows:

- (a) by deleting “appeal” and inserting instead —

“ review ”;

- (b) by deleting all of the subsection after “manner as” and inserting instead —

“  
is ordered in those proceedings or on that review.  
”.

**1274. Section 68 amended**

- (1) Section 68(2)(c) is deleted.

- (2) Section 68(3)(b) is amended as follows:

- (a) by deleting “may”;

- (b) by inserting after “Act,” —

“

other than an application to the State  
Administrative Tribunal for a review,

”.

**Division 131 — Veterinary Surgeons Act 1960**

**1275. The Act amended**

The amendments in this Division are to the *Veterinary Surgeons Act 1960*\*.



[\* Reprinted as at 12 February 1990.]

**1276. Section 2 amended**

Section 2 is amended by deleting the definition of “the District Court”.

**1277. Section 16AC amended**

After section 16AC(1) the following subsection is inserted —

“

- (1a) The annual report is to include details of —
- (a) the number, nature, and outcome, of matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the performance of the Board’s functions.

”.

**1278. Section 16A amended**

Section 16A is amended after paragraph (c) by deleting “or” and inserting instead —

“

- (ca) determining whether to make an allegation to the State Administrative Tribunal that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon;  
or

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”.

**1279. Section 16B amended**

Section 16B(1) is amended as follows:

(a) by deleting “his duties” and inserting instead —  
“ functions ”;

(b) by deleting subparagraph (a)(i) and “and” after it and inserting instead —

“

(i) to give such information as the Registrar or inspector requires; and

”;

(c) in paragraph (c) by deleting “that he finds” and inserting instead —

“ found ”;

(d) in paragraph (d) by deleting “him” and inserting instead —

“ the Registrar or inspector ”.

**1280. Section 22 amended**

(1) Section 22(1) is amended by deleting “has the right of appeal against refusal to the District Court which shall have jurisdiction to, and may, determine the matter.” and inserting instead —

“

may apply to the State Administrative Tribunal for a review of the decision.

”.

(2) Section 22(2) is repealed.

**1281. Section 23 amended**

- (1) Section 23(2a) is repealed and the following subsections are inserted instead —

“

- (2a) The Board may allege to the State Administrative Tribunal that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon.
- (2aa) If, in a proceeding commenced by an allegation under subsection (2a), the State Administrative Tribunal is satisfied that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon, the Tribunal may —
- (a) reprimand the veterinary surgeon;
  - (b) require the veterinary surgeon to give an undertaking to refrain from such conduct as may be specified by the Board;
  - (c) fine the veterinary surgeon an amount not exceeding \$1 000;
  - (d) order the suspension of the registration of that veterinary surgeon for such period not exceeding 12 months, as the Tribunal thinks fit;
  - (e) order the removal of the name of that veterinary surgeon from the Register;
  - (f) order the imposition of conditions as to the registration of that veterinary surgeon or restrictions on the practice of veterinary surgery by that person.

”.

- (2) Section 23(2b) is amended by inserting after “conferred on the Board” —

“ or the State Administrative Tribunal ”.

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(3) Section 23(3) is amended by inserting after “under this Act” —  
“

or by the State Administrative Tribunal in proceedings commenced under this Act

”.

(4) Section 23(6) to (9) are repealed.

(5) Section 23(10) is repealed and the following subsection is inserted instead —

“

(10) The Registrar shall enter in the Register against the entry relating to the person details of any order made against a person in proceedings commenced before the State Administrative Tribunal by an allegation under this section.

”.

(6) Section 23(11) is amended as follows:

(a) by deleting “or order”;

(b) by deleting “or that relates to any penalty or the payment of costs,”.

(7) Section 23(12) is repealed and the following subsection is inserted instead —

“

(12) A person aggrieved by a decision or order of the Board made in respect of that person under this section, other than a decision to make an allegation to the State Administrative Tribunal, may apply to the State Administrative Tribunal for a review of the decision.

”.

(8) Section 23(13), (14) and (15) are repealed.

**1282. Section 24 amended**

(1) Section 24(1) is amended as follows:

(a) by deleting “removes the” and inserting instead —

“

or the State Administrative Tribunal causes or orders  
the removal of

”;

(b) by deleting “District Court on appeal” and inserting  
instead —

“

State Administrative Tribunal upon application for  
review

”.

(2) Section 24(2) is amended by inserting after “The Board” —

“

cannot direct that the name of a person be again  
entered in the Register if the State Administrative  
Tribunal ordered the removal of the person’s name  
from the Register but otherwise

”.

(3) Section 24(3) is repealed.

(4) Section 24(4) is amended as follows:

(a) after paragraph (a)(i) by inserting —

“ or ”;

(b) by deleting at the end of paragraph (a)(ii) the semicolon  
and “or” after it and inserting instead a comma;

(c) by deleting subparagraph (a)(iii).

(5) After section 24(4) the following subsection is inserted —

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“

- (4a) An application under subsection (4) cannot be made without first applying for and obtaining the leave of the State Administrative Tribunal if the person’s name was removed or the suspension was imposed as a result of a proceeding before the State Administrative Tribunal commenced by an allegation under section 23.

”.

- (6) Section 24(5) is amended by inserting after “an application made” —

“ to the Board ”.

**1283. Section 24A amended**

- (1) Section 24A(10) is amended by deleting all of the subsection after “hospital the” and inserting instead —

“

Board may allege to the State Administrative Tribunal that the provisions of this Act have not been complied with in relation to that veterinary clinic or veterinary hospital.

”.

- (2) After section 24A(10) the following subsection is inserted —

“

- (11) If, in a proceeding commenced by an allegation under subsection (10), the State Administrative Tribunal is satisfied that the provisions of this Act have not been complied with in relation to a veterinary clinic or veterinary hospital, the Tribunal may cancel the registration of the veterinary clinic or veterinary hospital.

”.

**1284. Section 24B amended**

- (1) Section 24B(1) is amended by deleting all of the subsection after “hospital” and inserting instead —

“

may apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 24B(2) is repealed.

**1285. Section 26E amended**

- (1) Section 26E(5) is amended by deleting “has the right of appeal against refusal to the District Court, which shall have jurisdiction to, and may, determine the matter.” and inserting instead —

“

may apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 26E(6) is repealed.

**1286. Section 26F amended**

Section 26F(2) is amended by deleting “refer the matter in writing to the Minister and the Minister shall determine the matter and give such directions to the Board as the case requires, and effect shall be given to any such direction.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 132** Water Boards Act 1904

**s. 1287**

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**1287. Section 31 amended**

Section 31(1) is amended as follows:

(a) in paragraph (e) by inserting after “under this Act” —

“

, but not for the initiation of a proceeding  
before the State Administrative Tribunal

”;

(b) in paragraph (f) by deleting “and deregistration”;

(c) in paragraph (h) by deleting “cancellation,”.

**Division 132 — Water Boards Act 1904**

**1288. The Act amended**

The amendments in this Division are to the *Water Boards Act 1904* \*

[\* *Reprint 4 as at 3 January 2003.*

*For subsequent amendments see Act No. 22 of 2003.]*

**1289. Heading amended**

The heading before section 87 is amended by deleting  
“Appeals” and inserting instead —

“ *Review* ”.

**1290. Section 87 amended**

Section 87(7) is amended by deleting “an appeal against the  
decision may be made” and inserting instead —

“ a review of the decision may be sought ”.



**1291. Section 88 amended**

(1) Section 88(1) is amended as follows:

(a) by deleting “treat the objection as an appeal against” and inserting instead —

“ refer ”;

(b) by inserting after “records” —

“ to the State Administrative Tribunal for a review ”.

(2) Section 88(2) is amended by deleting “objection to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal” and inserting instead —

“

relevant entry in the rating records to the State Administrative Tribunal for a review

”.

(3) After section 88(2) the following subsection is inserted —

“

(3) The Water Board is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Water Board of —

(a) the relevant entry in the rating records; and

(b) the reasons, if any, for the entry.

”.

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**Division 132** Water Boards Act 1904

**s. 1292**

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**1292. Section 89 amended**

(1) Section 89(1) is amended as follows:

(a) by deleting “treat an objection to an entry in the rating records as an appeal against that entry” and inserting instead —

“

refer the relevant entry in the rating records to the State Administrative Tribunal for a review

”;

(b) by deleting all of the subsection after “refer” and inserting instead —

“

the decision to refuse to extend time to the State Administrative Tribunal for a review.

”.

(2) Section 89(2) is amended by deleting “a Land Valuation Tribunal as an appeal” and inserting instead —

“ the State Administrative Tribunal for a review ”.

(3) After section 89(2) the following subsection is inserted —

“

(3) The Water Board is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Water Board of —

(a) the decision to refuse to extend the time; and

(b) the reasons, if any, for the decision.

”.

**1293. Sections 89A and 89B inserted**

After section 89 the following sections are inserted —

“

**89A. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal on a reference under section 88 or 89, the State Administrative Tribunal may consider —
  - (a) grounds in addition to those stated in the notice of objection; and
  - (b) reasons in addition to any reasons previously given for the Water Board's decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

**89B. Written reasons for certain determinations to be given and published**

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 88 or 89 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2004*.

”.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 133** Water Services Licensing Act 1995

**s. 1294**

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**1294. Section 90 amended**

Section 90 is amended by deleting “appeal” and inserting instead —

“ review ”.

**1295. Section 91 amended**

Section 91 is amended by deleting “or an appeal” in both places where it occurs.

**1296. Section 91A amended**

(1) Section 91A(1) is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by inserting after “1978” —

“

or in consequence of a review by the State  
Administrative Tribunal

”.

(2) Section 91A(2) is amended by deleting all of the subsection after “when” and inserting instead —

“

amendment of an assessment is necessary under  
subsection (1).

”.

**Division 133 — *Water Services Licensing Act 1995***

**1297. The Act amended**

The amendments in this Division are to the *Water Services Licensing Act 1995*\*.

[\* *Reprinted as at 28 July 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 420.]*

**1298. Section 21 amended**

- (1) Section 21(2)(b)(ii) is deleted and the following subparagraph is inserted instead —

“

- (ii) the time for applying under section 44 for a review of the refusal has expired without an application being made or an application has been made but has been unsuccessful,

”.

- (2) Section 21(3) is amended by deleting “appeal” and inserting instead —

“ application ”.

**1299. Part 3 Division 8 heading replaced**

The heading to Part 3 Division 8 is deleted and the following heading is inserted instead —

“

**Division 8 — Review**

”.

**1300. Section 44 amended**

- (1) Section 44(1) is amended by deleting “may appeal to the Minister against the decision within 30 days after receiving notice in writing of the decision from the Coordinator.” and inserting instead —

“

may apply to the State Administrative Tribunal for a review of the decision.

”.

- (2) Section 44(2) to (5) are repealed.

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**Part 2** Various Acts amended to confer jurisdiction

**Division 133** Water Services Licensing Act 1995

**s. 1301**

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**1301. Section 54 amended**

- (1) Section 54(1) is amended by deleting “appeal in the prescribed manner to the Minister.” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the order.

”.

- (2) Section 54(2) and (3) are repealed.

**1302. Section 57 amended**

Section 57(4) and (5) are repealed and the following subsection is inserted instead —

“

- (4) If the Minister refuses to exempt the objector or grants a partial exemption, the objector may apply to the State Administrative Tribunal for a review of the decision.

”.

**1303. Section 59H amended**

- (1) Section 59H is amended by inserting before “Any acts” the subsection designation “(1)”.

- (2) At the end of section 59H the following subsection is inserted —

“

- (2) The department’s annual report is to include details of —

(a) the number, nature, and outcome, of —

- (i) investigations and inquiries undertaken by, or at the direction of, the Board into licensing under this Act; and

- (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Board.

”.

**1304. Schedule 3 amended**

- (1) Schedule 3 clause 7 is amended by deleting “disciplinary” and inserting instead —

“ supervisory, regulatory, ”.

- (2) Schedule 3 clause 8 is amended as follows:

- (a) in paragraph (i) by deleting “, and inquiry into,”;
- (b) by deleting paragraphs (j) to (l) and inserting instead —

“

- (j) the conferral on the State Administrative Tribunal of jurisdiction to deal with disciplinary matters and the orders that may be made following the hearing and determination of disciplinary matters, which may include orders imposing disciplinary penalties;
- (k) the conferral on the State Administrative Tribunal of jurisdiction to deal with applications for the review of decisions of the Board or any committee established by the Board;

”.

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**Division 134** Waterways Conservation Act 1976

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- (3) Schedule 3 clause 13 is amended by inserting after “provided for in the regulations” —

“

, other than for bringing matters before the State Administrative Tribunal,

”.

**Division 134 — *Waterways Conservation Act 1976***

**1305. The Act amended**

The amendments in this Division are to the *Waterways Conservation Act 1976*\*.

[\* Reprinted as at 20 September 2002.]

**1306. Section 46 amended**

- (1) Section 46(11) is amended by deleting all of the subsection after “may” in the first place where it occurs and inserting instead —

“

apply to the State Administrative Tribunal for a review of the decision of the Commission.

”.

- (2) Section 46(12) is repealed.

**1307. Section 76 amended**

Section 76(2)(f) is amended by deleting “for the making and determination of appeals,”.

**Division 135 — *Western Australian Marine Act 1982***

**1308. The Act amended**

The amendments in this Division are to the *Western Australian Marine Act 1982* \*.

[\* Reprinted as at 28 January 2000.]



**1309. Section 3 amended**

Section 3(1) is amended by deleting the definition of “Appeal Authority”.

**1310. Section 10 amended**

Section 10 is amended as follows:

- (a) in paragraph (f) by inserting after “coxswains” —

“

and providing for applications to the State  
Administrative Tribunal for review of decisions  
about the grant, endorsement, and revalidation  
of those certificates of competency

”;

- (b) in paragraph (g) by deleting “appeals against” and  
inserting instead —

“

applications to the State Administrative  
Tribunal for review of

”;

- (c) after paragraph (h) by inserting —

“ and ”;

- (d) by deleting at the end of paragraph (i) the semicolon and  
“and” after it and instead inserting a full stop;

- (e) by deleting paragraph (j).

**1311. Section 11 replaced**

Section 11 is repealed and the following section is inserted  
instead —

“

**11. Constituting the State Administrative Tribunal**

- (1) When the State Administrative Tribunal is dealing with  
an application for a review of a decision about the

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**Part 2** Various Acts amended to confer jurisdiction

**Division 135** Western Australian Marine Act 1982

**s. 1312**

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certificate of competency of a master, mate, or coxswain, or a candidate for such a certificate, the member constituting the State Administrative Tribunal, or at least one of them if there is more than one, is to be a person who holds a certificate of competency as a master class I, or an equivalent or higher certificate.

- (2) When the State Administrative Tribunal is dealing with an application for a review of a decision about the certificate of competency of a marine engineer or marine engine driver, or a candidate for such a certificate, the member constituting the State Administrative Tribunal, or at least one of them if there is more than one, is to be a person who holds a certificate of competency as a marine engineer class I, or an equivalent or higher certificate.

”.

**1312. Section 127 amended**

- (1) Section 127 is amended by inserting before “Service” the subsection designation “(1)”.
- (2) At the end of section 127 the following subsection is inserted —

“

- (2) In subsection (1) —  
“**legal proceeding under this Act**” includes any proceeding under the *State Administrative Tribunal Act 2004* in a matter commenced by an application under this Act for a review.

”.

**Division 136 — Western Australian Meat Industry Authority  
Act 1976**

**1313. The Act amended**

The amendments in this Division are to the *Western Australian Meat Industry Authority Act 1976*\*.

[\* Reprinted as at 1 March 2002.]

**1314. Section 22 amended**

- (1) Section 22(1) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review  
of the decision.

”.

- (2) Section 22(2) is repealed.

**Division 137 — Western Australian Planning Commission  
Act 1985**

**1315. The Act amended**

The amendments in this Division are to the *Western Australian Planning Commission Act 1985*\*.

[\* Reprinted as at 16 March 2001.

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2002, Table 1, p. 429 and  
Act No. 24 of 2002.]*

**1316. Section 18 amended**

Section 18(1b)(a) is amended as follows:

- (a) by deleting “appeal” and inserting instead —  
“ application ”;

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- (b) by deleting “Town Planning Appeal Tribunal” and inserting instead —  
“ State Administrative Tribunal ”.

**1317. Section 25 amended**

- (1) Section 25(1) is amended by deleting all of the subsection after “that person” and inserting instead —

“

apply to the State Administrative Tribunal for a review, in accordance with Part V of the *Town Planning and Development Act 1928*, of that refusal or condition.

”.

- (2) Section 25(2) is amended by deleting all of the subsection after “that expiry” and inserting instead —

“

apply to the State Administrative Tribunal for a review, in accordance with Part V of the *Town Planning and Development Act 1928*, of that deemed refusal.

”.

- (3) Section 25(3) is amended by deleting “appeal shall not be made or heard under this section” and inserting instead —

“

application under this section for a review shall not be made or heard

”.

**1318. Section 29 amended**

Section 29(1)(b) is amended as follows:

- (a) by deleting “appeal” and inserting instead —

“

application for review of the Commission’s decision

”;

- (b) by deleting “disallowed wholly or in part” and inserting instead —  
“ wholly or in part unsuccessful ”.

**1319. Section 32 amended**

- (1) Section 32(2)(b) is deleted and the following paragraph is inserted instead —

“  
(b) by the State Administrative Tribunal on the owner of the land applying to it for a determination of that value;  
”.

- (2) Section 32(3) is repealed.

**1320. Section 37E amended**

- (1) Section 37E(1) is amended as follows:

- (a) by deleting “appeal against that approval or refusal under” and inserting instead —

“  
apply to the State Administrative Tribunal for a review, in accordance with  
”;

- (b) by inserting after “1928” —  
“ , of that approval or refusal ”.

- (2) Section 37E(2) is amended as follows:

- (a) by deleting “appeal” in each place where it occurs and inserting instead —

“ application ”;

- (b) by inserting after “subsection (1)” —  
“ for a review ”;

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- (c) by deleting “56(2)” and inserting instead —  
“ 61(2) ”.

**1321. Section 37J amended**

(1) Section 37J(4) is amended as follows:

- (a) by deleting “this section may appeal under” and inserting instead —

“

subsection (1) or (2) may apply to the State Administrative Tribunal for a review in accordance with

”;

- (b) by deleting “Act against” and inserting instead —  
“ Act of ”.

(2) Section 37J(5) is amended as follows:

- (a) by deleting “Town Planning Appeal” in the first place where it occurs and inserting instead —

“ State Administrative ”;

- (b) by deleting “the Town Planning Appeal Tribunal” in the second place where it occurs and inserting instead —

“ it ”.

(3) Section 37J(6) is repealed.

(4) Section 37J(7)(a) is amended as follows:

- (a) in subparagraph (i) by inserting after “directions” —  
“ within the time specified in the notice ”;

- (b) by deleting subparagraph (ii) and inserting instead —

“

- (ii) apply under subsection (4), within the time for making the application, for a review of any of the directions; or

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- ”;
- (c) by deleting “within the time specified in the notice; or”.
- (5) Section 37J(7)(b) is amended as follows:
- (a) by deleting “appeal by an owner of any land” and inserting instead —
- “
- an application by an owner of any land for a review of
- ”;
- (b) by inserting after “or (2)” —
- “ , the direction ”;
- (c) by deleting “subsection (5)” in the first and second places where it occurs;
- (d) by deleting “Town Planning Appeal Tribunal” and inserting instead —
- “ State Administrative Tribunal ”.

**Part 3 — Certain Acts repealed**

**1322.    *Commercial Tribunal Act 1984* repealed**

The *Commercial Tribunal Act 1984* is repealed.

**1323.    *Land Valuation Tribunals Act 1978* repealed**

The *Land Valuation Tribunals Act 1978* is repealed.



## Part 4 — Other amendments

### 1324. *Constitution Acts Amendment Act 1899* amended

- (1) The amendments in this section are to the *Constitution Acts Amendment Act 1899*\*.

[\* Reprinted 8 June 2001.]

*For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 75-6 and Acts Nos. 24 of 2002 and 8 of 2003.*

- (2) Schedule V is amended as set out in the Table to this subsection.

**Table**

Item	Provision	Amendment
1.	Part 1 Division 1	Delete “Retirement villages referee appointed under the <i>Retirement Villages Act 1992</i> .”
2.	Part 3	Delete “Any land valuation tribunal established under the <i>Land Valuation Tribunals Act 1978</i> .”
3.	Part 3	Delete “The Town Planning Appeal Tribunal constituted under the <i>Town Planning and Development Act 1928</i> .”

### 1325. *Parliamentary Commissioner Act 1971* amended

- (1) The amendment in this section is to the *Parliamentary Commissioner Act 1971*\*.

[\* Reprinted 16 March 2001.]

- (2) After section 13(2)(k) the following paragraph is inserted —

“

- (ka) the State Administrative Tribunal, a judicial or non-judicial member of that Tribunal or any person acting in the office, or performing the functions, of the executive officer of that Tribunal;

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”  
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## Part 5 — Some transitional issues

### 1326. Regulations and principles to do with transfer of certain functions

- (1) The Governor may make regulations required, or necessary or convenient, to be prescribed in relation to issues arising when this Act amends an Act so that a function that was performed by a particular functionary (the “**former functionary**”) before the day on which the amendment has effect (the “**transfer day**”) ceases to be performed by that person and instead a different functionary (the “**new functionary**”) performs a function that is substantially similar.
- (2) Regulations under subsection (1) may include provisions that modify the operation of another written law or otherwise have effect despite another written law.
- (3) Without limiting subsection (1) —
  - (a) subsections (4) to (6) describe the general principles governing how to deal with issues mentioned in subsection (1); and
  - (b) regulations under subsection (1) may make any provision that is necessary or convenient to apply those general principles.
- (4) This section does not apply if the new functionary is the State Administrative Tribunal.
- (5) On the transfer day —
  - (a) any matter involved in the performance of the function is to be transferred to, and dealt with by, the new functionary;
  - (b) any application, objection, or other thing made, addressed, or otherwise directed or given to the former functionary to do with the performance of the function becomes of the same effect as if it had been given to the

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new functionary to be dealt with under the Act as amended by this Act;

- (c) anything ordered, decided, or otherwise done by a former functionary in the performance of the function becomes of the same effect as if, and as enforceable and reviewable as if, it were ordered, decided, or done by the new functionary under the provisions authorising the new functionary to order, decide, or do corresponding things after the transfer day.
- (6) A former functionary is to cause the new functionary to be sent all records relating to a matter that is transferred under this section to the new functionary, but if the former functionary ceases to exist the regulations may make such provision as is necessary or convenient for the new functionary to be sent the records.

**1327. Regulations for general transitional matters**

- (1) If there is no sufficient provision for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are necessary or convenient to be prescribed in relation to that matter.
- (2) In subsection (1) —  
**“transitional matter”** means a matter that it is necessary or convenient to deal with for the purpose of effecting the transition from the provisions of the Acts amended by this Act as in force before any provision of this Act comes into operation to the provisions of those Acts as in force after all or any of the provisions of this Act have come into operation.
- (3) Regulations made under subsection (1) may provide that specific provisions of any written law —
  - (a) do not apply to or in relation to any matter; or

- (b) apply with specific modifications to or in relation to any matter.
- (4) Regulations made under subsection (1) cannot be made more than 18 months after the day on which this section comes into operation.
- (5) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the day on which this section comes into operation, the regulations have effect according to their terms.
- (6) In subsection (5) —
  - “**specified**” means specified or described in the regulations.
- (7) If regulations contain a provision referred to in subsection (5), the provision does not operate so as —
  - (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the day of publication of those regulations; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

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