

Land Valuers Licensing Act 1978

Compare between:

[07 Jun 2011, 03-d0-02] and [01 Jul 2011, 03-e0-04]

Western Australia

Land Valuers Licensing Act 1978

| An Act to provide for | the li | ensing | of land | valuers | and | for | related |
|-----------------------|--------|--------|---------|---------|-----|-----|---------|
| purposes. | | | | | | | |

Part I — Preliminary

1. Short title

This Act may be cited as the Land Valuers Licensing Act 1978 ¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation ¹.

Deleted by No. 56 of 1995 s. 26.] *[3.*

4. Terms used

In this Act unless the context otherwise requires approved means approved by the Board Commissioner;

Australian Property Institute means the incorporated association known as the Australian Property Institute;

Chairman means Commissioner has the Chairman of meaning given in the Board Fair Trading Act 2010 section 6;

corporation means any body corporate;

department means the department of the Public Service principally assisting the Minister in the administration of this Act;

land includes any estate or interest in land;

lawyer means an Australian lawyer within the meaning of that term in the Legal Profession Act 2008 section 3;

legal practitioner means an Australian legal practitioner within the meaning of that term in the Legal Profession Act 2008 section 3:

licence means a licence under this Act:

licensed valuer means a person licensed under this Act;

licensed valuers code of conduct means the code published under section 26;

member means a member of the Board and includes the Chairman;

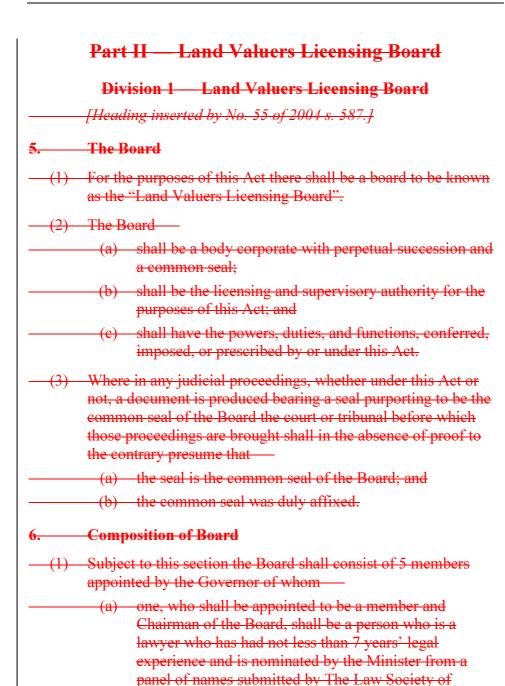
member, where used in relation to membership of the Australian Property Institute, means a Fellow or Associate of that Institute;

officer means —

- (a) in relation to a firm a member of the firm or an employee of the firm whose sole or principal employment is in the service of the firm;
- (b) in relation to a corporation any director, manager or secretary of the corporation or any employee of the corporation whose sole or principal employment is in the service of the corporation.

Registrar means the Registrar of the Board;
the Board means the Land Valuers Licensing Board.

[Section 4 amended by No. 15 of 1984 s. 3; No. 56 of 1995 s. 27; No. 65 of 2003 s. 44(2); No. 74 of 2003 s. 74(2); No. 55 of 2004 s. 586; No. 21 of 2008 s. 671(2)...]; No. 58 of 2010 s. 14 and 31.]



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Western Australia;



- 2 shall be persons who are experienced in the valuation of land, are members of the Australian Property Institute, and are nominated by the Minister from a panel of names submitted by the Western Australian Division of that Institute; and
- one shall be a person who is experienced in the valuation of land, is a member of the Australian Property Institute, and is nominated by the Minister from a panel of names submitted by the Real Estate Institute of Western Australia.
- (1a) In subsection (1)(a)

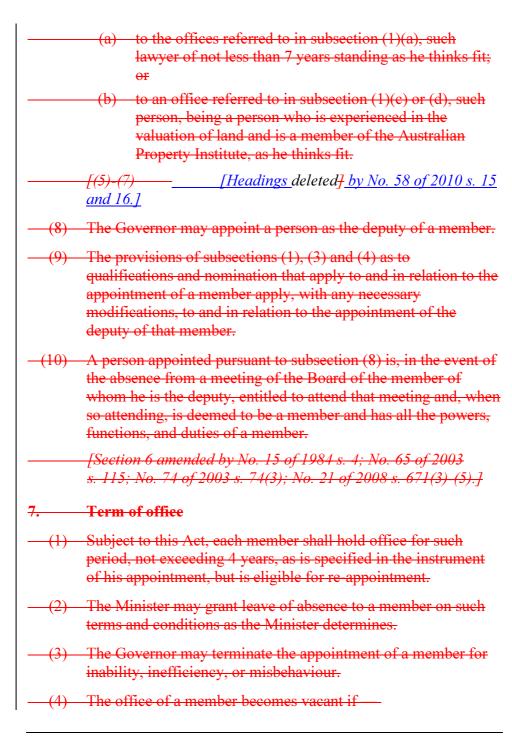
legal experience means

- (a) standing and practice as a legal practitioner; or
- (b) judicial service (including service as a judge of a court, a magistrate or other judicial officer) in the State or elsewhere in a common law jurisdiction; or
- (c) a combination of both kinds of legal experience mentioned in paragraphs (a) and (b).
- The Governor shall appoint one of the members appointed pursuant to subsection (1)(b), (c) or (d) to be Deputy Chairman of the Board.
- Whenever a panel of names is required for the purposes of filling the offices referred to in subsection (1)(a) or an office referred to in subsection (1)(c) or (d), the Minister shall, in writing, request the body referred to in the appropriate paragraph to submit to him, in writing, within the time specified in the request, a panel containing the names of 3 persons qualified and willing to act as members of the Board.
- Where a request is made pursuant to subsection (3) the Minister may, if no panel or no panel of sufficient size, is submitted in accordance with the request, nominate for appointment

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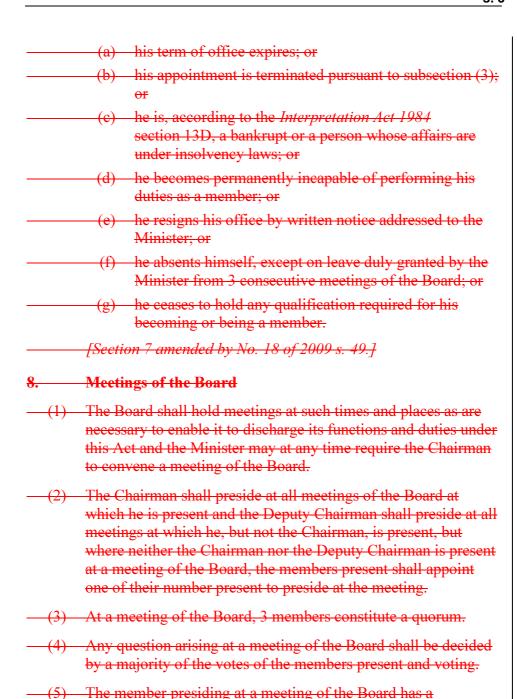
Part II Land Valuers Licensing Board
Division 1 Land Valuers Licensing Board





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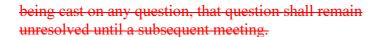
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deliberative vote only, and in the event of an equality of votes

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Part II Land Valuers Licensing Board **Division 1** Land Valuers Licensing Board

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- The Board shall cause accurate minutes to be kept of its proceedings at its meetings.
- To the extent that it is not prescribed the Board shall determine its own procedure.

Validity of acts of Board

No act, proceeding, or determination of the Board shall be invalid on the ground only of any vacancy in the office of any member of the Board or of any defect in the appointment of any member of the Board or in the appointment of any deputy of a member of the Board.

Remuneration of members

The members of the Board shall be paid such allowances and expenses as may from time to time be fixed by the Governor.

The Registrar and other officers

- There shall be a Registrar of the Board and there may be such Deputy Registrar, Assistant Registrars and other officers of the Board as are necessary for its proper functioning.
- The officers of the Board shall be appointed and shall hold office subject to and in accordance with Part 3 of the Public Sector Management Act 1994.
- The officers of the Board may hold office as such in conjunction with any other office in the Public Service of the State.
- Anything by this Act appointed or authorised or required to be done or signed by the Registrar may be done or signed by any Deputy or Assistant Registrar and shall be as valid and effectual as if done or signed by the Registrar.

All courts, judges, and persons acting judicially shall take iudicial notice of the official signature of every person who is for the time being and every person who has at any time been Registrar, Deputy Registrar or Assistant Registrar and of the fact that such person holds or has held such office.

[Section 11 amended by No. 32 of 1994 s. 3(1).]

Division 2—General

[5-11. Deleted by No. 58 of 2010 s. 16.7]

[Heading inserted by No. 55 of 2004 s. 588.]

12. Proceedings before the Board

- (1) The Board shall give to any person who is a party to proceedings instituted before the Board on an application for the grant of a licence reasonable notice of the time and place at which it intends to hear those proceedings, and shall afford any such person a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses, and to make submissions to the Board unless there is no objection.
- If a person to whom notice has been given pursuant to subsection (1) does not attend at the time and place fixed by the notice, the Board may hear the proceedings in his absence.
- The Board may appoint a person with such qualifications as it thinks fit to appear in proceedings before the Board to assist the Board.
- (4) Any party to proceedings before the Board shall be entitled to appear personally or by counsel.
- Any party to proceedings before the Board, may, by leave of the Board, be represented before the Board by a person other than a legal practitioner.

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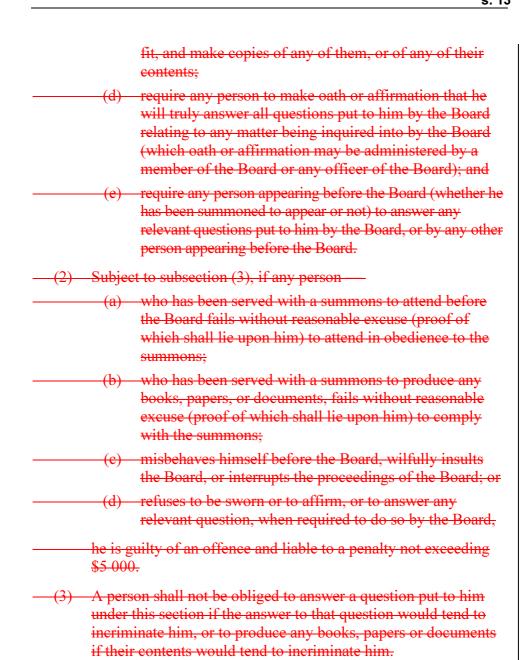
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| (6) | A person, other than a legal practitioner, shall not demand or receive any fee or reward for representing a party to |
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| | proceedings before the Board. |
| | Penalty: \$5 000. |
| (7) | Where the Board is satisfied that for the purpose of protecting the business or interest of any person it is desirable that the proceedings of any part thereof be heard <i>in camera</i> , the Board may make an order to that effect and may include in the order conditions relating to that purpose, and, if such an order is made, the proceedings shall be conducted in accordance with it. |
| | <u>[(8)</u> deleted <u>by No. 58 of 2010 s. 17.]</u> |
| (9) | A person appointed by the Board to assist the Board in proceedings before the Board or a person authorised by or under this Act to appear in proceedings before the Board for the purpose of representing another person has the same protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court and, where the person so appointed is a barrister or solicitor, he is subject to the same liabilities as he would be in appearing before that Court. [Section [12-amended-14. Deleted by No. 5558 of 20042010] |
| | s. <u>589; No. 69 of 2006 s. 15.] 18.]</u> |
| 13. | Powers of the Board |
| (1) | In the exercise of its powers in proceedings on an application for the grant of a licence, the Board may |
| | (a) by summons signed on behalf of the Board by the Registrar, require the attendance before the Board of any person; |
| | (b) by summons signed on behalf of the Board by the Registrar, require the production of any books, papers, or documents; |
| | (c) inspect any books, papers or documents produced before |

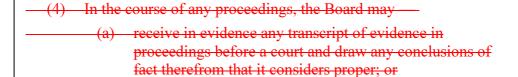
General



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adopt, as in its discretion it considers proper, any findings, decision, or judgment of a court that may be relevant to the proceedings.

In any proceedings the Board shall act according to equity, good conscience, and the substantial merits of the case without regard to technicalities and legal forms and it shall not be bound by the rules of evidence, but may inform itself on any matter in such manner as it thinks fit.

Section 13 amended by No. 55 of 2004 s. 590; No. 69 of 2006 s. 16.7

Orders for costs

The Board may, upon the determination of any proceedings, make such orders for costs as the Board considers just and reasonable.

(2) deleted

[Section 14 amended by No. 55 of 2004 s. 591.]

15. Powers of investigation

(1) The Board may make any inquiry Fair Trading Act 2010 section 61 and Part 6 of that the Board considers necessary or expedient for the purposes of

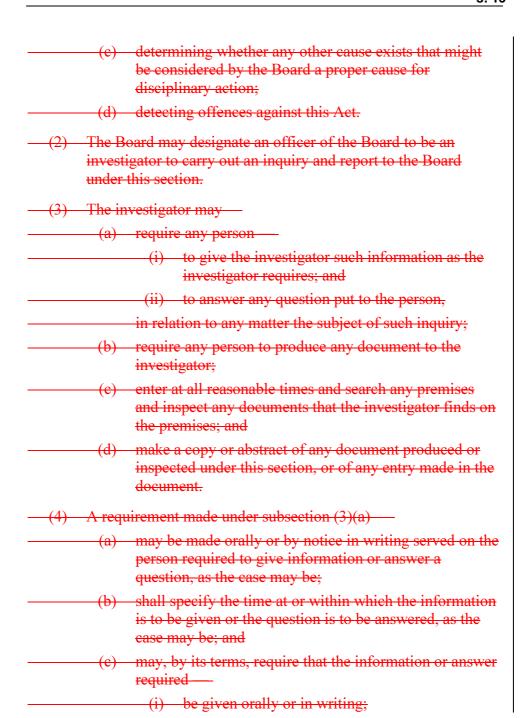
(a) determining any application or any other matter before

determining whether or not a licensed valuer is or has been complying with the requirements of Act apply to this Act:

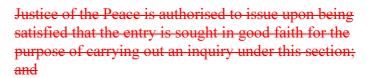
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Division 2



| | (ii) be given at or sent or delivered to any place specified in the requirement; |
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| | (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 |



(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.

[Section_15 inserted by No. 5558 of 20042010 s. 592.] 19.]

[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).

[Section 15A inserted by No. 55 of 2004 s. 592.]

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;

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| (b) | gives any information or answer that is false in any particular; or |
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| (c) | fails to produce that document at or within the time specified in the requirement, |
| the per | son commits an offence. |
| Penalty | y: \$2 000. |
| | lefence in any proceeding for an offence under tion (1)(a) or (c) for the accused 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 accused that he was required under this Act to give the information or answer the question, as the |
| (b) | case may be; 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 accused 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. |
| | on 15B inserted by No. 55 of 2004 s. 592; amended by of 2008 s. 65.] |
| <u>-</u> 15C. Obstru | netionDeleted by No. 58 of investigator 2010 s. 20.] |
| from e r | on shall not prevent or attempt to prevent an investigator ntering premises or otherwise obstruct or impede an gator in the exercise of his powers under section 15. |

Penalty: \$2 000. [Section 15C inserted by No. 55 of 2004 s. 592.]

16. **Application for review**

- Any person aggrieved by a reviewable decision of the (1) Board Commissioner may apply to the State Administrative Tribunal for a review of the decision.
- In subsection (1) (2)

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.

[Section 16 inserted by No. 55 of 2004 s. 592592; amended by No. 58 of 2010 s. 31.1

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Part III — Licensing

17. Application

- (1) An application for a licence shall be made in writing and in a manner and form determined by the **Board**Commissioner in respect of such an application and shall contain such information as is required by the **Board**Commissioner in respect of such an application.
- (2) Notice of the application shall be advertised in accordance with the regulations.
- (3) The information contained in the application shall be verified by statutory declaration of the applicant.
- (4) In respect of any particular application the applicant shall furnish the **Board**Commissioner with such further information as the **Board**Commissioner determines, verified if the Board Commissioner so requires by statutory declaration.
- An applicant is a party to proceedings before the Board on his application.
- If the Commissioner is considering making an adverse decision in relation to the application, the Commissioner must give the applicant the opportunity to give additional information in relation to that application.

[Section 17 amended by No. 58 of 2010 s. 21 and 31.]

18. Objections

- Any person may object to the grant of a licence. (1)
- Any objection made shall be in writing and in a form and (2) manner determined by the **Board**Commissioner and shall contain information in support of the grounds on which the objection is made.

- (3) The information contained in the objection shall be verified by statutory declaration of the person making the objection.
- (4) A person who makes If the Commissioner is considering making an objection adverse decision in relation to the grant of a licence is, while he maintains the objection, a party to the proceedings onCommissioner must give the application for objector the grant opportunity to give additional information in relation to that objection.

[Section 18 amended by No. 58 of 2010 s. 22 and 31.]

19. Grant of licence

The Board Commissioner may grant a licence to any person who satisfies the Board Commissioner, by such evidence as it the Commissioner may require that he is a person of good character and repute and is competent to carry out the duties of a licensed valuer and who —

- $\int (a)$ deleted]
- is a member of the Australian Property Institute; or (b)
- is the holder of a prescribed degree, diploma, certificate (c) or other award and has had, in the opinion of the Board Commissioner.
 - satisfactory practical experience in the valuation of land, for the period of 2 years immediately preceding the date of his application; and
 - a total of not less than 4 years' satisfactory practical experience in the valuation of land within the period of 10 years immediately preceding the date of his application;

(d) has previously held a licence under this Act within the period of 5 years immediately preceding the date of his application.

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[Section 19 amended by No. 74 of 2003 s. 74(3); No. 55 of 2004 s. 593; No. 58 of 2010 s. 31.7

19A. **Unopposed applications**

- Subject to this Part, a licence may be granted (as long as there is (1) no objection) by the Board, in a meeting at any time and placeCommissioner without notice to the applicant.
- Where the **Board**Commissioner performs a function under (2) subsection (1), the RegistrarCommissioner shall forthwith deliver the licence to the applicant.

[Section 19A inserted by No. 55 of 2004 s. 594594; amended by No. 58 of 2010 s. 23 and 31.]

20. Fee and oath

A person who has applied for and is qualified to hold, a licence shall, before being granted a licence —

- pay to the **Board**Commissioner the prescribed fee for the licence; and
- make on oath or affirmation a declaration in an approved form that he will make every valuation impartially.

[Section 20 amended by No. 58 of 2010 s. 31.]

20A. Suspension of licence by State Administrative Tribunal

- Where the State Administrative Tribunal makes an order against (1) 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.
- The power conferred on the State Administrative Tribunal by (2) subsection (1) is in addition to, and does not derogate from, the

powers conferred on it by the State Administrative Tribunal Act 2004.

[Section 20A inserted by No. 55 of 2004 s. 595.]

21. Expiry and surrender of licence

- (1) On granting a licence the **Board**Commissioner shall fix a period, not exceeding the period prescribed, during which the licence is to have effect.
- (1a) Subject to section 28, unless sooner surrendered a licence shall have effect for the period fixed under subsection (1) and may be renewed under section 22.
- A person may at any time surrender a licence and the licence (2) shall thereupon become and be void and of no effect.
- (3) Despite the surrender by a person of a licence, this Act applies and the Fair Trading Act 2010 apply, 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.

[Section 21 amended by No. 56 of 1995 s. 28; No. 55 of 2004 s. 596596; No. 58 of 2010 s. 24 and 31.]

22. Renewal of licence

- (1) Where the holder of a licence applies to the Board Commissioner for the renewal of that licence and pays to the **Board**Commissioner the prescribed fee, the **Board** shallCommissioner may renew the licence for a further prescribed period.
- If— (2)
 - an application is made after, but within 28 days of, the (a) day on which the licence expired; and
 - the prescribed fee and any amount prescribed by way of (b) penalty for a late application are paid,

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- the **Board shall**Commissioner may renew that licence for the period prescribed.
- A renewal under subsection (2) shall be taken for all purposes to (2a) have taken effect on the day immediately succeeding the day on which the previous licence expired.
- An application for the renewal of a licence shall be made in (3) writing and in a manner and form determined by the Board Commissioner in respect of such an application.
 - [Section 22 amended by No. 56 of 1995 s. 2929; No. 58 of 2010] s. 25 and 31.]

Part IV — Control of the practice of valuation

Division 1 — General

23. Valuers to be licensed

- (1) A person shall not carry on business, or by any means hold himself out, or demand or receive commission, reward or other valuable consideration in respect of his services, as a valuer of land unless he is licensed under this Act.
 - Penalty: \$50 000.
- (2) Subsection (1) does not prevent a firm or corporation from carrying on business, or holding itself out, or demanding or receiving commission, reward or other valuable consideration in respect of its services, as a valuer of land so long as every valuation of land supplied by that firm or corporation is made by an officer of the firm or corporation who is licensed under this Act.
- (3) Subsection (1) does not prevent
 - (a) a student who is undertaking a prescribe course of study in the valuation of land; or
 - (b) a person who is employed as an assistant to a licensed valuer,

from performing and discharging, under the supervision of a licensed valuer, functions and duties connected with the valuation of land.

[Section 23 amended by No. 15 of 1984 s. 5; No. 69 of 2006 s. 17.]

24. False claim of being licensed

(1) A person who, not being a licensed valuer, in any way implies that he is licensed under this Act shall be guilty of an offence against this Act.

Penalty: \$50 000.

Part IV Control of the practice of valuation

Division 2 Discipline

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Subsection (1) does not prevent a firm or corporation of which at least one officer is a licensed valuer from using the term "licensed valuers", or otherwise implying in any way that it is able to render the services of a licensed valuer, in a notice or advertisement or in a letterhead or other document so long as the notice, advertisement or document also contains the names of the officer or officers of the firm or corporation who is or are licensed under this Act.

[Section 24 amended by No. 69 of 2006 s. 18.]

25. Remuneration of licensed valuers

- (1) The **Board**Commissioner may, with the approval of the Minister, from time to time by notice published in the Government Gazette fix the maximum amounts of remuneration for the various kinds of services rendered by licensed valuers.
- (2) The respective maximum amounts fixed under subsection (1) shall have effect on and after the date on which the notice fixing them is published in the Government Gazette or on and after such subsequent date as is specified in that notice.
- (3) A licensed valuer, or a firm or corporation of which a licensed valuer is an officer, shall not demand or receive, in respect of any service rendered by the licensed valuer, any remuneration that exceeds in value the amount (if any) for the time being fixed under subsection (1) in respect of a service of that kind. Penalty: \$5 000.
- Any remuneration received in contravention of this section may (4) be recovered as a civil debt recoverable summarily in a court of competent jurisdiction.

[Section 25 amended by No. 15 of 1984 s. 6; No. 69 of 2006 s. 1919; No. 58 of 2010 s. 31.]

Division 2 — **Discipline**

26. Licensed valuers' code

The **Board**Commissioner may, with the approval of the Minister, from time to time by notice published in the Government Gazette lay down a code of conduct for licensed valuers.

[Section 26 inserted by No. 15 of 1984 s. 77; amended by No. 58 of 2010 s. 31.]

27. Disciplinary proceedings against licensed valuers

The Board Commissioner 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.

[Section 27 inserted by No. 55 of 2004 s. 597597; amended by No. 58 of 2010 s. 31.7

28. Powers on disciplinary proceedings

- If, in a proceeding commenced by an allegation under (1) section 27 against a licensed valuer, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may do any one or more of the following things —
 - (a) reprimand or caution the licensed valuer;
 - impose a fine not exceeding \$10 000 on him; (b)
 - suspend or cancel his licence and, in addition, disqualify (c) him either temporarily or permanently, or until the fulfilment of any condition which may be imposed by the Tribunal, from holding a licence.
- There shall be proper cause for disciplinary action if (2)
 - the licensed valuer improperly obtained a licence; (a)
 - (b) the licensed valuer has been guilty of negligence or incompetence in making a valuation of land;

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Part IV Control of the practice of valuation

Division 2 Discipline

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- the licensed valuer is acting or has acted in breach of the licensed valuers code of conduct; or
- (d) any other cause exists that renders the licensed valuer unfit to hold a licence.

[Section 28 amended by No. 55 of 2004 s. 598; No. 69 of 2006 s. 20.7

Part V — Miscellaneous

29. Registers

- (1) The Registrar Commissioner shall keep a register of licensed valuers.
- (2) The RegistrarCommissioner shall record in the register any prescribed particulars.
- (3) The Registrar Commissioner shall cause to be removed from the register the name of every licensed valuer who dies or ceases for any reason to be licensed under this Act.
- (4) The Registrar Commissioner shall, upon receipt of the prescribed fee from a person desiring to inspect the register, make it available for the inspection of that person.

[Section 29 amended by No. 58 of 2010 s. 31.]

29A. Change of particulars

- (1) A licensed valuer shall give written notice to the RegistrarCommissioner of any change in the particulars specified in the register in respect of that valuer as soon as practicable after that change takes place.

 Penalty: \$2 000.
- (2) The Registrar Commissioner shall enter in the register details of any change notified under subsection (1).

[Section 29A inserted by No. 56 of 1995 s. 30; amended by No. 69 of 2006 s. 2121; No. 58 of 2010 s. 31.]

30. Lists and certificates

(1) A list of the names and descriptions of all persons holding licences on a date specified therein together with such of the particulars appearing in the register as the RegistrarCommissioner thinks fit, shall be published in the Government Gazette annually.

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- (2) The Registrar Commissioner may cause supplementary lists to be published.
- (3) A certificate under the hand of the Registrar Commissioner that any person is or is not, or was or was not, licensed under this Act on the date of, or a date referred to, in the certificate, or as to any other matter contained in a register, shall, in the absence of proof to the contrary, be taken as proof of the matter so certified.
- The Registrar Commissioner shall, upon receipt of a request in (4) writing by any person, and payment of the prescribed fee, issue a certificate as to any of the contents of the Register.

[Section 30 amended by No. 58 of 2010 s. 31.]

31. Annual report

- The Chairman shall, on behalf of the Board, as soon as practicable after 1 July in each year, submit to the Minister a report on the activities under this Act of the Board for the year ending on 30 June last preceding.
- The chief executive officer is to ensure that the matters set out in subsection (1a) are included in the department's annual report.
- The **Board's**department's annual report is to include details (1a) of—
 - (a) the number, nature, and outcome, of
 - investigations and inquiries undertaken by, or at the direction of, the **Board**Commissioner; and
 - (ii) matters that have been brought before the State Administrative Tribunal by the **Board**Commissioner;
 - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
 - any trends or special problems that may have emerged; (c)

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- (d) forecasts of the workload of the **Board**Commissioner in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Board's Commissioner's functions.
- (2) The Minister shall cause the report to be laid on the Table of each House of Parliament within 14 days of its receipt, or if at that time Parliament is not in session, then within 14 days of the commencement of the next session of Parliament.

[(2) deleted]

[Section 31 amended by No. 55 of 2004 s. 599599; No. 58 of 2010 s. 26 and 31.]

[32. Immunity Deleted by No. 58 of Board and officers 2010 s. 27.]

No liability shall attach to a member or the deputy of a member, or the Registrar or any other officer, of the Board for any act or omission by him or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this 33.

Confidentiality of information officially obtained

The Fair Trading Act.

33. Secrecy

- (1) This <u>2010</u> section <u>112</u> applies to any person who is, or has been, a member or the deputy of a member, or the Registrar or any other officer, whether permanent or temporary, of the Board.
- (2) A person to whom this section applies shall not either directly or indirectly, except in the performance of a duty under or in connection with this Act, make a record of, or divulge or communicate to any person, any information concerning the affairs of any other person acquired by him by reason of his office or employment under or information obtained for the purposes of this Act.

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Penalty: \$5 000.

[Section 33 amended inserted by No. 69 58 of 20062010

34. Offences by corporations

Where a corporation is guilty of an offence against this Act any officer of the corporation who was knowingly a party to the commission of that offence is also guilty of that offence.

35. Proceedings

- Proceedings for an offence against this Act may be taken by the (1) Registrar Commissioner.
- Notwithstanding the provisions of any other Act, proceedings (2) for an offence against this Act may be brought within the period of 3 years after the commission of the alleged offence or, with the consent of the Minister, at any later time.
- (3) An allegation in a charge of an offence under this Act that a person named therein was or was not licensed under this Act at the time specified therein shall, in the absence of proof to the contrary, be taken as proved.

[Section 35 amended by No. 59 of 2004 s. 141; No. 84 of 2004 s. 7878; No. 58 of 2010 s. 31.7

36. Regulations

- The Governor may make such regulations as are contemplated (1) by this Act or as he considers necessary or expedient for the purposes of this Act.
- Without limiting the generality of subsection (1), those (2) regulations may
 - prescribe the procedure of the Board;
 - provide for the enforcement of an order of the Board under section 14 for the payment of costs; deleted]

- provide for the advertising of notices of applications for licences;
- (d) prescribe, and provide for the recovery of, any fee for the purposes of this Act;
- prescribe the particulars to be recorded in the register required to be kept under this Act;
- [(f) deleted]
- prescribe penalties not exceeding \$1 000 for any breach (g) of the regulations.
- (3) Section 45(1) and (2) of the *Interpretation Act 1984* apply in respect of fees prescribed under this Act despite sections 3(3) and 45(3) of that Act.

[Section 36 amended by No. 65 of 1987 s. 38; No. 56 of 1995 s. 31; No. 55 of 2004 s. 600; No. 69 of 2006 s. 2323; No. 58 of 2010 s. 29.7

Notes

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

Compilation table

| Short title | Number and year | Assent | Commencement |
|--------------------------------------------------------------------------------------------------------------------|-----------------------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Land Valuers Licensing Act 1978 | 55 of 1978 | 6 Sep 1978 | 1 Jul 1979 (see s. 2 and <i>Gazette</i> 22 Jun 1979 p. 1677) |
| Land Valuers Licensing Amendment Act 1984 ² | 15 of 1984 | 31 May 1984 | Act other than s. 3 and 7: 28 Jun 1984 (see s. 2(1)); s. 3 and 7: 26 Jul 1985 (see s. 2(2) and <i>Gazette</i> 26 Jul 1985 p. 2639) |
| Acts Amendment (Legal Practitioners, Costs and Taxation) Act 1987 Pt. XI | 65 of 1987 | 1 Dec 1987 | 12 Feb 1988 (see s. 2(2) and Gazette 12 Feb 1988 p. 397) |
| Acts Amendment (Public Sector Management) Act 1994 s. 3(1) | 32 of 1994 | 29 Jun 1994 | 1 Oct 1994 (see s. 2 and Gazette 30 Sep 1994 p. 4948) |
| Business Licensing Amendment Act 1995 Pt. 6 ³ | 56 of 1995 | 20 Dec 1995 | 1 Jul 1996 (see s. 2(2) and Gazette 1 Jul 1996 p. 3179) |
| Reprint of the Land Value (includes amendments listed | • | ct 1978 as at 3 | May 2002 |
| Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 44 and 115 | 65 of 2003 | 4 Dec 2003 | 1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722) |
| Statutes (Repeals and Minor Amendments) Act 2003 s. 74 | 74 of 2003 | 15 Dec 2003 | 15 Dec 2003 (see s. 2) |
| Courts Legislation Amendment and Repeal Act 2004 s. 141 | 59 of 2004 | 23 Nov 2004 | 1 May 2005 (see s. 2 and Gazette 31 Dec 2004 p. 7128) |
| State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 70 ⁴ | 55 of 2004 | 24 Nov 2004 | 1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130) |

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| Short title | Number and year | Assent | Commencement |
|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|------------------------------------|---------------------------------------------------------------------------------------------------------|
| Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78 ⁵ | 84 of 2004 (as amended by No. 2 of 2008 s. 78(2)(b)) | 16 Dec 2004 | 2 May 2005 (see s. 2 and Gazette 31 Dec 2004 p. 7129 (correction in Gazette 7 Jan 2005 p. 53)) |
| Reprint 2: The Land Value (includes amendments listed | | 1<i>ct 197</i>8 as at 1 | 12 May 2006 |
| Consumer Protection Legislation Amendment and Repeal Act 2006 Pt. 6 | 69 of 2006 | 13 Dec 2006 | 14 Jul 2007 (see s. 2 and Gazette 13 Jul 2007 p. 3453) |
| Criminal Law and Evidence Amendment Act 2008 s. 65 | 2 of 2008 | 12 Mar 2008 | 27 Apr 2008 (see s. 2 and Gazette 24 Apr 2008 p. 1559) |
| Legal Profession Act 2008 s. 671 | 21 of 2008 | 27 May 2008 | 1 Mar 2009 (see s. 2(b) and Gazette 27 Feb 2009 p. 511) |
| Reprint 3: The Land Value (includes amendments listed | | 1<i>ct 1</i>978 as at 1 | 17 Jul 2009 |
| Acts Amendment (Rankruptey) Act 2000 s. 49 | 18 of 2009 | 16 Sep 2009 | 17 Sep 2009 (see s. 2(b)) |

On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

| Short title | Number and year | Assent | Commencement |
|---------------------------------------------------|-----------------------|------------|------------------------------------------------------------|
| Acts Amendment (Fair Trading) Act 2010 Pt. 3-6 | 58 of 2010 | 8 Dec 2010 | 1 Jul 2011 (see s. 2(c) and Gazette 7 Jun 2011 p. 2057) |

The Land Valuers Licensing Amendment Act 1984 s. 4(2) and 6(2) are transitional provisions that are of no further effect.

The Business Licensing Amendment Act 1995 s. 32 is a transitional provision that is of no further effect.

The State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 5, the State Administrative Tribunal Act 2004 s. 167 and 169, and the State Administrative Tribunal Regulations 2004 r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

The Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 82, to the extent it amends this Act, was repealed by the Criminal Law and Evidence Amendment Act 2008 s. 78(2)(b).

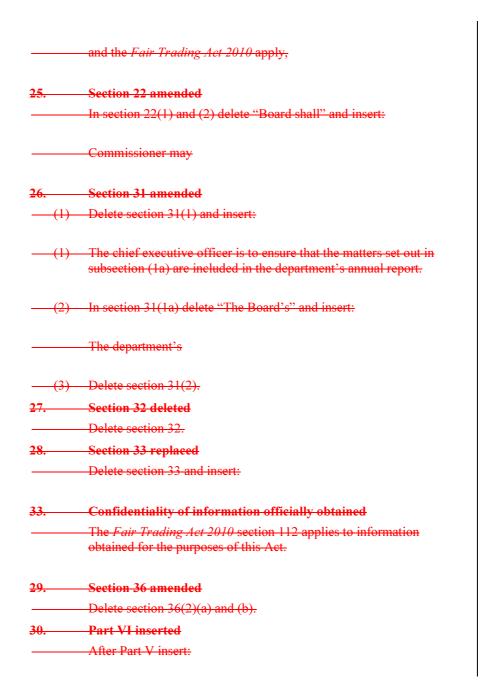
On the date as at which this compilation was prepared, the Acts Amendment (Fair Trading) Act 2010 Pt. 3 had not come into operation. It reads as follows:

Part 3 Land Valuers Licensing Act 1978 amended 13. Act amended This Part amends the Land Valuers Licensing Act 1978. Section 4 amended (1) In section 4 delete the definitions of: ----Chairman member (each occurrence) -Registrar the Board (2) In section 4 insert in alphabetical order: Commissioner has the meaning given in the Fair Trading Act 2010 section 6; department means the department of the Public Service principally assisting the Minister in the administration of this Act; (3) In section 4 in the definition of officer paragraph (b) delete "corporation;" and insert: corporation. 15. Part II heading deleted Delete the heading to Part II. 16. Part II Division 1 deleted Delete Part II Division 1. Part II Division 2 heading deleted Delete the heading to Part II Division 2.

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| 18. | Sections 12 to 14 deleted |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Delete sections 12, 13 and 14. |
| 19. | Section 15 replaced |
| | Delete section 15 and insert: |
| 15. | Powers of investigation |
| | The Fair Trading Act 2010 section 61 and Part 6 of that Act apple to this Act. |
| 20. | Sections 15A to 15C deleted |
| | Delete sections 15A, 15B and 15C. |
| 21. | Section 17 amended |
| | Delete section 17(5) and insert: |
| (5) | If the Commissioner is considering making an adverse decision is relation to the application, the Commissioner must give the applicant the opportunity to give additional information in relation to that application. |
| 22. | Section 18 amended |
| | Delete section 18(4) and insert: |
| (4) | If the Commissioner is considering making an adverse decision is relation to the objection, the Commissioner must give the object the opportunity to give additional information in relation to that objection. |
| 23. | Section 19A amended |
| | In section 19A(1) delete "Board, in a meeting at any time and place without notice to the applicant." and insert: |
| | Commissioner without notice to the applicant. |
| 24. | Section 21 amended |
| | In section 21(3) delete "applies," and insert: |



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Part VI — Miscellaneous transitional matters

[Heading inserted by No. 58 of 2010 s. 30.]

37. Terms used

In this Part —

commencement day means the day on which the Acts Amendment (Fair Trading) Act 2010 Part 3 comes into operation;

liability means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

right means any right, power, privilege or immunity whether actual, contingent or prospective;

the former Board means the Land Valuers Licensing Board established by section 5 of this Act immediately prior to the commencement day;

the former Registrar means the Registrar of the former Board immediately prior to the commencement day.

[Section 37 inserted by No. 58 of 2010 s. 30.]

38. Former Board abolished

Subject to sections 44 and 45, at the beginning of the commencement day, the former Board is abolished and its members go out of office.

[Section 38 inserted by No. 58 of 2010 s. 30.]

39. References to the former Board

If in a written law or other document or instrument there is a reference to the former Board or the former Registrar, that reference may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.

[Section 39 inserted by No. 58 of 2010 s. 30.]

40. Immunity continues

Despite the abolition of the former Board, if the former Board had the benefit of any immunity in respect of an act, matter or thing done or omitted before the commencement day, that immunity continues in that respect for the benefit of the Commissioner.

[Section 40 inserted by No. 58 of 2010 s. 30.]

41. Notices of maximum amounts of remuneration

A notice published in the *Gazette* by the Board under section 25 is taken to have been published by the Commissioner.

[Section 41 inserted by No. 58 of 2010 s. 30.]

42. Unfinished proceedings by the former Registrar

Proceedings taken by the former Registrar under section 35 that are not complete at the commencement day are to continue under the direction and control of the Commissioner.

[Section 42 inserted by No. 58 of 2010 s. 30.]

43. Unfinished proceedings by the former Board

- (1) Proceedings before the former Board under Part II Division 2 of the Act as it was prior to the commencement day that are not complete by the commencement day
 - (a) are taken to have been commenced by the Commissioner for the purposes of the Act; and
 - (b) are to continue under the direction and control of the Commissioner.
- (2) Proceedings before the State Administrative Tribunal or another court commenced by allegation against a licensed valuer brought by the former Board that are not complete by the commencement day —

- (a) are taken to have been commenced by an allegation by the Commissioner for the purposes of the Act; and
- (b) are to continue under the direction and control of the Commissioner.

[Section 43 inserted by No. 58 of 2010 s. 30.]

44. Winding-up by the former Board

As soon as reasonably practicable after the commencement day, the Board is to wind-up its affairs and in particular, but without limiting what may be done to wind-up its affairs, the Board is to apply its assets, together with any moneys in hand, in —

- (a) discharging its liabilities; and
- (b) transferring any assets which remain after the discharge of liabilities (*residual assets*) to the State to be administered in the department, or realising residual assets and causing the proceeds, together with any moneys in hand, to be credited to the Consolidated Account.

[Section 44 inserted by No. 58 of 2010 s. 30.]

45. Final report by the former Board

- (1) As soon as reasonably practical after the Board is satisfied that the winding-up of its affairs is concluded, it is to
 - (a) make and submit to the Minister a report of its proceedings for the period beginning on the day after the commencement day and ending on the day on which the winding-up of its affairs is concluded; and
 - (b) deliver to the chief executive officer all records and information in its possession or under its control.
- (2) The chief executive officer is to include the final report submitted under subsection (1) in the department's annual report for that financial year.

[Section 45 inserted by No. 58 of 2010 s. 30.]

46. Powers in relation to transitional matters

- If there is not sufficient provision in this Part for dealing with a (1) transitional matter, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to that matter.
- In subsection (1) (2)

transitional matter means a matter that needs to be dealt with for the purpose of effecting the transition from this Act as enacted immediately before the commencement day to this Act as amended by the Acts Amendment (Fair Trading) Act 2010.

- Regulations made under subsection (1) may provide that (3) specific provisions of a written law —
 - (a) do not apply; or
 - apply with specific modifications,

to or in relation to any matter.

- Regulations made under subsection (1) must be made within (4) 12 months after the commencement day.
- 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 commencement day, the regulations have effect according to their terms.
- In subsection (5) (6) *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
 - to affect, in a manner prejudicial to any person (other than the State), the right of that person existing before the day of publication of those regulations; or

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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.

Various references to "Commissioner" [Section 46] inserted by No. 58 of 2010 s. 30.7

Amend the provisions listed in the Table as set out in the Table

Table

Notes

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

Compilation table

| | ProvisionShort title | | | DeleteNum ber and year | Insert Assen | Commence | <u>ement</u> | |
|----------|-------------------------------------|-----------------------------------------------------|----------------|----------------------------------------------|----------------------------------|---------------------------------------------|------------------------------------------------------------------------------------|-------------|
| | Land Valuers Lic | ensing Act 1978 | | s. 4 def. 55 of approved 19 78 | Board 6 Sep 1978 | Commission | ner 1 Jul 1979 (see s. | . 2 ar |
| s. 16(1) | | Board | Comn | nissioner | | | | |
| | Land Valuers Lic | ensing Amendment Act 1984 | <u> </u> | 15 of 1984 | 31 May 1984 | s. 3 and 7: 3 s. 2(1)); s. 3 and 7: 3 | d (4)Act other than 28 Jun 1984 (see 26 Jul 1985 (see Gazette 26 Jul 1985 | Boi (ea |
| | Acts Amendment Taxation) Act 198 | (Legal Practitioners, Costs of 187 Pt. XI | <u>and</u> | 65 of 1987 | 1 Dec 1987 | | Feb 1988 (see Gazette 12 Feb 1988 | Bot |
| | s. 19 Acts Amend Management) Act | <u>ment (Public Sector</u> <u>t 1994 s. 3(1)</u> | | Board (first occurrence) 32 of 1994 | Commission er 29 Jun 199 4 | | (see s. 2 and Gazette | 30 <u>S</u> |
| | Business Licensin | ng Amendment Act 1995 Pt. (| 6 ³ | 56 of 1995 | 20 Dec 1995 | 1 Jul 1996 | (see s. 2(2) and Gazer | tte 1 |
| | s. 19 | Board, by such evidence as it | | Commissione 3 May 2002 (includes ame | • | | Commissioner Repr | rint (|
| s. 19(c) | | Board | Comn | nissioner | | | | |
| s. 19A(2 | 2) | Board | Comn | nissioner | | | | |
| s. 19A(2 | | Registrar | Comn | nissioner | | | | |

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Board

s. 20(a)

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Extract from www.slp.wa.gov.au, see that website for further information

Commissioner

| | Provision Short | <u>title</u> | | DeleteNum ber and year | Insert Assen t | Commencement |
|----------|---------------------------------------|--------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------|---------------------------------|---------------------------------------------------------------------------------|
| s. 21(1) |) | Board | Comr | nissioner | | |
| | | lcts Amendment and Repeal al Practice) Act 2003 s. 44 au | | Board (each occurrence) 65 of 2003 | Commission er4 Dec 200 3 | 1 Jan 2004 (see s. 2 and Gazette 30 De |
| s. 25(1) |) | Board | Comr | nissioner | | |
| s. 26 | | Board | Comr | missioner | | |
| s. 27 | | Board | Comr | missioner | | |
| | | and (4)Statutes (Repeals and ts) Act 2003 s. 74 | <u>ad</u> | Registrar74 of 2003 | Commission er15 Dec 20 03 | 15 Dec 2003 (see s. 2) |
| | s. 29A(1) and (2) and Repeal Act 2 | Courts Legislation Amenda 004 s. 141 | <u>nent</u> | Registrar59 of 2004 | Commission er23 Nov 20 04 | 1 May 2005 (see s. 2 and <i>Gazette</i> 31 |
| | | ive Tribunal (Conferral of endment and Repeal Act 200 | <u>)4</u> | 55 of 2004 | 24 Nov 2004 | 1 Jan 2005 (see s. 30(1), (2), (3) and (4 Gazette 31 Dec 2004 p. 7130) |
| | V / V / V | n <mark>d (ii) and (d)</mark> <u>Criminal</u> ppeals (Consequential and 0 004 s. 78 ⁵ | <u>Other</u> | Board 84 of 2004 (as amended by No. 2 of 2008 s. 78(2)(b)) | Commission er16 Dec 20 04 | 2 May 2005 (see s. 2 and <i>Gazette</i> 31 7 Jan 2005 p. 53)) |
| | Reprint 2: The A | Land Valuers Licensing Actions is listed above) | rt 1978 a | as at 12 May 2 | <u>006</u> | |
| | Consumer Protect Repeal Act 2006 | tion Legislation Amendmen Pt. 6 | t and | <u>69 of 2006</u> | 13 Dec 2006 | s. 31(1a)(e)14 Jul 2007 (see s. 2 and <i>Gazette</i> 13 Jul 2007 p. 3453) |
| | <u>Criminal Law and</u> s. 65 | d Evidence Amendment Act | <u>2008</u> | <u>2 of 2008</u> | 12 Mar 2008 | 27 Apr 2008 (see s. 2 and <i>Gazette</i> 24 |
| | s. 35(1)Legal Pro | ofession Act 2008 s. 671 | | Registrar21 of 2008 | Commission er27 May 20 08 | 1 Mar 2009 (see s. 2(b) and <i>Gazette</i> 2' |

| ProvisionShort title | DeleteNum ber and year | Insert Assen t | Commencement |
|-----------------------------------------------------------------------------------|------------------------------|-------------------|---------------------------------------|
| Reprint 3: The Land Valuers Licensing Act 1976 (includes amendments listed above) | 8 as at 17 Jul 20 | <u>09</u> | |
| Acts Amendment (Bankruptcy) Act 2009 s. 49 | 18 of 2009 | 16 Sep 2009 | 17 Sep 2009 (see s. 2(b)) |
| Acts Amendment (Fair Trading) Act 2010 Pt. 3 | 58 of 2010 | 8 Dec 2010 | 1 Jul 2011 (see s. 2(c) and Gazette 7 |

- The Land Valuers Licensing Amendment Act 1984 s. 4(2) and 6(2) are transitional provisions that are of no further effect.
- The Business Licensing Amendment Act 1995 s. 32 is a transitional provision that is of no further effect.
- The State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 5, the State Administrative Tribunal Act 2004 s. 167 and 169, and the State Administrative Tribunal Regulations 2004 r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- The Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 82, to the extent it amends this Act, was repealed by the Criminal Law and Evidence Amendment Act 2008 s. 78(2)(b).