

Western Australia

Painters' Registration Act 1961

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Painters' Registration Act 1961

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Painters' Registration Act 1961

An Act to provide for the registration of painters and for other purposes.

1. Short title

This Act may be cited as the *Painters' Registration Act 1961* and shall come into operation on a day to be fixed by proclamation¹.

2. Interpretation

In this Act unless inconsistent with the context or subject matter —

“the Board” means the Painters' Registration Board constituted under this Act;

“Association” means the Master Painters, Decorators and Signwriters' Association of Western Australia (Industrial Union of Employers), Perth;

“painting” means the application by any method recognized or adopted by the painting trade of paint, varnish or stain or any substance or preparation of a composition similar thereto or recognized by the trade as a substitute therefor to the whole or any part of a building or other structure of a kind recognized by law as a fixture (but not being a floor, path or driveway composed of concrete or other similar substance) and —

- (a) includes such processes or treatments as are commonly known to the trade as graining, kalsomining, marbling, distempering, gilding,

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colour-washing, staining, varnishing and plastic relieving;

- (b) includes the hanging of wallpaper and any substitute therefor;
- (c) does not include painting which consists of the application of a protective coating to part of a building or other structure (not being a dwelling-house or like building or structure) which has first been treated by a process known as abrasive blasting or mechanical cleaning under a contract whereby the same contractor undertook both that process and the application of the protective coating;
- (d) does not include painting work in the nature of signwriting;

“painter” means any person, partnership or company or other body corporate who or which carries out painting;

“registered painter” means a painter registered under this Act;

“Minister” means the Minister for the time being charged with the administration of this Act;

“Registrar” means the person who for the time being holds the office of Registrar under this Act;

“Register” means the Register of Painters kept pursuant to this Act;

“Union” means The Operative Painters' and Decorators' Union of Australia, West Australian Branch, Union of Workers.

[Section 2 amended by No. 75 of 1965 s.2; No. 78 of 1976 s.2.]

3. Area within which this Act applies

- (1) This Act applies within any area described in the Schedule.
- (2) The Governor may make regulations amending the Schedule or deleting the Schedule and substituting a new Schedule.
- (3) Notwithstanding any increase in the area to which this Act applies effected by regulations made under subsection (2),

any Act or thing lawfully commenced, and not discontinued or abandoned, before the coming into operation of those regulations in an area to which this Act did not apply before that coming into operation but to which this Act applies after that coming into operation may be continued and completed as if those regulations had not come into operation.

[Section 3 inserted by No. 33 of 1983 s.3.]

4. Prohibition against unregistered painters carrying on business

- (1) No painter shall carry out painting, otherwise than as a *bona fide* employee, where the charge, fee or reward paid or payable in respect of the undertaking exceeds the prescribed amount unless he is a registered painter.

Penalty: \$2 000, and if the offence of which he is convicted is continued after the conviction he commits a further offence and is liable to a fine not exceeding \$20 for every day on which the offence is so continued.

- (1a) Where painting is carried out by a person who is not a registered painter, no part in excess of the prescribed amount of the charge, fee or reward in respect of the undertaking shall be recoverable by action or otherwise.

- (2) Where —

- (a) a painter enters into a number of distinct contracts (whether in writing or orally) to carry out painting in respect of the same building or other structure or in respect of the same part or a number of different parts of the same building or other structure; and
- (b) the aggregate of the painting contracted to be done under such distinct contracts substantially is a single undertaking in respect of such building or structure or any part thereof; and

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- (c) the aggregate of the charges, fees and rewards payable under such distinct contracts exceeds the prescribed amount,

the painting contracted to be done under each distinct contract shall be deemed to be an undertaking in respect of which there is payable a charge, fee or reward exceeding the prescribed amount notwithstanding that the actual charge, fee or reward paid or payable thereunder is less than the prescribed amount.

- (3) Where materials used in painting are provided or supplied at the cost of a person other than the painter, the charge, fee or reward in respect of the painting shall be deemed, for the purpose of this section, to be increased by the value of those materials.
- (4) In this section “**the prescribed amount**” means \$200 or such amount as may be prescribed in lieu thereof by Order in Council made by the Governor and published in the *Gazette*.

[Section 4 amended by No. 75 of 1965 s.3; No. 113 of 1965 s.8(1); No. 59 of 1970 s.2; No. 33 of 1983 s.4.]

4A. Unregistered persons not to assume title of registered painter

Any person not registered under this Act who —

- (a) assumes, takes or uses, either alone or in combination with any other word, letter or device, the name or title of “registered painter” or any name, title or description calculated to lead others to believe he is registered under this Act; or
- (b) by words or conduct holds himself out as being so registered,

commits an offence.

[Section 4A inserted by No. 6 of 1966 s.2.]

5. Establishment of Painters' Registration Board

For the purposes of this Act there shall be a Board (to be called the Painters' Registration Board) appointed by the Governor and constituted as provided in this Act.

6. Board to be body corporate

The Board shall be a body corporate incorporated by this Act and shall have perpetual succession and a common seal and be capable of suing and being sued.

7. Constitution of Board

- (1) The Board shall consist of 5 members appointed by the Governor, of whom one shall be —
- (a) the person who, for the time being, is the chairman of the Builders' Registration Board of Western Australia, and he shall be the chairman of the Board;
 - (b) a person who is —
 - (i) a member of the Association; and
 - (ii) nominated for appointment as a member of the Board by the Minister from the panel of names submitted by the Association, in accordance with this section;
 - (c) a person who is nominated for appointment as a member of the Board by the Minister from the panel of names submitted in accordance with this section, by the body known as The Confederation of Western Australian Industry (Incorporated) and who shall represent the body known as the Australian Paint Manufacturers Federation (W.A. Branch);
 - (d) a person who is nominated for appointment as a member of the Board by the Minister from the panel of names submitted by the Union, in accordance with this section; and

- (e) a person who is nominated for appointment as a member of the Board by the Minister, such nominee being a person whom the Minister considers to be qualified to represent the interest of consumers.
- (2) If within 14 days after being requested in writing by the Minister to do so, a body referred to in subsection (1) has failed to submit a panel of 3 names to him for the purposes of subsection (1) or (5) or of section 7A(2) the Minister may nominate for that purpose —
 - (a) in the case of a failure to do so by the Association, a member of that Association; and
 - (b) in any other case, such person as he thinks fit.
- (3) The Governor may at any time remove any member of the Board, other than the chairman, who is absent without the permission of the Board from 4 consecutive meetings of the Board or who becomes bankrupt or compounds with his creditors or who is convicted of any indictable offence or who is insane, and any member of the Board, other than the chairman, may at any time by resignation in writing addressed to the Minister resign from his membership of the Board.
- (4) No person, other than the person who is appointed chairman of the Board by this Act, shall be appointed a member of the Board for a period of more than 3 years but, subject to this Act, any person appointed a member of the Board may upon the expiration of any period for which he was appointed be re-appointed a member for a further period of not exceeding 3 years.
- (5) On the occurrence of any casual vacancy in the Board, other than in the office of chairman, the Governor may appoint some other person to fill such vacancy and the person so appointed shall be a member only for the remainder of the term for which the member whose place he is taking was serving at the time when such vacancy occurred.

- (6) A person appointed under subsection (5) shall, subject to subsection (2), be nominated in the same manner as the member whose place he is taking was nominated.

[Section 7 amended by No. 42 of 1962 s.3; No. 33 of 1983 s.5.]

7A. Deputies of chairman and members

- (1) The Governor shall appoint a member to be deputy chairman of the Board, and during any vacancy in the office of chairman, or if he is unable to act by reason of sickness, absence or other cause, the deputy chairman shall have and perform the powers, functions and duties of the chairman.
- (2) The Governor may, in accordance with subsection (3), appoint a deputy for each member of the Board (other than the chairman) and such a deputy is entitled, in the event of the absence from a meeting of the Board of the member for whom he is deputy, to attend that meeting, and, when so attending, shall be deemed to be a member of the Board.
- (3) A person appointed under subsection (2) shall, subject to section 7(2), be nominated in the same manner as the member for whom he is to be deputy was nominated.

[Section 7A inserted by No. 33 of 1983 s.6.]

8. Remuneration of Board members

A member of the Board shall be paid, out of the funds of the Board, such remuneration and allowances as are determined in his case by the Minister on the recommendation of the Public Service Board².

[Section 8 inserted by No. 33 of 1983 s.7.]

9. Appointment of officers

- (1) The Board shall appoint a Registrar who shall also be secretary to the Board who shall be the Registrar for the time being of the Builders' Registration Board of Western Australia and may also

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appoint such other officers and servants as it considers necessary to enable it to carry out its duties or functions.

- (2) The remuneration of the Registrar and the other officers and servants of the Board shall be paid out of the funds of the Board.
- (3) The remuneration of the Registrar shall be approved by the Minister.

10. Register of Painters

- (1) The Board shall cause to be kept a Register of Painters and upon a painter becoming registered under this Act there shall be entered in the Register the name of such registered painter and such other particulars as may from time to time be prescribed or required by the Board.
- (2) The Board shall in the month of July next following the expiration of a period of 12 months from the commencement of this Act and thereafter in the month of July next following a direction by the Minister so to do cause a copy of the Register complete and correct to 31 December then last past to be published in the *Government Gazette*.
- (3) In each month of July in which a copy of the Register is not required to be published pursuant to the provisions of subsection (2) the Board shall publish in the *Government Gazette* a supplementary list wherein shall be indicated all alterations or additions to and removals from the Register during the 12 months ended on 31 December then last past.
- (4) Every supplementary list when published shall be deemed to be part of the last published copy of the Register and such published copy shall be read and construed subject to each supplementary list subsequently published.
- (5) Each published copy of the Register and each supplementary list published as aforesaid shall be *prima facie* evidence of the facts therein contained and the absence of the name of any person from a published copy or a supplementary list shall be *prima*

facie evidence that such person was not a registered painter at the date to which such published copy or supplementary list purports to be compiled.

- (6) A certificate signed by the Registrar that any person is or is not or on any particular date was or was not a registered painter shall be *prima facie* evidence of the facts therein contained.

11. Application for registration

A painter desiring to be registered under this Act may make application therefor in the prescribed manner and shall pay the prescribed application fee.

[Section 11 amended by No. 68 of 1974 s.3.]

12. Who may register

- (1) A painter (not being a partnership, company or other body corporate) who applies to be registered under this Act is entitled to be so registered if and when he pays the prescribed fees for such registration and satisfies the Board that he has attained the age of 21 years and is of good character and that he —

- (a) has completed the prescribed course of training and has passed the prescribed examination as laid down by the Board for persons (other than apprentices) who have had 5 years practical experience in the painting trade; or
- (aa) has completed the prescribed course of training and has passed the prescribed examination as laid down under the *Industrial Training Act 1975*³, for apprentices to the painting trade and has passed the prescribed additional examination laid down by the Board for those persons; or

[(b) deleted.]

- (c) has attained a degree of proficiency as a painter which the Board considers is comparable with that ordinarily attained by persons who have completed the course of training, passed the examinations and worked as mentioned in paragraph (a).

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- (2) A painter (not being a partnership, company or other body corporate) who applies on or before 31 December 1963 to be registered under this Act is entitled to be so registered if and when he pays the prescribed fees for such registration and satisfies the Board that he has attained the age of 21 years and is of good character and that he was at the date of the commencement of this Act engaged in the occupation of a painter as a supervisor of painting as the whole or a part of his means of livelihood.

[Section 12 inserted by No. 35 of 1963 s.2; amended by No. 75 of 1965 s.4; No. 68 of 1974 s.4; No. 33 of 1983 s.8.]

13. Examinations

- (1) The course of training to be undertaken by and the examination of persons desiring to be registered under section 12(1)(a) and the additional examination of persons desiring to be registered under section 12(1)(aa) shall be prescribed by the Board, who shall conduct or supervise the conduct of such examinations at such times and places as the Board may appoint.
- (2) All costs and expenses with or incidental to the conduct of such examinations shall be paid by the Board.
- (3) There shall be paid to the Board by every candidate for examination such fee as the Board, with the approval of the Governor, prescribes.

[Section 13 amended by No. 68 of 1974 s.5.]

14. When partnership, company or other body corporate may register

- (1) A partnership, company or other body corporate which applies to be registered under this Act is entitled to be so registered if and when it pays the fees prescribed for such registration and satisfies the Board that there is already 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 in such a manner and with

such duties and responsibilities by the partnership, company or body corporate to manage and supervise painting carried out by such partnership, company or body corporate as in the opinion of the Board will, in each particular case, ensure the proper management and supervision of painting so carried out.

- (2) Notwithstanding anything to the contrary contained in this Act, the registration under this Act of a partnership, company or other body corporate pursuant to this section shall continue and have effect only while at least one partner of the partnership or at least one director of the company or at least one member of the board of management of the body corporate or a person employed as provided by subsection (1), by the partnership or company or body corporate to manage and supervise the painting undertaken by it, continues to be registered under this Act.

[Section 14 amended by No. 59 of 1970 s.3.]

14A. Signs and advertisements

Every registered painter shall —

- (a) affix to or erect on all works under the control of that registered painter, and keep so affixed or erected while the painting is in progress, a sign of reasonable dimensions showing in easily legible letters and figures the registered name and registered number of that painter; and
- (b) cause the registered name and registered number of that painter to appear in any advertisement published by or on behalf of the registered painter in respect of painting.

Penalty: \$400.

[Section 14A inserted by No. 33 of 1983 s.9.]

14B. Painting carried out by partnership, company, etc.

- (1) Where any painting is carried out by a partnership, the partners therein shall cause —
- (a) the painting to be managed and supervised by one of the partners who is registered under this Act or by an

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employee of the partners who is so registered, and shall cause the standards of workmanship and the materials employed in the painting to be those determined by the partner or the employee so registered; and

- (b) the name and registered number of that partner or employee to appear in any sign affixed or erected on the work pursuant to section 14A(a).

Penalty: \$400.

- (2) Where any painting is carried out by a company or other body corporate, the company or body corporate shall cause —

- (a) the painting to be managed and supervised by a director of the company or member of the board of management of the body corporate, as the case may be, who is registered under this Act or by an employee who is so registered, and shall cause the standards of workmanship and the materials employed in the painting to be those determined by the director of the company or member of the board of management of the body corporate or the employee so registered; and

- (b) the name and registered number of that director, member or employee to appear in any sign affixed or erected on the work pursuant to section 14A(a).

Penalty: \$400.

- (3) The penalties imposed as a result of the commencement of proceedings under subsections (1) and (2) are in addition to and not in derogation of any penalty, suspension or cancellation of registration imposed or liable to be imposed as a result of the commencement of proceedings under any other provision of this Act.

[Section 14B inserted by No. 59 of 1970 s.4; amended by No. 68 of 1974 s.6; No. 33 of 1983 s.10; No. 55 of 2004 s. 876.]

15. Board to supply reasons for refusal to register

A painter whose application for registration under this Act is refused may apply to the Board for its reasons in writing for such refusal and the Board shall forthwith furnish the same to such painter without charge.

16. Cancellation and suspension of registration

- (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;
 - (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,

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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.

- (4) A painter whose registration has been cancelled or suspended shall, within 14 days after being notified of such cancellation or suspension, surrender to the Board his current certificate of registration, and if he fails to do so he commits an offence and is liable to a fine not exceeding \$100.

[Section 16 inserted by No. 33 of 1983 s.11; amended by No. 55 of 2004 s. 877.]

[16A. Repealed by No. 55 of 2004 s. 878.]

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.

[Section 16B inserted by No. 55 of 2004 s. 879.]

16C. Inspection

- (1) Any member of the Board, or any person appointed by the Board for the purpose may, together with any person he thinks competent to assist in making any inspection or examination, enter any premises and therein inspect and examine any painting.

- (2) Every member of the Board, and every person appointed by the Board for the purposes of this section, shall be furnished with a certificate in the prescribed form evidencing his appointment and shall produce that certificate whenever required so to do by any person on the premises the subject of his inspection.
- (3) Production of a certificate in the prescribed form is conclusive proof in any court of the appointment of the person to whom the certificate relates and of the authority of that person to exercise the powers conferred by this section.
- (4) A person who wilfully obstructs a person exercising the powers conferred by this section commits an offence.

Penalty: \$1 000.

[Section 16C inserted by No. 68 of 1974 s.8; amended by No. 33 of 1983 s.12.]

16D. Order to remedy unsatisfactory painting work

- (1) Where the Board is satisfied that any painting has not been carried out in a proper and workmanlike manner on any building or other structure the Board may, by order in writing served on the person who carried out the painting, order him to —
 - (a) remedy it within such reasonable time as is specified in the order; or
 - (b) pay to the owner of the building or other structure such costs of remedying the painting as the Board considers reasonable, in which case any costs so ordered by the Board constitute a debt to the owner and are recoverable by him in a court of competent jurisdiction.
- (2) Subsection (1) applies to and in relation to painting carried out by any person, whether a painter or not, and whether registered under this Act or not.
- (3) Nothing in section 4 precludes a person who is not a registered painter from carrying out an order of the Board made pursuant to subsection (1)(a).

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- (4) In subsection (1) “**building or other structure**” means the whole or any part of a building or other structure of a kind recognized by law as a fixture, other than a floor, path or driveway composed of concrete or other similar substance.

[Section 16D inserted by No. 33 of 1983 s.13.]

16E. Order may be revoked and substituted

- (1) If the Board is satisfied that an order to remedy painting —
- (a) made by the Board under section 16D(1)(a); or
 - (b) so made by the Board, and varied by the State Administrative Tribunal under section 18,

has not been complied with, or has been complied with in part only, by the person on whom it was served, whether or not he has on that account been convicted of an offence under section 16G, the Board may —

- (c) revoke the order in relation to that painting or the part in question; and
 - (d) make an order under section 16D(1)(b) in relation thereto.
- (2) The revocation of an order under subsection (1)(c) shall not affect anything done under the order, or a punishment imposed under section 16G, before the revocation.

[Section 16E inserted by No. 33 of 1983 s.13; amended by No. 55 of 2004 s. 880.]

16F. Person to be afforded opportunity to be heard

Before it makes an order under section 16D or 16E the Board shall —

- (a) serve on the person who carried out the painting, a notice in writing containing details of the alleged failure on his part —
 - (i) to carry out the painting in a proper and workmanlike manner; or

- (ii) to comply with the order to remedy painting, as the case may be; and
- (b) afford him a reasonable opportunity of giving either personally or in writing such explanation in respect of such allegations as he may wish to give.

[Section 16F inserted by No. 33 of 1983 s.13.]

16G. Offence to fail to comply with order

Any person who fails to comply with —

- (a) the terms of an order of the Board made under section 16D or 16E in any case where no application was duly made under section 18 for a review of the order, or where such an application was made but the order was not set aside or varied; or
- (b) the terms of an order of the Board made under section 16D or 16E as varied following an application under section 18 for a review of the order,

commits an offence.

Penalty: \$500.

[Section 16G inserted by No. 33 of 1983 s.13; amended by No. 55 of 2004 s. 881.]

16H. Saving of other remedies

- (1) The making of an order by the Board under section 16D or 16E in respect of any painting carried out by a registered painter does not, irrespective of whether an application under section 18 is made for a review of the order or of the manner in which the application is disposed of, limit or affect in any way the power of the Board to deal with that or any other registered painter under section 16 in connection with that painting.
- (2) Nothing in sections 16D to 16G (inclusive) has the effect of limiting or otherwise affecting any right or remedy available to a person, apart from this section, against another in respect of

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painting carried out by that other person; but in any proceedings in relation to such right or remedy a court may have regard to any order made by the Board under section 16D or 16E and any variation of such an order made following an application under section 18.

[Section 16H inserted by No. 33 of 1983 s.13; amended by No. 55 of 2004 s. 882.]

16I. Board may recover costs of investigation of frivolous or vexatious complaints

Where —

- (a) a person for whom painting has been carried out by a painter complains to the Board that the painting was not carried out in a proper and workmanlike manner; and
- (b) the Board is satisfied after investigating the matter that the complaint was frivolous or was not made in good faith,

the Board may order the person who made the complaint to pay to it the Board's reasonable costs of investigating the matter; and the amount certified by the Board to be its reasonable costs of investigation may be recovered by the Board from that person as a debt due to the Board in any court of competent jurisdiction.

[Section 16I inserted by No. 33 of 1983 s.13; amended by No. 55 of 2004 s. 883.]

16J. Painter may request Board to investigate work

Any registered painter may request the Board to examine any painting carried out by him, and the Board may, if it thinks fit, comply with such a request.

[Section 16J inserted by No. 33 of 1983 s.13.]

[17. Repealed by No. 33 of 1983 s.14.]

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.

[Section 18 inserted by No. 55 of 2004 s. 884.]

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.

[Section 18A inserted by No. 55 of 2004 s. 884.]

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

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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*.

[Section 18B inserted by No. 55 of 2004 s. 884.]

19. Signature of Chairman and Registrar

In legal proceedings a signature which purports to be the signature of any person who is or has been the Chairman or a member of the Board or the Registrar and which is attached to a certificate of registration or other document issued under this Act shall in the absence of proof to the contrary be deemed to be the signature of the person whose signature it purports to be.

20. Proceedings under this Act

- (1) Proceedings under this Act may be taken by the Registrar or by any other person authorized by the Board either generally or in any particular case.
- (2) A prosecution for an offence against this Act must be commenced within 18 months after the date on which the offence was allegedly committed.

[Section 20 amended by No. 33 of 1983 s.16; No. 84 of 2004 s. 80.]

21. Fees payable on registration and annual fee

- (1) There shall be paid by or in respect of every registered painter such annual registration fee as is prescribed.
- (2) Upon the acceptance of his application for registration a registered painter shall pay to the Board the annual registration fee prescribed under subsection (1).
- (3) On 1 February in each year during the continuance of his registration under this Act a registered painter shall pay to the

Board the annual registration fee prescribed under subsection (1).

- (4) The Board may suspend or cancel the registration of a registered painter who makes default in paying any fees payable by him under this section.

[Section 21 amended by No. 68 of 1974 s.9.]

22. Funds of Board

- (1) All fees and penalties payable under this Act shall be paid to the Board and be recoverable by it by any such means as it may legally employ.
- (2) The funds of the Board shall consist of—
- (a) all fees and penalties payable under this Act; and
 - (b) all fees and penalties payable under any rules of the Board or prescribed by regulations under this Act; and
 - (c) any other moneys which may come into the hands of the Board under or for the purposes of this Act.
- (3) The funds of the Board may be applied by the Board —
- (a) in or towards payment of the remuneration of the members of the Board and all other expenses of or incidental to the carrying out of the provisions of this Act; and
 - (b) for such other purposes as the Board with the approval of the Minister may from time to time determine.
- (4) In this section—
- “penalties”** does not include penalties ordered to be paid by the State Administrative Tribunal.

[Section 22 amended by No. 55 of 2004 s. 885.]

s. 23

23. Accounts

- (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall prepare financial statements in accordance with Australian Accounting Standards.
- (2) The financial statements shall be prepared on an accrual basis unless the Board determines otherwise.

[Section 23 inserted by No. 77 of 1987 s.3.]

23A. Audit

The accounts and financial statements of the Board shall be audited at least once a year, at the expense of the Board, by an auditor appointed by the Board with the prior approval of the Minister.

[Section 23A inserted by No. 77 of 1987 s.3.]

23B. Annual report

- (1) The Board shall on or before 31 March in each year make and submit to the Minister an annual report of its proceedings for the preceding year ending on 31 December together with a copy of the financial statements and the auditor's report.
- (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.
- (2) The Minister shall cause a copy of each annual report, financial statements and auditor's report submitted under subsection (1) to be laid before each House of Parliament within 14 sitting days of that House after receipt of the report by the Minister.
[Section 23B inserted by No. 77 of 1987 s.3; amended by No. 55 of 2004 s. 886.]

24. Power to make rules

The Board with the approval of the Governor may make rules for or in respect to —

- (1) the time for and the mode of nominating members of the Board;
- (2) the regulating of its meetings and proceedings;
- (3) the method of application for registration under this Act;
- (4) the issue, suspension and cancellation of certificates of registration;
- (5) the particulars to be entered in the Register;
- (6) the particulars required to be given in any notice given under this Act;
- (7) any forms to be used under this Act;
- (8) any matters authorized by this Act to be prescribed;
- (9) generally any matters or things necessary or convenient to be prescribed for the due and proper carrying out of the provisions of the Act.

[Section 24 amended by No. 33 of 1983 s.17.]

25. Registrations not to be transferred or assigned

Every registration granted under this Act shall be personal to the painter to whom it is granted and the benefit thereof shall not be

transferred or assigned whether for consideration or gratuitously.

26. Offences

Any person who contravenes any provision of this Act or any regulation made hereunder or fails to carry out any rule made by or any direction given by the Board shall be guilty of an offence against this Act and upon summary conviction shall be liable to a penalty not exceeding \$500 or such other sum as is herein provided in respect of any particular breach of this Act.

[Section 26 amended by No. 113 of 1965 s.8(1); No. 33 of 1983 s.18.]

26A. Offences by company or body corporate

- (1) Where a company or other body corporate is convicted of an offence against this Act, every person who at the time of the commission of the offence was a director or member of the governing authority of the company or other body corporate or an officer concerned in the management thereof and who authorized or permitted the commission of the offence is guilty of the like offence.
- (2) A person referred to in subsection (1) may, on the request of the prosecutor, be convicted on the proceedings on which the company or other body corporate is convicted if the court is satisfied that the person had reasonable notice that the prosecutor intended to make that request.

[Section 26A inserted by No. 68 of 1974 s.10; amended by No. 84 of 2004 s. 80.]

26B. Averment as to application of Act

Where in a charge of an offence against this Act, it is averred that any conduct prohibited by this Act occurred within an area within which this Act applies, the fact that the conduct occurred within that area shall be deemed to be proved, in the absence of evidence to the contrary.

*[Section 26B inserted by No. 33 of 1983 s.19; amended by
No. 84 of 2004 s. 80.]*

27. Act not to affect Union coverage

Nothing in this Act contained shall be construed to grant to the Union any greater coverage in respect of persons entitled to be members of the Union than that to which it would at any time be entitled had this Act not been passed.

Schedule

[Section 3]

Areas within which this Act applies

1. *The Metropolitan area*

That is to say, all that portion of the State which lies within the area bounded by a line starting from the south-western corner of Swan Location 2745 (South Latitude 31 degrees 27 minutes 23.105 seconds, East Longitude 115 degrees 33 minutes 35.604 seconds), being a point on the northernmost northern boundary of the local government district of Wanneroo, and extending easterly, generally southerly, again easterly, again generally southerly and again easterly along the boundaries of that district to the intersection of the prolongation northerly of the eastern boundary of Location 1584 with the prolongation westerly of the northern boundary of Location 2478, being a north-western corner of the local government district of Swan; thence generally easterly, generally northerly, generally easterly, southerly, easterly and again southerly along the boundaries of that district to the easternmost south-eastern corner of Location 1817, being a point on the northernmost northern boundary of the local government district of Mundaring; thence easterly, generally southerly, again easterly, again generally southerly, generally westerly, again southerly, again easterly, again southerly and again westerly and generally north-westerly along boundaries of the local government district of Mundaring to the intersection of the left bank of the Darkan River with the prolongation northerly of the western boundary of late Pre-emptive Poison Right 8/228, being the easternmost north-eastern corner of the local government district of Kalamunda; thence southerly along the easternmost eastern boundary of the local government district of Kalamunda to the prolongation east of the southern boundary of Canning Location 710, being a north-eastern corner of the local government district of Armadale; thence generally southerly, generally south-easterly, westerly and southwesterly along the boundaries of the local government district of Armadale to the 33 Mile Post on the north-eastern side of Albany Highway, being a north-eastern corner of the local government district of Serpentine-Jarrahdale; thence generally south-easterly,

southerly, generally westerly and northerly along boundaries of the local government district of Serpentine-Jarrahdale to the north-eastern corner of Lot 3 of Cockburn Sound Location 16, as shown on Land Titles Office⁸ Diagram 2909, being a south-eastern corner of the local government district of Rockingham; thence generally westerly along the boundaries of the local government district of Rockingham to the south-western corner of Lot 236 as shown on Land Titles Office⁸ Plan 7931(2), (South Latitude 32 degrees 27 minutes 24.586 seconds, East Longitude 115 degrees 44 minutes 52.324 seconds); thence west 17 820.4 metres to East Longitude 115 degrees 33 minutes 30 seconds; thence north 110 932.1 metres to South Latitude 31 degrees 27 minutes 23.105 seconds and thence east 148 metres to the starting point.

2. *Mandurah*

That is to say, all that portion of the State which lies within the area bounded by a line starting at the intersection of the low water mark of the Indian Ocean with the prolongation westerly of the northern boundary of Lot 3 of Cockburn Sound Location 16, as shown on Land Titles Office⁸ Plan 3064 and extending easterly to and along that boundary and onwards to the north-western corner of Lot 1, as shown on Land Titles Office⁸ Plan 12382; thence easterly along the northern boundary of that lot and onwards to an eastern side of Stock Road; thence generally southerly, generally south-easterly, generally south-westerly, south-easterly, southerly and again south-easterly along sides of that road to a north-eastern side of Lakes Road; thence south-easterly that side to the right bank of the Serpentine River; thence generally south-westerly downwards along that bank to the northernmost northern boundary of Location 2459; thence westerly and south-westerly along boundaries of that location and south-westerly along the north-western boundary of Lot 217 of Location 16, as shown on Land Titles Office⁸ Plan 2087 Sheet 1 and onwards to a south-western side of Hougham Road; thence south-easterly along that side to the right bank of the Serpentine River; thence generally southerly, generally westerly, generally south-westerly, generally south-easterly and again generally south-westerly downwards along that bank to the low water mark of Peel Inlet; thence generally north-westerly along that mark to the prolongation southerly of the western side of Kurdal Road; thence

south-westerly to the low water mark at the eastern extremity of Creery Island; thence generally south-westerly along that mark to the southern extremity of Creery Island; thence west to the low water mark of Peel Inlet; thence generally south-westerly along that mark and generally south-easterly and generally northerly along the low watermark of Harvey Estuary to the left bank of the Harvey River; thence generally southerly upwards along that bank to a point situate east of the easternmost north-eastern corner of Murray Location 1209; thence west to and generally south-westerly, generally north-westerly and westerly along boundaries of the last mentioned location to the north-eastern corner of the north-eastern severance of Location 793; thence westerly along the northern boundary of that severance and onwards to and along the northernmost northern boundary of the central severance of that location and onwards to the north-eastern corner of the western severance of the last mentioned location; thence westerly along the northern boundary of that severance and westerly and south-easterly along boundaries of Location 1591 to a north-western corner of the western severance of Location 793; thence south-easterly, south-westerly and generally south-easterly along boundaries of that severance to the north-western corner of Wellington Location 535; thence south-easterly along the south-western boundary of that location to its south-western corner; thence westerly along the prolongation westerly of the southern boundary of the last mentioned location to an eastern boundary of the eastern severance of Location 4981; thence generally south-easterly, generally south-westerly and westerly along boundaries of that severance and onwards to the south-eastern corner of the south-western severance of the last mentioned location; thence westerly along the southern boundary of that severance and westerly, northerly and again westerly along boundaries of Location 3045 and onwards to the low water mark of the Indian Ocean and thence generally northerly, generally north-easterly, generally easterly crossing the entrance to Peel Inlet and generally southerly along that mark to the starting point.

3. In addition to the areas set out in items 1, 2 and 4, all the remaining area in the South-West Division of Western Australia, as that Division is described in Schedule 1 to the *Land Administration Act 1997*, other than the local government districts of Mukinbudin, Mt Marshall and Narembeen.

4. The areas constituted by —

- (a) the townsites of Kalgoorlie and Boulder, in the local government district of Kalgoorlie-Boulder;
- (b) the townsites of Esperance, Salmon Gums, Grass Patch, Scaddan, Condingup, Coomalbidgup, Cascade and Gibson, in the local government district of Esperance;
- (c) the townsites of Southern Cross, Marvel Loch, Moorine Rock, Bullfinch and Bodallin, in the local government district of Yilgarn;
- (d) the townsites of Coolgardie, Kambalda and Kambalda West, in the local government district of Coolgardie;
- (e) the townsite of Norseman, in the local government district of Dundas;
- (f) the townsite of Laverton, in the local government district of Laverton; and
- (g) the townsite of Munglinup, in the local government district of Ravensthorpe.

[Schedule inserted by No. 33 of 1983 s.20; amended by No. 14 of 1996 s.4; No. 81 of 1996 s.153(3); No. 31 of 1997 s.74; No. 60 of 2006 s. 119 and Gazettes 5 January 1993 p.2; 25 March 1994 p.1306; 20 May 1994 p.2112; 9 December 1994 pp.6660-61.]

Notes

¹ This is a compilation of the *Painters' Registration Act 1961* and includes the amendments made by the other written laws referred to in the following tables ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Painters' Registration Act 1961</i>	61 of 1961	28 Nov 1961	1 Jan 1963 (see <i>Gazette</i> 28 Dec 1962 p. 4159)
<i>Painters' Registration Act Amendment Act 1962</i>	42 of 1962	1 Nov 1962	1 Jan 1963 (see s. 2)
<i>Painters' Registration Act Amendment Act 1963</i>	35 of 1963	19 Nov 1963	19 Nov 1963
<i>Painters' Registration Act Amendment Act 1965</i>	75 of 1965	25 Nov 1965	25 Nov 1965
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965
<i>Painters' Registration Act Amendment Act 1966</i>	6 of 1966	16 Sep 1966	16 Sep 1966
<i>Painters' Registration Act Amendment Act 1970</i>	59 of 1970	5 Nov 1970	5 Nov 1970
<i>Painters' Registration Act Amendment Act 1974</i>	68 of 1974	9 Dec 1974	Act (except section 4): 31 Dec 1975 (see <i>Gazette</i> 31 Dec 1975 p. 266); s. 4 1 Jan 1976 (see <i>Gazette</i> 24 Dec 1975 p. 4637)
<i>Painters' Registration Act Amendment Act 1976</i>	78 of 1976	18 Oct 1976	18 Oct 1976
<i>Painters' Registration Act Amendment Act 1983</i> ^{3,4}	33 of 1983	1 Dec 1983	1 Jan 1984 (see <i>Gazette</i> 30 Dec 1983 p. 5015)
<i>Acts Amendment (Financial Provisions of Regulatory Bodies) Act 1987</i>	77 of 1987	26 Nov 1987	1 Jan 1988 (see s. (2))
<i>Painters' Registration (Scheduled Areas) Regulations 1992</i> published in <i>Gazette</i> 5 Jan 1993 p. 2			5 Jan 1993
<i>Painters' Registration (Scheduled Areas) Regulations 1994</i> published in <i>Gazette</i> 25 Mar 1994 p. 1306			25 Mar 1994

Short title	Number and year	Assent	Commencement
<i>Painters' Registration (Scheduled Areas) Regulations (No. 2) 1994</i> published in <i>Gazette</i> 20 May 1994 p. 2112			20 May 1994
<i>Painters' Registration (Scheduled Areas) Regulations (No. 3) 1994</i> published in <i>Gazette</i> 9 Dec 1994 p. 6660-61			1 Feb 1995 (see r. 2)
<i>Local Government (Consequential Amendments) Act 1996</i> , s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Transfer of Land Amendment Act 1996</i> , s. 153(3)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2)
<i>Acts Amendment (Land Administration) Act 1997</i> , Pt. 47	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 93 ⁷	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Land Information Authority Act 2006</i> s. 119	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)

^{1a} 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
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 142 ⁶	59 of 2004	23 Nov 2004	To be proclaimed (see s. 2)

² To be read as a reference to the Minister for Public Sector Management in accordance with section 112(2) of the *Acts Amendment (Public Sector Management) Act 1994*.

³ Repealed by No. 42 of 1996.

⁴ Section 3(2) and (3) of Act No. 33 of 1983 read as follows —

“

- (2) Notwithstanding the repeal of the Second Schedule to the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*, by the *Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act 1967* (in this subsection called “**the amending Act**”) and the provisions of section 3 of the principal Act, as those provisions existed during the period commencing with the coming into operation of the amending Act and ending immediately before the coming into operation of this Act —
- (a) the area within the boundaries (as from time to time defined, altered or extended during that period) of the Metropolitan Water, Sewerage, and Drainage Area, constituted by the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*, shall be deemed for all purposes of the principal Act to have been the area within which the principal Act applied during that period; and
 - (b) any Act or thing done during that period in the area within the boundaries referred to in paragraph (a) in purported exercise of any power conferred by the principal Act shall not be deemed to be invalid by reason only of that repeal and those provisions.
- (3) Notwithstanding the coming into operation of this Act, any Act or thing lawfully commenced, and not discontinued or abandoned, before that coming into operation in an area to which the principal Act did not apply before that coming into operation but to which the principal Act applies after that coming into operation may be continued and completed as if this Act had not come into operation.

”.

⁵ Section 13(2) of Act No. 33 of 1983 reads as follows —

“

- (2) The powers conferred on the Board by sections 16D and 16E, inserted in the principal Act by subsection (1) of this section, shall not be exercisable in respect of painting work completed before that subsection came into operation; nor shall the power conferred on the Board by section 16I, inserted as above-mentioned, be exercisable in respect of a complaint made before that coming into operation.

”.

⁶ On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 142, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

142. Other amendments to various Acts

Each Act listed in Schedule 2 is amended as set out in that Schedule immediately below the short title of the Act.

”

Schedule 2 cl. 36 reads as follows:

“

Schedule 2 — Other Amendments to Acts

36. Painters' Registration Act 1961

s. 16E(1)(b) s. 16G(b) s. 16H(2)	In each provision delete “a magistrate” and insert instead — “ the Magistrates Court ”.
s. 18(1)	Delete “therefrom to a stipendiary magistrate of the Local Court” and insert instead — “ to the Magistrates Court at the place ”. Delete “clerk of that”.
s. 18(2)	Delete “magistrate” and insert instead — “ Court, constituted by a magistrate, ”. Delete “he” and insert instead — “ it ”. Delete “his” and insert instead — “ its ”.
s. 18(3)	Delete “magistrate” and insert instead — “ Court ”. Delete “he” and insert instead — “ it ”. Delete “magistrate’s” and insert instead — “ Court’s ”.
s. 18(4)	Delete “magistrate” and insert instead — “ Court ”.

”

⁷ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administration 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.

⁸ Lands Titles Office plans and diagrams are now being held by the Western Australian Land Information Authority (see the *Land Information Authority Act 2006* s. 100).