



Western Australia

# **Land Valuers Licensing Act 1978**



## Land Valuers Licensing Act 1978

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## **Defined Terms**



Western Australia

## **Land Valuers Licensing Act 1978**

**An Act to provide for the licensing 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* <sup>1</sup>.

**2. Commencement**

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

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

**4. Terms used**

In this Act unless the context otherwise requires —

***approved*** means approved by the Board;

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

***Chairman*** means the Chairman of the Board;

***corporation*** means any body corporate;

***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).]*

## **Part II — Land Valuers Licensing Board**

### **Division 1 — Land Valuers Licensing Board**

*[Heading inserted by No. 55 of 2004 s. 587.]*

#### **5. The Board**

- (1) For the purposes of this Act there shall be a board to be known as the “Land Valuers Licensing Board”.
- (2) The Board —
  - (a) shall be a body corporate with perpetual succession and a common seal;
  - (b) shall be the licensing and supervisory authority for the purposes of this Act; and
  - (c) shall have the powers, duties, and functions, conferred, imposed, or prescribed by or under this Act.
- (3) Where in any judicial proceedings, whether under this Act or not, a document is produced bearing a seal purporting to be the common seal of the Board the court or tribunal before which those proceedings are brought shall in the absence of proof to the contrary presume that —
  - (a) the seal is the common seal of the Board; and
  - (b) the common seal was duly affixed.

#### **6. Composition of Board**

- (1) Subject to this section the Board shall consist of 5 members appointed by the Governor of whom —
  - (a) one, who shall be appointed to be a member and Chairman of the Board, shall be a person who is a lawyer who has had not less than 7 years’ legal experience and is nominated by the Minister from a panel of names submitted by The Law Society of Western Australia;
  - (b) one shall be a person who is nominated by the Minister;

- (c) 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
  - (d) 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).
- (2) The Governor shall appoint one of the members appointed pursuant to subsection (1)(b), (c) or (d) to be Deputy Chairman of the Board.
- (3) 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.
- (4) 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 —
  - (a) to the offices referred to in subsection (1)(a), such lawyer of not less than 7 years standing as he thinks fit; or

- (b) to an office referred to in subsection (1)(c) or (d), such person, being a person who is experienced in the valuation of land and is a member of the Australian Property Institute, as he thinks fit.

*[(5)-(7) deleted]*

- (8) The Governor may appoint a person as the deputy of a member.
- (9) The provisions of subsections (1), (3) and (4) as to qualifications and nomination that apply to and in relation to the appointment of a member apply, with any necessary modifications, to and in relation to the appointment of the deputy of that member.
- (10) A person appointed pursuant to subsection (8) is, in the event of the absence from a meeting of the Board of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, is deemed to be a member and has all the powers, functions, and duties of a member.

*[Section 6 amended by No. 15 of 1984 s. 4; No. 65 of 2003 s. 115; No. 74 of 2003 s. 74(3); No. 21 of 2008 s. 671(3)-(5).]*

## **7. Term of office**

- (1) Subject to this Act, each member shall hold office for such period, not exceeding 4 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.
- (2) The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.
- (3) The Governor may terminate the appointment of a member for inability, inefficiency, or misbehaviour.
- (4) The office of a member becomes vacant if —
  - (a) his term of office expires; or
  - (b) his appointment is terminated pursuant to subsection (3); or

- (c) he is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (d) he becomes permanently incapable of performing his duties as a member; or
- (e) he resigns his office by written notice addressed to the Minister; or
- (f) he absents himself, except on leave duly granted by the Minister from 3 consecutive meetings of the Board; or
- (g) he ceases to hold any qualification required for his becoming or being a member.

*[Section 7 amended by No. 18 of 2009 s. 49.]*

**8. Meetings of the Board**

- (1) The Board shall hold meetings at such times and places as are necessary to enable it to discharge its functions and duties under this Act and the Minister may at any time require the Chairman to convene a meeting of the Board.
- (2) The Chairman shall preside at all meetings of the Board at which he is present and the Deputy Chairman shall preside at all meetings at which he, but not the Chairman, is present, but where neither the Chairman nor the Deputy Chairman is present at a meeting of the Board, the members present shall appoint one of their number present to preside at the meeting.
- (3) At a meeting of the Board, 3 members constitute a quorum.
- (4) Any question arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting.
- (5) The member presiding at a meeting of the Board has a deliberative vote only, and in the event of an equality of votes being cast on any question, that question shall remain unresolved until a subsequent meeting.

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

**9. 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.

**10. 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.

**11. The Registrar and other officers**

- (1) 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.
- (2) 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*.
- (3) The officers of the Board may hold office as such in conjunction with any other office in the Public Service of the State.
- (4) 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.
- (5) All courts, judges, and persons acting judicially shall take judicial 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**

*[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.
- (2) 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.
- (3) 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.
- (5) 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.
- (6) A person, other than a legal practitioner, shall not demand or receive any fee or reward for representing a party to 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 *in camera*, 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.

*[(8) deleted]*

- (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 by No. 55 of 2004 s. 589; No. 69 of 2006 s. 15.]*

### **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 it, and retain them for such reasonable period as it thinks fit, and make copies of any of them, or of any of their contents;
  - (d) require any person to make oath or affirmation that he will truly answer all questions put to him by the Board relating to any matter being inquired into by the Board (which oath or affirmation may be administered by a member of the Board or any officer of the Board); and



- (e) require any person appearing before the Board (whether he has been summoned to appear or not) to answer any relevant questions put to him by the Board, or by any other person appearing before the Board.
- (2) Subject to subsection (3), if any person —
- (a) who has been served with a summons to attend before the Board fails without reasonable excuse (proof of which shall lie upon him) to attend in obedience to the summons;
  - (b) who has been served with a summons to produce any books, papers, or documents, fails without reasonable excuse (proof of which shall lie upon him) to comply with the summons;
  - (c) misbehaves himself before the Board, wilfully insults the Board, or interrupts the proceedings of the Board; or
  - (d) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Board,
- he is guilty of an offence and liable to a penalty not exceeding \$5 000.
- (3) A person shall not be obliged to answer a question put to him under this section if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.
- (4) In the course of any proceedings, the Board may —
- (a) receive in evidence any transcript of evidence in proceedings before a court and draw any conclusions of fact therefrom that it considers proper; or
  - (b) adopt, as in its discretion it considers proper, any findings, decision, or judgment of a court that may be relevant to the proceedings.
- (5) 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.]*

**14. Orders for costs**

- (1) 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 that the Board considers necessary or expedient for the purposes of —
- (a) determining any application or any other matter before the Board;
  - (b) determining whether or not a licensed valuer is or has been complying with the requirements of this Act;
  - (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;
  - (d) detecting offences against this Act.
- (2) The Board may designate an officer of the Board to be an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
- (a) require any person —
    - (i) to give the investigator such information as the investigator requires; and

- (ii) to answer any question put to the person, in relation to any matter the subject of such inquiry;
  - (b) require any person to produce any document to the investigator;
  - (c) enter at all reasonable times and search any premises and inspect any documents that the investigator finds on the premises; and
  - (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- (4) A requirement made under subsection (3)(a) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to any place specified in the requirement;
    - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
    - (iv) be given on oath or affirmation or by statutory declaration for which purpose the investigator may administer an oath or affirmation and have the authority of a commissioner for declarations.
- (5) A requirement made under subsection (3)(b) —
- (a) shall be made by notice in writing served on the person required to produce a document;

- (b) shall specify the time at or within which the document is to be produced; and
  - (c) may, by its terms, require that the document be produced —
    - (i) at any place specified in the requirement; and
    - (ii) by any means specified in the requirement.
- (6) Where under subsection (3)(a) an investigator orally requires a person to give any information or answer any question, the investigator shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (8) Before entering any premises under this section the investigator —
  - (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out an inquiry under this section; and
  - (b) shall display to the person, if any, giving the investigator entry, a document signed by the Board and certifying that the person is designated as an investigator by the Board.

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

**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;
- (b) gives any information or answer that is false in any particular; or
- (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the 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 case may be;

- (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 15, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
- (c) that the time specified in the requirement did not afford the 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.

*[Section 15B inserted by No. 55 of 2004 s. 592; amended by No. 2 of 2008 s. 65.]*

**15C. Obstruction of investigator**

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 15.

Penalty: \$2 000.

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

**16. Application for review**

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

- (2) In subsection (1) —

***person aggrieved*** means a person whose licence is affected by a reviewable decision or who, under Part III, applies for or objects to the grant of a licence or the renewal of a licence;

***reviewable decision*** means a decision under Part III other than a determination of the form in which an application or objection is to be made.

*[Section 16 inserted by No. 55 of 2004 s. 592.]*

## **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 in respect of such an application and shall contain such information as is required by the Board 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 with such further information as the Board determines, verified if the Board so requires by statutory declaration.
- (5) An applicant is a party to proceedings before the Board on his application.

### **18.     Objections**

- (1) Any person may object to the grant of a licence.
- (2) Any objection made shall be in writing and in a form and manner determined by the Board 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 an objection to the grant of a licence is, while he maintains the objection, a party to the proceedings on the application for the grant.

### **19.     Grant of licence**

The Board may grant a licence to any person who satisfies the Board, by such evidence as it may require that he is a person of



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s. 19A.

good character and repute and is competent to carry out the duties of a licensed valuer and who —

*[(a) deleted]*

(b) is a member of the Australian Property Institute; or

(c) is the holder of a prescribed degree, diploma, certificate or other award and has had, in the opinion of the Board, —

(i) satisfactory practical experience in the valuation of land, for the period of 2 years immediately preceding the date of his application; and

(ii) 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;

or

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

*[Section 19 amended by No. 74 of 2003 s. 74(3); No. 55 of 2004 s. 593.]*

**19A. Unopposed applications**

(1) Subject to this Part, a licence may be granted (as long as there is no objection) by the Board, in a meeting at any time and place without notice to the applicant.

(2) Where the Board performs a function under subsection (1), the Registrar shall forthwith deliver the licence to the applicant.

*[Section 19A inserted by No. 55 of 2004 s. 594.]*

**20. Fee and oath**

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

(a) pay to the Board the prescribed fee for the licence; and

**s. 20A**

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- (b) make on oath or affirmation a declaration in an approved form that he will make every valuation impartially.

**20A. Suspension of licence by State Administrative Tribunal**

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

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

**21. Expiry and surrender of licence**

- (1) On granting a licence the Board 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.
- (2) A person may at any time surrender a licence and the licence shall thereupon become and be void and of no effect.
- (3) Despite the surrender by a person of a licence, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence had not been surrendered.

*[Section 21 amended by No. 56 of 1995 s. 28; No. 55 of 2004 s. 596.]*

**22. Renewal of licence**

- (1) Where the holder of a licence applies to the Board for the renewal of that licence and pays to the Board the prescribed fee, the Board shall renew the licence for a further prescribed period.
- (2) If —
  - (a) an application is made after, but within 28 days of, the day on which the licence expired; and
  - (b) the prescribed fee and any amount prescribed by way of penalty for a late application are paid,the Board shall renew that licence for the period prescribed.
- (2a) A renewal under subsection (2) shall be taken for all purposes to have taken effect on the day immediately succeeding the day on which the previous licence expired.
- (3) An application for the renewal of a licence shall be made in writing and in a manner and form determined by the Board in respect of such an application.

*[Section 22 amended by No. 56 of 1995 s. 29.]*

## **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.

- (2) 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 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.
- (4) Any remuneration received in contravention of this section may 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. 19.]*

### **Division 2 — Discipline**

**26. Licensed valuers' code**

The Board 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. 7.]*

**27. Disciplinary proceedings against licensed valuers**

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 28(2), against a licensed valuer.

*[Section 27 inserted by No. 55 of 2004 s. 597.]*

**28. Powers on disciplinary proceedings**

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

## **Part V — Miscellaneous**

### **29. Registers**

- (1) The Registrar shall keep a register of licensed valuers.
- (2) The Registrar shall record in the register any prescribed particulars.
- (3) The Registrar 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 shall, upon receipt of the prescribed fee from a person desiring to inspect the register, make it available for the inspection of that person.

### **29A. Change of particulars**

- (1) A licensed valuer shall give written notice to the Registrar 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 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. 21.]*

### **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 Registrar thinks fit, shall be published in the *Government Gazette* annually.
- (2) The Registrar may cause supplementary lists to be published.



- (3) A certificate under the hand of the Registrar 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.
- (4) The Registrar shall, upon receipt of a request in writing by any person, and payment of the prescribed fee, issue a certificate as to any of the contents of the Register.

**31. Annual report**

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

*[Section 31 amended by No. 55 of 2004 s. 599.]*

**s. 32**

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**32.        Immunity of Board and officers**

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 Act.

**33.        Secrecy**

- (1) This section 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 for the purposes of this Act.

Penalty: \$5 000.

*[Section 33 amended by No. 69 of 2006 s. 22.]*

**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**

- (1) Proceedings for an offence against this Act may be taken by the Registrar.
- (2) Notwithstanding the provisions of any other Act, proceedings 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. 78.]*

**36. Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act or as he considers necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), those regulations may —
- (a) prescribe the procedure of the Board;
  - (b) provide for the enforcement of an order of the Board under section 14 for the payment of costs;
  - (c) 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;
  - (e) prescribe the particulars to be recorded in the register required to be kept under this Act;
  - [(f) deleted]*
  - (g) prescribe penalties not exceeding \$1 000 for any breach 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. 23.]*

**Notes**

- <sup>1</sup> 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 <sup>1a</sup>. The table also contains information about any reprint.

**Compilation table**

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

Short title	Number and year	Assent	Commencement
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78</i> <sup>5</sup>	84 of 2004 (as amended by No. 2 of 2008 s. 78(2)(b))	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))
<b>Reprint 2: The Land Valuers Licensing Act 1978 as at 12 May 2006</b> (includes amendments listed above)			
<i>Consumer Protection Legislation Amendment and Repeal Act 2006 Pt. 6</i>	69 of 2006	13 Dec 2006	14 Jul 2007 (see s. 2 and <i>Gazette</i> 13 Jul 2007 p. 3453)
<i>Criminal Law and Evidence Amendment Act 2008 s. 65</i>	2 of 2008	12 Mar 2008	27 Apr 2008 (see s. 2 and <i>Gazette</i> 24 Apr 2008 p. 1559)
<i>Legal Profession Act 2008 s. 671</i>	21 of 2008	27 May 2008	1 Mar 2009 (see s. 2(b) and <i>Gazette</i> 27 Feb 2009 p. 511)
<b>Reprint 3: The Land Valuers Licensing Act 1978 as at 17 Jul 2009</b> (includes amendments listed above)			
<i>Acts Amendment (Bankruptcy) Act 2009 s. 49</i>	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))

- <sup>1a</sup> 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>Acts Amendment (Fair Trading) Act 2010 Pt. 3</i> <sup>6</sup>	58 of 2010	8 Dec 2010	To be proclaimed (see s. 2(c))

- <sup>2</sup> The *Land Valuers Licensing Amendment Act 1984* s. 4(2) and 6(2) are transitional provisions that are of no further effect.
- <sup>3</sup> The *Business Licensing Amendment Act 1995* s. 32 is a transitional provision that is of no further effect.
- <sup>4</sup> 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.

<sup>5</sup> 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).

<sup>6</sup> 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*.

**14. 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.

**17. Part II Division 2 heading deleted**

Delete the heading to Part II Division 2.

**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 apply 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 in 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 in relation to the objection, the Commissioner must give the objector 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:

and the *Fair Trading Act 2010* apply,

**25. Section 22 amended**

In section 22(1) and (2) delete “Board shall” and insert:

Commissioner may

**26. Section 31 amended**

(1) Delete section 31(1) and insert:

(1) The chief executive officer is to ensure that the matters set out in subsection (1a) are included in the department’s annual report.

(2) In section 31(1a) delete “The Board’s” and insert:

The department’s

(3) Delete section 31(2).

**27. Section 32 deleted**

Delete section 32.

**28. Section 33 replaced**

Delete section 33 and insert:

**33. Confidentiality of information officially obtained**

The *Fair Trading Act 2010* section 112 applies to information obtained for the purposes of this Act.

**29. Section 36 amended**

Delete section 36(2)(a) and (b).

**30. Part VI inserted**

After Part V insert:



## Part VI — Miscellaneous transitional matters

### 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.

### 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.

### 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.

### 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.

### 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.

### 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.

**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.

**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.

**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.

**46. Powers in relation to transitional matters**

- (1) If there is not sufficient provision in this Part for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to that matter.
- (2) In subsection (1) —  
**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*.
- (3) Regulations made under subsection (1) may provide that specific provisions of a written law —
  - (a) do not apply; or
  - (b) apply with specific modifications,to or in relation to any matter.
- (4) Regulations made under subsection (1) must be made within 12 months after the commencement day.
- (5) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.
- (6) In subsection (5) —  
**specified** means specified or described in the regulations.
- (7) If regulations contain a provision referred to in subsection (5), the provision does not operate so as —
  - (a) to affect, in a manner prejudicial to any person (other than the State), the right of that person existing before the day of publication of those regulations; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

**31. Various references to “Commissioner” inserted**

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

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 4 def. of <i>approved</i>	Board	Commissioner
s. 16(1)	Board	Commissioner
s. 17(1) and (4)	Board (each occurrence)	Commissioner
s. 18(2)	Board	Commissioner
s. 19	Board (first occurrence)	Commissioner
s. 19	Board, by such evidence as it	Commissioner, by such evidence as the Commissioner
s. 19(c)	Board	Commissioner
s. 19A(2)	Board	Commissioner
s. 19A(2)	Registrar	Commissioner
s. 20(a)	Board	Commissioner
s. 21(1)	Board	Commissioner
s. 22(1) and (3)	Board (each occurrence)	Commissioner
s. 25(1)	Board	Commissioner
s. 26	Board	Commissioner
s. 27	Board	Commissioner
s. 29(1), (2), (3) and (4)	Registrar	Commissioner
s. 29A(1) and (2)	Registrar	Commissioner

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 30(1), (2), (3) and (4)	Registrar	Commissioner
s. 31(1a)(a)(i) and (ii) and (d)	Board	Commissioner
s. 31(1a)(e)	Board's	Commissioner's
s. 35(1)	Registrar	Commissioner

**Defined Terms**

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**Defined Terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
approved .....	4
Australian Property Institute .....	4
Chairman.....	4
corporation .....	4
land .....	4
lawyer .....	4
legal experience .....	6(1a)
legal practitioner .....	4
licence .....	4
licensed valuer .....	4
licensed valuers code of conduct .....	4
member .....	4
officer.....	4
person aggrieved .....	16(2)
Registrar.....	4
reviewable decision.....	16(2)
the Board.....	4