



Western Australia

Land Legislation Amendment Act 2015

As at 29 Apr 2015

No. 11 of 2015

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Land Legislation Amendment Act 2015

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Land Legislation Amendment Act 2015

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An Act to amend the following Acts —

- **the *Land Information Authority Act 2006*;**
- **the *Registration of Deeds Act 1856*;**
- **the *Strata Titles Act 1985*;**
- **the *Transfer of Land Act 1893*;**
- **the *Valuation of Land Act 1978*.**

[Assented to 29 April 2015]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Land Legislation Amendment Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

**Part 2 — *Land Information Authority*
Act 2006 amended**

3. Act amended

This Part amends the *Land Information Authority Act 2006*.

4. Section 94A inserted

At the end of Part 6 Division 2 insert:

94A. Review to include consideration of fee-setting

- (1) Without limiting section 93, in the course of each review carried out under that section the Minister is also to consider and have regard to —
 - (a) how the fees prescribed for the purposes of the following Acts have been calculated during the period covered by the review —
 - (i) the *Registration of Deeds Act 1856*;
 - (ii) the *Strata Titles Act 1985*;
 - (iii) the *Transfer of Land Act 1893*;
 - (iv) the *Valuation of Land Act 1978*;and
 - (b) whether, since the last review carried out under that section, the Authority has achieved efficiencies in its operations that would enable the fees referred to in paragraph (a) to be reduced or not increased.
- (2) For the purposes of subsection (1)(a), the things that the Minister is to consider and have regard to include —
 - (a) the principles and methodologies applied in determining the prescribed fees; and

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- (b) how those principles and methodologies were applied in determining the amount of each prescribed fee.
- (3) Subsection (1) ceases to apply in relation to fees prescribed for the purposes of an Act listed in subsection (1)(a) if the provision of that Act referred to in subsection (5) expires.
- (4) This section expires on a day fixed by proclamation.
- (5) The day fixed under subsection (4) must not be before all of the following provisions have expired —
 - (a) the *Registration of Deeds Act 1856* section 22AA;
 - (b) the *Strata Titles Act 1985* section 131A;
 - (c) the *Transfer of Land Act 1893* section 182AA;
 - (d) the *Valuation of Land Act 1978* section 50.

Part 3 — *Registration of Deeds Act 1856* amended

5. Act amended

This Part amends the *Registration of Deeds Act 1856*.

6. Sections 22AA and 22AB inserted

After section 22 insert:

22AA. Certain prescribed fees may exceed cost recovery

- (1) Regulations made under section 22 prescribing a fee that may be charged by the Registrar of Deeds and Transfers may prescribe a fee that is more than the amount, or an estimate of the amount, needed to allow recovery of expenditure —
 - (a) incurred in connection with the matter in relation to which the fee is charged; or
 - (b) that is relevant to —
 - (i) the scheme or system under which the action to which the fee relates is taken; or
 - (ii) the performance of any function to which the fee relates.
- (2) This section does not limit the *Interpretation Act 1984* section 45A.

22AB. Expiry of section 22AA

- (1) Section 22AA expires at the end of 31 December 2019.
- (2) However, the Governor, on the recommendation of the Minister, may, by proclamation made before section 22AA expires, postpone the expiry of section 22AA until the end of a date specified in the

proclamation, and in that case that section expires at the end of that date.

- (3) The Minister cannot make a recommendation under subsection (2) unless the Minister is satisfied, on the basis of the most recent report laid before each House of Parliament under the *Land Information Authority Act 2006* section 93(2), that the expiry of section 22AA should be postponed.
- (4) There is no limit on the number of times the expiry of section 22AA may be postponed, but each postponement cannot be for longer than 5 years beginning on the day after the most recent date on which section 22AA would expire if that expiry were not postponed.
- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a proclamation made under subsection (2) as if the proclamation were a regulation.
- (6) The expiry of section 22AA does not affect the validity of any regulations made under section 22 and in effect immediately before that expiry.

Part 4 — *Strata Titles Act 1985* amended

7. Act amended

This Part amends the *Strata Titles Act 1985*.

8. Sections 131A and 131B inserted

After section 130 insert:

131A. Certain prescribed fees may exceed cost recovery

- (1) Regulations made under section 130 prescribing a fee payable to the Registrar of Titles may prescribe a fee that is more than the amount, or an estimate of the amount, needed to allow recovery of expenditure —
 - (a) incurred in connection with the matter in relation to which the fee is charged; or
 - (b) that is relevant to —
 - (i) the scheme or system under which the action to which the fee relates is taken; or
 - (ii) the performance of any function to which the fee relates.
- (2) The definition of *scheme* in section 3(1) does not apply to subsection (1).
- (3) This section does not limit the *Interpretation Act 1984* section 45A.

131B. Expiry of section 131A

- (1) Section 131A expires at the end of 31 December 2019.
- (2) However, the Governor, on the recommendation of the Minister, may, by proclamation made before section 131A expires, postpone the expiry of

section 131A until the end of a date specified in the proclamation, and in that case that section expires at the end of that date.

- (3) The Minister cannot make a recommendation under subsection (2) unless the Minister is satisfied, on the basis of the most recent report laid before each House of Parliament under the *Land Information Authority Act 2006* section 93(2), that the expiry of section 131A should be postponed.
- (4) There is no limit on the number of times the expiry of section 131A may be postponed, but each postponement cannot be for longer than 5 years beginning on the day after the most recent date on which section 131A would expire if that expiry were not postponed.
- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a proclamation made under subsection (2) as if the proclamation were a regulation.
- (6) The expiry of section 131A does not affect the validity of any regulations made under section 130 and in effect immediately before that expiry.

Part 5 — *Transfer of Land Act 1893* amended

9. Act amended

This Part amends the *Transfer of Land Act 1893*.

10. Sections 182AA and 182AB inserted

After section 181 insert:

182AA. Prescribed fees may exceed cost recovery

- (1) Regulations made under section 181 prescribing a fee may prescribe a fee that is more than the amount, or an estimate of the amount, needed to allow recovery of expenditure —
 - (a) incurred in connection with the matter in relation to which the fee is charged; or
 - (b) that is relevant to —
 - (i) the scheme or system under which the action to which the fee relates is taken; or
 - (ii) the performance of any function to which the fee relates.
- (2) This section does not limit —
 - (a) the *Interpretation Act 1984* section 45A; or
 - (b) the extent to which fees prescribed under section 181 may take into account the indemnity of any amount payable out of the Consolidated Account under Part XII that is not recovered under Part XI.

182AB. Expiry of section 182AA

- (1) Section 182AA expires at the end of 31 December 2019.

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- (2) However, the Governor, on the recommendation of the Minister, may, by proclamation made before section 182AA expires, postpone the expiry of section 182AA until the end of a date specified in the proclamation, and in that case that section expires at the end of that date.
- (3) The Minister cannot make a recommendation under subsection (2) unless the Minister is satisfied, on the basis of the most recent report laid before each House of Parliament under the *Land Information Authority Act 2006* section 93(2), that the expiry of section 182AA should be postponed.
- (4) There is no limit on the number of times the expiry of section 182AA may be postponed, but each postponement cannot be for longer than 5 years beginning on the day after the most recent date on which section 182AA would expire if that expiry were not postponed.
- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a proclamation made under subsection (2) as if the proclamation were a regulation.
- (6) The expiry of section 182AA does not affect the validity of any regulations made under section 181 and in effect immediately before that expiry.

Part 6 — *Valuation of Land Act 1978* amended

11. Act amended

This Part amends the *Valuation of Land Act 1978*.

12. Sections 50 and 51 inserted

At the end of Part V insert:

50. Prescribed fees may exceed cost recovery

- (1) Regulations made under section 49 prescribing a fee may prescribe a fee that is more than the amount, or an estimate of the amount, needed to allow recovery of expenditure —
 - (a) incurred in connection with the matter in relation to which the fee is charged; or
 - (b) that is relevant to —
 - (i) the scheme or system under which the action to which the fee relates is taken; or
 - (ii) the performance of any function to which the fee relates.
- (2) This section does not limit the *Interpretation Act 1984* section 45A.

51. Expiry of section 50

- (1) Section 50 expires at the end of 31 December 2019.
- (2) However, the Governor, on the recommendation of the Minister, may, by proclamation made before section 50 expires, postpone the expiry of section 50 until the end of a date specified in the proclamation, and in that case that section expires at the end of that date.

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- (3) The Minister cannot make a recommendation under subsection (2) unless the Minister is satisfied, on the basis of the most recent report laid before each House of Parliament under the *Land Information Authority Act 2006* section 93(2), that the expiry of section 50 should be postponed.
- (4) There is no limit on the number of times the expiry of section 50 may be postponed, but each postponement cannot be for longer than 5 years beginning on the day after the most recent date on which section 50 would expire if that expiry were not postponed.
- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a proclamation made under subsection (2) as if the proclamation were a regulation.
- (6) The expiry of section 50 does not affect the validity of any regulations made under section 49 and in effect immediately before that expiry.

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