

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**State Administrative Tribunal (Conferral of
Jurisdiction) Amendment and Repeal Bill 2003**

A Bill for

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

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2003*.

5 **2. Commencement**

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

Part 2 — Various Acts amended to confer jurisdiction

Division 1 — *Aboriginal Heritage Act 1972*

3. The Act amended

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

[* Reprinted as at 16 February 2001.]

4. Section 4 amended

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

10

“

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

”.

15

5. Section 18 amended

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

“

20

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

”.

- (2) Section 18(6) is repealed.

6. Section 43 amended

25

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

“ State Administrative Tribunal ”;

- (2) Section 43(6) is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 1 Aboriginal Heritage Act 1972

s. 7

7. Section 46 amended

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

“

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

”.

(2) Section 46(4) and (6) are repealed.

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

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

“ application was made for a review of ”;

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

15 “ application ”.

8. Section 50 amended

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

“ or tribunal ”.

9. Various references to “Local Court” amended

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

“ State Administrative Tribunal ”.

Table

s. 43(4) (both places)

s. 43(5) (both places)

s. 44

s. 47(2)

Division 2 — Adoption Act 1994

10. The Act amended

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

[* *Reprinted as at 2 January 2001.*

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

11. Section 10 amended

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

“

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

”.

12. Section 143 amended

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

“

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

”.

Division 3 — Aerial Spraying Control Act 1966

13. The Act amended

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

[* *Reprint approved 28 August 1983.*

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 4 Agricultural Produce (Chemical Residues) Act 1983

s. 14

14. Section 8 amended

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

“

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

”.

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

10 **15. Section 13A amended**

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

“

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

”.

Division 4 — Agricultural Produce (Chemical Residues) Act 1983

16. The Act amended

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

[* Reprinted as at 6 September 2002.]

17. Section 8 amended

Section 8(2) is amended as follows:

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

18. Section 20 amended

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

“

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

”.

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

“

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

20 (3) Subsection (2) does not limit the powers that the *State
Administrative Tribunal Act 2003* gives the State
Administrative Tribunal.

”.

19. Section 23 amended

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

“

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 5 Agricultural Produce Commission Act 1988

s. 20

Division 5 — Agricultural Produce Commission Act 1988

20. The Act amended

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

5 [* Reprinted as at 5 April 2002.]

21. Section 16 amended

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

“

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

”.

(2) Section 16(3) is repealed.

Division 6 — Agriculture and Related Resources Protection Act 1976

15

22. The Act amended

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

[* Reprinted as at 15 October 1999.]

20 **23. Section 7 amended**

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

24. Section 54 amended

(1) Section 54(2) is repealed.

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

“

- 5 (4) An owner having only a partial interest or a particular estate in the land may apply to the Protection Board for it to declare what portion of any expense of or incidental to the control of declared plants and declared animals on and in relation to the land paid or to be paid by the owner is to be borne by any other person having
10 a partial interest or an estate in the land, and the Protection Board may, subject to the provisions of this Act, make such declaration as in the circumstances it considers just, and an owner paying, or who has paid,
15 more than that owner’s proportion of the expenses as declared by the Protection Board may, by action in a court of competent jurisdiction, recover the excess from any person the Protection Board declares to be liable to pay it.
- 20 (5) A party dissatisfied with a decision of the Protection Board under subsection (1) or (4) may apply to the State Administrative Tribunal for a review of the decision.

”.

Division 7 — *Animal Welfare Act 2002*

25 **25. The Act amended**

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

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

30 **26. Heading to Part 5 Division 4 amended**

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 7 Animal Welfare Act 2002

s. 27

27. Section 71 amended

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

5 (2) Section 71(2) is amended by deleting “or appeal”.

28. Section 72 amended

Section 72(1) is amended as follows:

(a) by deleting “an appealable” and inserting instead —
“ a reviewable ”;

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

29. Section 74 amended

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

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

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

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

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

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

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

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

5

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

“

State Administrative Tribunal deals with the matter
unless the Tribunal

10

”.

30. Section 75 repealed

Section 75 is repealed.

Division 8 — *Architects Act 1921*

31. The Act amended

15

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

[* *Reprinted as at 26 February 1999.*

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

20

32. Part 1 heading amended

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

“

Part 1 — Preliminary

25

”.

33. Section 2 amended

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 8 Architects Act 1921

s. 34

34. Part 2 heading amended

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

5

“

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

”.

35. Section 10 repealed

10

Section 10 is repealed.

36. Part 3 heading amended

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

15

“

Part 3 — Registration

”.

37. Section 12 amended

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

20

“

State Administrative Tribunal made upon an
application

”.

38. Section 14B amended

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

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

5

“

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

”;

10

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

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

15

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

39. Section 14D amended

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

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

20

“

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

”;

25

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

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

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 8 Architects Act 1921

s. 40

40. Section 16 replaced

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

“

5

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) —

10

“person aggrieved” means a person —

(a) whose registration is affected by a reviewable decision; or

(b) who applies for registration;

15

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

”.

41. Section 22 amended

20

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

“ State Administrative Tribunal ”.

42. Section 22A amended

25

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

“

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

30

”.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction
Architects Act 1921

**Part 2
Division 8
s. 42**

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

“ State Administrative Tribunal ”.

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

“

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

”.

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

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

“

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

”;

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

“ State Administrative Tribunal ”;

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

(d) by deleting paragraph (c).

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 8 Architects Act 1921

s. 43

43. Section 22AB inserted

After section 22A the following section is inserted —

“

22AB. Suspension of registration by State Administrative Tribunal

5

(1) Where the State Administrative Tribunal makes an order against a registered person and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the person’s registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

10

(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 2003*.

15

”.

44. Section 25 amended

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

20

“

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

25

”.

45. Part 4 heading amended

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

5

“

Part 4 — Committee of Architectural Education

”.

46. Part 5 heading amended

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

10

“

Part 5 — General Meeting of Architects

”.

47. Part 6 heading amended

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

15

“

Part 6 — By-laws

”.

20

48. Part 7 heading amended

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

“

Part 7 — Miscellaneous

25

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 8 Architects Act 1921

s. 49

49. Section 30 amended

Section 30(b) is amended as follows:

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

50. Section 31 replaced by sections 31 to 31C

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

“

31. Powers of investigation

- 15 (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;
- 20 (b) determining whether or not a person registered under this Act is or has been acting in conformity with the conditions, if any, of the person’s registration and is or has been complying with the requirements of this Act;
- (c) determining whether any other cause exists that
25 might be considered by the Board a proper cause for disciplinary action; or
- (d) detecting offences against this Act.
- (2) The Board may appoint an investigator to carry out an inquiry and report to the Board under this section.

-
- (3) The investigator may —
- (a) require any person —
 - (i) to give the investigator such information as the investigator requires; and
 - 5 (ii) to answer any question put to the person,
in relation to any matter the subject of such inquiry;
 - 10 (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
 - 15 (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) —
- 20 (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
 - 25 (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;
 - 30 (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 8 Architects Act 1921

s. 50

- 5 (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) —
- 10 (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 —
- 15 (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
20 that he or she is required under this Act to give the
information or answer the question, as the case may be.
- (7) Where under subsection (3)(a) or (b) a person is
required by notice in writing to give any information,
answer any question, or produce any document, the
notice shall state that he or she is required under this
25 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 —
- 30 (a) shall obtain a warrant to do so from a
magistrate or Justice of the Peace which
warrant the magistrate or Justice of the Peace is
authorised to issue upon being satisfied that the

entry is sought in good faith for the purpose of carrying out an inquiry under this section; and

- (b) shall display to the person, if any, giving the investigator entry, a document signed by the Board and certifying that he or she is an investigator appointed by the Board.

31A. Incriminating information, questions, or documents

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

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

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

31B. Failure to comply with investigation

- (1) Where under section 31 a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him or her) —

- (a) fails to give that information or answer that question at or within the time specified in the requirement;
(b) gives any information or answer that is false in any particular; or

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 8 Architects Act 1921

s. 50

- (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- 5 (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- 10 (a) that, in the case of an alleged offence arising out of a requirement made orally under section 31, the investigator did not, when making the requirement, inform the defendant that he or she was required under this Act to give the information or answer the question, as the case may be;
- 15 (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 31, the notice did not state that he or she was required under this Act to give the information, answer the question, or produce the document, as the case may be;
- 20 (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him or her to comply with the requirement; or
- 25 (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

31C. Obstruction of investigator

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

Penalty: \$2 000.

”.

51. Section 35 amended

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

“

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

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

(i) investigations and inquiries undertaken by, or at the direction of, the Board; and

(ii) matters that have been brought before the State Administrative Tribunal by the Board;

(b) the number and nature of matters referred to in paragraph (a) that are outstanding;

(c) any trends or special problems that may have emerged;

(d) forecasts of the workload of the Board in the year after the year to which the report relates; and

(e) any proposals for improving the operation of the Board.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 9 Armadale Redevelopment Act 2001

s. 52

Division 9 — Armadale Redevelopment Act 2001

52. The Act amended

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

5 [* Act No. 25 of 2001.]

53. Section 50 replaced

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

“

10 **50. Review of certain decisions**

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

15

”.

54. Section 52 amended

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

20

“

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

”.

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

“ application ”.

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

Division 10 — Associations Incorporation Act 1987

5 **55. The Act amended**

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

[* Reprinted as at 20 August 1999.

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

56. Section 4 amended

- (1) Section 4(6) is amended by deleting all of the subsection after “may” and inserting instead —

15

“

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

”.

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

20 **57. Section 7 amended**

- (1) Section 7(2) is amended by deleting all of the subsection after “refusal” and inserting instead —

25

“

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

”.

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 10 Associations Incorporation Act 1987

s. 58

58. Section 8 amended

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

“

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

”.

(2) Section 8(3) is repealed.

59. Section 9 amended

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

“

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

”.

(2) Section 9(4) is repealed.

60. Section 18 amended

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

“

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

”.

(2) Section 18(5) is repealed.

61. Section 19 amended

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

“

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

”.

- (2) Section 19(4) is repealed.

Division 11 — *Biological Control Act 1986*

10 **62. The Act amended**

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

[* *Act No. 106 of 1986.*

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

63. Section 3 amended

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

64. Section 54 amended

- 20 (1) Section 54(1) is amended by deleting “in accordance with the
regulations appeal to a Biological Control Appeal Board
appointed under section 55.” and inserting instead —

“

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

”.

- (2) Section 54(2) is amended by deleting “and in sections 56
and 58”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 12 Births, Deaths and Marriages Registration Act 1998

s. 65

65. Sections 55 to 58 repealed

Sections 55, 56, 57 and 58 are repealed.

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

5 **66. The Act amended**

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

[* *Act No. 39 of 1998.*

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

67. Section 67 amended

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

“ State Administrative Tribunal ”.

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

Division 13 — *Boxing Control Act 1987*

68. The Act amended

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

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

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

69. Part V heading replaced

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

“

5

Part V — Review

”.

70. Section 34 amended

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

10

“

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

”.

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

15

71. Section 40 amended

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

“

20

(a) where the book is surrendered under section 39 as a consequence of the suspension of registration and no application for review is made in relation to the suspension — as soon as practicable after the suspension;

25

(b) where the book is surrendered under section 39 and, on application made for a review of a decision of the Commission to cancel or suspend registration, the decision is set aside — as soon as is practicable after the decision is set aside.

30

”.

Division 14 — Bread Act 1982

72. The Act amended

The amendments in this Division are to the *Bread Act 1982*.*.

[* *Reprinted as at 15 November 2002.*]

5 **73. Section 7 amended**

(1) Section 7(5) is amended by deleting all of the subsection after “holder may” and inserting instead —

“

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

”.

(2) Section 7(6), (7) and (8) are repealed.

Division 15 — Builders’ Registration Act 1939

74. The Act amended

15 The amendments in this Division are to the *Builders’ Registration Act 1939*.*.

[* *Reprinted as at 11 January 2002.*]

75. Section 6 amended

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

“ Four ”.

76. Section 8 amended

Section 8(1) is amended as follows:

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

77. Section 10D amended

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

“ under any ”.

5 **78. Section 12A amended**

Section 12A(5) is amended as follows:

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

“ application ”;

10 (b) by deleting “against the making” and inserting instead —

“ for a review ”;

(c) by inserting after “Board” —

“ or the State Administrative Tribunal ”;

15 (d) by deleting “under section 13”.

79. Section 12D inserted

Before section 13 the following section is inserted —

“

12D. Allegation of cause for disciplinary action

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 15 Builders' Registration Act 1939

s. 80

80. Section 13 amended

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

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

5

“

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

10

”;

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

15

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

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

20

“

State Administrative Tribunal, the State Administrative Tribunal

”;

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

25

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

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

30

“

State Administrative Tribunal, the State Administrative Tribunal

”;

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

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

(a) by deleting “Board” and inserting instead —
“ State Administrative Tribunal ”;

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

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

“

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

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

”.

20 **81. Section 13A amended**

Section 13A is amended as follows:

(a) by deleting “after the holding of a full inquiry in
accordance with section 13 the Board” and inserting
instead —

25 “ the State Administrative Tribunal ”;

(b) by deleting “Board” in the second place where it occurs
and inserting instead —

“ State Administrative Tribunal ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 15 Builders' Registration Act 1939

s. 82

82. Section 14 replaced

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

“

5 **14. Application for review**

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

(2) In subsection (1) —

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

(a) whose registration as a builder is affected by a reviewable decision; or

(b) who applies for registration;

15 **“reviewable decision”** means a decision of the Board —

(a) refusing or suspending registration; or

(b) granting registration on a condition or conditions.

”.

20 **83. Section 17 amended**

(1) Section 17(1) is amended by deleting “or inquiry”.

(2) Section 17(2), (3), (4) and (5) are repealed.

84. Section 17A inserted

After section 17 the following section is inserted —

25 “

17A. Suspension of registration by State Administrative Tribunal

(1) Where the State Administrative Tribunal makes an order against a registered builder and payment is not made in

accordance with the order or the order is otherwise not
complied with or is breached, the State Administrative
Tribunal may suspend the registration until the payment
is made, or for such period or upon such event
occurring as the State Administrative Tribunal thinks fit.

- (2) The power conferred on the State Administrative
Tribunal by subsection (1) is in addition to, and does
not derogate from, the powers conferred on it by the
State Administrative Tribunal Act 2003.

85. Section 19A inserted

After section 19 the following section is inserted —

19A. Surrender of registration or certificate

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

86. Section 22 amended

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

but excluding penalties ordered by the State
Administrative Tribunal

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 15 Builders' Registration Act 1939

s. 87

87. Section 23B amended

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

“

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

5

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

(i) investigations and inquiries undertaken by, or at the direction of, the Board; and

10

(ii) matters that have been brought before the State Administrative Tribunal under this Act;

(b) the number and nature of matters referred to in paragraph (a) that are outstanding;

(c) any trends or special problems that may have emerged;

15

(d) forecasts of the workload of the Board in the year after the year to which the report relates; and

(e) any proposals for improving the operation of the Board.

20

”.

88. Section 41 amended

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

“

25

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

”.

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

“

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

”.

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

10 “ State Administrative Tribunal ”.

89. Section 42 amended

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

“ State Administrative Tribunal ”.

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

“

20 State Administrative Tribunal may determine any case stated and

”.

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

“

- 25 (4) When dealing with the substance of a case stated under this section, the State Administrative Tribunal is to be constituted by a judicial member as defined in section 3(1) of the *State Administrative Tribunal Act 2003*.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 16 Business Names Act 1962

s. 90

Division 16 — Business Names Act 1962

90. The Act amended

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

5 [* Reprinted as at 16 February 2001.
For subsequent amendments see Act No. 20 of 2003.]

91. Section 14 amended

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

“

10 (1a) Subsection (1) applies as if the State Administrative Tribunal were a court and a proceeding before it were an action.

”.

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

“

15 (3) The power given by this section to the State Administrative Tribunal is exercisable only by a person who is a judicial member or a senior member, as defined in section 3(1) of the *State Administrative Tribunal Act 2003*.

20

”.

92. Section 19 amended

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

“

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

”.

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

“

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

”.

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

“

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

”.

Division 17 — Caravan Parks and Camping Grounds Act 1995

93. The Act amended

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

[* *Act No. 34 of 1995.*

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

94. Section 7 amended

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

“

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 17 Caravan Parks and Camping Grounds Act 1995

s. 95

95. Section 10 amended

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

“

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

”.

96. Section 11 amended

Section 11(3) is repealed.

10 **97. Section 12 amended**

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

“

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

”.

98. Section 21 amended

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

“

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

”.

99. Section 27 replaced

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

“

5

27. Review

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

10

”.

100. Section 28 amended

Section 28(2)(h) is deleted.

101. Section 34 amended

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

15

“

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

”.

20

Division 18 — *Cemeteries Act 1986*

102. The Act amended

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

[* *Reprinted as at 3 April 2002.*]

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 19 Chattel Securities Act 1987

s. 103

103. Section 19 amended

(1) Section 19(2) is amended by deleting “appeal to a Local Court against” and inserting instead —
“ apply to the State Administrative Tribunal for a review of ”.

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

Division 19 — Chattel Securities Act 1987

104. The Act amended

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

10 [* Reprinted as at 13 December 2002.
For subsequent amendments see Act No. 20 of 2003.]

105. Section 3 amended

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

106. Section 26 amended

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

“
may apply to the State Administrative Tribunal for a
review of the decision
20 ”.

(2) Section 26(2) is repealed.

107. Sections 27 and 28 repealed

Section 27 and 28 are repealed.

108. Section 29 amended

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

“

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

”.

Division 20 — *Chicken Meat Industry Act 1977*

10 **109. The Act amended**

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

[* *Act No. 58 of 1977.*

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

110. Section 18 amended

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

“

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

”.

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

25

“

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

30

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 21 Chiropractors Act 1964

s. 111

(3) Section 18(4) is repealed.

111. Section 19A amended

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

5

“

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

”;

(2) Section 19A(12) is repealed;

10

(3) Section 19A(13) is amended by deleting “In exercising their powers and functions under this section the Committee and the Minister” and inserting instead —

“

15

The Committee, in exercising its powers and functions under this section, and the State Administrative Tribunal, in dealing with an application under this section for review,

”.

Division 21 — Chiropractors Act 1964

20

112. The Act amended

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

[* Reprinted as at 7 December 2001.]

113. Section 16C amended

25

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

“

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

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

30

(i) investigations and inquiries undertaken by, or at the direction of, the Board; and

- 5
- 10
- (ii) matters that have been brought before the State Administrative Tribunal by the Board;
 - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
 - (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the operation of the Board.

”.

114. Section 18 amended

15 Section 18(1) is amended as follows:

- (a) in paragraph (h) by deleting “, and the inquiry by the Board into that charge or complaint, and for fixing penalties in relation thereto”;
- (b) after paragraph (h) by inserting —
20 “
 - (ha) for regulating the making of allegations in respect of disciplinary matters by the Board to the State Administrative Tribunal, and for fixing penalties in relation thereto;

25

”.

115. Section 20A amended

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

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

30

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 21 Chiropractors Act 1964

s. 116

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

“

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

”.

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

116. Part IVA inserted

After section 21 the following Part is inserted —

“

Part IVA — Investigation

21A. Investigator

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

21B. Report of investigator

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

21C. Powers of investigator

(1) An investigator may for the purposes of an investigation —

- 5 (a) enter and inspect the premises of a person named in a warrant issued under section 21E(1), and exercise the powers referred to in section 21E(2)(b) and (c);
- 10 (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
- 15 (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
- 20 (d) require a person —
(i) to give the investigator such information as the investigator requires; and
(ii) to answer any question put to that person,
in relation to the matter the subject of the investigation; and
- 25 (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- 30 (a) must be made by notice in writing given to the person required to produce the document or other thing;
- (b) must specify the time at or within which the document or other thing is to be produced;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 21 Chiropractors Act 1964

s. 116

- 5
- (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
- (d) where the document required is not in a readable format, must be treated as a requirement to produce —
- (i) the document itself; and
- (ii) the contents of the document in a readable format.
- 10 (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
- 15 (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
- (c) may, by its terms, require that the information or answer required —
- 20 (i) be given orally or in writing;
- (ii) be given at or sent or delivered to a place specified in the requirement;
- (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
- 25 (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is
- 30 required under this Act to give the information or answer the question.

- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

5 **21D. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- 10
- (2) An application for a warrant must —
- 15 (a) be in writing;
- (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person;
- 20 (c) set out the grounds for seeking the warrant; and
- (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
- 25 (a) the application does not comply with the requirements of this Act; or
- (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- 30

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 21 Chiropractors Act 1964

s. 116

- 5
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

21E. Issue of warrant

- 10
- (1) A magistrate to whom an application is made under section 21D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
- 15
- (a) to enter and inspect the premises named in the warrant;
- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
- 20
- (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- 25
- (a) the purpose for which the warrant is issued;
- (b) the name of the person to whom the warrant is issued; and
- (c) a description of the premises that may be entered.
- 30
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

21F. Execution of warrant

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

”.

**Division 22 — Commercial Tenancy (Retail Shops)
Agreements Act 1985**

15 **117. The Act amended**

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

[* Reprinted as at 21 July 2000.

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

118. Section 3 amended

Section 3(1) is amended as follows:

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 22 Commercial Tenancy (Retail Shops) Agreements Act 1985

s. 119

119. Section 4 amended

Section 4(2) is amended as follows:

(a) by deleting “Sections 16 to 21 apply” and inserting instead —

5 “ Section 16 applies ”;

(b) by deleting “sections 22 and 27 have” and inserting instead —

“ section 27 has ”.

120. Section 9 amended

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

“

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

15

”.

121. Section 11 amended

(1) Section 11(5) is amended by deleting “Registrar” in each place where it occurs and inserting instead —

“ Tribunal ”.

20 (2) Section 11(6) and (7) are repealed.

(3) Section 11(8) is amended by deleting “Registrar” in each place where it occurs and inserting instead —

“ Tribunal ”.

122. Section 12 amended

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

“ Tribunal ”.

123. Section 12A amended

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

124. Section 12B amended

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

15 **125. Section 13 amended**

- (1) Section 13(3)(a) is amended as follows:
(a) by deleting “Registrar” and inserting instead —
“ Tribunal ”;
(b) by deleting “he” and inserting instead —
20 “ it ”.
- (2) Section 13(3a) is amended by deleting “Registrar” in each place where it occurs and inserting instead —
“ Tribunal ”.
- 25 (3) Section 13(6) is amended by deleting “Registrar” in each place where it occurs and inserting instead —
“ Tribunal ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 22 Commercial Tenancy (Retail Shops) Agreements Act 1985

s. 126

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

- (a) by deleting “Registrar” and inserting instead —
“ Tribunal ”;
- (b) by deleting “him” and inserting instead —
“ it ”;
- (c) by deleting “he” and inserting instead —
“ it ”.

5

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

- (a) by deleting “Registrar” and inserting instead —
“ Tribunal ”;
- (b) after “exercise” by deleting “his” and inserting
instead —
“ its ”.

10

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

- (a) by deleting “Registrar” and inserting instead —
“ Tribunal ”;
- (b) by deleting “he” and inserting instead —
“ it ”.

15

126. Section 13A amended

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

20

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

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

25

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

127. Section 15 amended

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

128. Section 16 amended

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

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

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

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

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

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

“
(3) Nothing in this section prevents a matter or question
25 from being dealt with through a compulsory conference
or mediation process under the *State Administrative
Tribunal Act 2003*.
”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 22 Commercial Tenancy (Retail Shops) Agreements Act 1985

s. 129

129. Sections 18 to 25 repealed

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

130. Section 26 amended

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

“ *State Administrative Tribunal Act 2003* ”.

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

131. Section 27 amended

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

“ Tribunal ”.

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

“ Tribunal ”.

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

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

“ Tribunal ”;

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

“ its own motion, the ”.

132. Section 29 repealed

25 Section 29 is repealed.

Division 23 — *Community Services Act 1972*

133. The Act amended

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

5 [* Reprinted as at 5 April 2002.]

134. Section 17C amended

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

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

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

Division 24 — *Competition Policy Reform (Western Australia) Act 1996*

15

135. The Act amended

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

20 [* Reprinted as at 6 July 2001.
For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 64.*]

136. Section 45 amended

Section 45 is amended as follows:

- 25 (a) by deleting the definitions of “Chairman”, “Commercial Tribunal”, “Deputy Chairman” and “Registrar”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 25 Consumer Affairs Act 1971

s. 137

- (b) by inserting the following definition in the appropriate alphabetical position —

“

“executive officer of the State Administrative Tribunal” has the meaning given to the term “executive officer” in section 3(1) of the *State Administrative Tribunal Act 2003*;

”.

137. Section 52 amended

Section 52 is amended as follows:

- (a) in paragraph (b) by deleting “Commercial Tribunal” and inserting instead —

“ State Administrative Tribunal ”;

- (b) by deleting paragraphs (c), (d) and (e) and inserting instead —

“

(c) to the Chairperson is taken to be a reference to the Commissioner;

(d) to the Deputy Chairperson is taken to be a reference to the Commissioner;

(e) to the Registrar is taken to be a reference to the executive officer of the State Administrative Tribunal;

”.

Division 25 — Consumer Affairs Act 1971

138. The Act amended

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

[* Reprinted as at 25 March 1999.

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

139. Section 15 amended

(1) Section 15(1) is amended by inserting after “this” —
“ or any other ”.

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

140. Section 15A amended

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

10 “
In addition to other functions that this or any other Act
gives to the Commissioner, the
”.

141. Section 19 amended

(1) Section 19(1) is amended by deleting “the *Fair Trading*
15 *Act 1987*” and inserting instead —
“ any other Act ”.

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

(3) Section 19(1d) is amended by deleting “the *Fair Trading*
20 *Act 1987*” and inserting instead —
“ any other Act ”.

(4) Section 19(2)(a) is amended by deleting “the *Fair Trading*
Act 1987” and inserting instead —
25 “ another Act ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 25 Consumer Affairs Act 1971

s. 142

142. Section 20 amended

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

“ any other Act required by the Commissioner ”.

5 **143. Section 21 amended**

Section 21(2) is amended as follows:

(a) in paragraph (a) by deleting “*Fair Trading Act 1987*” and inserting instead —

“ other Act that is relevant ”;

10 (b) in paragraph (b) by deleting “*Fair Trading Act 1987*” and inserting instead —

“ other Act that is relevant ”.

144. Section 23 amended

15 Section 23 is amended by deleting “the *Fair Trading Act 1987*” and inserting instead —

“ another Act ”.

145. Section 24 amended

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

(a) by deleting “with this Act” and inserting instead —

20 “ with the relevant Act ”;

(b) by inserting after “purposes of this Act” —

“ or another Act (the “**relevant Act**”) ”.

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

(a) by inserting after “prohibits a person who” —

25 “
exercises powers or performs duties or functions under
this Act and

”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 28 Co-operative and Provident Societies Act 1903

s. 149

149. Section 33 replaced

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

“

5 **33. Review**

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

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

”.

Division 28 — Co-operative and Provident Societies Act 1903

150. The Act amended

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

[* Reprinted as at 7 September 2001.

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

151. Section 6 amended

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

“

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

”.

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

152. Section 8 amended

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

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

5

“

apply to the State Administrative Tribunal for a review
of

”;

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

10

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

“ review ”.

Division 29 — Country Areas Water Supply Act 1947

153. The Act amended

15

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

[* *Reprinted as at 19 March 1999.*

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

20

154. Section 12BE amended

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

“ application under section 12D for a review ”.

155. Section 12C amended

25

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

“ application for a review ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 29 Country Areas Water Supply Act 1947

s. 156

156. Section 12D amended

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

“

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

”.

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

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

10

“ application ”;

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

“ for a review ”.

157. Part VI Division 2 heading amended

15

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

“ **review** ”.

158. Section 58 amended

20

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

“ a review of the decision may be sought ”.

159. Section 59 amended

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

25

“

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

”.

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

“

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

”.

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

“

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

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

”.

160. Section 60 amended

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

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

“

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

”;

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

“

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 29 Country Areas Water Supply Act 1947

s. 161

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

“ the State Administrative Tribunal for a review. ”.

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

5

“

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

10

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

”.

161. Sections 60A and 60B inserted

15

After section 60 the following sections are inserted —

“

60A. New matters raised on review

(1) Upon a review by the State Administrative Tribunal on a reference under section 59 or 60, the State Administrative Tribunal may consider —

20

- (a) grounds in addition to those stated in the notice of objection; and
- (b) reasons in addition to any reasons previously given for the Corporation’s decision that is under review.

25

(2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative

30

Tribunal proposes to consider in accordance with subsection (1).

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

- 5 (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 59 or 60 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- 10 (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2003*.
- 15 ”.

162. Section 61 amended

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

“ review ”.

20 **163. Section 62 amended**

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

164. Section 62A amended

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

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

“

or in consequence of a review by the State Administrative Tribunal

30 ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 30 Country Towns Sewerage Act 1948

s. 165

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

“

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

”.

Division 30 — Country Towns Sewerage Act 1948

165. The Act amended

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

[* Reprinted as at 9 November 2001.]

166. Heading amended

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

“ *Review* ”.

167. Section 61 amended

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

“ a review of the decision may be sought ”.

168. Section 62 amended

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

“

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

”.

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

“

5

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

”.

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

“

10

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

15

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

”.

169. Section 63 amended

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

20

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

“

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

”;

25

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

“

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

30

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 30 Country Towns Sewerage Act 1948

s. 170

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

“ the State Administrative Tribunal for a review ”.

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

5

“

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

10

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

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

”.

170. Sections 63A and 63B inserted

15

After section 63 the following sections are inserted —

“

63A. New matters raised on review

(1) Upon a review by the State Administrative Tribunal on a reference under section 62 or 63, the State Administrative Tribunal may consider —

20

(a) grounds in addition to those stated in the notice of objection; and

(b) reasons in addition to any reasons previously given for the Corporation’s decision that is under review.

25

(2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative

30

Tribunal proposes to consider in accordance with subsection (1).

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

- 5 (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 62 or 63 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- 10 (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2003*.
- 15 ”.

171. Section 64 amended

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

“ review ”.

20 **172. Section 65 amended**

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

173. Section 65A amended

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

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

“

or in consequence of a review by the State Administrative Tribunal

30 ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 31 Credit Act 1984

s. 174

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

“

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

”.

Division 31 — Credit Act 1984

174. The Act amended

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

[* *Reprinted as at 6 April 2001.*

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

175. Section 5 amended

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

“ State Administrative Tribunal ”.

176. Section 85B amended

Section 85B(9) is repealed.

177. Section 86 amended

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

“ *State Administrative Tribunal Act 2003* ”

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

178. Section 167A amended

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

“

5 former Commercial Tribunal established under the
Commercial Tribunal Act 1984

”.

179. Section 167B amended

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

10

“

 former Commercial Tribunal established under the
Commercial Tribunal Act 1984

”.

15 **180. Section 170 amended**

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

“ Commissioner ”.

Division 32 — *Credit (Administration) Act 1984*

20 **181. The Act amended**

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

[* *Reprinted as at 5 May 2000.*

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

182. Section 3 repealed

Section 3 is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 32 Credit (Administration) Act 1984

s. 183

183. Section 4 amended

Section 4 is amended as follows:

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

184. Section 9 amended

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

10 “ Commissioner ”.

185. Section 10 amended

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

- (a) by deleting “Registrar shall send a copy of the application to the Commissioner with a request in writing that the Commissioner” and inserting instead —
15 “ Commissioner may ”;
- (b) by deleting “Registrar specifies in the request” and inserting instead —
“ Commissioner considers necessary ”.

20 (2) Section 10(2) is repealed.

(3) Section 10(3) is amended as follows:

- (a) by deleting “a copy of which is sent to” and inserting instead —
“ received by ”;
- 25 (b) by deleting “subsection (1)” and inserting instead —
“ section 9 ”.

- (4) Section 10(4) is amended by deleting “submits to the Tribunal a report on an application, the Registrar” and inserting instead —

“

receives an application and has the results of any investigation under this section, the Commissioner

”.

186. Section 11 amended

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

“ any person may ”.

- (2) Section 11(2)(c) is amended by deleting “Commissioner or other”.

187. Section 12 amended

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

“

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

”.

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

- (a) by deleting “Tribunal is satisfied that the ground has been made out after it” and inserting instead —

“ Commissioner ”;

- (b) in paragraph (a) by deleting “and has held a hearing with respect to the application”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 32 Credit (Administration) Act 1984

s. 187

(c) in paragraph (b) by deleting “to appear at the hearing and”.

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

5

“

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

10

15

”.

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

“

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

20

”.

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

25

“

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

30

”.

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

“ attended personally on ”.

188. Section 13 amended

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

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

5 “ The Commissioner ”;

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

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

“ make written submissions ”.

(2) Section 13(4) is repealed.

189. Section 14 amended

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

“ writing, the Commissioner ”.

190. Section 22 amended

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

“

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 32 Credit (Administration) Act 1984

s. 191

191. Section 23 amended

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

“

- 5 (1) Any person may, at any time, make to the
Commissioner a written complaint about the holding of
a licence by a specified licensee if the complaint
complies with subsection (2).
- (2) For a complaint to comply with this subsection —
- 10 (a) the complaint has to specify the licensee and
the grounds of the complaint; and
- (b) the grounds of the complaint have to be capable
of reasonably giving rise to a belief described
in subsection (4).
- 15 ”.

- (2) Section 23(3) is repealed.

- (3) Section 23(4) is amended as follows:

- (a) by deleting “Where it appears to the Chairman, whether
or not pursuant to an objection under subsection (1),
20 that” and inserting instead —

“

The Commissioner may, on receiving a complaint
under subsection (1) or on the Commissioner’s own
initiative, make any investigation or inquiry that the
Commissioner considers necessary to decide whether

25 ”;

- (b) in paragraph (b) by deleting “of the Tribunal” and
inserting instead —

“ under any of the cognate Acts ”;

- 30 (c) by deleting the comma and all of the subsection after
paragraph (j) and inserting instead a full stop.

- (4) Section 23(5), (6) and (7) are repealed and the following subsections are inserted instead —

“

5 (5) If the Commissioner decides that it is appropriate to do so, the Commissioner may make an allegation to the State Administrative Tribunal that there are reasonable grounds for a belief described in subsection (4) concerning a specified licensee.

10 (6) If the Commissioner decides not to make an allegation concerning a licensee about whom a complaint was made to the Commissioner under subsection (1), the Commissioner is required to notify the person who made the complaint of that decision and the reason for it.

15

”.

- (5) Section 23(8) is amended as follows:

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

“

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

”;

- (b) by deleting “on the part of the Chairman”;

25 (c) by deleting “the Tribunal” in the second place where it occurs and inserting instead —

“ it ”.

- (6) Section 23(9) and (10) are repealed.

- (7) Section 23(14) is amended by deleting “an inquiry under this section,” and inserting instead —

30

“

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 32 Credit (Administration) Act 1984

s. 192

192. Part II Division 4 heading replaced

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

“ **Division 4 — Review** ”.

5 **193. Section 24 replaced**

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

“

24. Application for review

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

(2) In subsection (1) —

“**person aggrieved**” means —

- 15 (a) a person upon whose application a reviewable decision is made or a person who lodged an objection to the application; or
- (b) the holder of the licence to which a reviewable decision relates.

20 “**reviewable decision**” means —

- (a) a decision under section 12 to grant or refuse an application for a licence;
- (b) a decision under section 13 to impose or vary a condition or restriction; or
- 25 (c) a decision under section 25(3) to grant or refuse an application or impose a condition.

”.

194. Section 25 amended

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

“

- 5 (2) The Commissioner may make any investigation or inquiry that the Commissioner considers necessary for the purpose of dealing with the application.
- (3) The Commissioner shall grant or refuse the application and, on granting the application, may impose
10 conditions subject to which the business to which the application relates may be carried on.

”.

195. Section 28 amended

Section 28(3) is amended as follows:

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

“

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

20

”;

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

“ cannot ”.

196. Section 29 amended

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

197. Section 30 amended

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 32 Credit (Administration) Act 1984

s. 198

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

“ Commissioner ”.

198. Section 32 amended

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

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

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

10 (b) by deleting “on the Tribunal”.

(3) Section 32(7) is amended as follows:

(a) by deleting “the Tribunal or” in the first place where it occurs.

(b) by deleting “Tribunal or that”.

15 (4) Section 32(8) and (9) are repealed and the following subsection is inserted instead —

“

(8) A person appointed under subsection (1) is not liable for any act or omission by or on the part of the person that occurred in good faith and in the performance or discharge or purported performance or discharge, of functions under this Part.

”.

199. Section 33 amended

25 Section 33 is amended as follows:

(a) by deleting “The Tribunal” and inserting instead —
“ A person ”;

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

200. Section 34 amended

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

201. Section 35 amended

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 32 Credit (Administration) Act 1984

s. 202

(4) Section 35(5) is amended by deleting “Tribunal” and inserting instead —

“ person conducting the inquiry ”.

202. Section 36 amended

5 (1) Section 36(1) is amended by deleting “Tribunal” and inserting instead —

“ person conducting the inquiry ”.

(2) Section 36(3) is amended by deleting “before the Tribunal” and inserting instead —

10 “ at an inquiry ”.

203. Section 39 amended

(1) Section 39(1) is amended as follows:

(a) by deleting “Tribunal” in the first place where it occurs and inserting instead —

15 “ person conducting the inquiry ”;

(b) by deleting “the Tribunal” in the second place where it occurs and inserting instead —

“ that person ”.

20 (2) Section 39(2), (3) and (5) are amended by deleting “Tribunal” and inserting instead —

“ person conducting the inquiry ”.

(3) Section 39(8) is amended by deleting “a member of the Tribunal or”.

204. Section 40 repealed

25 Section 40 is repealed.

205. Section 43 amended

Section 43(2) is amended as follows:

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

206. Section 44 amended

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

“ President ”.

10 **207. Section 56 amended**

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

- (a) by deleting paragraph (a) and inserting instead —
“
15 (a) a member of, or the Registrar of, the former Commercial Tribunal that existed under the *Commercial Tribunal Act 1984* before that Act was repealed;

”;

- (b) by inserting “or” after paragraph (d);
- 20 (c) by deleting paragraph (e) and “or” after it;
- (d) in paragraph (f) by deleting “or the Registrar”.

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

“ *State Administrative Tribunal Act 2003* ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 32 Credit (Administration) Act 1984

s. 208

208. Section 57 amended

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

5

“

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

”.

10 **209. Section 60 amended**

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

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

“

15

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

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

20

(i) investigations and inquiries undertaken by, or at the direction of, the Commissioner for the purposes of this Act; and

(ii) matters that have been brought before the State Administrative Tribunal under this Act;

25

(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;

30

(d) forecasts of the workload of the Commissioner in performing functions under this Act in the year after the year to which the report relates; and

- (e) any proposals for improving the performance of the Commissioner's functions under this Act.

”.

210. Schedule 1 repealed

5 Schedule 1 is repealed.

211. Various references to “Tribunal” amended

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

10

Table

- s. 9(1) and (4)
- s. 9(5) (in the second place)
- s. 11(1) (in both places)
- s. 11(2)(b)
- s. 12(2) and (3)
- s. 12(4) (both places)
- s. 12(9) (5 places)
- s. 13(1)
- s. 13(3) (in the second place)
- s. 22(3)
- s. 23(4)(i)
- s. 23(11) (in the second place)

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 32 Credit (Administration) Act 1984

s. 212

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

“ State Administrative Tribunal ”.

Table

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

5 **212. Various references to “Registrar” amended**

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

“ Commissioner ”.

Table

s. 12(7) and (8)(b)
s. 16(1)
s. 16(2) (both places)
s. 18(1)
s. 23(12)
s. 25(1) (both places)
s. 26 (both places)
s. 51(1) and (2)

Division 33 — Cremation Act 1929

213. The Act amended

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

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

214. Section 8 amended

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

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

15 **Division 34 — Dangerous Goods Safety Act 2003**

215. The Act amended

The amendments in this Division are to the *Dangerous Goods Safety Act 2003**.

20 [* Bill currently before Parliament as *Dangerous Goods Safety
Bill 2002.*]

216. Section 67 amended

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

“ **reviewable** ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 35 Dangerous Goods (Transport) Act 1998

s. 217

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

“

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

”.

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

217. Schedule 1 amended

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

“

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

”.

Division 35 — *Dangerous Goods (Transport) Act 1998*

218. The Act amended

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

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

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

219. Section 4 amended

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

“ the State Administrative Tribunal ”.

220. Section 8 amended

Section 8(2)(v) is deleted.

Division 36 — Debt Collectors Licensing Act 1964

221. The Act amended

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

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

222. Section 3 amended

Section 3 is amended as follows:

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

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

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

223. Section 8 amended

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

“ Commissioner. ”.

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

20 (a) by deleting “Clerk of the Court” and inserting instead —
“ Commissioner ”;

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

“ Commissioner of Police, who ”;

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

“ Commissioner ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 36 Debt Collectors Licensing Act 1964

s. 223

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

(a) in paragraph (a) —

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

“ Commissioner of Police ”;

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

“ objects ”; and

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

“ objects ”;

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

“ Commissioner ”;

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

“

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

”.

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

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

“

Commissioner, for the purposes of deciding an

”;

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

“ , may consider ”.

- (5) Section 8(7), (8) and (9) are repealed.
- (6) Section 8(10) is amended by deleting “Court hearing the application” and inserting instead —
“ Commissioner ”.

5 **224. Section 9 amended**

- (1) Section 9(1) is amended as follows:
- (a) by deleting “Court hearing” and inserting instead —
“ Commissioner has to refuse ”.
- (b) by deleting “shall refuse the application unless it is” and
10 inserting instead —
“ unless ”.

(2) Section 9(3) is repealed.

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

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

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

20 “ the Commissioner, he may issue ”.

225. Section 10 amended

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

“

- 25 (1) Any person may, at any time, make a complaint in
writing to the Commissioner about the holding of a
licence by a specified licensee if the complaint
complies with subsection (1ab).

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 36 Debt Collectors Licensing Act 1964

s. 225

- 5
- (1a) For a complaint to comply with this subsection —
- (a) the complaint has to specify the licensee and the ground of the complaint; and
 - (b) the ground of the complaint has to be a ground described in subsection (1).
- 10
- (1b) The Commissioner may, on receiving a complaint under subsection (1) or on the Commissioner's own initiative, make any investigation or inquiry that the Commissioner considers necessary to decide whether to make an allegation under subsection (2) —
- (a) on the ground that the licensee improperly obtained his licence contrary to the provisions of this Act;
 - 15 (b) on the ground that the licensee has been convicted of any offence against this Act; or
 - (c) on any of the grounds on which the Commissioner may refuse the grant or renewal of a licence under section 9.
- 20
- (1c) If the Commissioner decides that it is appropriate to do so, the Commissioner may make an allegation to the State Administrative Tribunal that there is a ground for it to make an order under subsection (2).
- 25
- (1d) If the Commissioner decides not to make an allegation concerning a licensee about whom a complaint was made to the Commissioner under subsection (1), the Commissioner is required to notify the person who made the complaint of that decision and the reason for it.

”.

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

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

“

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

”;

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

“

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

”;

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

“ Commissioner ”;

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

“ as the Tribunal ”.

(3) Section 10(3) is repealed.

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

“

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

”.

226. Section 11 replaced

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

“

11. Review of Commissioner’s decision

(1) Where the Commissioner refuses to grant an
application under section 8 the applicant may apply to

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 36 Debt Collectors Licensing Act 1964

s. 227

the State Administrative Tribunal for a review of the decision.

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

”.

227. Section 12 amended

- 10 (1) Section 12(1) is amended as follows:

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

“ The Commissioner ”;

- 15 (b) by deleting “granted or made by the Court of which he is the Clerk”.

- (2) Section 12(2) is amended by deleting “Clerk” and inserting instead —

“ Commissioner ”.

228. Section 12A inserted

- 20 After section 12 the following section is inserted —

“

12A. Matters to be included in annual report

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

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

(i) investigations and inquiries undertaken by, or at the direction of, the Commissioner for the purposes of this Act; and

- (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- 5 (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;
- 10 (d) forecasts of the workload of the Commissioner in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Commissioner's functions under this Act.

”.

15 **229. Section 15 amended**

Section 15(4) is amended as follows:

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

230. Section 20 amended

Section 20(1) is amended as follows:

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 37 Dental Act 1939

s. 231

231. Section 21 amended

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

Division 37 — *Dental Act 1939*

232. The Act amended

10 The amendments in this Division are to the *Dental Act 1939**.
[* Reprinted as at 25 June 1999.]

233. Section 14C amended

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

- “
- 15 (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
- 20 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
- 25 emerged;
- (d) forecasts of the workload of the Board in the year after the year to which the report relates; and

- (e) any proposals for improving the operation of the Board.

”.

234. Section 15 amended

5 Section 15(1) amended as follows:

- (a) in paragraph (h) by deleting “, and the inquiry by the Board into such charge or complaint”;
- (b) by deleting paragraph (ha).

235. Section 18 amended

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

236. Section 23 amended

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

237. Part IV inserted

After section 29 the following headings and sections are inserted —

“

20 **Part IV — Disciplinary proceedings**

Division 1 — Investigation

29A. Investigator

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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 37 Dental Act 1939

s. 237

(2) The Board is to issue to each investigator it appoints a certificate of appointment in an approved form.

(3) A certificate purporting to have been issued under this section is evidence in any court of the appointment to which the certificate purports to relate.

5

29B. Report of investigator

(1) An investigator must —

(a) within such period as the Board requires prepare a report on the investigation, and make recommendations as to the manner in which the complaint or other matter should be dealt with; and

10

(b) immediately after preparing the report, provide the Board with a copy of the report.

15

(2) The investigator must return his certificate of appointment at the time the Board is provided with a copy of the report.

29C. Powers of investigator

(1) An investigator may for the purposes of an investigation —

20

(a) enter and inspect the premises of a person named in a warrant issued under section 29E(1), and exercise the powers referred to in section 29E(2)(b) and (c);

25

(b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;

30

(c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit,

and make copies of a document or any of its contents;

(d) require a person —

(i) to give the investigator such information as the investigator requires; and

(ii) to answer any question put to that person,

in relation to the matter the subject of the investigation; and

(e) exercise other powers conferred on an investigator by the regulations.

(2) A requirement made under subsection (1)(b) —

(a) must be made by notice in writing given to the person required to produce the document or other thing;

(b) must specify the time at or within which the document or other thing is to be produced;

(c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and

(d) where the document required is not in a readable format, must be treated as a requirement to produce —

(i) the document itself; and

(ii) the contents of the document in a readable format.

(3) A requirement made under subsection (1)(d) —

(a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 37 Dental Act 1939

s. 237

- 5
- (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
- (c) may, by its terms, require that the information or answer required —
- 10
- (i) be given orally or in writing;
- (ii) be given at or sent or delivered to a place specified in the requirement;
- (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
- (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- 15
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.
- 20

29D. Warrant to enter premises

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of an investigation, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- 25
- (2) An application for a warrant must —
- 30
- (a) be in writing;
- (b) be accompanied by a notice in writing from the Board stating that it has determined in the

particular case that the investigator has
reasonable grounds for believing that entry to
premises is necessary for the purpose of the
investigation;

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

29E. Issue of warrant

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

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Part 2 Various Acts amended to confer jurisdiction

Division 37 Dental Act 1939

s. 237

(c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).

5 (3) There must be stated in a warrant —

(a) the purpose for which the warrant is issued;

(b) the name of the person to whom the warrant is issued; and

10 (c) a description of the premises that may be entered.

(4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

15 **29F. Execution of warrant**

(1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.

(2) A warrant ceases to have effect —

20 (a) at the end of the period of one month after its issue;

(b) if it is withdrawn by the magistrate who issued it; or

(c) when it is executed,

25 whichever occurs first.

Division 2 — Role of State Administrative Tribunal

”.

238. Section 30 amended

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

(a) by deleting “Board, after due inquiry,” and inserting
instead —

5 “ State Administrative Tribunal ”;

(b) in paragraphs (b) and (c) by deleting “Board” in each
place where it occurs and inserting instead —

“ Tribunal ”.

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

10 (a) by deleting “Board, after due inquiry,” and inserting
instead —

“ Tribunal ”;

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

15 “ Tribunal ”.

(3) Section 30(1b) is amended by deleting “Board” and inserting
instead —

“ Tribunal ”.

(4) Section 30(2) is amended as follows:

20 (a) by deleting “shall consider all such allegations” and
inserting instead —

“ may ”;

(b) by inserting after “writing” —

25 “
refer the allegation to the State Administrative Tribunal
”.

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

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

“ State Administrative Tribunal considers ”;

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Division 37 Dental Act 1939

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- 5 (b) by deleting “Board may” and inserting instead —
“ Tribunal may ”;
- (c) in paragraph (a) by deleting “, and amend those
particulars accordingly”;
- 5 (d) in paragraph (c) —
- (i) by deleting “require” and inserting instead —
“ order ”;
- (ii) by deleting “Board thinks necessary” and
inserting instead —
- 10 “ Tribunal specifies in the order ”; and
- (iii) in subparagraph (i) by deleting “Board may
impose” and inserting instead —
“ Tribunal specifies in the order ”;
- (e) in paragraph (d) by deleting “Board” and inserting
instead —
- 15 “ Tribunal ”;
- (f) in paragraphs (e) and (f) —
- (i) by deleting “suspend that person” and inserting
instead —
- 20 “ order that that person is suspended ”;
and
- (ii) by inserting after “12 months” —
“ as specified in the order ”.
- (6) Section 30(4) and (5) are repealed.

25 **239. Section 30A amended**

Section 30A is amended as follows:

- (a) by deleting “to the Board”;

(b) by inserting after “with the undertaking,” —

“

refer the matter to the State Administrative Tribunal
and the Tribunal may

5

”;

(c) by deleting “as the Board” and inserting instead —

“ as the Tribunal ”.

240. Section 30B repealed

Section 30B is repealed.

10 **241. Section 31 amended**

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

“

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

15

”.

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

20

“ if it is not ”.

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

“ subsections (1aa) and ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 38 Dental Prosthetists Act 1985

s. 242

242. Section 33 replaced

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

“

5

33. Review

Whenever the Board makes a decision —

- (a) refusing to register any person; or
- (b) refusing to re-enter in the Register the name of any person whose name has previously been withdrawn from or struck off the Register,

10

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

”.

243. Section 45 amended

15

Section 45(1)(a) is deleted.

244. Section 48 amended

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

245. Section 63 repealed

Section 63 is repealed.

20

Division 38 — *Dental Prosthetists Act 1985*

246. The Act amended

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

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

25

247. Section 12 amended

Section 12(4)(a) is deleted.

248. Sections 19A to 19F inserted

After section 19 the following sections are inserted —

“

19A. Investigator

- 5 (1) The Commissioner may appoint a person to
investigate —
- (a) a complaint in relation to a dental prosthetist; or
 - (b) any other matter relevant to the
Commissioner's functions,
- 10 and report to the Commissioner.
- (2) The Commissioner is to issue to each investigator the
Commissioner appoints a certificate of appointment in
an approved form.
- 15 (3) A certificate purporting to have been issued under this
section is evidence in any court of the appointment to
which the certificate purports to relate.

19B. Report of investigator

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

19C. Powers of investigator

(1) An investigator may for the purposes of an investigation —

- 5 (a) enter and inspect the premises of a person named in a warrant issued under section 19E(1), and exercise the powers referred to in section 19E(2)(b) and (c);
- 10 (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
- 15 (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
- (d) require a person —
- 20 (i) to give the investigator such information as the investigator requires; and
- (ii) to answer any question put to that person, in relation to the matter the subject of the investigation; and
- 25 (e) exercise other powers conferred on an investigator by the regulations.

(2) A requirement made under subsection (1)(b) —

- (a) must be made by notice in writing given to the person required to produce the document or other thing;
- 30 (b) must specify the time at or within which the document or other thing is to be produced;

-
- 5
- (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
- (d) where the document required is not in a readable format, must be treated as a requirement to produce —
- (i) the document itself; and
- (ii) the contents of the document in a readable format.
- 10 (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
- 15 (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
- (c) may, by its terms, require that the information or answer required —
- 20 (i) be given orally or in writing;
- (ii) be given at or sent or delivered to a place specified in the requirement;
- (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
- 25 (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is
- 30 required under this Act to give the information or answer the question.

- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

5 **19D. Warrant to enter premises**

- (1) If the Commissioner has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of an investigation the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- 10
- (2) An application for a warrant must —
- (a) be in writing;
- (b) be accompanied by a notice in writing from the Commissioner stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of the investigation;
- 15
- (c) set out the grounds for seeking the warrant; and
- (d) describe the premises that are to be entered.
- 20
- (3) A magistrate to whom an application is made under this section must refuse it if —
- (a) the application does not comply with the requirements of this Act; or
- 25
- (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit,
- 30

and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

19E. Issue of warrant

- 5 (1) A magistrate to whom an application is made under section 19D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose of the investigation.
- 10 (2) A warrant under subsection (1) authorises the investigator —
- 15 (a) to enter and inspect the premises named in the warrant;
- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
- 20 (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
- (b) the name of the person to whom the warrant is issued; and
- 25 (c) a description of the premises that may be entered.
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the
- 30 warrant.

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Part 2 Various Acts amended to confer jurisdiction

Division 38 Dental Prosthetists Act 1985

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19F. Execution of warrant

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

”.

249. Section 20 amended

- (1) Section 20(1) is amended as follows:
- 15 (a) by deleting “, after due inquiry,”;
- (b) by deleting “, by writing signed by him,” and inserting instead —
- “
- 20 refer the matter to the State Administrative Tribunal and the Tribunal may, if satisfied that the dental prosthetist is not a fit and proper person to hold a licence,
- ”.
- (2) Section 20(2) is repealed and the following subsections are
- 25 inserted instead —
- “
- (2) A person whose licence has been revoked under this section may apply in writing to the Commissioner, at any time after the expiration of a period of one year
- 30 from the revocation for the restoration of his licence.

- (3) The Commissioner may, on payment by the applicant to the Commissioner of the prescribed fee, grant the application and restore the licence to the applicant or may refuse the application.
- 5 (4) The Commissioner cannot grant an application under subsection (2) unless the Commissioner has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

10 **250. Section 21 amended**

Section 21 is amended as follows:

- (a) by deleting “Commissioner” in the first place where it occurs and inserting instead —
“ State Administrative Tribunal ”;
- 15 (b) in paragraph (a) by deleting “he” and inserting instead —
“ the Tribunal ”;
- (c) in paragraph (b) by deleting “Commissioner” and inserting instead —
20 “ Tribunal ”;
- (d) by deleting “suspend the operation of a licence for such period as the Commissioner determines” and inserting instead —
“
- 25 order that the operation of a licence be suspended for such period as the Tribunal specifies in the order

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 38 Dental Prosthetists Act 1985

s. 251

251. Section 22 replaced

Section 22 is repealed and the following section is inserted instead —

“

5

22. Review

- (1) Where the Commissioner makes a decision —
- (a) refusing to issue a licence upon application therefor duly made under this Act; or
 - (b) refusing to restore a licence upon application therefor duly made under this Act,

10

the person affected by his decision may apply to the State Administrative Tribunal for a review of the decision.

15

- (2) Where the Commissioner does not, within 90 days after an application is duly made under this Act, issue a licence, or restore a licence, in accordance with the application or give the applicant notice in writing that his application is refused, the application is to be taken to have been refused at the expiry of that period of 90 days.

20

”

252. Section 30A inserted

After section 30 the following section is inserted —

“

25

30A. Report

On or before 31 December in each year the Commissioner shall submit to the Minister a report relating to the Commissioner's functions under this Act for the preceding year ending on 30 June setting out details of —

30

- (a) the number, nature, and outcome, of —
 - (i) investigations undertaken at the direction of, the Commissioner; and

- 5
- 10
- (ii) matters that have been brought before the State Administrative Tribunal by the Commissioner;
 - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
 - (c) any trends or special problems that may have emerged; and
 - (d) forecasts of the workload of the Commissioner under this Act in the year after the year to which the report relates.

”.

Division 39 — Dog Act 1976

253. The Act amended

The amendments in this Division are to the *Dog Act 1976**.

15 [* Reprinted as at 9 November 2001.]

254. Section 7 amended

Section 7(3)(aa) is amended by deleting “bringing” and inserting instead —

“ making ”.

20 **255. Section 14 amended**

Section 14(2) is amended by deleting “or a court”.

256. Section 16A amended

25 Section 16A(3) is amended by deleting all of the subsection after “may” in the first place where it occurs and inserting instead —

“

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 39 Dog Act 1976

s. 257

257. Section 17 amended

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

“

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

”.

(2) Section 17(2) is repealed.

(3) Section 17(3) is amended as follows:

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

“ State Administrative Tribunal ”;

(b) by deleting “on an appeal”;

(c) by deleting “Court” in the second place where it occurs and inserting instead —

15 “ State Administrative Tribunal ”.

(4) Section 17(3a) is amended by deleting “Local Court” and inserting instead —

“ State Administrative Tribunal ”.

(5) Section 17(4) is amended as follows:

20 (a) by deleting “no appeal under subsection (1) is instituted within the prescribed time” and inserting instead —

“

an application is not made under subsection (1) within the time fixed for the making of the application

25

”;

(b) by deleting “appealed against” and inserting instead —

“ applied for a review of ”;

(c) by deleting all of the subsection after “for the seizure of the dog” and inserting instead a full stop.

- (6) Section 17(5) is repealed and the following subsections are inserted instead — “

“

- 5 (5) If an application is made under subsection (1) but the proceeding on the application in the State Administrative Tribunal is withdrawn, dismissed or struck out under section 46, 47 or 48 of the *State Administrative Tribunal Act 2003*, a Justice of the Peace may, on the application of the local government,
10 make an order for the seizure of the dog.
- (6) If an order for the seizure of the dog is made under subsection (4) or (5), the local government may cause the dog to be seized and detained or destroyed or otherwise disposed of as though it had been found in a
15 place in contravention of section 31, 32 or 33A and had not been claimed.

”.

258. Section 26 amended

- 20 (1) Section 26(5) is amended by deleting all of the subsection after “may” in the second place where it occurs and inserting instead —

“

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

25

”.

- (2) Section 26(6) is amended as follows:

- (a) by deleting “shall be lodged with the Minister not later than” and inserting instead —
“ cannot be made later than the expiry of a period of ”;
- 30 (b) by deleting “that is appealable”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 39 Dog Act 1976

s. 259

259. Section 27 amended

(1) Section 27(6) is amended by deleting “to expire at the end of the period specified in the notice” and inserting instead —

“

5 specifying a period at the end of which the licence is cancelled

”.

(2) Section 27(7) is amended as follows:

(a) in paragraph (b) by deleting “intention to cancel” and inserting instead —

10

“ cancellation of ”;

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

“

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

”.

260. Section 29 amended

Section 29(3)(b) is amended by deleting “17(4)” and inserting instead —

20

“ 17(6) ”.

261. Section 33E amended

Section 33E(3) is amended as follows:

(a) by deleting “of objection and appeal”;

25

(b) by inserting after “Division” in the second place where it occurs —

“ to object and to apply for a review ”.

262. Section 33F amended

(1) Section 33F(2)(b)(i) is amended as follows:

(a) by deleting “of appeal to a Local Court in the manner prescribed by regulations against any” and inserting instead —

“

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

”;

(b) by inserting after “government” in the second place where it occurs —

“ on the objection ”;

(2) Section 33F(2)(b)(ii) is deleted and the following subparagraph is inserted instead —

“

(ii) to apply directly to the State Administrative Tribunal for a review,

”.

(3) Section 33F(3) is amended by deleting “appeal” and inserting instead —

“ application for review is ”.

(4) Section 33F(4) is amended by deleting “appeal” in both place where it occurs and inserting instead —

“ application for review ”.

(5) Section 33F(6)(a) is amended as follows:

(a) by deleting “appeal to a Local Court in the manner prescribed by regulations” and inserting instead a comma;

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Division 39 Dog Act 1976

s. 262

- (b) by inserting after “objection” in the second place where it occurs —

“

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

5

”;

- (6) Section 33F(6)(b) is amended as follows:

- (a) by inserting after “owner” —

“ stating ”;

10

- (b) by deleting “either upheld, varied or dismissed” and inserting instead —

“ setting out its determination on the objection ”;

- (c) by inserting after “declaration” a comma;

15

- (d) by deleting “appeal to a Local Court in the manner prescribed by regulations, within not more than” and inserting instead —

“ , within ”;

- (e) by inserting after “subsection (1)” in the second place where it occurs —

20

“

, apply to the State Administrative Tribunal for a review of the decision to which the owner objected

”.

25

- (7) Section 33F(8) is amended by deleting “appeal” and inserting instead —

“ review ”.

263. Section 33G amended

(1) Section 33G(2)(d) is amended as follows:

(a) in subparagraph (i) by deleting all of the subparagraph after “right” and inserting instead —

5

“

to apply to the State Administrative
Tribunal for a review of the decision
made by the local government on the
objection;

10

”;

(b) by deleting subparagraph (ii) and inserting instead —

“

(ii) to apply directly to the State
Administrative Tribunal for a review,

15

”.

(2) Section 33G(3) is amended by deleting “any appeal to a Local Court” and inserting instead —

“

making an application to the State Administrative
Tribunal for a review

20

”.

(3) Section 33G(4)(a) is amended as follows:

(a) by deleting “appeal to a Local Court in the manner prescribed by regulations” and inserting instead a comma;

25

(b) by inserting after “objection” in the second place where it occurs —

“

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

30

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 39 Dog Act 1976

s. 263

(4) Section 33G(4)(b) is amended as follows:

(a) by inserting after “owner” —

“ stating ”;

(b) by deleting “either upheld, varied or dismissed” and inserting instead —

“ setting out its determination on the objection ”;

(c) by inserting after “dog” a comma;

(d) by deleting “appeal to a Local Court in the manner prescribed by regulations”;

(e) by inserting after “subsection (2)” in the second place where it occurs —

“

, apply to the State Administrative Tribunal for a review of the decision to which the owner objected

”.

(5) Section 33G(6) is amended as follows:

(a) in paragraph (a)(i) by deleting “appeal” and inserting instead —

“ application for review ”;

(b) in paragraph (a)(ii) by inserting before “the applicant” —

“ an application for review is made but ”;

(c) in paragraph (a)(iii) by deleting “Local Court” and inserting instead —

“ State Administrative Tribunal ”;

(d) in paragraph (b) —

(i) by deleting “Local Court and” and inserting
instead —

“

5

State Administrative Tribunal for a review and
the State Administrative Tribunal affirms

”;

and

10

(ii) by deleting “is affirmed by an order of that
court”;

(e) by deleting “court” and inserting instead —

“ State Administrative Tribunal ”.

264. Section 33H amended

(1) Section 33H(4) is amended as follows:

15

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

“ application for review ”;

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

20

“ subsection (1) ”;

(2) Section 33H(5)(a) is amended as follows:

(a) by deleting “appeal to a Local Court in the manner
prescribed by regulations” and inserting instead a
comma;

25

(b) by inserting after “application” in the second place
where it occurs —

“

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

30

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 39 Dog Act 1976

s. 265

(3) Section 33H(5)(b) is amended as follows:

(a) by inserting after “owner” —

“ stating ”;

(b) by deleting “either upheld, varied or dismissed” and inserting instead —

“ setting out its determination on the objection ”;

(c) by inserting after “subsection (1)” in the first place where it occurs a comma.

(d) by deleting “appeal to a Local Court in the manner prescribed by regulations, within not more than” and inserting instead —

“ , within ”;

(e) by inserting after “subsection (1)” in the second place where it occurs —

“

, apply to the State Administrative Tribunal for a review of the decision on the application as if the application had been dismissed.

”.

265. Section 33I amended

(1) Section 33I(1) is amended as follows:

(a) by deleting “appeal lies to a Local Court” and inserting instead —

“ application may be made ”;

(b) by inserting after “Division” —

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

(c) in paragraphs (a), (b) and (c) by deleting “against”.

- (2) Section 33I(2), (3) and (4) are repealed and the following subsection is inserted instead —

“

5

- (2) Where, under this Division, an application for a review is made to the State Administrative Tribunal, the orders that the State Administrative Tribunal may make include —

10

- (a) where the dog is detained, an order for the release of the dog to the owner;
- (b) on being satisfied that the dog will be kept without the likelihood of any contravention of this Act, an order cancelling any previous order made in respect of that dog by the State Administrative Tribunal.

15

”.

266. Section 33J amended

Section 33J is amended by deleting “Local Court” and inserting instead —

“ the State Administrative Tribunal ”.

20

267. Section 33L amended

Section 33L is amended by deleting “a Local Court” and inserting instead —

“ the State Administrative Tribunal ”.

268. Section 36 amended

25

Section 36(3) is amended as follows:

- (a) by deleting “in the prescribed manner and” in the second place where it occurs.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 39 Dog Act 1976

s. 269

(b) by deleting “appeal against the decision to the nearest Local Court” and inserting instead —

“

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

5

”;

(c) by deleting “that Local Court either affirms the decision or quashes the decision” and inserting instead —

“

the State Administrative Tribunal determines the application

10

”.

269. Section 40 amended

(1) Section 40(1) is amended by inserting after “court” —

15

“

or the State Administrative Tribunal, according to which of them is dealing with the proceedings,

”.

(2) Section 40(4) is amended by deleting “the court” in the second place where it occurs and inserting instead —

20

“

or the State Administrative Tribunal, as the case requires, that court or tribunal

”.

25

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 40 East Perth Redevelopment Act 1991

s. 270

270. Various references to “appeal” amended

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

“ application ”.

5

Table

- s. 7(3)(aa) (both places)
- s. 17(5) (3 places)
- s. 26(6)
- s. 33F(4) (in the third place)
- s. 33G(3) (in the second and third places)
- s. 33G(6)(a)(ii) and (iii)
- s. 33G(6)(b)

Division 40 — *East Perth Redevelopment Act 1991*

271. The Act amended

The amendments in this Division are to the *East Perth Redevelopment Act 1991**.

10

[* *Reprinted as at 27 August 1999.*

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 110 and Act No. 24 of 2002.]

272. Section 45 replaced

15

Section 45 is repealed and the following section is inserted instead —

“

45. Review of certain decisions

20

An applicant may apply to the State Administrative Tribunal for a review, in accordance with Part V of the Town Planning Act, of a decision of the Authority under section 43 in respect of the applicant’s application.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 40 East Perth Redevelopment Act 1991

s. 273

273. Section 47 amended

- (1) Section 47(2) is amended by deleting “appeal under Part V of the Town Planning Act against” and inserting instead —

“

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

”.

- (2) Section 47(3) is amended by deleting “appeal” and inserting
10 instead —

“ application ”.

- (3) Section 47(4) is amended as follows:

- (a) by deleting “The Town Planning Appeal Tribunal may,
15 where it confirms or varies the direction,” and inserting
 instead —

“

 If the State Administrative Tribunal confirms or varies
 the direction, it may,

”;

- (b) by deleting “such period, being” and inserting instead —
20 “ a period ”;

- (c) by deleting “Town Planning Appeal Tribunal, as is
 specified in that notice” and inserting instead —

“

25 State Administrative Tribunal, as is specified in the
 notice

”.

- (4) Section 47(6) is amended as follows:

- (a) by deleting “in any court of competent jurisdiction”;

(b) by deleting “it in so doing” and inserting instead —

“

the Authority in so doing as a debt in a court of
competent jurisdiction

5

”.

Division 41 — *Electricity Act 1945*

274. The Act amended

The amendments in this Division are to the *Electricity
Act 1945**.

10

[* *Reprinted as at 26 February 1997.
For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 117.*]

275. Section 32 amended

Section 32(3) is amended as follows:

15

(a) in paragraph (f) by deleting all of the paragraph after
“powers” and inserting instead —

“

, and provide for the Director to exercise
disciplinary powers in respect of certain matters
and specify disciplinary penalties, other than
the suspension or cancellation of a licence,
permit, or authorisation, that the Director may
impose;

20

”;

25

(b) after paragraph (f) by inserting —

“

(faa) regulate the making of allegations in respect of
disciplinary matters by the Director to the State
Administrative Tribunal and specify the
penalties that may be imposed and disciplinary
action, including suspending or cancelling a

30

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 41 Electricity Act 1945

s. 276

licence, permit or authorisation, that may be taken by the State Administrative Tribunal in dealing with an allegation;

”.

5 **276. Section 33 inserted**

After section 32 the following section is inserted —

“

33. Annual reporting

10 The annual report under the *Financial Administration and Audit Act 1985* of the department of the Public Service in which the Director is employed is to include details of —

- 15 (a) the number, nature, and outcome, of —
- (i) investigations and inquiries undertaken under this Act by, or at the direction of, the Director; and
 - (ii) matters that have been brought before the State Administrative Tribunal under this Act by the Director;
- 20 (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;
- 25 (d) forecasts of the workload of the Director in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Director’s functions under this Act.

”.

Division 42 — *Employment Agents Act 1976*

277. The Act amended

The amendments in this Division are to the *Employment Agents Act 1976**.

5 [* Reprinted as at 26 October 2001.]

278. Section 4 amended

Section 4(1) is amended as follows:

- (a) by deleting the definitions of “authorised person”, “inspector” and “licensing officer”;
- 10 (b) in the definition of “Commissioner” by inserting after “Act 1971” —

“
and, in the context of an investigation or inquiry
for the purposes of this Act, includes any other
15 person referred to in section 23 of the *Consumer Affairs Act 1971*

”.

279. Section 10A amended

(1) Section 10A is amended by inserting before “The provisions”
20 the subsection designation “(1)”.

(2) At the end of the section 10A the following subsection is
inserted —

- “
- 25 (2) The annual report of the Department in which the
Commissioner is employed is to include details of —
 - (a) the number, nature, and outcome, of —
 - 30 (i) investigations and inquiries undertaken
by, or at the direction of, the
Commissioner for the purposes of this
Act; and

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 42 Employment Agents Act 1976

s. 280

- (ii) matters that have been brought before the State Administrative Tribunal under this Act;
- 5 (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;
- 10 (d) forecasts of the workload of the Commissioner in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Commissioner's functions under this Act.

”.

15 **280. Section 11 repealed**

Section 11 is repealed.

281. Sections 11B to 11D repealed

Sections 11B, 11C and 11D are repealed.

282. Section 11E amended

20 Section 11E is amended as follows:

- (a) by deleting “Subject to the direction of the Commissioner, any” and inserting instead —
- “ Any ”;
- (b) by deleting “licensing officer or any inspector” and
- 25 inserting instead —

“

Commissioner or any person appointed by the Commissioner to institute and conduct proceedings

”.

283. Section 19 amended

- (1) Section 19(1)(d)(i) and (ii) and “and” after subparagraph (ii) are deleted.
- (2) Section 19(2) is amended by deleting “hear and”.

5 **284. Section 20 amended**

Section 20(3) is repealed.

285. Section 22 amended

- (1) Section 22(1) is amended by deleting “Subject to the Minister,
where no objection to the grant or renewal of a licence is lodged
with the licensing officer the licensing officer” and inserting
instead —

“

After considering any objection to the grant or renewal
of a licence lodged with the Commissioner, the
Commissioner

”.

- (2) Section 22(2), (3), (4) and (5) are repealed and the following
subsections are inserted instead —

“

- (2) If the application is for the grant or renewal of a
general licence the Commissioner may instead grant a
restricted licence.
- (3) The Commissioner shall give notice in writing of the
Commissioner’s decision to the applicant and any
person who made an objection setting out, in a notice
given to a person who might be aggrieved by the
decision, the reasons for his decision and informing the
person to whom the notice is given of the right to apply
to the State Administrative Tribunal for a review of the
decision.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 42 Employment Agents Act 1976

s. 286

- 5 (4) If the applicant or a person who lodged an objection with the Commissioner is aggrieved by the Commissioner's decision on the application, the aggrieved person may apply to the State Administrative Tribunal for a review of the decision.

”.

286. Sections 23 and 24 repealed

Sections 23 and 24 are repealed.

287. Section 25 amended

- 10 (1) Section 25(1) is repealed and the following subsection is inserted instead —

“

- 15 (1) The Commissioner may allege to the State Administrative Tribunal that disciplinary action should be taken against a person, firm or body corporate to which this section applies because the person, firm or body corporate —

20 (a) has been guilty of improper conduct in relation to the carrying on of the business of an employment agent; or

(b) has been guilty of any offence involving dishonest or fraudulent conduct, or of an offence against this Act.

”.

- 25 (2) Section 25(2) is amended by deleting “and in relation to”.

- (3) Section 25(3) is repealed and the following subsection is inserted instead —

“

- 30 (3) Where the State Administrative Tribunal, on dealing with an allegation under subsection (1), is satisfied that a reason described in that subsection has been made out, it may order that the licence concerned be

suspended for such period as the Tribunal determines
or shall be cancelled and that any or all of such persons
or any such firm or body corporate shall be disqualified
from holding or taking the benefit of a licence either
for such period as the Tribunal specifies in the order or
permanently.

”.

(4) Section 25(4) is amended as follows:

(a) by deleting “The court” and inserting instead —

“ The State Administrative Tribunal ”;

(b) by deleting “clerk of the court and” and inserting
instead —

“ Commissioner and ”;

(c) after “his licence” by deleting “clerk of the court”.

(5) Section 25(6) is amended by deleting “court” and inserting
instead —

“ State Administrative Tribunal ”.

288. Section 28 amended

Section 28 is amended by deleting “Act in” and inserting
instead —

“

Act, other than a proceeding before the State
Administrative Tribunal, in

”.

289. Section 30 amended

Section 30(4) is amended by deleting “required to show cause
for the purposes of section 25(1) or to satisfy the court as to the
question of fitness or repute upon any application for the grant
or renewal of a licence” and inserting instead —

“ the subject of an allegation under section 25(1) ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 42 Employment Agents Act 1976

s. 290

290. Section 31 amended

Section 31 is amended as follows:

- (a) in paragraph (a) by deleting “licensing officer or any inspector” and inserting instead —

5

“

Commissioner or any person appointed by the Commissioner to institute and conduct proceedings on the Commissioner’s behalf

”;

10

- (b) in paragraph (b) by deleting “, licensing officer or any inspector” and inserting instead —

“ a person appointed by the Commissioner ”.

291. Section 46 amended

- (1) Section 46(1) is amended by deleting “an inspector or any other person duly authorised in that behalf by the Commissioner either generally or in any particular case” and inserting instead —

15

“

the Commissioner for the purposes of investigating whether this Act is being complied with or carrying out any other investigation for the purposes of this Act

20

”.

- (2) Section 46(2), (3), (4) and (5) are repealed.

- (3) Section 46(6) is amended as follows:

25

- (a) by deleting the semicolon at the end of paragraph (a) and inserting a full stop instead;
- (b) by deleting paragraphs (b), (c) and (d), but not the penalty at the foot of paragraph (d).

292. Section 47 amended

(1) Section 47(1) is amended as follows:

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

5 “ the Commissioner ”;

(b) in paragraph (e) by deleting “the inspector” and
inserting instead —

“ the Commissioner ”;

(c) in paragraph (g) by deleting “any inspector or any
10 employee” and inserting instead —

“ the Commissioner ”.

(2) Section 47(2) is repealed.

293. Section 48 amended

Section 48(1) is amended by deleting “an inspector” and
15 inserting instead —

“ the Commissioner ”.

294. Section 49 amended

Section 49 is amended by deleting “, the licensing officer, an
inspector”.

20 **295. Section 52 amended**

Section 52(2)(c) is amended by inserting after “Act” —

“

other than the commencement of proceedings
before the State Administrative Tribunal

25

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 43 Energy Coordination Act 1994

s. 296

296. Various references to “licensing officer” amended

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

5 “ Commissioner ”.

Table

s. 13(1), (2), and (3)
s. 15(2)
s. 16(1)(a), (2), (3), (4), and (6)
s. 17
s. 18(1), (3), (4), (5), and (7)
s. 19(1)(d)(iii) and (2)
s. 20(1)
s. 21(1)(b)(iv)
s. 26(3)
s. 27(1), (3), and (4)
s. 31(c)
s. 38(1)
s. 43(1)
s. 45

Division 43 — Energy Coordination Act 1994

297. The Act amended

10 The amendments in this Division are to the *Energy Coordination Act 1994**.

[* *Reprinted as at 5 May 2000.*

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 119.]

298. Section 11ZH amended

15 (1) Section 11ZH(1) is repealed.

- (2) Section 11ZH(2) is amended by deleting all of the subsection after “may” and inserting instead —

“

5

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

”.

- (3) Section 11ZH(3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13) are repealed and the following subsections are inserted instead —

10

“

- (3) The President is to ensure that, when dealing with an application under subsection (2), the Tribunal is constituted by 3 persons, being —

15

- (a) a presiding member who may be either a judicial member or a senior member who is a qualified person; and
(b) 2 other Tribunal members each of whom has relevant expertise in industry, commerce or accounting.

20

- (4) Without limiting the *State Administrative Tribunal Act 2003*, if a Tribunal member referred to in subsection (3)(b) is unable for any reason to continue with the proceeding the Tribunal constituted of the presiding member and the other member referred to in subsection (3)(b) may, if the presiding member so determines, continue and complete the proceeding.

25

- (5) A person chosen to act as a sitting member of the Tribunal who has a conflict of interest in relation to an application under subsection (2) before, or about to come before, the Tribunal must disclose the nature of the conflict to each party concerned in the proceeding.
Penalty: \$10 000.

30

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 43 Energy Coordination Act 1994

s. 299

5 (6) A person chosen to act as a sitting member of the Tribunal who has a conflict of interest in relation to an application under subsection (2) before the Tribunal must not take part in the proceeding or exercise any powers in relation to the proceeding unless each party to the proceeding consents.

Penalty: \$10 000.

10 (7) For the purposes of this section, a person has a conflict of interest in relation to an application if the person has any direct or indirect interest, pecuniary or otherwise, that conflicts or could conflict with the proper performance of the person's functions in relation to that application.

15 (8) Section 142 of the *State Administrative Tribunal Act 2003* does not apply in relation to an application under subsection (2).

20 (9) Terms used in this section relating to members of the Tribunal have the meanings given to them in section 3(1) of the *State Administrative Tribunal Act 2003*.

”.

299. Section 22 amended

(1) Section 22(1) is amended as follows:

25 (a) by deleting “may object” and inserting instead —
“ who objects ”;

(b) by inserting after “secret” —

“

may apply to the State Administrative Tribunal for a review of the request on that ground

30

”.

(2) Section 22(2), (4) and (5) are repealed.

- (3) Section 22(3) is amended by deleting “Minister may by notice in writing exempt the objector” and inserting instead —
“ Tribunal may exempt the person ”.

Division 44 — Equal Opportunity Act 1984

5 **300. The Act amended**

The amendments in this Division are to the *Equal Opportunity Act 1984**.

[* *Reprinted as at 21 July 2000.*

10 *For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 123.]*

301. Section 4 amended

Section 4(1) is amended as follows:

- 15 (a) in the definition of “inquiry” by deleting “held under”
and inserting instead —
“ referred to in ”;
- (b) by deleting the definitions of “member” and “registrar”;
- (c) in the definition of “Tribunal” by deleting “Equal
Opportunity Tribunal established by section 96” and
inserting instead —

20 “
State Administrative Tribunal under the *State
Administrative Tribunal Act 2003*
”.

302. Section 67 amended

25 Section 67(1)(d) is amended by inserting after “proceeding” —
“ commenced ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 44 Equal Opportunity Act 1984

s. 303

303. Section 83 amended

Section 83(2) is amended by deleting “or the registrar”.

304. Section 93A amended

Section 93A(1) is amended by deleting “under section 134(1)” and inserting instead —

“ against a decision of the Tribunal ”.

305. Part VIII and Part VIII Division 1 headings replaced

The headings to Part VIII and Part VIII Division 1 are deleted and the following headings are inserted instead —

“

**Part VIII — The Role of the State
Administrative Tribunal**

Division 1 — Constituting the Tribunal

”.

306. Section 96 replaced

Section 96 is repealed and the following section is inserted instead —

“

96. Presiding member

(1) When the Tribunal is exercising its jurisdiction under this Act, its presiding member has to be either a judicial member or a senior member.

(2) Terms used in subsection (1) relating to members of the Tribunal have the meanings given to them in section 3(1) of the *State Administrative Tribunal Act 2003*.

”.

307. Sections 97 to 104 repealed

Sections 97, 98, 99, 100, 100A, 101, 102, 103, 104, 104A, 105 and 106 are repealed.

308. Part VIII Division 2 heading amended

5 The heading to Part VIII Division 2 is amended by deleting “of the Tribunal”.

309. Sections 108 to 112 repealed

Sections 108, 109, 110, 111 and 112 are repealed.

310. Sections 118 to 121 repealed

10 Sections 118, 118A, 119, 120 and 121 are repealed.

311. Section 122 amended

Section 122(2) is amended by deleting “under section 121” and inserting instead —

15 “
or duties under the *State Administrative Tribunal Act 2003*
”.

312. Sections 124 and 125 repealed

Sections 124 and 125 are repealed.

20 **313. Section 126 amended**

Section 126 is amended by deleting “or, where the President of the Tribunal is of the opinion that it is expedient that the President alone should exercise the functions of the Tribunal under this section, the President,”.

25 **314. Sections 128 to 134 repealed**

Sections 128, 129, 130, 131, 132, 133 and 134 are repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 44 Equal Opportunity Act 1984

s. 315

315. Section 135 amended

(1) Section 135(4) is repealed.

(2) Section 135(5) is amended as follows:

5 (a) by deleting “Sections 112, 113, 120, 121, 122, 128 and 129 shall, subject to necessary modifications, apply” and inserting instead —

“ Section 113 applies ”;

(b) by deleting “those sections apply” and inserting instead —

10 “ that section applies ”.

316. Section 136 amended

(1) Section 136(2) is repealed

(2) Section 136(3) is amended by deleting “or (2)”.

317. Section 147 amended

15 (1) Section 147 is amended as follows:

(a) by inserting before “Where” the subsection designation “(1)”;

(b) by deleting “refer the matter to the Tribunal” and inserting instead —

20 “ hold an investigation into the matter ”.

(2) At the end of section 147 the following subsection is inserted —

“

(2) Except as otherwise provided by this Division, an investigation shall be held in such manner as the Director determines.

25

”.

318. Section 148 repealed

Section 148 is repealed.

319. Section 149 amended

Section 149 is amended as follows:

- (a) by deleting “The Director or an authority in respect of
which reference is made” and inserting instead —

5

“

An authority in respect of which an investigation is
held under this Division

”.

- (b) by deleting “an investigation under this Part into the
reference” and inserting instead —

10

“ the investigation ”.

320. Section 150 amended

- (1) Section 150(1) is amended as follows:

- (a) by deleting “Tribunal may require the Director or” and
inserting instead —

15

“ Director may require ”;

- (b) in paragraphs (b), (c) and (d) by deleting “it” and
inserting instead —

“ the Director ”.

20

- (2) Section 150(3) is amended as follows:

- (a) by deleting “The Director or an” and inserting
instead —

“ An ”;

- (b) in paragraphs (b) and (c) by deleting “Director or”.

25

- (3) Section 150(4) is amended as follows:

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

“ Director ”;

- (b) by deleting “to it” and inserting instead —

30

“ to the Director ”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 44 Equal Opportunity Act 1984

s. 321

(c) by deleting “Director or” in each place where it occurs.

(d) by deleting “, as the case may be,” in each place where it occurs.

321. Section 152 amended

5 Section 152 is amended as follows:

(a) by deleting “in relation to a reference, the Tribunal” and inserting instead —

“ held under this Division, the Director ”;

(b) in paragraph (a) by deleting “to the Director or”.

10 (c) in paragraph (b) by deleting “reference” and inserting instead —

“ matter investigated ”.

322. Section 153 amended

15 Section 153(1) is amended by deleting “Tribunal” and inserting instead —

“Director ”.

323. Section 154 amended

Section 154(1) is amended by inserting after “by this Act” —

“ or the *State Administrative Tribunal Act 2003* ”.

20 **324. Section 155 amended**

Section 155(1) is amended by deleting “a member of the Tribunal, the registrar,”.

325. Section 165 amended

Section 165(2)(a) is amended as follows:

25 (a) by inserting after “with this Act” —

“ or the *State Administrative Tribunal Act 2003* ”;

- (b) by inserting after “under this Act” —
“ or that Act ”.

326. Section 166 amended

- (1) Section 166(1) is amended as follows:

- 5 (a) by deleting “Tribunal, a member of the Tribunal, the”;
(b) by deleting “the Tribunal or of”;
(c) by deleting “the Tribunal or” in the second place where
it occurs.

- (2) Section 166(2)(b) is amended by deleting “the Tribunal or”.

10 **327. Section 167 amended**

- (1) Section 167(1) is amended as follows:

- (a) by deleting “, a member of the Tribunal”;
(b) by deleting “the Tribunal or” in the second and third
places where it occurs;
15 (c) by deleting “the Tribunal or on”.

- (2) Section 167(2) is amended as follows:

- (a) by deleting “, a member of the Tribunal, or a member of
the staff assisting the Tribunal”;
(b) by deleting “the Tribunal or” in the first and second
20 places where it occurs;
(c) by deleting “the Tribunal or on”.
(d) by deleting “this Act.” and inserting instead —

“
25 this Act or the *State Administrative Tribunal Act 2003*. ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 45 Explosives and Dangerous Goods Act 1961

s. 328

(3) After section 167(2) the following subsection is inserted —

“

(2a) This section also extends to a person who has at any time been —

5

(a) a member of;

(b) a member of the staff assisting; or

(c) a person authorised to perform or exercise any function of,

10

the tribunal that was known as the Equal Opportunity Tribunal.

”.

328. Section 169 amended

Section 169(2)(d) is deleted.

Division 45 — *Explosives and Dangerous Goods Act 1961*

15

329. The Act amended

(1) The amendments in this Division are to the *Explosives and Dangerous Goods Act 1961**.

[* *Reprinted as at 25 February 2000.*

20

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 129.]

(2) This Division is of no effect if the *Explosives and Dangerous Goods Act 1961* is repealed and this Division has not come into operation before the repeal.

330. Section 52 amended

25

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

“

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

30

”.

- (2) Section 52(2) is repealed.

Division 46 — *Fair Trading Act 1987*

331. The Act amended

5 The amendments in this Division are to the *Fair Trading Act 1987**.

[* *Reprinted as at 16 November 2001.*]

332. Section 5 amended

Section 5(1) is amended by deleting the definition of “Commercial Tribunal”.

10 **333. Section 45 amended**

- (1) Section 45(1) is amended by deleting paragraph (a) and “and” after it.

- (2) Section 45(5) is amended by deleting “Tribunal” and inserting instead —

15 “ State Administrative Tribunal ”.

334. Section 46 amended

Section 46(1), (9) and (10) are repealed.

335. Various references to “Commercial Tribunal” amended

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

“ State Administrative Tribunal ”.

Table

- s. 44(b)
s. 46(2)
s. 46(3) (both places)

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 47 Finance Brokers Control Act 1975

s. 336

- s. 46(4) (both places)
- s. 46(5) (both places)
- s. 46(6)
- s. 46(7)
- s. 46(8)
- s. 47(1)(a) (both places)
- s. 47(2)
- s. 47(3) (3 places)
- s. 75(1) (both places)

Division 47 — Finance Brokers Control Act 1975

336. The Act amended

The amendments in this Division are to the *Finance Brokers Control Act 1975**.

5

[* Reprinted as at 3 March 2000.

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 132 and Act No. 21 of 2003.]

337. Section 4 amended

10

Section 4(1) is amended by deleting the definitions of “District Court” and “proceedings”.

338. Heading to Part II Division 3 replaced

The heading to Part II Division 3 is deleted and the following heading is inserted instead —

15

“

Division 3 — Review of decisions of the Board

”.

339. Sections 19 to 22 repealed

Sections 19, 20, 21 and 22 are repealed.

340. Section 23 replaced

Section 23 is repealed and the following section is inserted
instead —

“

5

23. Application for review

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

(2) In subsection (1) —

10

“person aggrieved” means —

(a) a person whose licence or business
certificate is affected by a reviewable
decision or who, under Part III, applies for or
objects to the grant of a licence or applies for
the renewal of a business certificate; or

15

(b) a person affected by a decision of the Board
under Part IV Division 2;

“reviewable decision” means —

20

(a) a decision under Part III other than a
determination of the form in which an
application or objection is to be made;

(b) a decision under Part IV Division 2.

”.

341. Section 24 amended

25

Section 24(5) is repealed.

342. Section 25 amended

Section 25(4) is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 47 Finance Brokers Control Act 1975

s. 343

343. Section 30 amended

After section 30(4) the following subsection is inserted —

“

- 5 (5) Despite the surrender by a person of a licence or a business certificate, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or certificate had not been surrendered.

”

10 **344. Section 32 amended**

Section 32(5) is repealed.

345. Section 33 amended

Section 33(2) is repealed.

346. Section 34 amended

15 Section 34(4) is repealed.

347. Sections 34A and 34B inserted

After section 34 the following sections are inserted —

“

34A. Unopposed applications

- 20 (1) Subject to this Part, a licence may be granted and a business certificate may be granted or renewed, (as long as there is no objection in respect of a licence and special conditions are not imposed or changed) by —

- 25 (a) the Board, in a meeting at any time and place;
or
(b) the Registrar, at any time or place,

without notice to the applicant, and the performance of a function by the Registrar under this subsection is to be treated as performance by the Board.

- 5
- (2) Where the Board or Registrar performs a function under subsection (1), the Registrar shall forthwith deliver the licence or business certificate or the renewed business certificate, as the case may be, to the applicant.
- 10
- (3) Sections 27, 28, and 29 apply to the Registrar in the performance of a function under subsection (1) as if a reference in any of those provisions to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

34B. Suspension of licence by State Administrative Tribunal

- 15
- (1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- 20
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by Part IV Division 3 or by the *State Administrative Tribunal Act 2003*.

25

”.

348. Section 35 amended

Section 35(6) is repealed.

349. Section 56 repealed

Section 56 is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 47 Finance Brokers Control Act 1975

s. 350

350. Section 82 replaced

Section 82 is repealed and the following section is inserted instead —

“

5 **82. Disciplinary proceedings against finance brokers**

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 83(2).

”.

10 **351. Section 83 amended**

(1) Section 83(1) is amended as follows:

- (a) by deleting “If after conducting an inquiry under section 82(1) the Board is satisfied that proper cause exists for disciplinary action, the Board” and inserting instead —

15

“

If, in a procedure commenced by an allegation under section 82 against a finance broker, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal

20

”;

- (b) in paragraph (c) by deleting “Board” in each place where it occurs and inserting instead —

25

“ State Administrative Tribunal ”.

(2) Section 83(2)(d) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

(3) Section 83(3) is repealed.

352. Section 86 amended

After section 86(1) the following subsection is inserted —

“

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

5

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

(i) investigations and inquiries undertaken
by, or at the direction of, the Board or
the Registrar; and

10

(ii) matters that have been brought before
the State Administrative Tribunal under
this Act;

(b) the number and nature of matters referred to in
paragraph (a) that are outstanding;

15

(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

20

(e) any proposals for improving the operation of
the Board.

”.

353. Section 95 amended

Section 95(2) is amended as follows:

(a) by deleting paragraph (b);

25

(b) in paragraph (d) by inserting after “Act” —

“

, but not in connection with the commencement
of a proceeding before the State Administrative
Tribunal

30

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 48 Fire and Emergency Services Authority of Western Australia Act 1998

s. 354

354. Various references to “District Court” amended

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

“ State Administrative Tribunal ”.

5

Table

- s. 35(5)
- s. 72(1) (3 places)
- s. 72(2) (both places)
- s. 72(4)
- s. 73(1) (4 places)
- s. 73(2) (3 places)
- s. 73(3) and (4)
- s. 77 (both places)
- s. 78(1) (both places)
- s. 78(3) and (4)

Division 48 — *Fire and Emergency Services Authority of Western Australia Act 1998*

355. The Act amended

10 The amendments in this Division are to the *Fire and Emergency Services Authority of Western Australia Act 1998**.

[* *Reprint 1 as at 4 April 2003.*]

356. Section 36ZA amended

Section 36ZA is amended as follows:

- 15 (a) by deleting “hear an appeal” and inserting instead —
“ review a decision ”;
- (b) by deleting “appeal” in the second and third places where it occurs and inserting instead —
“ review ”.

357. Part 6A Division 8 heading amended

The heading to Part 6A Division 8 is amended by deleting
“appeals” and inserting instead —

“ **review** ”.

5 **358. Section 36ZF amended**

Section 36ZF is amended by deleting “, within 60 days (or any
further period that the Minister, for reasonable cause shown by
the person, allows) after the date the notice of the determination
was served, serve on the Minister a written notice requiring the
10 Minister to treat the objection as an appeal against” and
inserting instead —

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

359. Section 36ZG repealed

Section 36ZG is repealed.

15 **360. Section 36ZH amended**

(1) Section 36ZH(1) is amended as follows:

- (a) by deleting “or appeal” in each place where it occurs;
- (b) in paragraph (a) by deleting “, or an appeal against,”.

(2) Section 36ZH(2) is amended as follows:

- 20 (a) by deleting “or appeal” in the first place where it occurs;
- (b) by inserting after “subsection (1)” —
“ or a review by the State Administrative Tribunal ”;
- (c) by deleting “appeal,” and inserting instead —
“ review, ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 49 Fire Brigades Act 1942

s. 361

Division 49 — Fire Brigades Act 1942

361. The Act amended

The amendments in this Division are to the *Fire Brigades Act 1942**.

5 [* Reprint 6 as at 7 March 2003.]

362. Section 25A amended

Section 25A(4) is repealed and the following subsection is inserted instead —

“

10 (4) A person who is aggrieved by a direction of the Authority may apply to the State Administrative Tribunal for a review of the direction on the ground that the things directed to be installed and provided in or upon the premises are not reasonably required by the
15 Authority for any of the purposes referred to in subsection (1)(b).

”.

363. Section 33 amended

(1) Section 33(e)(ii) is amended as follows:

20 (a) by deleting “, within 7 days after its receipt, appeal against such requisition to a magistrate sitting as a court of petty sessions within the district,” and inserting instead —

“

25 apply to the State Administrative Tribunal for a review of the requisition

”;

(b) by deleting “an appeal” and inserting instead —

“

the application or an appeal under
section 104 of the *State Administrative
Tribunal Act 2003*

”.

Division 50 — Firearms Act 1973

364. The Act amended

The amendments in this Division are to the *Firearms Act 1973**.

[* *Reprinted as at 11 August 2000.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 146.]*

365. Section 22 amended

(1) Section 22(1) is amended as follows:

- (a) by deleting the definitions of “appeal”, “firearms
appeals tribunal” and “magistrate”;
- (b) in the definition of “decision” by deleting the semicolon
and inserting instead a full stop.

(2) Section 22(2) is amended by deleting all of the subsection after
“may” and inserting instead —

“

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

”.

(3) Section 22(3), (4), (5), (6), (7), (8) and (9) are repealed.

366. Section 34 amended

Section 34(2)(c) is deleted.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 51 First Home Owner Grant Act 2000

s. 367

367. Schedule 3 repealed

Schedule 3 is repealed.

Division 51 — *First Home Owner Grant Act 2000*

368. The Act amended

5 The amendments in this Division are to the *First Home Owner Grant Act 2000**.

[* *Act No. 16 of 2000.*

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 146 and
10 *Act No. 13 of 2003.*]

369. Section 3 amended

Section 3(1) is amended by inserting in the appropriate alphabetical position the following definition —

“

15 “**application**” means an application for a first home owner grant;

”.

370. Part 2 Division 6 heading amended

20 The heading to Part 2 Division 6 is amended by deleting “appeals” and inserting instead —

“ **review** ”.

371. Part 2 Division 6 Subdivision 3 heading amended

The heading to Part 2 Division 6 Subdivision 3 is amended by deleting “Appeals” and inserting instead —

25 “ **Review** ”.

372. Section 31 amended

- (1) Section 31(1) is amended by deleting all of the subsection after “may” and inserting instead —

“

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

”.

- (2) Section 31(2) is amended by deleting “appeal is to be commenced” and inserting instead —

10 “ application for review is to be made ”.

- (3) Section 31(3) is repealed.

373. Section 32 amended

- (1) Section 32(1), (2) and (3) are repealed.

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

15 (a) by deleting “an appeal” and inserting instead —

“ an application for a review of the decision ”;

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

“

20 to the date of the decision resulting from the
application for review.

”.

374. Part 2 Division 6 Subdivision 4 heading deleted

The heading to Part 2 Division 6 Subdivision 4 is deleted.

25 **375. Section 33 repealed**

Section 33 is repealed.

Division 52 — *Fish Resources Management Act 1994*

376. The Act amended

The amendments in this Division are to the *Fish Resources Management Act 1994**.

5 [* Reprinted as at 28 April 2000.
For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 147-8.*]

377. Section 4 amended

Section 4(1) is amended by deleting the definition of “tribunal”.

10 **378. Part 14 and Part 14 Division 1 headings replaced**

The headings to Part 14 and Part 14 Division 1 are deleted and the following headings are inserted instead —

“

Part 14 — Right to object or apply for review

15 **Division 1 — Review of decisions concerning authorisations**

”.

379. Section 146 amended

20 Section 146 is amended in the definition of “affected person” by deleting “proposal” in each place where it occurs and inserting instead —

“ decision ”.

380. Section 147 amended

(1) Section 147(1) is amended as follows:

25 (a) by inserting after “Before” —
“ giving effect to a decision to ”;

-
- (b) in paragraphs (a), (d) and (e) by deleting “refusing” and inserting instead —
“ refuse ”;
- 5 (c) in paragraph (b) by deleting “giving” and inserting instead —
“ give ”;
- (d) in paragraph (c) by deleting “cancelling, suspending or refusing” and inserting instead —
“ cancel, suspend or refuse ”;
- 10 (e) in paragraph (f) by deleting “proposal” and inserting instead —
“ decision ”;
- (f) by deleting paragraph (g) and inserting instead —
“
- 15 (g) allow sufficient time for the person to make an application under this Division for a review of the decision and the application to be determined.
”.
- 20 (2) Section 147(2) is amended as follows:
- (a) in paragraph (a) by deleting “proposal” and inserting instead —
“ decision ”;
- (b) by deleting paragraph (b) and inserting instead —
“
- 25 (b) state that the affected person may, under section 149, apply for a review of the decision.
”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 52 Fish Resources Management Act 1994

s. 381

381. Section 148 amended

(1) Section 148(1) is amended as follows:

(a) by deleting “granting, varying or transferring” and inserting instead —

5

“

giving effect to a decision to grant, vary or transfer

”;

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

10

“ decision ”;

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

“

15

(e) allow sufficient time for any affected person to make an application under this Division for a review of the decision and the application to be determined.

”.

(2) Section 148(2) is amended as follows:

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

20

“ decision ”;

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

“

25

(b) state that an affected person may, under section 149, apply for a review of the decision.

”.

382. Section 149 amended

Section 149 is repealed and the following section is inserted
instead —

“

5

149. Review

(1) An affected person may apply to the State
Administrative Tribunal for a review of a decision
referred to in section 147(1) or section 148(1).

10

(2) An affected person applying under subsection (1) for a
review is required to give the Executive Director a
copy of the application on the day on which it is lodged
with the State Administrative Tribunal.

”.

383. Section 150 amended

15

Section 150 is amended as follows:

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

“ has decided ”;

20

(b) in paragraph (c) by deleting “objected to the proposal in
accordance with section 149” and inserting instead —

“

applied under section 149 for a review of the
decision

”;

25

(c) by deleting all of the section after “until the” and
inserting instead —

“ application is determined. ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 52 Fish Resources Management Act 1994

s. 384

384. Section 151 and 152 replaced

Sections 151 and 152 are repealed and the following sections are inserted instead —

“

5 **151. Notice of when decision has effect**

- 10 (1) Upon giving effect to a decision referred to in section 147(1), the Executive Director is to give each person who was given notice under section 147(1) of the decision notice that effect has been given to the decision.
- (2) The notice is to be given in writing or in such other manner as is prescribed.
- 15 (3) Upon giving effect to a decision notice of which was published under section 148(1), the Executive Director is to cause notice to be published, in the same manner, that effect has been given to the decision, specifying when it was given effect.

152. Notice of decision upon application for review

- 20 (1) Upon determining an application under section 149 for a review of a decision referred to in section 147(1) (the “**original decision**”), the State Administrative Tribunal is to give notice of its decision, and of the reasons for its decision, in writing or in such other manner as is prescribed, to each person who was given notice under
- 25 section 147(1) of the original decision.
- (2) Upon determining an application under section 149 for a review of a decision referred to in section 148(1) (the “**original decision**”), the State Administrative Tribunal is to cause notice of its decision, and of the reasons for its decision, to be published in the manner in which
- 30 notice of the original decision was published under section 148(1)(d).

”.

385. Section 153 to 162 repealed

Section 153, 154, 155, 156, 157, 158, 159, 160, 161 and 162 are repealed.

386. Section 238 amended

5 Section 238(4) is amended as follows:

(a) in paragraph (a)(v) by inserting after “Part 14” —

“

, except the making of an application to
the State Administrative Tribunal for a
10 review

”;

(b) in paragraph (d) by deleting “a tribunal under
section 156” and inserting instead —

“ the State Administrative Tribunal ”.

15 **387. Section 244 amended**

Section 244(1)(g) is deleted.

388. Section 250 amended

Section 250(3)(b) is amended by inserting after “this Act” —

“ or the *State Administrative Tribunal Act 2003* ”.

20 **389. Section 255 amended**

(1) Section 255(5) is amended by deleting all of the subsection after
“may” and inserting instead —

“

apply to the State Administrative Tribunal for a review
25 of the giving of that notice.

”.

(2) Section 255(6), (7) and (8) are repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 53 Fisheries Adjustment Schemes Act 1987

s. 390

390. Section 258 amended

Section 258(zc)(i) is amended by inserting after
“applications” —

“

5 , other than an application to the State
Administrative Tribunal for a review

”.

Division 53 — Fisheries Adjustment Schemes Act 1987

391. The Act amended

10 The amendments in this Division are to the *Fisheries
Adjustment Schemes Act 1987**.

[* Reprinted as at 3 May 2002.]

392. Section 3 amended

Section 3(1) is amended as follows:

15 (a) by deleting the definition of “member” and inserting
instead —

“

“**member**”, in relation to a committee, means a
member of the committee;

20

”;

(b) by deleting the definition of “Tribunal”.

393. Section 14J amended

Section 14J(1) and (2) are amended by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”.

5 **394. Section 14L amended**

(1) Section 14L(1) is amended by deleting “Tribunal to review” and inserting instead —

“

10 State Administrative Tribunal for a review of the
Minister’s determination of

”.

(2) Section 14L(2) is repealed.

395. Section 14M amended

15 Section 14M is amended by deleting “proceedings have been instituted before the Tribunal” and inserting instead —

“

an application has been made under section 14J or 14L to the State Administrative Tribunal

”.

20 **396. Section 14N amended**

Section 14N(1) is amended as follows:

(a) in paragraph (b) by deleting “Tribunal to review” and inserting instead —

“ State Administrative Tribunal for a review of ”;

25 (b) in paragraph (c) by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 54 Fishing and Related Industries Compensation (Marine Reserves) Act 1997

s. 397

397. Part 4 Division 2 repealed

Part 4 Division 2 is repealed.

398. Section 15B amended

5 Section 15B(1)(b) is amended by deleting “14M, 14O(2), 14P or 14Q” and inserting instead —

“ or 14M ”.

Division 54 — *Fishing and Related Industries Compensation (Marine Reserves) Act 1997*

399. The Act amended

10 The amendments in this Division are to the *Fishing and Related Industries Compensation (Marine Reserves) Act 1997**.

[* Act No. 39 of 1997.]

400. Section 3 amended

Section 3(1) is amended as follows:

- 15 (a) in the definition of “relevant event” by deleting the semicolon and inserting instead a full stop;
- (b) by deleting the definition of “Tribunal”.

401. Section 8 amended

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

- 20 (a) by deleting “advise the person in writing as to whether or not the Minister considers that” and inserting instead —
- “ decide whether or not ”;
- (b) by inserting after “Act” —
- 25 “ and advise the person in writing of the decision ”.

(2) After section 8(1) the following subsection is inserted —

“

(1a) A person who receives advice from the Minister under
subsection (1) that the person is not entitled to
compensation under this Act may apply to the State
Administrative Tribunal for a review of the decision.

”.

(3) Section 8(2) is repealed and the following subsection is inserted
instead —

“

(2) If a person does not receive advice from the Minister
within the period specified in subsection (1), the person
may apply to the State Administrative Tribunal to
determine whether or not the person is entitled to
compensation under this Act.

”.

(4) Section 8(3) is amended by inserting after “subsection” —

“ (1a) or ”.

402. Section 9 amended

Section 9(1) is amended by deleting “that the Minister considers
that” and inserting instead —

“ , or the State Administrative Tribunal determines, that ”.

403. Section 10 amended

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

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

“ State Administrative Tribunal ”;

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Part 2 Various Acts amended to confer jurisdiction

Division 55 Gas Standards Act 1972

s. 404

(b) by deleting “the Minister considers that” and inserting instead —

“

, or of the State Administrative Tribunal determining that,

5

”.

(2) Section 10(2) is amended by deleting “Tribunal” and inserting instead —

“ State Administrative Tribunal ”.

10

404. Section 11 amended

Section 11 is amended by deleting all of the subsection after “though” and inserting instead —

“

an application has been made under section 8 or 10 to the State Administrative Tribunal.

15

”.

405. Section 12 amended

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

20

“ State Administrative Tribunal ”.

Division 55 — Gas Standards Act 1972

406. The Act amended

The amendments in this Division are to the *Gas Standards Act 1972**.

25

[* Reprinted as at 7 July 2000.]

407. Section 13A amended

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

- 5 (a) in paragraph (d) by deleting “, suspension,
cancellation,”;
- (b) in paragraph (e) by deleting “and other proceedings”;
- (c) in paragraph (f) by deleting “, and as to the hearing of
inquiries, disciplinary proceedings, and appeal
procedures”.

(2) Section 13A(11) is amended as follows:

- 10 (a) by deleting “call upon that person to return his
certificate, permit or authorisation to the Director, and
appear before a prescribed person or body of persons
authorised by the Director to show cause why he should
15 not be dealt with in accordance with the provisions of
this Act, and pending the holding of the inquiry” and
inserting instead —

“

20 allege to the State Administrative Tribunal that there is
proper cause for disciplinary action and, pending the
holding of any proceedings commenced by the
allegation,

”;

- (b) by deleting “the person required to show cause should
be disqualified or suspended” and inserting instead —

25 “

any disqualification or suspension be imposed on a
person against whom an allegation could be made to
the State Administrative Tribunal

”;

- 30 (c) by deleting “holding an inquiry” and inserting instead —

“

making an allegation to the State Administrative
Tribunal

”.

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Part 2 Various Acts amended to confer jurisdiction

Division 55 Gas Standards Act 1972

s. 407

(3) Section 13A(12) is amended as follows:

(a) by deleting “Where the Director calls for any person to return his certificate, permit or authorisation and appear before a prescribed person or body of persons authorised by the Director” and inserting instead —

5

“

For the purposes of investigating or dealing with a person referred to in subsection (11) (the “**holder**”)

”;

10

(b) by deleting paragraphs (a) and (b);

(c) in paragraph (c) —

(i) by deleting “at any inquiry held pursuant to this section of the person required to show cause” and inserting instead —

15

“ before the Director of the holder ”;

(ii) by deleting “at those proceedings”; and

(iii) by deleting “person required to show cause desires” and inserting instead —

“ holder desires ”;

20

(d) in paragraph (d) —

(i) by deleting “appearing” and inserting instead —
“ attending ”;

(ii) by deleting “before an inquiry” in each place where it occurs; and

25

(iii) by deleting “an appeal” and inserting instead —

“

proceedings before the State Administrative Tribunal commenced by an allegation

”.

30

(4) Section 13A(14) is amended as follows:

(a) by deleting “at an inquiry” and inserting instead —

“ in proceedings before the Director ”;

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Division 55
s. 407**

(b) by deleting “at the inquiry”.

(5) Section 13A(15) is amended as follows:

(a) by deleting “an inquiry, or any part of an inquiry” and
inserting instead —

5

“

proceedings before the Director under this section, or
any part of them

”;

(b) by deleting “of the inquiry”;

10

(c) by deleting “a Judge and shall be heard in Chambers,
and the Judge” and inserting instead —

“

the State Administrative Tribunal, and the State
Administrative Tribunal

15

”;

(d) by deleting “Judge thinks fit; and the decision of a Judge
on any matter under this subsection is final” and
inserting instead —

“ State Administrative Tribunal thinks fit ”.

20

(6) Section 13A(16) is amended as follows:

(a) by deleting “Where it appears to the Director, as the
result of an inquiry held pursuant to this section, that the
person required to show cause why he should not be
dealt with according to the provisions of this Act has
failed so to show cause, or if that person fails to appear
at the inquiry without reasonable excuse, the Director”
and inserting instead —

25

“

The State Administrative Tribunal dealing with an
allegation against a person made under subsection (11)

30

”;

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Part 2 Various Acts amended to confer jurisdiction

Division 55 Gas Standards Act 1972

s. 408

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

“

and the Director dealing with a matter under that subsection may do anything referred to in paragraph (c) or (d) and the Director is required to endorse

”.

(7) Section 13A(17) is amended by deleting “any case” and inserting instead —

“

dealing with a matter under subsection (11) instead of making an allegation to the State Administrative Tribunal

”.

(8) Section 13A(19) is amended by inserting after “suspension” —

“ made by the Director ”.

408. Section 13B replaced

Section 13B is repealed and the following section is inserted instead —

“

13B. Application for review

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

(2) In subsection (1) —

“**person aggrieved**” means —

(a) the holder of a certificate of competency, permit or authorisation; or

(b) a person who has applied for a certificate of competency, permit or authorisation;

5 “**reviewable decision**” means a decision made under
 this Act in relation to a certificate of competency,
 permit or authorisation, including a decision made
 in dealing with a person referred to in
 section 13A(11) but not including a decision to
 make an allegation to the State Administrative
 Tribunal.

”.

409. Section 13C replaced by sections 13C and 13CA

10 Section 13C is repealed and the following sections are inserted
 instead —

“

13C. Surrender of licence

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

13CA. Annual reporting

20 The annual report under the *Financial Administration
 and Audit Act 1985* of the department of the Public
 Service in which the Director is employed is to include
 details of —

- 25 (a) the number, nature, and outcome, of —
- (i) investigations and inquiries undertaken
 under this Act by, or at the direction of,
 the Director; and
- (ii) matters that have been brought before
30 the State Administrative Tribunal under
 this Act by the Director;
- (b) the number and nature of matters referred to in
 paragraph (a) that are outstanding;

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Part 2 Various Acts amended to confer jurisdiction

Division 56 Gender Reassignment Act 2000

s. 410

- 5
- (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Director in performing functions under this Act in the year after the year to which the report relates; and
 - (e) any proposals for improving the performance of the Director's functions under this Act.

”.

Division 56 — Gender Reassignment Act 2000

10 **410. The Act amended**

The amendments in this Division are to the *Gender Reassignment Act 2000**.

[* Act No. 2 of 2000.]

411. Section 17 amended

15 Section 17(2)(b) is amended as follows:

- (a) by deleting “appeal is commenced against” and inserting instead —

“ application is made for a review of ”;

- (b) by deleting “the appeal” and inserting instead —

20 “ the application ”.

412. Section 21 amended

- (1) Section 21(1) is amended by deleting “appeal to the Supreme Court against” and inserting instead —

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

- (2) Section 21(2), (3) and (4) are repealed.

Division 57 — Guardianship and Administration Act 1990

Subdivision 1 — Amendments to the Act

413. The Act amended

5 The amendments in this Subdivision are to the *Guardianship
and Administration Act 1990**.

[* Reprinted as at 22 November 2002.]

414. Long title amended

The long title is amended by deleting “establish a Board with
jurisdiction” and inserting instead —

10 “
confer on the State Administrative Tribunal jurisdiction
”.

415. Section 3 amended

Section 3(1) is amended as follows:

15 (a) by deleting the definition of “application” and inserting
instead —

“
“application” means an application to the State
Administrative Tribunal under this Act;
20 ”;

(b) in the definition of “determination” —
(i) by inserting “and” after paragraph (g);
(ii) in paragraph (h) by deleting the semicolon and
inserting instead a full stop; and
25 (iii) by deleting paragraphs (i) and (j);

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s. 416

- (c) by deleting the definition of “member” and inserting the following definition instead —

“

5

“member” means a member of the State Administrative Tribunal;

”;

- (d) by deleting the definitions of “approved”, “Board”, “deputy president”, “date of the determination”, “executive officer”, “Full Board” and “president”;

10

- (e) by inserting in the appropriate alphabetical positions the following definitions —

“

15

“Deputy President” means a Deputy President of the State Administrative Tribunal;

“executive officer” has the meaning given to that term in the *State Administrative Tribunal Act 2003* section 3;

“Full Tribunal” means the State Administrative Tribunal constituted so as to consist of —

20

- (a) the President; or
(b) a Deputy President,
and 2 other members;

“President” means the President of the State Administrative Tribunal;

25

”.

416. Section 4 amended

Section 4(1) amended by deleting “the performance of its functions the Board” and inserting instead —

“

30

dealing with proceedings commenced under this Act the State Administrative Tribunal

”.

417. Part 3 and Part 3 Division 1 headings replaced

The headings to Part 3 and Part 3 Division 1 are deleted and the following headings are inserted instead —

“

5

Part 3 — The State Administrative Tribunal

Division 1 — Constitution, functions and proceedings

”.

418. Section 5 replaced

Section 5 is repealed and the following section is inserted instead —

10

“

**5. Constitution of State Administrative Tribunal
under this Act**

15

- (1) For the purposes of exercising jurisdiction conferred by or under this Act, the State Administrative Tribunal must be constituted by either one or 3 members, and not otherwise.
- (2) This section has effect subject to section 56A.

”.

20

419. Sections 6 to 12 repealed

Sections 6, 6A, 6B, 7, 8, 9, 10, 11 and 12 are repealed.

420. Part 3 Division 2 heading deleted

The heading to Part 3 Division 2 is deleted.

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Division 57 Guardianship and Administration Act 1990

s. 421

421. Section 13 amended

Section 13 is amended as follows:

- (a) by deleting “The functions of the Board are” and inserting instead —

5

“

For the purposes of this Act, the State Administrative Tribunal has

”;

10

- (b) in paragraphs (a), (b), (c), (d) and (e) by inserting before “to” in the first place where it occurs —

“ jurisdiction ”;

- (c) in paragraph (f) by deleting “to perform certain functions” and inserting instead —

“ certain jurisdiction ”;

15

- (d) in paragraph (g) —

- (i) by deleting “to perform the other functions” and inserting instead —

“ any other jurisdiction ”; and

20

- (ii) by deleting “and any function vested in it by any other Act” and inserting instead —

“

or any other Act in relation to matters of guardianship and administration

”.

25 **422. Sections 14 to 15A repealed**

Sections 14, 15 and 15A are repealed.

423. Section 16 amended

- (1) Section 16(1) and (3) are repealed.

- (2) Section 16(4) is amended by inserting after “proceedings” in the first place where it occurs —

“ commenced under this Act ”.

- (3) Section 16(5) is repealed and the following subsection is inserted instead —

“

- (5) Nothing in this section limits any other power of the State Administrative Tribunal under the *State Administrative Tribunal Act 2003*.

”.

424. Section 17 amended

- (1) Section 17 is amended as follows:

(a) by inserting before “The” the subsection designation “(1)”;

(b) by deleting “the proceedings of the Board” and inserting instead —

“

proceedings of the State Administrative Tribunal
commenced under this Act

”;

- (2) At the end of section 17 the following subsection is inserted —

“

- (2) Those provisions operate in addition to the provisions of the *State Administrative Tribunal Act 2003*.

”.

425. Section 17A amended

- (1) Section 17A(1) is amended by deleting “president” in each place where it occurs and inserting instead —

“ President ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 57 Guardianship and Administration Act 1990

s. 426

- (2) Section 17A(2) is amended by deleting “in the approved form and”.

426. Section 17B amended

- (1) Section 17B(1) is amended by inserting after “review” —
5 “ commenced ”.

- (2) Section 17A(2) is amended as follows:

- (a) by deleting “shall be in the approved form and”;
(b) by deleting paragraph (b) and inserting instead —

- “
10 (b) in the case of the notice given to the applicant
or the represented person, a summary of the
provisions of section 16 and clause 13 of Part B
of Schedule 1 of this Act and sections 39, 86
and 87 of the *State Administrative Tribunal*
15 *Act 2003* as they affect that person.
”.

427. Sections 17C and 17D repealed

Sections 17C and 17D are repealed.

428. Section 19 amended

- 20 Section 19(a) and (b) are amended by deleting “president” and
inserting instead —

“ President ”.

429. Section 33 amended

Section 33(1) is amended by deleting “of the Board”.

25 **430. Part 3 Division 4 repealed**

Part 3 Division 4 is repealed.

431. Section 40 amended

- (1) Section 40(2) is repealed.
- (2) Section 40(3) is amended by deleting “the approved” and inserting instead —
- 5 “ written ”.

432. Section 41 amended

Section 41(2) is amended as follows:

- (a) by deleting “shall be in the approved form and”;
- (b) in paragraph (b)(i) by inserting after “Schedule 1” —
- 10 “

, and sections 39, 86 and 87 of the *State Administrative Tribunal Act 2003*,
”.

433. Section 42 repealed

15 Section 42 is repealed.

434. Section 55 amended

Section 55(2) is amended by deleting “Board” and inserting instead —

“ Public Advocate ”.

20 **435. Section 56A amended**

Section 56A is amended by deleting “6B” and inserting instead —

“ 5 ”.

436. Section 59 amended

25 Section 59(2) is repealed.

State Administrative Tribunal for a review of
the decision.

”.

440. Section 82 amended

- 5 (1) Section 82(1) is amended as follows:
- (a) by deleting “Supreme Court” and inserting instead —
“ State Administrative Tribunal ”;
 - (b) by deleting “Court” in the second place where it occurs
and inserting instead —
10 “ Tribunal ”.
- (2) Section 82(2) is amended as follows:
- (a) by deleting “Court” in the first place where it occurs and
inserting instead —
“ State Administrative Tribunal ”;
 - 15 (b) in paragraph (b) by deleting “Court” and inserting
instead —
“ Tribunal ”.

441. Section 85 amended

- 20 (1) Section 85(2) is amended by deleting “the motion of the Board
or on”.
- (2) Section 85(3) is amended by deleting all of the subsection after
“practicable after the” and inserting instead —
“ application for review is made. ”.
- (3) After subsection (3) the following subsection is inserted —
25 “
- (4) Where —
 - (a) a joint guardian or administrator dies; or

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Part 2 Various Acts amended to confer jurisdiction

Division 57 Guardianship and Administration Act 1990

s. 442

- (b) an alternate guardian becomes the guardian under section 55 on the death of the original guardian,

5 the Public Advocate shall ensure that an application for review is made as soon as practicable after the date of death.

”.

442. Section 86 amended

10 (1) Section 86(1) is repealed and the following subsection is inserted instead —

“

(1) The State Administrative Tribunal may at any time on the application of —

- 15 (a) the Public Advocate;
(b) a represented person or a guardian or an administrator; or
(c) a person to whom leave has been granted under section 87,

20 review a guardianship order or an administration order.

”.

(2) Section 86(2) is amended by deleting “(i)”.

443. Section 87 amended

Section 87(2) and (3) are repealed.

444. Section 88 amended

25 Section 88 is amended as follows:

- (a) by deleting “shall be made in the approved form and shall be lodged with the executive officer, and” and inserting instead a comma;
(b) by inserting after “87” a comma.

445. Section 89 amended

(1) Section 89(1) is amended by inserting after “review” —
“ commenced ”.

(2) Section 89(2) is amended as follows:

- 5 (a) by deleting “shall be in the approved form and”;
- (b) in paragraph (c)(i) by inserting after “Schedule 1” —
“
10 , and sections 39, 86 and 87 of the *State
Administrative Tribunal Act 2003*,
”.

446. Section 90 amended

(1) Section 90 is amended by inserting before “Upon” the
subsection designation “(1)”.

(2) At the end of section 90 the following subsection is inserted —

- 15 “
(2) A review under this Part is in the State Administrative
Tribunal’s original jurisdiction.
”.

447. Section 97 amended

20 Section 97(1) is amended as follows:

- (a) by deleting “section 40” and inserting instead —
“ this Act ”;
- (b) in paragraph (b) by deleting “Board” and inserting
instead —

- 25 “
State Administrative Tribunal commenced
under this Act
”;

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s. 448

(c) in paragraph (f)(i) by deleting “Board” and inserting instead —

“

State Administrative Tribunal conferred
under this Act

”.

5

448. Section 104A amended

Section 104A(3) is amended by deleting “Sections 41(1) and (3) and 42” and inserting instead —

10

“ Section 41(1) and (3) ”.

449. Section 106 amended

Section 106(4) is amended by deleting “Sections 41(1) and (3) and 42” and inserting instead —

“ Section 41(1) and (3) ”.

15

450. Section 108 amended

(1) Section 108(1)(a) is amended by deleting “board” and inserting instead —

“ State Administrative Tribunal ”.

(2) Section 108(4) is amended by deleting “Sections 41(1) and (3) and 42” and inserting instead —

20

“ Section 41(1) and (3) ”.

451. Section 111 amended

Section 111(5) is amended by deleting “Board of its own motion or” and inserting instead —

25

“ State Administrative Tribunal ”.

452. Section 112 amended

(1) Section 112(1) and (2) are amended by inserting after
“proceedings” in the first place where it occurs —
“ commenced under this Act ”.

5 (2) Section 112(3) is amended by deleting “or officer of the Board”
and inserting instead —
“
of the State Administrative Tribunal or a member of
staff of the Tribunal
10 ”.

(3) Section 112(4) is amended by deleting “, or of its own motion”.

453. Section 113 amended

After section 113(2) the following subsection is inserted —

“
15 (3) The provisions of this section are in addition to, and do
not derogate from, the provisions of the *State
Administrative Tribunal Act 2003* relating to the
disclosure of information and documents.
”.

20 **454. Section 114 amended**

Section 114(2) and (3) are repealed.

455. Section 116 repealed

Section 116 is repealed.

456. Section 117 amended

25 Section 117(3)(b) is amended by inserting after “section 16” —
“
of this Act or section 39, 86 or 87 of the *State
Administrative Tribunal Act 2003*
”.

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Part 2 Various Acts amended to confer jurisdiction

Division 57 Guardianship and Administration Act 1990

s. 457

457. Section 120 amended

Section 120(2) is repealed.

458. Sections 121 to 123 repealed

Sections 121, 122 and 123 are repealed.

5 **459. Schedule 1 amended**

(1) Schedule 1 is amended before “Part A” by deleting “[sections 7 and 17]” and inserting instead —

“ [section 17] ”.

(2) Schedule 1 Part A is repealed.

10 (3) Schedule 1 Part B clauses 1 to 10 are repealed.

(4) Schedule 1 Part B clause 11(1) is repealed.

(5) Schedule 1 Part B clause 11(2) is amended as follows:

(a) by deleting “the proceedings” in the first place where it occurs and inserting instead —

15 “ proceedings commenced under this Act ”;

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

“ direct ”.

(6) Schedule 1 Part B clause 11(3) is amended by deleting “Board” and inserting instead —

20 “ State Administrative Tribunal commenced under this Act ”;

(7) Schedule 1 Part B clause 11(4) and the Penalty provision after it are repealed.

25 (8) Schedule 1 Part B clause 12(1) and (2) are amended by inserting before “under” —

“ commenced ”.

- (9) Schedule 1 Part B clause 13(1) and (3) are repealed.
- (10) Schedule 1 Part B clause 13(2)(a) and (b) are amended by deleting “the proceedings” and inserting instead —
- “ proceedings commenced under this Act ”.
- 5 (11) Schedule 1 Part B clause 13(4) is amended by deleting “Board” in the first place where it occurs and inserting instead —
- “ State Administrative Tribunal commenced under this Act ”.

460. Schedule 3 amended

- 10 Schedule 3 Forms 1 and 2 are amended by deleting “Guardianship and Administration Board” and inserting instead —
- “ State Administrative Tribunal ”.

461. Various references to “Board” amended

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

Table

- s. 3(1) (definitions of “determination” and “party”)
Pt. 2 heading
s. 4(2)(a), (b), (c), (d), (e) and (f)
s. 16(2)(a) and (b)
s. 16(4) (both places)
Pt. 3 Div. 2A heading
s. 17A(1) (in the first place)
s. 17B(3)
s. 18(2) (in the first place)
s. 19 (3 places)
s. 21(a)
s. 24(2) (in the first place)
s. 26(a)
s. 28(1) and (3)

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s. 461

- s. 29(1)(a)
- s. 29(2) (in the first place)
- s. 30(1)(a)
- s. 30(1)(c) (in the first place)
- s. 30(2) (in the first place)
- s. 30(3)
- s. 31
- s. 40(1)
- s. 41(2)(b)(ii) and (3)
- s. 43(1) (in the first place)
- s. 43(2) and (3)
- s. 44(1), (2) and (5)
- s. 46
- s. 47(1) (in the first place)
- s. 47(3) and (4)
- s. 49(1) and (2)
- s. 51(1)
- s. 53(b)
- s. 56A (in the first place)
- s. 57(1)(a) and (2)(a)
- s. 58(1)
- s. 59(1)
- s. 60(2)(b)(ii) and (3)
- s. 63(1) and (2)
- s. 64(1) (in the first place)
- s. 64(2) and (3)
- s. 65(1) (in the first place)
- s. 66(1) (in the first place)
- s. 66(3) and (6)
- s. 67(2) and (3)
- s. 68(1), (2), (3) and (5)
- s. 69(1)
- s. 71(1), (3), (4) and (5)
- s. 71A(1) and (2)
- s. 72(1), (2) and (3)
- s. 74(1) (in the first place)
- s. 74(3) and (4)
- s. 75(b)
- s. 77(1) (in the first place)
- s. 78(1)(a)
- s. 81(1) and (2)

s. 84
s. 85(1) (in the first place)
s. 86(1)
s. 87(1), (4)(b) and (5)
s. 89(2)(c)(ii) and (3)
s. 90
s. 95(2), (3)
s. 95(4) (in the first place)
s. 97(1)(a) (in the first place)
s. 102 (in the definition of “enduring power of attorney”)
s. 104(1)(b)(ii)
s. 104A(1)
s. 104A(2) and (4) (both in the first place)
s. 106(1) and (3)
s. 106(2) and (5) (both in the first place)
s. 107(1)(d) and (2)
s. 108(1)(b), (1a) and (3) (all in the first place)
s. 109(1) and (3) (both in the first place)
s. 109(2), (4) and (5)
s. 110
s. 111(1), (2) and (4)
s. 112(1), (2) and (4) (all in the first place)
s. 112(5)
s. 114(1) (in the first place)
s. 117(1) (in the first place)
s. 117(4)
s. 118(2)
Sch. 1 Pt B heading
Sch. 1 Pt. B cl. 11(2), 12(2) and 13(2) (all in the first place)
Sch. 1 Pt. B cl. 12(8)(d)
Sch. 2 Pt. A it. 5 and 6 (both in the first place)
Sch. 2 Pt. A it. 21
Sch. 2 Pt. A it. 23 (in the first place)
Sch. 2 Pt. B (in the first, second and third places)
Sch. 5 cl. 3(1)

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Part 2 Various Acts amended to confer jurisdiction

Division 57 Guardianship and Administration Act 1990

s. 461

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

“ Tribunal ”.

Table

- s. 16(2) (in the third place)
- s. 17A(1) (in the second place)
- s. 17A(2) (both places)
- s. 18(2) (in the second and third places)
- s. 24(2) (in the second place)
- s. 29(2) (in the second place)
- s. 30(1)(c) and (2) (both in the second place)
- s. 43(1) (in the second place)
- s. 47(1) (in the second place)
- s. 56A (in the second place)
- s. 64(1) (in the second place)
- s. 65 (in the second place)
- s. 66(1) (in the second place)
- s. 74 (in the second place)
- s. 77(1) (in the second place)
- s. 85(1)(c) and (d)
- s. 95(4) (in the second place)
- s. 97(1)(a)
- s. 97(1)(b)(ii)
- s. 97(1)(b)(iii) (in each place)
- s. 104A(2) and (4) (both in the second place)
- s. 106(2) and (5) (both in the second place)
- s. 108(1)(b) (in the second place)
- s. 108(1a) (in the second and third places)
- s. 108(3)(b)
- s. 109(1) (in the second, third, fourth and fifth places)
- s. 109(3)(b)
- s. 111(5) (in the second place)
- s. 112(1) and (2) (both in the second place)
- s. 112(3) (in the second and third places)
- s. 112(4)(a)
- s. 114(1) (in the second place)
- s. 117(1) (in the second place)
- Sch. 1 Pt. B cl. 11(2) (in the second, third and fourth places)

Sch. 1 Pt. B cl. 12(2) (in the second place)
Sch. 1 Pt. B cl. 13(2)(a) and (b)
Sch. 1 Pt. B cl. 13(4) (in the second place)
Sch. 2 Pt. A it. 5 and 6 (both in the second place)
Sch. 2 Pt. A it. 23 (in the second and third places)
Sch. 2 Pt. B para (h) (in the second place)

Subdivision 2 — Amendments needed because Act amended

462. Disability Services Act 1993 amended

- (1) The amendments in this section are to the *Disability Services Act 1993**.

5 [* Reprint approved 26 May 2000.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 105.*]

- (2) Section 52(1)(c) is amended by deleting “Guardianship and
Administration Board established” and inserting instead —

10 “ State Administrative Tribunal commenced ”.

463. Electoral Act 1907 amended

- (1) The amendments in this section are to the *Electoral Act 1907**.

15 [* Reprint approved 15 December 2000.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 115.*]

- (2) Section 51AA(1) is amended by deleting “Guardianship and
Administration Board established by that Act” and inserting
instead —

“ State Administrative Tribunal ”.

20 **464. Industrial Relations Act 1979 amended**

- (1) The amendments in this section are to the *Industrial Relations Act 1979**.

[* Reprint as at 8 November 2002.
For subsequent amendments see *Act No. 20 of 2003.*]

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Part 2 Various Acts amended to confer jurisdiction

Division 57 Guardianship and Administration Act 1990

s. 464

(2) Section 97WR is amended as follows:

(a) by deleting the definition of “Guardianship and Administration Board” or “Board”;

(b) by inserting in the appropriate alphabetical position —

5

“

“**Public Advocate**” has the meaning given to that term in the *Guardianship and Administration Act 1990* section 3;

”.

10

(3) Section 97WU(1) is amended by deleting “it must” and inserting instead —

“ he or she must ”.

(4) Section 97WU(3) is amended as follows:

(a) in paragraph (b), by inserting before “subsequently” —

15

“ the State Administrative Tribunal ”;

(b) by deleting “it must” and inserting instead —

“ the Public Advocate must ”.

20

(5) Section 97XI(1) is amended by deleting “Guardianship and Administration Board, in accordance with the regulations,” and inserting instead —

“ State Administrative Tribunal ”.

(6) Section 97XL(1)(b) is amended by deleting “and (3)”.

(7) Section 97XL(2) is amended by deleting “, 3 and 4” and inserting instead —

25

“ and 3 ”.

- (8) The Act is amended in each place described in the Table to this subsection by deleting “Guardianship and Administration Board” and inserting instead —

“ Public Advocate ”.

5

Table

s. 97WT(1)
s. 97WZ(3)(b)
s. 97XN(2)(b)

- (9) The Act is amended in each place described in the Table to this subsection by deleting “Board” and inserting instead —

“ Public Advocate ”.

Table

s. 97WT(4)
s. 97WU(1) and (3)

10

- (10) The Act is amended in each place described in the Table to this subsection by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

Table

s. 97XI(2)(b)
s. 97XK(1), (2), (3), and (4) (in each place)
s. 97XL(2)

Division 58 — Hairdressers Registration Act 1946

15 **465. The Act amended**

The amendments in this Division are to the *Hairdressers Registration Act 1946**.

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

466. Section 7 amended

20

Section 7(1)(b) and (c) are deleted.

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Part 2 Various Acts amended to confer jurisdiction

Division 58 Hairdressers Registration Act 1946

s. 467

467. Section 14C amended

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

“

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

5

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

(i) investigations and inquiries undertaken by, or at the direction of, the Board; and

10

(ii) matters that have been brought before the State Administrative Tribunal under this Act;

(b) the number and nature of matters referred to in paragraph (a) that are outstanding;

(c) any trends or special problems that may have emerged;

15

(d) forecasts of the workload of the Board in the year after the year to which the report relates; and

(e) any proposals for improving the operation of the Board.

20

”.

468. Section 16 amended

(1) Before section 16(1) the following subsection is inserted —

“

25

(1a) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), against a hairdresser.

”.

(2) Section 16(1) is amended as follows:

(a) by deleting “The registration (whether in respect of one or more prescribed classes) of any person as a hairdresser under this Act — ” and inserting instead —

5

“

There is proper cause for disciplinary action against a hairdresser —

”;

(b) in paragraph (c) by deleting “in the opinion of the Board,”;

10

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

“

(d) who, for any other reason is no longer a fit and proper person to practise as a hairdresser.

15

”;

(d) by deleting “may be cancelled or suspended by order of the Board and upon the making of the order of cancellation or during the period specified in the order of suspension such person shall cease to be registered as a hairdresser: Provided that no such cancellation or suspension shall take effect until after the expiration of one month from making of the order of cancellation or suspension or in the event of an appeal therefrom pursuant to subsection (5) until judgment is given on such appeal.”.

20

25

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

“

(1aa) If, in a proceeding commenced by an allegation under this section against a hairdresser, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may cancel or suspend the hairdresser’s registration.

30

”.

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Part 2 Various Acts amended to confer jurisdiction

Division 58 Hairdressers Registration Act 1946

s. 469

- (4) Section 16(2) is amended by deleting “The cancellation or suspension of the registration of any person may at any time and for such reasons as the Board thinks fit by order of the Board be annulled but” and inserting instead —

5

“

Subject to subsection (3), a hairdresser whose registration has been cancelled or suspended may at any time apply to the Board for re-registration but

”.

10

- (5) Section 16(3) is repealed and the following subsection is inserted instead —

“

- (3) If the registration of a hairdresser has been cancelled or suspended by an order made by the State Administrative Tribunal then the power of the Board under subsection (2) is to be exercised subject to the terms of that order.

”.

15

- (6) Section 16(4) is amended by inserting after “person being made” —

20

“ by the State Administrative Tribunal ”.

- (7) Section 16(5) and (6) are repealed.

469. Section 16A inserted

After section 16 the following section is inserted —

25

“

16A. Application for review

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

(2) In subsection (1) —

“person aggrieved” means a person —

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

“reviewable decision” means a decision of the Board —

- (a) refusing or suspending registration; or
- (b) granting registration on a condition or conditions.

”.

470. Section 17 amended

Section 17 is amended as follows:

- (a) by deleting “authorised to be made under this Act” and inserting instead —

“

before making an allegation under section 16(1a),

”;

- (b) by deleting “witnesses” and inserting instead —

“ persons ”.

471. Section 18 amended

Section 18 is amended by deleting “by order of the Board”.

472. Section 18A and 18B inserted

After section 18 the following sections are inserted —

“

18A. Surrender of registration or certificate

Despite the surrender by a person of the person’s registration, or a certificate issued to the person under

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 59 Health Act 1911

s. 473

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.

5 **18B. Suspension of registration by State Administrative Tribunal**

10 (1) Where the State Administrative Tribunal makes an order against a hairdresser and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the person's registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

15 (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 2003*.

”.

473. Section 19 amended

20 Section 19(1)(a) is amended by deleting “order or”.

474. Section 20 amended

Section 20 is repealed.

Division 59 — Health Act 1911

475. The Act amended

25 The amendments in this Division are to the *Health Act 1911**.

[* *Reprinted as at 31 March 2000.*

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 168.]

476. Section 36 amended

(1) Section 36(1) is amended by deleting “is empowered to recover any expenses incurred by it may, within 21 days after notice of such order or decision, appeal against such order or decision to a magistrate sitting as a court of petty sessions within the district” and inserting instead —

“

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

”.

(2) Subsections (2) and (3) are repealed and the following subsection is inserted instead —

“

(2) Upon the local government being given a copy of an application made under subsection (1) for review of a decision or order, any proceedings commenced by the local government under the decision or order to recover expenses incurred by it shall be stayed.

”.

477. Section 37 repealed

Section 37 is repealed.

478. Section 62 amended

Section 62 is amended by deleting “by a compensation court duly constituted”.

479. Section 63 amended

Section 63(1) is amended by inserting after “appeal” —

“ or review ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 59 Health Act 1911

s. 480

480. Section 137 amended

5 Section 137 is amended in paragraph (ii) of the proviso by deleting “shall have a right of appeal against such notice, and, in relation to any such appeal, the provisions of section 36 shall mutatis mutandis apply” and inserting instead —

“

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

”.

10 **481. Section 165 amended**

Section 165(1) is amended by deleting “Subject to section 37, the” and inserting instead —

“ The ”.

482. Section 166 amended

15 Section 166(1) is amended by deleting “Subject to section 37 the” and inserting instead —

“ The ”.

483. Section 187 amended

20 (1) Section 187(1) is amended by deleting “, or in case of appeal, as hereinafter provided, of the Executive Director, Public Health”.

(2) Section 187(2) is repealed.

484. Section 192 amended

(1) Section 192(2) is repealed and the following subsection is inserted instead —

25 “

(2) Without limiting section 36, that section applies to any decision of the local government to grant or renew the

registration or to refuse to grant or renew the
registration.

”.

(2) Section 192(3) is repealed.

5 **485. Section 244 amended**

(1) Section 244(1) is amended by deleting “appeal in manner
prescribed against the decision to a Judge sitting in open court
or in chambers, as that Judge may determine” and inserting
instead —

10

“

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

”.

(2) Section 244(2) is repealed.

15 **486. Section 246Y amended**

(1) Section 246Y(6) is amended by deleting “, within 14 days after
the date of that refusal, appeal to a Local Court against that
refusal” and inserting instead —

20

“

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

”.

(2) Section 246Y(7) and (8) are repealed.

(3) Section 246Y(10)(b) is amended as follows:

25

(a) by deleting “an appeal made” and inserting instead —

“ on a review in proceedings commenced ”;

(b) by deleting “has not been allowed” and inserting
instead —

“ , the decision has not been set aside, ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 60 Health Services (Conciliation and Review) Act 1995

s. 487

487. Section 246ZG amended

- (1) Section 246ZG(1) is amended by deleting “make application in the prescribed form to a Local Court for an order directing the environmental health officer to release the article seized and detained by him” and inserting instead —

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

- (2) Section 246ZG(3), (4), (5) and (6) are repealed.

488. Section 246ZI amended

Section 246ZI(1)(a) is amended by deleting “its release” and inserting instead —

“ review of the decision ”.

Division 60 — Health Services (Conciliation and Review) Act 1995

489. The Act amended

The amendments in this Division are to the *Health Services (Conciliation and Review) Act 1995**.

[* Reprinted as at 1 June 2001.]

490. Section 10 amended

Section 10(3) is amended as follows:

- (a) by inserting after “registration board or” —

“
the State Administrative Tribunal, as the case may be
”;

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction **Part 2**
Health Services (Conciliation and Review) Act 1995 **Division 60**
s. 491

(b) in paragraph (a) by deleting “and cross-examine or call
and examine witnesses” and inserting instead —

“

or the State Administrative Tribunal and call
witnesses and otherwise adduce evidence

”.

491. Section 26 amended

Section 26(2) is amended as follows:

(a) after “a court” by deleting “or” and inserting instead —

“ , the State Administrative Tribunal, ”;

(b) after “the court,” by deleting “industrial”.

492. Section 46 amended

Section 46(1)(c) is amended by deleting “exercising the right to
be heard conferred by section 54(1)” and inserting instead —

“

facilitating the Director’s participation in any
further proceeding relating to the matter

”.

493. Section 52 amended

(1) Section 52(1) is amended as follows:

(a) after paragraph (a) by inserting —

“

(aa) becomes aware that the issue has been
determined by a registration board;

”;

(b) in paragraph (b) after “initiated before” by inserting —

“ the State Administrative Tribunal or ”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 60 Health Services (Conciliation and Review) Act 1995

s. 494

- (c) in paragraph (c) by deleting “or a registration board” and inserting instead —
“ or the State Administrative Tribunal ”;
- (d) after “provider’s registration board” by inserting —
5 “ and the State Administrative Tribunal ”.
- (2) Section 52(2) is amended by deleting “exercising the right to be heard conferred by section 54(1)” and inserting instead —
“
10 facilitating the Director’s participation in any further proceeding relating to the matter
”.

494. Section 54 amended

Section 54(1) is amended as follows:

- (a) in paragraph (a) by deleting “an inquiry should be held” and inserting instead —
15 “ further action should be taken ”;
- (b) by deleting at the end of paragraph (a) the semicolon and “and” after it and inserting instead a full stop;
- (c) by deleting paragraph (b).

20 **495. Section 55 amended**

- (1) Section 55 is amended before “Where” by inserting the subsection designation “(1)”.
- (2) At the end of section 55 the following subsection is inserted —
“
25 (2) Without limiting subsection (1), the registration board must advise the Director if, and as soon as, a proceeding relating to an issue raised in the complaint is commenced before the State Administrative Tribunal.
”.

Division 61 — *Heritage of Western Australia Act 1990*

496. The Act amended

The amendments in this Division are to the *Heritage of Western Australia Act 1990**.

5 [* Reprinted as at 1 June 2001.]
For subsequent amendments see Act No. 24 of 2002.]

497. Section 3 amended

Section 3(1) is amended as follows:

- 10 (a) at the end of the definition of “this Act” by deleting the
semicolon and inserting instead a full stop;
- (b) by deleting the definition of “Town Planning Appeal
Tribunal” or “Tribunal” ”.

498. Section 30 amended

15 Section 30(5) is amended by deleting “Registrar” and inserting
instead —

“ executive officer ”.

499. Section 37 amended

Section 37(5)(c) is amended by deleting “due where” and
inserting instead —

20 “ due were ”.

500. Section 42 amended

(1) Section 42(1) is amended as follows:

- (a) by deleting “one month from” and inserting instead —
“ the period of 28 days after ”;
- 25 (b) by deleting “Supreme Court” and inserting instead —
“ State Administrative Tribunal ”;

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Part 2 Various Acts amended to confer jurisdiction

Division 61 Heritage of Western Australia Act 1990

s. 501

(c) by deleting “the Court” in each place where it occurs and inserting instead —

“ the State Administrative Tribunal ”.

(2) Section 42(2) is amended as follows:

5 (a) by deleting “Supreme Court” and inserting instead —
“ State Administrative Tribunal ”;

(b) by deleting “the Court” in each place where it occurs and inserting instead —

“ the State Administrative Tribunal ”.

10 (3) Section 42(3) is amended by deleting “Court” and inserting instead —

“ State Administrative Tribunal ”.

501. Section 59 amended

15 (1) Section 59(7)(d) by deleting “Planning Appeal” and inserting instead —

“ State Administrative ”.

(2) Section 59(10) is amended by deleting “Town Planning Appeals” and inserting instead —

“ State Administrative ”.

20 (3) Section 59(19) is amended as follows:

(a) by deleting “appeal” and inserting instead —
“ application ”;

(b) after “section 60(1)(a)” by inserting —
“ for a review ”;

25 (c) by deleting “heard or determined” and inserting instead —

“ made ”.

502. Section 60 amended

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

(a) in paragraph (a) by deleting “appeal referred” and inserting instead —

5 “ application made ”;

(b) in paragraph (a) by inserting after “section 59” —

“ for a review of the Order ”;

(c) by deleting all of the subsection after “paragraph (b) by the Minister” and inserting instead a full stop.

10 (2) Section 60(2) is amended as follows:

(a) by deleting “On a referral” and inserting instead —

“ On an application or referral ”;

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

15 “ application or referral ”.

(3) Section 60(3) is amended by deleting “appeal” and inserting instead —

“ application ”.

503. Section 76 amended

20 Section 76(1) is amended as follows:

(a) in paragraph (a) by deleting “30A” and inserting instead —

“ 30 ”;

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

25 “ executive officer ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 61 Heritage of Western Australia Act 1990

s. 504

504. Various references to “Tribunal” amended

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

“ State Administrative Tribunal ”.

5

Table

- s. 30(2) (both places)
- s. 30(4) (6 places)
- s. 30(5) (3 places)
- s. 37(3) (in the second place)
- s. 37(5) (both places)
- s. 59(7)(d) and (10) (each in the second place)
- s. 60(1) (in the second place)
- s. 60(2)(b) and (c)
- s. 60(3) (both places)
- s. 73(4) (in the second place)
- s. 73(5)
- s. 73(7) (both places)
- s. 76(1) (5 places)

505. Various references to “Town Planning Appeal Tribunal” amended

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

10

“ State Administrative Tribunal ”.

Table

- s. 30(1)
- s. 37(3) and (4)
- s. 60(1) and (2)
- s. 73(4)

Division 62 — Hire-Purchase Act 1959

506. The Act amended

The amendments in this Division are to the *Hire-Purchase Act 1959*.*.

5 [* Reprinted as at 12 May 2000.
For subsequent amendments see Acts Nos. 13 and 24 of
2000.]

507. Section 3 amended

(1) Section 3(4f) is amended as follows:

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

“

the State Administrative Tribunal on an application

”;

(b) by deleting “(4h)” and inserting instead —

15 “ (4g) ”.

(2) Section 3(4g) is amended as follows:

(a) by deleting “, within the period of 7 days from the date
of service on him of the decision,”;

(b) by deleting “a Local Court for” and inserting instead —

20 “

the State Administrative Tribunal for a review of

”;

(c) by deleting “to be varied or set aside”.

(3) Sections 3(4h) and (4j) are repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 62 Hire-Purchase Act 1959

s. 508

508. Section 12A amended

(1) Section 12A(2) is amended as follows:

(a) by deleting “a Local Court for an order declaring that” and inserting instead —

5

“

the State Administrative Tribunal for a review of

”;

(b) by deleting “was unreasonable in the circumstances of the case, and where an order is made that consent shall be deemed to have been given”.

10

(2) Section 12A(3) is repealed.

509. Section 36A amended

(1) Section 36A(5) is amended by deleting “a Local Court” and inserting instead —

15

“ the State Administrative Tribunal on an application ”.

(2) Section 36A(6) is amended as follows:

(a) by deleting “, within the period of 7 days from the date of service on him of the decision,”;

(b) by deleting “a Local Court for” and inserting instead —

20

“

the State Administrative Tribunal for a review of

”;

(c) by deleting “to be varied or set aside”.

(3) Sections 36A(7) and (8) are repealed.

Division 63 — Hope Valley-Wattleup Redevelopment Act 2000

510. The Act amended

The amendments in this Division are to the *Hope Valley-Wattleup Redevelopment Act 2000**

5 [* Act No. 77 of 2000.
For subsequent amendments see Act No. 24 of 2002.]

511. Section 29 amended

(1) Section 29(1) is amended as follows:

10 (a) by deleting “appeal” and inserting instead —
“
apply to the State Administrative Tribunal for a review
”;

(b) by deleting “from” and inserting instead —
“ of ”.

15 (2) Section 29(2) is repealed.

512. Section 31 amended

(1) Section 31(2) is amended by deleting all of the subsection after
“may” and inserting instead —

20 “
apply to the State Administrative Tribunal for a review,
in accordance with Part V of the Town Planning Act,
of the decision to give the direction.
”.

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

“ application ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 64 Hospitals and Health Services Act 1927

s. 513

(3) Section 31(4) is amended as follows:

(a) by deleting “Town Planning Appeal Tribunal” in the first place where it occurs and inserting instead —
“ State Administrative Tribunal ”;

5 (b) by deleting “the Town Planning Appeal Tribunal” in the second place where it occurs and inserting instead —
“ it ”.

(4) Section 31(6) is amended as follows:

10 (a) by deleting “appeal” in each place where it occurs and inserting instead —
“ application ”;

(b) by deleting “brought” and inserting instead —
“ made ”;

(c) by deleting “in any court of competent jurisdiction”;

15 (d) by deleting “it in so doing” and inserting instead —

“
the Commission in so doing as a debt in a court of
competent jurisdiction
”.

20 **Division 64 — Hospitals and Health Services Act 1927**

Subdivision 1 — Amendments to the Act

513. The Act amended

The amendments in this Subdivision are to the *Hospitals and Health Services Act 1927**.

25 [* Reprinted as at 15 October 1999.

For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 172-4.*]

514. Section 26H amended

- (1) Section 26H(1) is amended by deleting all of the subsection after “may” and inserting instead —

“
5 apply to the State Administrative Tribunal for a review
of the cancellation or non-renewal.
”.

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

- (3) Section 26H(3) is amended as follows:

- 10 (a) by deleting “or subsection (2)(b)”;
 (b) by deleting “appeals against” and inserting instead —
 “ applies for a review of ”;
 (c) by deleting “an appeal” and inserting instead —
 “ the application ”.

15 **Subdivision 2 — Amendment needed because Act amended**

515. Acts Amendment (Hospitals) Act 1985 amended

- (1) The amendment in this section is to the *Acts Amendment (Hospitals) Act 1985**.

[* *Act No. 53 of 1985.*]

- 20 (2) Section 31 is repealed.

Division 65 — Housing Societies Act 1976

516. The Act amended

The amendments in this Division are to the *Housing Societies Act 1976**.

- 25 [* *Reprinted as at 9 November 2001.*
 For subsequent amendments see Act No. 20 of 2003.]

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Part 2 Various Acts amended to confer jurisdiction

Division 66 Human Reproductive Technology Act 1991

s. 517

517. Section 87 amended

Section 87(2) is amended by deleting all of the subsection after “he may” and inserting instead —

“

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

”.

Division 66 — Human Reproductive Technology Act 1991

518. The Act amended

10 The amendments in this Division are to the *Human Reproductive Technology Act 1991**.

[* Reprinted as at 12 July 2002.]

519. Section 3 amended

15 Section 3(1) is amended by deleting the definition of “licensing authority”.

520. Section 14 amended

- (1) Section 14(1)(b)(ii) is amended by deleting “, having regard to any findings made by, or report received from, a committee of inquiry appointed under section 38”.
- 20 (2) Section 14(3) is amended by deleting “, if necessary by disciplinary action under section 38,”.

521. Section 19 amended

(1) Section 19(2)(a) is amended by deleting “39(2)(a)” and inserting instead —

25 “ 39(2)(b) ”.

- (2) Section 19(2)(b)(ii) is amended by deleting “the licensing authority” and inserting instead —

“

the Commissioner of Health and the
State Administrative Tribunal

”.

522. Section 29 amended

- (1) Section 29(3) is amended as follows:

(a) by deleting “it” after “enable” and inserting instead —

“ him or her ”;

(b) by deleting “it” after “application,” and inserting instead —

“ the Commissioner ”;

(c) by deleting “it” after “as” and inserting instead —

“ he or she ”.

- (2) Section 29(4)(c) is amended by deleting “, pursuant to an Order made in disciplinary proceedings under this Act”.

523. Section 32 amended

Section 32(1) is amended by deleting “licensing authority” in the second place where it occurs and inserting instead —

“ Commissioner ”.

524. Section 33 amended

Section 33(2)(h) is amended by deleting “licensing authority” and inserting instead —

“ Commissioner ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 66 Human Reproductive Technology Act 1991

s. 525

525. Section 36 amended

(1) Section 36(2) is amended as follows:

(a) by deleting from “relates — ” through to “(b) with” and inserting instead —

5 “ relates with ”.

(b) by deleting from “public interest,” through to “appeal under” and inserting instead —

10 “ public interest, but a licensee thereby affected may apply for a review of the decision under ”.

(2) After section 36(2) the following subsections are inserted —

15 (2a) The Commissioner of Health may by notice suspend the operation of any licence or exemption with immediate effect, by reason of any requirement of public health, where in the opinion of the Commissioner of Health imminent risk of serious harm to a person may occur.

20 (2b) A notice under subsection (2a) is to state that the Commissioner of Health will refer the matter to the State Administrative Tribunal within 14 days of giving the notice.

25 (2c) The Commissioner of Health may, by notice given to the person to whom the notice made under subsection (2a) was given, revoke or vary a notice made under subsection (2a) at any time before referring the matter to the State Administrative Tribunal under section 36A.

30 ”.

(3) Section 36(3) is amended as follows:

(a) by deleting “, cancellation or revocation has been imposed with immediate effect pursuant to section 36(2)(a) and the licensee has commenced an appeal under section 42 then, unless a Judge” and inserting instead —

“

has been imposed with immediate effect pursuant to subsection (2a) and the matter has been referred to the State Administrative Tribunal under section 36A then, unless the Tribunal

”;

(b) before “shall” by deleting “, cancellation or revocation”;

(c) after “such” by deleting “appeal” and inserting instead —

“ referral ”.

526. Section 36A inserted

After section 36 the following section is inserted —

“

36A. Referring to State Administrative Tribunal a matter leading to a section 36(2a) notice

Within 14 days of giving a notice under section 36(2a), if that notice is not revoked under section 36(2c), the Commissioner of Health shall refer the matter in respect of which the notice was made to the State Administrative Tribunal.

”.

527. Section 37 amended

(1) Section 37(1) is amended by deleting all of the subsection after “summarily” and inserting instead a full stop.

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Part 2 Various Acts amended to confer jurisdiction

Division 66 Human Reproductive Technology Act 1991

s. 528

(2) After section 37(1) the following subsection is inserted —

“

(1a) The Commission of Health shall seek the advice of the Council before making a summary determination under subsection (1).

”.

(3) Section 37(3)(b) is amended by deleting “a committee of inquiry” and inserting instead —

“ the State Administrative Tribunal ”.

10 **528. Section 38 replaced**

Section 38 is repealed and the following section is inserted instead —

“

38. Disciplinary action

15 (1) Where —

(a) the licensee or other person liable to a warning or penalty does not consent to a summary determination or submit to the discretion of the Commissioner of Health under section 37; or

20 (b) it appears to the Commissioner that a penalty provided by section 40(1)(a) to (f) may not be appropriate or that effect has not been given under section 37(3) to the summary penalty imposed,

25 the Commissioner may make an allegation to the State Administrative Tribunal in respect of the matter.

(1a) If the Commissioner of Health makes an allegation to the State Administrative Tribunal under subsection (1)(a), the Commissioner shall advise the Council that the allegation has been made.

30

- (1b) If the Commissioner of Health proposes to make an allegation to the State Administrative Tribunal under subsection (1)(b), the Commissioner shall first consult the Council.

5

”.

529. Section 39 amended

- (1) Section 39(1) is repealed.

- (2) Section 39(2) is amended as follows:

10

- (a) in paragraph (d)(iii) by deleting “, in the opinion of the Commissioner,”;

- (b) in paragraph (n) by inserting after “section 37 or” —

“

by the State Administrative Tribunal in proceedings commenced under section

15

”.

530. Section 40 amended

- (1) Section 40(1) is amended as follows:

20

- (a) by deleting “this Act, by Order of which notice in writing shall be given to the person liable to the penalty,” and inserting instead —

“ section 37, by Order ”;

- (b) at the end of paragraph (f) by deleting the semicolon and inserting instead a comma;

25

- (c) by deleting paragraphs (g), (h), (j), (k) and (m) and the “or” preceding paragraph (m);

- (d) by deleting “licensing authority” and inserting instead —

“ Commissioner ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 66 Human Reproductive Technology Act 1991

s. 530

(2) After section 40(1) the following subsection is inserted —

“

- 5 (1a) If in a proceeding commenced by a referral under section 36A or an allegation under section 38(1), the State Administrative Tribunal is of the opinion that cause exists for disciplinary action, the Tribunal may impose any one or more of the following penalties —
- 10 (a) a reprimand;
- (b) the imposition of a condition to which a licence or exemption is to be subject, limiting the authority conferred by the licence or exemption;
- 15 (c) the variation or cancellation of a term or condition to which a licence or exemption is subject;
- (d) a requirement that a person to whom the licence applies or who is interested in the licence or exemption enter into a written undertaking or a bond, or give a prescribed security, for future
- 20 conduct;
- (e) a requirement as to the conduct of the reproductive technology practice under the licence or exemption, contravention of which may result in its mandatory suspension;
- 25 (f) a requirement that specified action be taken by the person responsible within a specified period, contravention of which may result in mandatory suspension of the licence or exemption;
- 30 (g) the suspension of the operation of a licence or exemption —
- (i) until further order; or
- (ii) for a specified period;

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s. 530

- (h) the suspension of the operation of the licence or exemption for so long as a person to whom subsection (2) applies is —
- 5 (i) the holder of a position of authority in a body that holds a licence; or
- (ii) directly or indirectly materially interested in a reproductive technology practice carried on under a licence or exemption,
- 10 subject to subsection (3);
- (i) the cancellation of a licence, or the revocation of an exemption;
- (j) the disqualification, for such period as the Tribunal thinks fit, of a licensee from holding a licence or exemption; or
- 15 (k) an order that the person to whom the licence applies pay to the Crown a monetary penalty not exceeding the prescribed amount.
- ”.
- 20 (3) Section 40(2) is amended by deleting “subsection (1)(d), (e) or (j)” and inserting instead —
- “ subsection (1)(d) or (e) ”.
- (4) After section 40(2) the following subsection is inserted —
- “
- 25 (2a) Where the State Administrative Tribunal finds that a proper cause for disciplinary action exists in relation to a licence or an exemption held by a proprietary company, any penalty that by subsection (1)(d), (e) or (j) might have been imposed in relation to the licence or exemption, whether or not a penalty is imposed on
- 30 the licensee, may be imposed on or in relation to any person who occupies a position of authority in that

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Part 2 Various Acts amended to confer jurisdiction

Division 66 Human Reproductive Technology Act 1991

s. 531

company or any related body corporate, subject to subsection (3).

”.

(5) Section 40(3) is amended as follows:

5 (a) by deleting “licensing authority” and inserting instead —

“

Commissioner of Health and the State Administrative Tribunal

10

”;

(b) by deleting “or subsection (2)” and inserting instead —

“ , (2) or (2a) ”.

531. Heading to Part 4 Division 4 amended

15 The heading to Part 4 Division 4 is amended by deleting “Supreme Court” and inserting instead —

“ **State Administrative Tribunal** ”.

532. Section 42 amended

Section 42(2), (3), (4), (5), (6) and (7) are repealed and the following subsections are inserted instead —

20

“

(2) An applicant or licensee may apply to the State Administrative Tribunal for a review of a decision of the kind to which subsection (1) refers to which effect is given.

25

(3) Any person liable to a penalty thereunder or to be adversely affected thereby, may apply to the State Administrative Tribunal for a review of any decision made by the Commissioner of Health by way of a summary determination in respect of a disciplinary matter.

30

”.

533. Section 43 amended

Section 43(1) is amended as follows:

- (a) by deleting “Supreme Court” and inserting instead —
“ State Administrative Tribunal ”;
- 5 (b) by deleting “the Court” and inserting instead —
“ the Tribunal ”.

534. Section 49 amended

Section 49(4)(a)(ii) is amended by deleting “licensing authority”
and inserting instead —

- 10 “ State Administrative Tribunal ”.

535. Section 54 amended

Section 54(3)(a)(i) is amended by deleting “, suspension and
revocation” and inserting instead —

“ and suspension ”.

15 **536. Section 57 amended**

Section 57(4) is amended by deleting “licensing authority” and
inserting instead —

“ Commissioner ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 66 Human Reproductive Technology Act 1991

s. 537

537. Various references to “licensing authority” amended

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

5 “ Commissioner of Health ”.

Table

- s. 3(5)(c)
- s. 15(4)
- s. 29(3), (4), (5), (6), (7), and (8)
- s. 30(4)(a)
- s. 32(1) (in the first place)
- s. 32(2) and (3)
- s. 35(1)(b)
- s. 40(2)
- s. 42(1)
- s. 50(1)(a)
- s. 51(6)
- s. 54(3)(a)(i)
- s. 57(1)(e), (5), and (10)

Division 67 — Jetties Act 1926

538. The Act amended

The amendments in this Division are to the *Jetties Act 1926**.

[* Reprinted as at 4 February 2000.]

5 **539. Section 7 amended**

- (1) Section 7(1) is amended by deleting “Minister” and inserting instead —

“ Chief Executive Officer ”.

- (2) Section 7(2) is amended as follows:

- 10 (a) by deleting “Minister” and inserting instead —

“ Chief Executive Officer ”;

- (b) by deleting “Chief Executive Officer” and inserting instead —

“ an officer ”.

15 **540. Section 7A amended**

- (1) Section 7A(1) is amended as follows:

- (a) in paragraph (a) by deleting “by the Chief Executive Officer pursuant to the power delegated to him under section 7”;

- 20 (b) in paragraph (b) by deleting “by the Chief Executive Officer pursuant to the power delegated to him under section 7”;

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

25 “
apply to the State Administrative Tribunal for a review of the decision

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 68 Land Administration Act 1997

s. 541

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

Division 68 — Land Administration Act 1997

Subdivision 1 — Amendments to the Act

541. The Act amended

5 The amendments in this Subdivision are to the *Land Administration Act 1997**.

[* Reprinted as at 22 June 2001.

For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 203.*]

10 **542. Section 125 amended**

- (1) Section 125(2) is amended as follows:

- (a) by deleting “or appeal”;
(b) by deleting “rent, but” and inserting instead —

“

15 rent or a notice has been given requiring the assessment to be referred to the State Administrative Tribunal for a review, but the matter

”.

- 20 (2) Section 125(3) is amended by deleting “appeal” and inserting instead —

“ review ”.

543. Section 126 amended

Section 126 is amended by deleting “appeals” and inserting instead —

25 “ review ”.

544. Section 151 amended

After section 151(2) the following subsection is inserted —

“

(3) Terms used in Part 10 relating to members of the State
Administrative Tribunal have the meanings given to
them in section 3(1) of the *State Administrative
Tribunal Act 2003*.

”.

545. Section 207 amended

Section 207(1) is amended by deleting “a Judge” and inserting
instead —

“ the State Administrative Tribunal ”.

546. Section 210 amended

(1) Section 210(1) is amended by deleting “a Judge of the Supreme
Court” and inserting instead —

“ the State Administrative Tribunal ”.

(2) Section 210(2) is amended by deleting “Judge” and inserting
instead —

“ State Administrative Tribunal ”.

(3) Section 210(3) is amended as follows:

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

“ State Administrative Tribunal ”;

(b) by deleting “a Compensation Court, the Judge” and
inserting instead —

“ it, it ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 68 Land Administration Act 1997

s. 547

547. Section 214 amended

Section 214(2) is amended by deleting “a Judge of the Supreme Court may” and inserting instead —

“

5

the State Administrative Tribunal constituted by a judicial member may, on an application under this subsection,

”.

548. Section 218 amended

10

Section 218 is amended by inserting after “any court” —

“ or before the State Administrative Tribunal ”.

549. Section 222 amended

(1) Section 222(1) is amended by deleting “a Judge of the Supreme Court” and inserting instead —

15

“ the State Administrative Tribunal ”.

(2) Section 222(2) is amended by deleting “Judge” and inserting instead —

“ State Administrative Tribunal ”;

(3) Section 222(4) is repealed.

20

(4) Section 222(5) is amended as follows:

(a) by deleting “Judge” in the first place where it occurs and inserting instead —

“ State Administrative Tribunal ”;

25

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

“ it ”;

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction
Land Administration Act 1997

**Part 2
Division 68
s. 550**

- (c) by deleting “Judge may appoint an assessor on behalf of” and inserting instead —

“

5 President of the State Administrative Tribunal may, in specifying who is to constitute the Tribunal, choose any consenting person as if the person had been appointed as an assessor by

”.

550. Section 224 amended

- 10 (1) Section 224(4) is amended by deleting “apply to the Principal Registrar of the Supreme Court for the appointment of an assessor to act for the acquiring authority and the Principal Registrar of the Supreme Court is to appoint an assessor” and inserting instead —

15 “

request the President of the State Administrative Tribunal, in specifying who is to constitute the Tribunal for the purpose of determining the claim, to choose a consenting person as if the person had been appointed as an assessor by the acquiring authority and the President is to act

20

”.

- (2) Section 224(5) is amended by deleting “Compensation Court is to determine” and inserting instead —

25 “

President of the State Administrative Tribunal is to specify who is to constitute the Tribunal for the purpose of determining

”.

- 30 (3) After section 224(5) the following subsection is inserted —

“

- (5a) For the purposes of subsection (5)(a), the claimant or the acquiring authority is to be regarded as having appointed a person as an assessor if circumstances have

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 68 Land Administration Act 1997

s. 551

5 arisen in which the President of the State Administrative Tribunal may, in specifying who is to constitute the Tribunal, choose any consenting person as if the person had been appointed as an assessor by the claimant or the acquiring authority, as the case requires.

”.

(4) Section 224(6) is repealed and the following subsection is inserted instead —

10 “

(6) Upon receiving notice of the appointment of an assessor by the acquiring authority or notice that the President of the State Administrative Tribunal has chosen a person as if the person had been appointed as an assessor by the acquiring authority, the claimant must at once file a copy of the claim and of all notices and other particulars in the State Administrative Tribunal.

15

”.

20 **551. Section 225 amended**

Section 225(2) is amended by deleting “court in which the claim is to be filed under section 224(6)” and inserting instead —

“ State Administrative Tribunal ”.

552. Sections 226 and 227 replaced

Sections 226 and 227 are repealed and the following sections are inserted instead —

“

5

226. State Administrative Tribunal

(1) Except as otherwise stated in this section, when the State Administrative Tribunal is dealing with a claim for compensation under this Part, it is to be constituted by —

10

(a) a judicial member or a senior member who is a qualified person;

(b) the person appointed as an assessor by the claimant; and

15

(c) the person appointed as an assessor by the acquiring authority.

(2) If the claimant and the acquiring authority agree in writing, the State Administrative Tribunal may be constituted solely by a judicial member or a senior member who is a qualified person.

20

(3) The agreement may be limited according to who is to be the member by whom the State Administrative Tribunal is to be constituted.

25

(4) When dealing with an application under section 222(1), the State Administrative Tribunal is to be constituted by a judicial member or a senior member who is a qualified person.

227. Assessors

30

(1) The President may specify a person appointed as an assessor by the claimant or the acquiring authority to be one of the persons by whom the State Administrative Tribunal is to be constituted even

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 68 Land Administration Act 1997

s. 553

though the person does not hold office as a member of the State Administrative Tribunal.

- 5 (2) For the purposes of dealing with the matter for which the person was appointed as an assessor, the person is to be regarded as being an ordinary member and the *State Administrative Tribunal Act 2003* applies to the person as if, when acting in that capacity, the person were an ordinary member.

”.

10 **553. Section 228 repealed**

Section 228 is repealed.

554. Section 229 amended

Section 229 is amended as follows:

- 15 (a) by deleting “A Compensation Court” and inserting instead —
“ The State Administrative Tribunal ”;
- (b) by deleting “Court” in the second place where it occurs and inserting instead —
“ State Administrative Tribunal ”.

20 **555. Section 230 amended**

(1) Section 230(1) is amended as follows:

- (a) by deleting “president” and inserting instead —
“ President of the State Administrative Tribunal ”;
- 25 (b) by deleting “, order the assessor to be discharged.” and inserting instead —

“

objecting, require the party appointing the assessor to appoint another assessor instead.

”.

- (2) Section 230(2) is repealed and the following subsection is inserted instead —

“

5
10

- (2) Unless the party required to appoint another assessor does so within 10 days after being required to do so, the President of the State Administrative Tribunal may, in specifying who is to constitute the Tribunal, choose any consenting person as if the person had been appointed as an assessor by the person to whom the requirement was given.

”.

556. Section 231 replaced

Section 231 is repealed and the following section is inserted instead —

15

“

231. Case of assessor member dying or unable to act

20
25
30

If, for the purpose of dealing with a claim, the State Administrative Tribunal is constituted by persons any of whom was appointed as an assessor by one of the parties (an “**assessor member**”) and, before the award is given, an assessor member dies or becomes incapable of acting, or resigns or refuses to act, the assessor member’s place is to be taken by a person specified by the President of the State Administrative Tribunal on the appointment of the party who had appointed the assessor member or, if that party fails to make such an appointment within 10 days, by any other person whom the President of the State Administrative Tribunal may specify as if the person had been appointed by that party, and the matter is to proceed as if no change in constitution had taken place.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 68 Land Administration Act 1997

s. 557

557. Sections 232 to 240 repealed

Sections 232, 233, 234, 235, 236, 237, 238, 239 and 240 are repealed.

558. Section 241 amended

- 5 (1) Section 241(6)(e) is amended by deleting “or the court” and inserting instead —
“ , the court, or the State Administrative Tribunal ”.
- (2) Section 241(8) is amended by inserting after “court or” —
“ the State Administrative Tribunal or ”.
- 10 (3) Section 241(9) is amended by inserting after “court” —
“ or the State Administrative Tribunal ”.
- (4) Section 241(10)(b) is amended by deleting “or the court” and inserting instead —
“ , the court, or the State Administrative Tribunal ”.
- 15 (5) Section 241(11)(c) is amended by deleting “other” and inserting instead —
“ the ”.

559. Section 243 amended

Section 243 is amended as follows:

- 20 (a) by deleting “the court” in the second place where it occurs and inserting instead —
“ the State Administrative Tribunal or the court ”;
- (b) by deleting “the opinion of the court” and inserting instead —
25 “ its opinion ”.

560. Section 244 amended

Section 244(2) and (3) are amended by inserting after “The” —
“ State Administrative Tribunal or the ”.

561. Sections 245 to 247 repealed

5 Sections 245, 246 and 247 are repealed.

562. Section 249 amended

Section 249(1)(a) is amended by deleting “has been filed in the
Supreme Court” and inserting instead —
“ is made ”.

10 **563. Section 256 amended**

Section 256 is amended as follows:

(a) in paragraph (a) by inserting after “offer, and” —
“ the State Administrative Tribunal or ”;

15 (b) in paragraph (b) by inserting before “the court” —
“ the State Administrative Tribunal or ”.

564. Various references to “appeal” amended

The Act is amended by inserting after “appeal” in each place
specified in the Table to this section —

“ or review ”.

20

Table

s. 168(2)
s. 170(5)(d)
s. 183(2)(b)
s. 186(3)(b)

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 68 Land Administration Act 1997

s. 565

565. Various references to “a Compensation Court” amended

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

5 “ the State Administrative Tribunal ”.

Table

s. 210(2)

s. 222(2)

s. 249(3)

566. Various references to “Compensation Court” amended

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

10

“ State Administrative Tribunal ”.

Table

s. 210(4)

s. 220(c)

s. 221(1)(b)

s. 222(1)(b)

s. 223(5)

s. 224(1) and (2)

Pt. 10 Div. 4 heading

s. 241(11)(c)

s. 243

s. 244(1)

s. 249(1)(a)

s. 249(3) (in the first place)

s. 253

s. 254

s. 256

Subdivision 2 — Amendments needed because Act amended

567. Mining Act 1978 amended

- (1) The amendments in this section are to the *Mining Act 1978**.

[* Reprinted as at 7 September 2001.

5 For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 254.*]

- (2) Section 21(4) is amended as follows:

- 10 (a) by deleting “a Compensation Court constituted under
Part 10 of the *Land Administration Act 1997*” and
inserting instead —

“ the State Administrative Tribunal ”;

- (b) by deleting “that Court” and inserting instead —

“ the State Administrative Tribunal ”.

568. Water Agencies (Powers) Act 1984 amended

- 15 (1) The amendments in this section are to the *Water Agencies
(Powers) Act 1984**.

[* Reprinted as at 4 January 2000.]

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

20 “
referred to the State Administrative Tribunal and dealt
with as if it had come before the Tribunal under Part 10
of the *Land Administration Act 1997*.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 69 Land Drainage Act 1925

s. 569

Division 69 — Land Drainage Act 1925

569. The Act amended

The amendments in this Division are to the *Land Drainage Act 1925*.*.

5 [* Reprint 3 as at 21 March 2003.]

570. Section 85 amended

Section 85(6) is amended by deleting “appeal against” and inserting instead —

“ seek a review of ”.

10 **571. Heading to Part VII Division 4 amended**

The heading to Part VII Division 4 is amended by deleting “appeals” and inserting instead —

“ **review** ”.

572. Section 98 amended

15 Section 98(6) is amended as follows:

(a) by deleting “an appeal against” and inserting instead —
“ a review of ”;

(b) by deleting “be made” and inserting instead —
“ be sought ”.

20 **573. Section 99 amended**

(1) Section 99(1) is amended as follows:

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

25 (b) after “records” by inserting —
“ to the State Administrative Tribunal for a review ”.

- (2) Section 99(2) is amended by deleting “objection to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal” and inserting instead —

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

”.

- (3) After section 99(2) the following subsection is inserted —

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

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

”.

574. Section 99A amended

- (1) Section 99A(1) is amended as follows:

20 (a) by deleting “treat an objection to an entry in the rating records as an appeal against that entry” and inserting instead —

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

”;

- (b) by deleting “such” and inserting instead —
 “ the ”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 69 Land Drainage Act 1925

s. 575

- (c) by deleting “to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal” and inserting instead —

“

5 to refuse to extend time to the State Administrative Tribunal for a review

”.

- (2) Section 99A(2) is amended by deleting “a Land Valuation Tribunal as an appeal” and inserting instead —

10 “ the State Administrative Tribunal for a review ”.

- (3) After section 99A(2) the following subsection is inserted —

“

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

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

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

20

”.

575. Sections 99AA and 99AB inserted

After section 99A the following sections are inserted —

“

99AA. New matters raised on review

25 (1) Upon a review by the State Administrative Tribunal on a reference under section 99 or 99A, the State Administrative Tribunal may consider —

(a) grounds in addition to those stated in the notice of objection; and

(b) reasons in addition to any reasons previously given for the Corporation's decision that is under review.

5 (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with
10 subsection (1).

99AB. Written reasons for certain determinations to be given and published

15 (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 99 or 99A is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.

20 (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2003*.

”.

576. Section 99B amended

25 Section 99B is amended by deleting “appeal” and inserting instead —
“ review ”.

577. Section 99C amended

30 Section 99C is amended as follows:
(a) by deleting “or an appeal”;
(b) by deleting “or the appeal”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 69 Land Drainage Act 1925

s. 578

578. Section 99D amended

(1) Section 99D(1) is amended as follows:

(a) by deleting “or an appeal”;

(b) after “Act” by inserting —

5 “ or under the *Valuation of Land Act 1978* ”;

(c) after “such entry” by inserting —

“

or in consequence of a review by the State
Administrative Tribunal

10

”.

(2) Section 99D(2) is amended as follows:

(a) by deleting “, in consequence of the allowance, wholly or in part, of an objection or an appeal under this Act or the *Valuation of Land Act 1978*,”;

15

(b) after “necessary” by inserting —

“ under subsection (1) ”.

579. Section 108 amended

Section 108(2) is amended as follows:

(a) by deleting “appeal is brought against” and inserting
20 instead —

“

application has been made to the State Administrative
Tribunal for a review following the

25

”;

(b) by deleting “on an appeal” and inserting instead —

“

in proceedings before the State Administrative
Tribunal

”.

Division 70 — *Land Tax Assessment Act 2002*

580. The Act amended

The amendments in this Division are to the *Land Tax Assessment Act 2002**.

5 [* Act No. 52 of 2002.]

581. Section 41 amended

Section 41(4) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

10 **Division 71 — *Land Valuers Licensing Act 1978***

582. The Act amended

The amendments in this Division are to the *Land Valuers Licensing Act 1978**.

[* Reprinted as at 3 May 2002.]

15 **583. Section 4 amended**

Section 4 is amended by deleting the definition of “District Court”.

584. Part II Division 1 heading replaced

20 The heading to Part II Division 1 is deleted and the following heading is inserted instead —

“

Division 1 — Land Valuers Licensing Board

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 71 Land Valuers Licensing Act 1978

s. 585

585. Part II Division 2 replaced

Part II Division 2 is repealed and the following Division is inserted instead —

“

5

Division 2 — General

12. Powers of investigation

- (1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —
- 10 (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;
- 15 (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.
- 20 (3) The investigator may —
- (a) require any person —
- (i) to give the investigator such information as the investigator requires; and
- 25 (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
- 5 (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) —
- 10 (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
- 15 (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;
- 20 (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.
- 25
- (5) A requirement made under subsection (3)(b) —
- 30 (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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 71 Land Valuers Licensing Act 1978

s. 585

- (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.

13. Incriminating information, questions, or documents

Without prejudice to the provisions of section 11 of the
Evidence Act 1906, where under section 12 a person is
required to —

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

10 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
15 the person other than proceedings in respect of an
offence against section 14(1)(b).

14. Failure to comply with investigation

- 20 (1) Where under section 12 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
25 any particular; or
(c) fails to produce that document at or within the
time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

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Part 2 Various Acts amended to confer jurisdiction

Division 71 Land Valuers Licensing Act 1978

s. 585

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 12, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
 - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 12, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
 - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
 - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

15. 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 12.

Penalty: \$2 000.

16. Application for review

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

(2) In subsection (1) —

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

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

”.

10 **586. Section 17 amended**

Section 17(5) is repealed.

587. Section 18 amended

Section 18(4) is repealed.

588. Section 19 amended

15 (1) Section 19(1) is amended as follows:

- (a) by deleting the subsection designation “(1)”;
(b) by deleting paragraph (a) and “or” after it.

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

589. Section 19A inserted

20 After section 19 the following section is inserted —

“

19A. Unopposed applications

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 71 Land Valuers Licensing Act 1978

s. 590

590. Section 20A inserted

After section 20 the following section is inserted —

“

20A. Suspension of licence by State Administrative Tribunal

5

(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.

10

(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 2003*.

15

”

591. Section 21 amended

After section 21(2) the following subsection is inserted —

20

“

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

25

”

592. Section 27 replaced

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

“

5 **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.

10

”.

593. Section 28 amended

(1) Section 28(1) is amended as follows:

(a) by deleting “after conducting an inquiry under section 27(1) the Board” and inserting instead —

15

“

, in a proceeding commenced by an allegation under section 27 against a licensed valuer, the State Administrative Tribunal

”;

20

(b) by deleting “Board” in the second place where it occurs and inserting instead —

“ State Administrative Tribunal ”.

(2) Section 28(3) is repealed.

594. Section 31 amended

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

“

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

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

30

(i) investigations and inquiries undertaken by, or at the direction of, the Board; and

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 72 Legal Contribution Trust Act 1967

s. 595

- 5
- 10
- (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.

”.

595. Section 36 amended

15 Section 36(2)(b) is deleted.

Division 72 — *Legal Contribution Trust Act 1967*

596. The Act amended

The amendments in this Division are to the *Legal Contribution Trust Act 1967**.

20 [* Reprinted as at 5 February 1999.

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 212.]

597. Section 28 amended

25 Section 28(2) is amended by deleting all of the subsection after “section may” and inserting instead —

“

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

”.

Division 73 — *Legal Practice Act 2003*

598. The Act amended

The amendments in this Division are to the *Legal Practice Act 2003**.

5 [* *Bill currently before Parliament as Legal Practice Bill 2002.*]

599. Section 3 amended

Section 3 is amended as follows:

- (a) by deleting the definition of “Disciplinary Tribunal”;
- (b) in paragraph (a) of the definition of “regulatory authority” —
 - 10 (i) by inserting after “Court,” —
“ the State Administrative Tribunal, ”;
 - (ii) by deleting “the Disciplinary Tribunal”.

600. Section 17 amended

15 After section 17(1) the following subsections are inserted —

“

- (1a) The annual report is to include details of —
 - (a) the number, nature, and outcome of —
 - 20 (i) inquiries undertaken by the Board; and
 - (ii) matters that have been brought before
the State Administrative Tribunal under
this Act;
 - (b) the number and nature of matters referred to in
paragraph (a) that are outstanding;
 - 25 (c) any trends or special problems that may have
emerged;
 - (d) forecasts of the workload of the Board in the
year after the year to which the report relates;
and

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Part 2 Various Acts amended to confer jurisdiction

Division 73 Legal Practice Act 2003

s. 601

(e) any proposals for improving the operation of the Board.

5 (1b) The executive officer of the State Administrative Tribunal and the Law Complaints Officer are to provide the Board with information it may request for the purpose of making its annual report.

”.

601. Section 38 amended

Section 38(2) is amended as follows:

10 (a) by deleting “, 185 or 191” and inserting instead —
“ or 185 ”;

(b) in paragraph (c) by deleting “or 191(1)(b)” and inserting instead —

“

15 or section 86 or 87 of the *State Administrative Tribunal Act 2003* in relation to proceedings commenced under this Act

”.

602. Section 39 amended

20 Section 39(1) is amended in paragraph (c) of the definition of “unfit practitioner” by deleting “by the Complaints Committee or Disciplinary Tribunal” and inserting instead —

“

25 under, or in a proceeding commenced under, this Act by a regulatory authority

”.

603. Section 40 amended

Section 40(4) is repealed.

604. Section 63 amended

Section 63(3) is amended by deleting “the powers of the
Complaints Committee or Disciplinary Tribunal, the Complaints
Committee and the Disciplinary Tribunal may exercise their”
and inserting instead —

“

any other powers of any regulatory authority, a
regulatory authority may exercise its

”.

605. Section 71 amended

Section 71(1) is amended by deleting “the Disciplinary
Tribunal” and inserting instead —

“

the President of the State Administrative Tribunal or a
member of its staff,

”.

606. Section 85 amended

Section 85(3) is amended by deleting “the powers of the
Complaints Committee and the Disciplinary Tribunal, the
Complaints Committee and the Disciplinary Tribunal may
exercise their” and inserting instead —

“

any other powers of any regulatory authority, a
regulatory authority may exercise its

”.

607. Section 132 amended

Section 132(2)(a) and (b) are amended by deleting “Supreme
Court” and inserting instead —

“ Tribunal ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 73 Legal Practice Act 2003

s. 608

608. Section 149 amended

Section 149(3) is amended by deleting “A Judge” and inserting instead —

“ The State Administrative Tribunal ”.

5 **609. Section 156 amended**

Section 156(3) is amended by deleting “the Judge” in the first place where it occurs and inserting instead —

“ the State Administrative Tribunal ”.

610. Section 164 amended

10 Section 164(1)(f) is deleted and the following paragraph is inserted instead —

“

15 (f) if the Complaints Committee considers it appropriate to do so, and whether or not it has conducted an inquiry, to institute professional disciplinary proceedings against a legal practitioner before the State Administrative Tribunal;

”.

20 **611. Part 12 Division 2 Subdivision 2 repealed**

Part 12 Division 2 Subdivision 2 is repealed.

612. Section 176 amended

Section 176(3)(a) is amended by inserting before “Tribunal” —

“ State Administrative ”.

25 **613. Section 180 amended**

Section 180(3) is repealed.

614. Section 181 amended

Section 181(2), (3) and (4) are repealed.

615. Part 12 Division 5 heading amended

5 The heading to Part 12 Division 5 is amended by deleting
“Disciplinary Tribunal” and inserting instead —

“ **State Administrative Tribunal** ”.

616. Sections 183 and 184 repealed

Sections 183 and 184 are repealed.

617. Sections 191 to 193 repealed

10 Sections 191, 192 and 193 are repealed.

618. Part 12 Division 6 heading amended

The heading to Part 12 Division 6 is amended by deleting “of
disciplinary bodies generally”.

619. Section 196 amended

15 Section 196(1) is repealed and the following subsection is
inserted instead —

“

(1) Before the Complaints Committee —

- 20 (a) a complainant;
(b) a person making a complaint on the authority of
or on behalf of the complainant; or
(c) any legal practitioner,

25 may be represented by a legal practitioner or, subject to
the approval of the chairperson, a representative who is
not a legal practitioner.

”.

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Part 2 Various Acts amended to confer jurisdiction

Division 73 Legal Practice Act 2003

s. 620

620. Section 197 amended

(1) Section 197(1) is amended by deleting “under this Part” and inserting instead —

“ before the Complaints Committee ”.

5 (2) Section 197(2) is amended by deleting “, or the Disciplinary Tribunal,”.

(3) Section 197(3) is amended as follows:

(a) by deleting “or the Disciplinary Tribunal”;

10 (b) by deleting “the Complaints Committee or Disciplinary Tribunal” and inserting instead —

“ it ”.

(4) Section 197(5) and (6) are repealed.

621. Section 198 amended

(1) Section 198(1) is amended as follows:

15 (a) by deleting “Committee,” in the first place where it occurs and inserting instead —

“ Committee or ”;

(b) by deleting “, the Disciplinary Tribunal or a member of the Tribunal”;

20 (c) in paragraph (e) by deleting “Disciplinary Tribunal or the”.

(2) Section 198(2) is amended by deleting “or Disciplinary Tribunal,”.

622. Section 199 amended

(1) Section 199(1) is amended as follows:

(a) by deleting “, or a person nominated by the chairperson of the Disciplinary Tribunal for that purpose, may on behalf of the Committee or Tribunal” and inserting instead —

“ may on behalf of the Complaints Committee ”;

(b) by inserting after “delivered” —

“ to the Complaints Committee ”.

623. Section 201 amended

(1) Section 201(1) is amended as follows:

(a) by inserting after “information” in the first place where it occurs —

“ to be disclosed to the Complaints Committee ”;

(b) in paragraph (a) by deleting “or Disciplinary Tribunal”.

624. Section 202 replaced

Section 202 is repealed and the following section is inserted instead —

“

202. Application for review

Any person aggrieved by a finding or order made by the Complaints Committee under section 177 may apply to the State Administrative Tribunal for a review of the finding or order.

”.

625. Section 205 amended

Section 205 is amended by inserting after “this Part” in the first place where it occurs —

“ before the Complaints Committee ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 73 Legal Practice Act 2003

s. 626

626. Section 248 amended

- (1) Section 248(3)(c) and (d) are deleted.
- (2) Section 248(4) is amended as follows:
 - (a) after paragraph (a) by inserting —
5 “ or ”;
 - (b) at the end of paragraph (b) by deleting the semicolon and “or” and inserting instead a comma;
 - (c) by deleting paragraph (c);
 - (d) by deleting “or of the Disciplinary Tribunal”.

10 **627. Section 249 amended**

Section 249 is amended as follows:

- (a) by deleting paragraph (a) and the “and” after it;
- (b) in paragraph (b)(i) by deleting “, the Complaints Committee and the Disciplinary Tribunal” and inserting
15 “ and the Complaints Committee ”;
- (c) by deleting paragraph (b)(ii).

628. Section 250 amended

20 Section 250(b) is amended by deleting “or of the Disciplinary Tribunal”.

629. Section 250A inserted

After section 250 the following section is inserted —

“

25 **250A. Constitution of State Administrative Tribunal under this Act**

- (1) Subject to subsections (2) and (3), for the purpose of exercising jurisdiction conferred by or under this Act,

the State Administrative Tribunal is to be constituted
by 3 members being —

(a) by —

(i) the President of the Tribunal;

5 (ii) a Deputy President of the Tribunal or a
senior member who is a legally
qualified member as defined in
section 3(1) of the *State Administrative
Tribunal Act 2003*; and

10 (iii) a person who is not a legal practitioner
but has knowledge and understanding of
the interests of a person dealing with a
legal practitioner;

or

15 (b) by —

(i) a Deputy President of the Tribunal;

(ii) a senior member of the Tribunal who is
a legally qualified member as defined in
section 3(1) of the *State Administrative
Tribunal Act 2003*; and

20 (iii) a person who is not a legal practitioner
but has knowledge and understanding of
the interests of a person dealing with a
legal practitioner.

25 (2) The State Administrative Tribunal is not to exercise its
powers under section 185(2)(a), or order the
suspension of a legal practitioner from practice, unless
the Tribunal is constituted so as to include the
President.

30 (3) In a directions hearing or other procedural hearing, the
State Administrative Tribunal is to be constituted by, or
so as to include, the President or a Deputy President of
the Tribunal.

”.

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Part 2 Various Acts amended to confer jurisdiction

Division 73 Legal Practice Act 2003

s. 630

630. Section 251 amended

Section 251(1) is amended as follows:

- 5 (a) by deleting the comma after “17(2)” and inserting instead —
“ or ”;
- (b) by deleting “or 174(2)”.

631. Section 252 amended

10 (1) Section 252(1)(u) is amended by deleting “and, subject to the concurrence of the chairperson of the Disciplinary Tribunal, to the convening and functions of the Disciplinary Tribunal”.

(2) Section 252(2) is amended by inserting after “this Act” —
“
15 other than proceedings before the State Administrative Tribunal
”.

632. Schedule 2 amended

(1) Schedule 2 clause 1(2) is amended by deleting “, or to hold office under section 169(1)(d)”.

(2) Schedule 2 clause 3(3) is repealed.

20 **633. Schedule 3 repealed**

Schedule 3 is repealed.

**634. Various references to “appeal to the Supreme Court”
amended**

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

“

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

”.

10

Table

s. 20(9)
s. 26(2)
s. 28(5)
s. 34(4)
s. 44
s. 113
s. 135

635. Various references to “Disciplinary Tribunal” amended

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

15

“ State Administrative Tribunal ”.

Table

s. 39(2) and (3)
s. 41(1)(a)
s. 60(3)
s. 94(4)
s. 105(3)
s. 176(2)(b) and (c)
s. 180(1) (in the first place)
s. 181(1)
s. 185(1) and (2)
s. 185(3) (in the first place)
s. 186(1), (2) and (3)

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Division 73 Legal Practice Act 2003

s. 636

- s. 187(1)
- s. 188(2), (3), (4) and (8) (in the first place)
- s. 188(5), (6), (7) and (9)
- s. 189(1) (in the first place)
- s. 189(2)
- s. 190(1), (2), (3), (4)(a) and (b) and (6)
- s. 194(1) and (2)
- s. 204(3)(b) and (6)

636. Various references to “Supreme Court” amended

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

“ State Administrative Tribunal ”.

5

Table

- s. 69(1)
- s. 70(1) and (2)
- s. 87(2) and (3)
- s. 132(2) (in the first place)
- s. 132(3)
- s. 177(5)
- s. 182(1) and (2)

637. Various references to “the Court” amended

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

“ the Tribunal ”.

10

Table

- s. 69(1) (both places)
- s. 69(2)
- s. 69(2)
- s. 70(1) (both places)
- s. 87(2)(a), (b) and (c)
- s. 132(2) and (3)

638. Various references to “Judge” amended

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

5

Table

s. 149(1) and (2)
s. 150(1)
s. 153(b)
s. 155
s. 156(1) and (4)

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

Table

s. 149(1)
s. 150(1)
s. 153(b)
s. 156(1) (3 places)
s. 156(3) (in the second place)

10 **639. Various references to “Disciplinary” deleted**

The Act is amended by deleting “Disciplinary” in each place specified in the Table to this section.

Table

s. 180(1) (in the second place)
s. 182(1)(b) and (c)
s. 185(3) (in the second place)
s. 187(4)(b)
s. 188(2), (3), (4) and (8) (all in the second place)
s. 189(1) (in the second place)

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Part 2 Various Acts amended to confer jurisdiction

Division 74 Legal Practitioners Act 1893

s. 640

Division 74 — Legal Practitioners Act 1893

640. The Act amended

- (1) The amendments in this Division are to the *Legal Practitioners Act 1893**.

5 [* Reprinted as at 3 August 2001.]

- (2) This Division is of no effect if the *Legal Practitioners Act 1893* is repealed and this Division has not come into operation before the repeal.

641. Section 3 amended

10 Section 3 is amended by deleting the definitions of “Disciplinary Tribunal” and “the tribunal”.

642. Section 6 amended

- (1) Section 6(1)(gc) is amended by deleting “and, subject to the concurrence of the chairman of the Disciplinary Tribunal, to the convening and functions of the Disciplinary Tribunal”.

- (2) Section 6(2) is amended by inserting after “the rules” —

“

other than proceedings before the State Administrative Tribunal

20

”.

- (3) Section 6(7) is amended by deleting “appeal to the Supreme Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

25

”.

643. Section 7C amended

(1) After section 7C(1) the following subsections are inserted —

“

(1a) The annual report is to include details of —

5

- (a) the number, nature, and outcome of —
- (i) inquiries undertaken by the Board; and
 - (ii) matters that have been brought before the State Administrative Tribunal under this Act;

10

(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;

15

(d) forecasts of the workload of the Board in the year after the year to which the report relates; and

(e) any proposals for improving the operation of the Board.

20

(1b) The executive officer of the State Administrative Tribunal and the Law Complaints Officer are to provide the Board with information it may request for the purpose of making its annual report.

”.

644. Section 14C amended

25

(1) Section 14C(2) is amended as follows:

- (a) by deleting “There shall be a right of appeal to the Full Court of Western Australia by any” and inserting instead —

“ Any ”

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Part 2 Various Acts amended to confer jurisdiction

Division 74 Legal Practitioners Act 1893

s. 645

(b) by inserting after “section” —

“

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

5

”.

645. Section 25 amended

(1) Section 25(1)(f) is amended as follows:

(a) by deleting “institute —“ and inserting instead —

“ institute ”;

10

(b) by deleting the subparagraph designation “(i)” and the “or” at the end of that subparagraph;

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

“ State Administrative Tribunal ”;

(d) by deleting subparagraph (ii).

15

(2) Section 25(4) is amended by deleting “, or office under section 28E(1)(c),”.

646. Section 28A amended

Section 28A(5) is amended by deleting “An appeal lies to a judge of the Supreme Court against any” and inserting instead —

20

“

Any person may apply to the State Administrative Tribunal for a review of a

”.

647. Section 28B amended

(1) Section 28B(2)(b) is amended by deleting “by the Disciplinary Tribunal” and inserting instead —

“ under section 29A(2)(b) ”.

25

- (2) Section 28B(3) is amended by deleting “tribunal” and inserting instead —

“ Tribunal ”.

648. Section 28C amended

- 5 (1) Section 28C(1) is amended as follows:
- (a) by deleting “in the manner prescribed by the rules”.
 - (b) by deleting “Disciplinary” before “Tribunal” in the second place where it occurs.
- 10 (2) Section 28C(2) is amended by deleting all of the subsection after “for the determination” at the end of paragraph (a) and inserting instead a full stop.
- (3) Section 28C(3) and (4) are repealed.

649. Sections 28D, 28E and 29 repealed

Sections 28D, 28E and 29 are repealed.

15 **650. Section 29A amended**

- (1) Section 29A(2) is amended as follows:
- (a) by deleting the comma at the end of paragraph (b) and inserting instead a full stop;
 - (b) by deleting “and may make an order as to costs and expenses in accordance with subsection (4).”.
- 20 (2) Section 29A(3) and (8) are amended by deleting “tribunal” in each place where it occurs and inserting instead —
- “ Tribunal ”.
- (3) Section 29A(4), (5), (6) and (7) are repealed.

25 **651. Section 29B repealed**

Section 29B is repealed.

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Part 2 Various Acts amended to confer jurisdiction

Division 74 Legal Practitioners Act 1893

s. 652

652 Section 30 amended

Section 30(1) is amended by deleting “, subject to section 29B,”.

653. Section 31 repealed

5 Section 31 is repealed.

654. Section 31AA amended

Section 31AA(2) is amended as follows:

- 10 (a) by deleting “or the Disciplinary Tribunal”;
- (b) in paragraph (b) by deleting “without prejudice to the operation of section 28D(3) or (4),”.

655. Section 31B amended

Section 31B(1) is repealed and the following subsection is inserted instead —

“

- 15 (1) Before the Complaints Committee —
- (a) a complainant;
- (b) a person making a complaint on the authority of or on behalf of the complainant; or
- (c) any practitioner,
- 20 may be represented by a practitioner or, subject to the approval of the chairman of the meeting, some other representative who is not a practitioner.

”.

656. Section 31C amended

- 25 (1) Section 31C(1) is amended by deleting “under this Part” and inserting instead —

“ before the Complaints Committee ”.

(2) Section 31C(2) is amended by deleting “, or the Disciplinary Tribunal,”.

(3) Section 31C(3) is amended by deleting “or the Disciplinary Tribunal”.

5 (4) Section 31C(5) is repealed.

657. Section 31D amended

(1) Section 31D(1) is amended as follows:

(a) by deleting “or the Disciplinary Tribunal or a member of that tribunal”.

10 (b) in paragraph (c) by deleting “the Disciplinary Tribunal or of”.

(2) Section 31D(2) is amended as follows:

(a) by deleting “or a person nominated by the chairman of the Disciplinary Tribunal for that purpose”;

15 (b) by deleting “or tribunal”.

658. Section 31E amended

(1) Section 31E(2) is amended as follows:

(a) in paragraph (a) by deleting “the seal of the Disciplinary Tribunal, and of”;

20 (b) in paragraph (a)(i) by deleting “, the Complaints Committee and the Disciplinary Tribunal” and inserting instead —

“ and the Complaints Committee ”;

(c) by deleting paragraph (a)(ii);

25 (d) in paragraph (b) by deleting “Board, the Complaints Committee, or the Disciplinary Tribunal, or as the Registrar of the Disciplinary Tribunal” and inserting instead —

“ Board or the Complaints Committee ”;

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Part 2 Various Acts amended to confer jurisdiction

Division 74 Legal Practitioners Act 1893

s. 659

- (e) in paragraph (c)(ii) by deleting “or of the Disciplinary Tribunal”;
- (f) at the end of paragraph (d)(ii) by deleting the semicolon and “or” and inserting instead a comma;
- 5 (g) by deleting paragraph (d)(iii);
- (h) in paragraph (d) by deleting “or of the Disciplinary Tribunal, respectively”.

659. Section 31F amended

- (1) Section 31F(1) is amended as follows:
 - 10 (a) by deleting “Supreme Court” and inserting instead —
“ State Administrative Tribunal ”;
 - (b) in paragraphs (b) and (c) by deleting “Disciplinary”.
- (2) Section 31F(2) is amended by deleting “Supreme Court” and inserting instead —
15 “ State Administrative Tribunal ”;

660. Section 31G amended

Section 31G(1) is repealed and the following subsection is inserted instead —

- “
- 20 (1) On or before 31 December in each year the chairman of the Complaints Committee shall cause a report to be made and submitted in writing to the Attorney General in relation to the activities of that committee in respect of the year ending on the preceding 30 June.
- 25 ”.

661. Section 58B amended

Section 58B(2) is amended by deleting “A Judge” and inserting instead —

“ The State Administrative Tribunal ”.

662. Section 58I amended

(1) Section 58I(2) is amended by deleting “Judge” in the first place where it occurs and inserting instead —

“ State Administrative Tribunal ”.

5 (2) Section 58I(3) is amended by deleting “A Judge” and inserting instead —

“ The State Administrative Tribunal ”.

663. Section 58W amended

Section 58W(1)(b) is amended as follows:

10 (a) after subparagraph (iv) by inserting —

“

(iva) the State Administrative Tribunal;

”;

15 (b) in subparagraph (vi) by deleting “such other” and inserting instead —

“ any ”.

664. Section 81 amended

Section 81 is amended by deleting “or of the Disciplinary Tribunal”.

20 **665. Section 83 amended**

Section 83 is amended as follows:

(a) by deleting “There shall be an appeal to the Full Court of Western Australia by any” and inserting instead —

“ Any ”;

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Part 2 Various Acts amended to confer jurisdiction

Division 74 Legal Practitioners Act 1893

s. 666

(b) by inserting after “practice certificate” —

“

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

5

”.

666. Section 83A inserted

After section 83 the following section is inserted —

“

83A. Constitution of State Administrative Tribunal under this Act

10

(1) Subject to subsections (2) and (3), for the purpose of exercising jurisdiction conferred by or under this Act, the State Administrative Tribunal is to be constituted by 3 members being —

15

(a) by —

(i) the President of the Tribunal;

(ii) a Deputy President of the Tribunal or a senior member who is a legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2003*; and

20

(iii) a person who is not a legal practitioner but has knowledge and understanding of the interests of a person dealing with a legal practitioner;

25

or

(b) by —

(i) a Deputy President of the Tribunal;

(ii) a senior member of the Tribunal who is a legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2003*; and

30

(iii) a person who is not a legal practitioner but has knowledge and understanding of the interests of a person dealing with a legal practitioner.

5 (2) The State Administrative Tribunal is not to exercise its powers under section 29A(2)(a), or order the suspension of a legal practitioner from practice, unless the Tribunal is constituted so as to include the President.

10 (3) In a directions hearing or other procedural hearing, the State Administrative Tribunal is to be constituted by, or so as to include, the President or a Deputy President of the Tribunal.

”.

15 **667. Schedule 2 amended**

(1) Schedule 2 is amended in the reference before “Part A” by deleting “[s. 28E(2)]”.

(2) The amendments in subsections (3) to (8) are to Schedule 2 Part C.

20 (3) The reference is amended by deleting “and 28E(2) and (8)”.

(4) The heading is amended by deleting “, or to the Disciplinary Tribunal, or to both”;

(5) Clause 1(2) is repealed.

25 (6) Clause 2(1) is amended by deleting “or the Disciplinary Tribunal, or both,”.

(7) Clause 3(2) is amended by deleting “or the Disciplinary Tribunal”.

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s. 667

- (8) Clause 5 is repealed and the following clause is inserted instead —

“

5. Remuneration

5 There shall be paid to persons appointed to the committee as representatives of the community such fees and allowances as the Attorney General, after consultation with the Minister for Public Sector Management, may determine.

”.

- 10 (9) The amendments in subsections (10) to (18) are to Schedule 2 Part D.

(10) The reference is amended by deleting “and 28E(9)”.

(11) The heading is amended by deleting “, or to the Disciplinary Tribunal, or to both”.

- 15 (12) Clause 2(1) is amended by deleting “and the Disciplinary Tribunal”.

(13) Clause 2(2) is amended by deleting “or the Disciplinary Tribunal”.

(14) Clause 2(3) is amended by deleting “or that tribunal”.

- 20 (15) Clause 3(3) is amended by deleting “or of the Disciplinary Tribunal does not preclude either” and inserting instead —

“ does not preclude that ”.

(16) Clause 4(3) is repealed.

- 25 (17) Clause 5(b)(iv) is amended by deleting “, the Complaints Committee or the Disciplinary Tribunal” and inserting instead —

“ or the Complaints Committee ”.

(18) Clause 6(2) is amended by deleting “or the Disciplinary Tribunal”.

668. Various references to “Disciplinary Tribunal” amended

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

5 “ State Administrative Tribunal ”.

Table

s. 28B(2)(c)
s. 28C(1) (in the first place)
s. 28C(2)
s. 29A(1), (2), (3)
s. 30(1), (2)
s. 31AA(1)(b)
s. 31AA(2)(c)(ii)
s. 31AA(3)(a)
s. 31AA(3)(b)
s. 31AA(4)
s. 32A(1)(b)
s. 32A(3)

669. Various references to “a Judge” amended

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

10 “ the State Administrative Tribunal ”.

Table

s. 58B(1)
s. 58C(1)
s. 58F(b)
s. 58H
s. 58I(1)

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Division 75 Licensed Surveyors Act 1909

s. 670

670. Various references to “the Judge” amended

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

“ the Tribunal ”.

5

Table

s. 58B(1) (both places)

s. 58C(1)

58F(b)

58I(1)

58I(1)(b)

58I(1)(e)

58I(2) (in the second place)

Division 75 — *Licensed Surveyors Act 1909*

671. The Act amended

The amendments in this Division are to the *Licensed Surveyors Act 1909**.

10

[* *Reprinted as at 22 November 2002.*]

672. Section 8 replaced by sections 8, 8A, 8B and 8C

Section 8 is repealed and the following sections are inserted instead —

15

“
8. Powers of investigation

(1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —

20

(a) determining any application or any other matter before the Board;

(b) determining whether or not a licensed surveyor is or has been complying with the requirements of this Act;

-
- (c) determining whether any other cause exists that might be considered by the Board a proper cause for disciplinary action;
- (d) detecting offences against this Act.
- 5 (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 —
- 10 (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,
- 15 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
- 20 (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) —
- 25 (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
- 30

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- 5
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- (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 —

- 5 (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
10 carrying out an inquiry under this section; and
- (b) shall display to the person, if any, giving the
investigator entry, a document signed by the
chairman of the Board and certifying that the
15 person is designated as an investigator by the
Board.

8A. Incriminating information, questions, or documents

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 8 a person is required to —

- 20 (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
25 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
30 offence against section 8B(1)(b).

8B. Failure to comply with investigation

5 (1) Where under section 8 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;
- 10 (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.

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

- 20 (a) that, in the case of an alleged offence arising out of a requirement made orally under section 8, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
- 25 (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 8, 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;
- 30 (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or

- 5 (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.

8C. Obstruction of investigator

10 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 8.

Penalty: \$2 000.

”.

673. Section 20A amended

- 15 (1) Section 20A(1) is amended by deleting “whose conduct is not the subject of an inquiry under section 22”.

- (2) After section 20A(4) the following subsection is inserted —

“

- 20 (5) Despite the surrender by a person of a licence or a practising certificate or its cancellation under this section, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or practising certificate had not been surrendered or cancelled.

”.

674. Section 20B inserted

After section 20A the following section is inserted —

“

20B. Disciplinary proceedings against licensed surveyors

30 The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary

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action, as mentioned in section 21(1), against a licensed surveyor.

”.

675. Section 21 amended

5 (1) Section 21(1) is amended as follows:

- (a) by deleting “Upon a charge duly made and after inquiry, if it is shown with respect to any person who was at the relevant time a licensed surveyor that —” and inserting instead —

10

“

There is proper cause for disciplinary action in respect of a licensed surveyor if —

”;

15

- (b) by deleting the comma and all of the subsection after paragraph (g) and inserting instead a full stop.

(2) After section 21(1) the following subsection is inserted —

“

20

(1aa) If, in a proceeding commenced by an allegation under section 20B against a licensed surveyor, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may make an order —

25

- (a) reprimanding or cautioning that person;
- (b) imposing on that person a fine not exceeding \$1 000;
- (c) imposing conditions on the licence or practising certificate, or both, of that person, if that person is —

30

- (i) still a licensed surveyor; or
- (ii) an applicant for a licence or practising certificate, or both, or for the renewal of a practising certificate;

- 5
- (d) suspending the licence or practising certificate of a person who is still a licensed surveyor and his entitlement to apply for a renewal of that practising certificate, if any, or for another licence or practising certificate —
- (i) for such period not exceeding 3 years as is specified in the order; or
- (ii) until any condition referred to in paragraph (c) has been complied with,
- 10 whichever is the shorter period;
- (e) suspending the entitlement of a person who is no longer a licensed surveyor to apply for another licence —
- (i) for such period not exceeding 3 years as is specified in the order; or
- 15 (ii) until any condition referred to in paragraph (c) has been complied with,
- whichever is the shorter period;
- (f) if that person is still a licensed surveyor, cancelling his licence;
- 20 (g) if that person is not still a licensed surveyor, cancelling his entitlement to apply for another licence; or
- (h) if that person is still a licensed surveyor, cancelling —
- 25 (i) his practising certificate; or
- (ii) his entitlement to apply for a renewal of his expired practising certificate or for another practising certificate,
- 30 or make in relation to that person any 2 or more of the orders referred to in paragraphs (a) to (h) and applicable to that person and, if the State Administrative Tribunal thinks fit, make any one or

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more of the orders specified in subsection (1a) in relation to that person.

”.

(3) Section 21(1a) is amended as follows:

- 5 (a) in paragraph (a) by deleting “Board” and inserting instead —
“ State Administrative Tribunal ”;
- (b) after paragraph (b) by inserting “and”;
- 10 (c) at the end of paragraph (c) by deleting the semicolon and “and” and inserting instead a full stop;
- (d) by deleting paragraph (d).

(4) Section 21(1b), (1c) and (2) are repealed.

(5) Section 21(4) and (5) are amended by deleting “(1)(m) or (n)” and inserting instead —

15 “ (1aa)(f) or (g) ”.

(6) Section 21(6) is amended as follows:

- (a) by deleting “Board may, on the application of” and inserting instead —

20 “
State Administrative Tribunal may, on the application of the Board or

”;

- (b) in paragraph (a) by deleting “(1)(k)” and inserting instead —

25 “ (1aa)(d) ”;

- (c) in paragraph (b) by deleting “(1)(l)” and inserting instead —

“ (1aa)(e) ”;

- (d) in paragraph (c) by deleting “(1)(m),” and inserting
instead —
“ (1aa)(f), order that the Board ”;
- 5 (e) in paragraph (d) by deleting “(1)(n),” and inserting
instead —
“ (1aa)(g), order that the Board ”;
- (f) in paragraph (e) by deleting “(1)(o)” and inserting
instead —
“ (1aa)(h) ”;
- 10 (g) in paragraph (e) by deleting “that subsection,” and
inserting instead —
“ subsection (1aa)(h), order that the Board ”;
- (h) by inserting after “so doing” —
“ order that the Board ”;
- 15 (i) by deleting “Board” in the second place where it occurs
and inserting instead —
“ State Administrative Tribunal ”.
- (7) Section 21(7)(a) is amended by deleting “one or more of
subsection (1)(h) to (o)” and inserting instead —
- 20 “ subsection (1aa) ”.

676. Section 21AA inserted

After section 21 the following section is inserted —

“

25 **21AA. Suspension of licence by State Administrative
Tribunal**

- 30 (1) Where the State Administrative Tribunal makes an order
against a licensed surveyor or the holder of a practising
certificate and payment is not made in accordance with
the order or the order is otherwise not complied with or
is breached, the State Administrative Tribunal may

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Division 75 Licensed Surveyors Act 1909

s. 677

order that the person's licence or practising certificate be suspended until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

- 5 (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 2003*.

”.

10 **677. Section 22 replaced**

Section 22 is repealed and the following section is inserted instead —

“

22. Charge against surveyor

- 15 (1) Every charge that there is proper cause for disciplinary action against a person under section 21 shall be submitted to the Board in writing signed by the person making the charge.
- 20 (2) Subsection (1) does not prevent the Board from commencing an investigation on its own initiative.

”.

678. Section 22A replaced

Section 22A is repealed and the following section is inserted instead —

25 “

22A. Application for review

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

(2) In subsection (1) —

“person aggrieved” means a person whose licence or practising certificate is affected by a reviewable decision or who applies for the grant or renewal of a licence or practising certificate;

5

“reviewable decision” means a decision of the Board in respect of an application for the grant or renewal of a licence or practising certificate or the imposition of a condition on a licence or practising certificate.

10

”.

679. Section 25C amended

After section 25C(1) the following subsection is inserted —

“

15

(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

20

(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;

25

(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

30

(e) any proposals for improving the performance of the Board’s functions.

”.

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Part 2 Various Acts amended to confer jurisdiction

Division 76 Litter Act 1979

s. 680

680. Section 26 amended

Section 26(1)(1) is deleted.

Division 76 — Litter Act 1979

681. The Act amended

5 The amendments in this Division are to the *Litter Act 1979**.

[* *Reprinted as at 4 January 1999.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 220.]*

682. Section 25 amended

10 (1) Section 25(5) is amended as follows:

(a) by deleting “appeal in respect” and inserting instead —
“ application for a review ”;

(b) by deleting “lodged” and inserting instead —
“ made ”.

15 (2) Section 25(6) is amended by deleting all of the subsection after
“subsection (2) may” and inserting instead —

“

apply to the State Administrative Tribunal for a review
of the requirement or direction.

20

”.

(3) Section 25(7) and (8) are repealed.

**Division 77 — Local Government (Miscellaneous Provisions)
Act 1960**

683. The Act amended

5 The amendments in this Division are to the *Local Government
(Miscellaneous Provisions) Act 1960*.*.

[* Reprinted as at 28 July 1999.

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 229.]*

684. Section 295 amended

10 (1) Section 295(3) is amended as follows:

- (a) in paragraph (d) by deleting “, within 30 days after the
requirement is communicated to him, appeal in writing
against” and inserting instead —

15 “
apply to the State Administrative Tribunal for a
review of
”;

- (b) in paragraph (d) by deleting “to the Minister for Local
Government”;

20 (c) by deleting paragraph (e).

(2) Section 295(4) is amended as follows:

- (a) in paragraph (d) by deleting “appeal to the Minister for
Local Government against” and inserting instead —

25 “
apply to the State Administrative Tribunal for a
review of
”;

30 (b) in paragraph (d) by deleting “, and, if of opinion that the
owner has caused a street to be so constructed and
drained, and that the street gives such access to lots in
the subdivision, that the local government should have

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Part 2 Various Acts amended to confer jurisdiction

Division 77 Local Government (Miscellaneous Provisions) Act 1960

s. 685

granted the consent, the Minister may give his consent to the disposal of the lots and the decision of the Minister is final”.

- 5 (3) Section 295(4a) is amended by deleting “of appeal conferred by that subsection” and inserting instead —

“

conferred by subsection (4)(d) to apply for a review.

”.

685. Section 374 amended

- 10 (1) Section 374(2)(a) is amended as follows:

- (a) by deleting “appeal in writing from” and inserting instead —

“

15 apply to the State Administrative Tribunal for a review of

”;

- (b) by deleting “to the Minister, who may uphold, reverse, or vary the decision of the local government and make such order as he thinks fit and the order of the Minister is final and not subject to appeal”.
- 20

- (2) Section 374(2)(b) is amended as follows:

- (a) by deleting “purposes of exercising his powers” and inserting instead —

“

25 purpose of enabling effect to be given to an order it makes upon an application

”;

- (b) by deleting “Minister” and inserting instead —

“ State Administrative Tribunal ”;

- 30 (c) by deleting “in his” and inserting instead —

“ in its ”;

- (d) by deleting “warrant his” and inserting instead —
“ warrant its ”.

686. Section 374A amended

Section 374(3) is amended as follows:

- 5 (a) by deleting “appeal in writing to the Minister, who may
confirm or vary ” and inserting instead —
“
10 apply to the State Administrative Tribunal for a review
of
”;
- (b) by deleting “, and the order of the Minister is final and
not subject to appeal”.

687. Section 399 amended

Section 399(5) is amended as follows:

- 15 (a) by deleting “appeal from” and inserting instead —
“
apply to the State Administrative Tribunal for a review
of
”;
- 20 (b) by deleting “to the Minister, who may uphold, reverse,
or vary the decision of the local government, and make
such order as he thinks fit, and the decision of the
Minister is not subject to appeal”.

688. Section 401 amended

- 25 (1) Section 401(1) is amended as follows:
(a) after “unless” by inserting a comma;
(b) after “right of appeal” by inserting —
“ under Division 19 ”;
(c) by deleting “or the Minister, as the case may be,”;

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Part 2 Various Acts amended to confer jurisdiction

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s. 688

(d) after “requisition on appeal” by inserting —

“

or, where there is a right to apply to the State
Administrative Tribunal for a review of the requisition,
the right is exercised and the State Administrative
Tribunal sets aside the requisition

”.

(2) Section 401(3) is amended as follows:

(a) by deleting “within 35 days of the service of the notice upon him”;

(b) by deleting “appeal to the Minister in the manner prescribed by the regulations, and the Minister may decide the appeal and his decision is not subject to appeal” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the requisition

”.

(3) Section 401(7) is amended as follows:

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

“ or an application for review as described in ”;

(b) in paragraph (b) by deleting “under this section is” and inserting instead —

“ or an application for review is made but is ”;

(c) by deleting “subject of appeal under” and inserting instead —

“

subject of an appeal or an application for review as described in

”.

689. Section 401A amended

- (1) Section 401A(4)(b) is amended by deleting “Minister on appeal” and inserting instead —

“
5 State Administrative Tribunal on an application
for review
”.

- (2) Section 401A(6) is amended by deleting “appeal in writing to the Minister against all or any of the matters set out in the notice, and the Minister may confirm, set aside, or vary the notice as he thinks fit” and inserting instead —

“
10 apply to the State Administrative Tribunal for a review
of the notice
15 ”.

690. Section 409A amended

- (1) Section 409A(3) is amended by deleting “by causing notice in writing setting out his grounds to be served upon the Minister, appeal against the making of” and inserting instead —

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

- (2) Section 409A(4) is repealed.

691. Section 413 amended

- (1) Section 413(2) is amended by deleting “may, within 35 days of the service upon him of the requisition, appeal to the Minister, who may confirm or disallow the requisition, and the decision of the Minister is not subject to appeal” and inserting instead —

“
30 , may apply to the State Administrative Tribunal for a
review of the requisition
”.

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Part 2 Various Acts amended to confer jurisdiction

Division 78 Local Government Act 1995

s. 692

- (2) Section 413(2) is amended by deleting “so appeal to the Minister, or if the Minister” and inserting instead —

“

5 apply to the State Administrative Tribunal for a review
of the requisition, or if the State Administrative Tribunal ”.

Division 78 — Local Government Act 1995

692. The Act amended

10 The amendments in this Division are to the *Local Government Act 1995**.

[* Reprinted as at 18 February 2000.

For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 223 and Acts Nos. 20 and 21 of 2003.*]

15 **693. Section 2.27 amended**

- (1) Section 2.27(6) is amended by deleting “a court of summary jurisdiction” and inserting instead —

“ the State Administrative Tribunal ”.

- 20 (2) Section 2.27(7) is amended by deleting “a court of summary jurisdiction” and inserting instead —

“ the State Administrative Tribunal ”.

- (3) Section 2.27(8) is repealed.

694. Section 2.32 amended

25 Section 2.32(d) is amended by deleting “a court of summary jurisdiction” and inserting instead —

“ the State Administrative Tribunal ”.

695. Section 3.25 amended

Section 3.25(5) is amended by deleting “appeal against it” and inserting instead —

“

5 apply to the State Administrative Tribunal for a review
of the decision to give the notice

”.

696. Section 6.1 amended

10 Section 6.1 is amended by deleting the definition of “Land
Valuation Tribunal”.

697. Section 6.3 amended

Section 6.3(a) is amended by deleting “a Land Valuation
Tribunal” and inserting instead —

“ the State Administrative Tribunal ”.

15 **698. Section 6.32 amended**

(1) Section 6.32(3)(b) is amended by deleting “a Land Valuation
Tribunal” and inserting instead —

“ the State Administrative Tribunal ”.

(2) Section 6.32(4) is amended as follows:

20 (a) by deleting “a Land Valuation Tribunal” and inserting
instead —

“ the State Administrative Tribunal ”;

(b) by deleting “legal”.

699. Section 6.58 amended

25 Section 6.58 is amended as follows:

(a) by deleting “on an appeal” and inserting instead —

“ on an application ”;

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Part 2 Various Acts amended to confer jurisdiction

Division 78 Local Government Act 1995

s. 700

- (b) after “Subdivision 7” by inserting —
“ for a review ”;
- (c) by deleting “on appeal” and inserting instead —
“ on an application ”;
- 5 (d) after “that Subdivision” by inserting —
“ for a review ”.

700. Section 6.59 amended

Section 6.59 is amended as follows:

- (a) after “to hear an” by inserting —
10 “ application for review or an ”;
- (b) by deleting “proceedings or appeal” and inserting
instead —
“ matter ”.

701. Heading to Part 6 Division 6 Subdivision 7 amended

15 The heading to Part 6 Division 6 Subdivision 7 is amended by
deleting “Appeals” and inserting instead —
“ **Review** ”.

702. Section 6.77 amended

Section 6.77 is amended as follows:

- (a) by deleting “local government” and inserting instead —
20 “ State Administrative Tribunal ”;
- (b) by deleting “give to the local government a notice
requiring that it treat the objection as an appeal against
the rate record” and inserting instead —
25 “
apply to the State Administrative Tribunal for a review
of the decision
”.

703. Section 6.78 amended

Section 6.78 is amended by deleting “or for service of a notice requiring it to treat an objection to the rate record as an appeal against the rate record may give to the local government a notice requiring it to refer the decision to a Land Valuation Tribunal as an appeal” and inserting instead —

“

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

”.

704. Section 6.79 replaced by sections 6.79 and 6.79B

Section 6.79 is repealed and the following sections are inserted instead —

“

6.79. New matters raised on review

- (1) Upon a review by the State Administrative Tribunal under section 6.77 or 6.78, the State Administrative Tribunal may consider —
 - (a) grounds in addition to those stated in the notice of objection; and
 - (b) reasons in addition to any reasons previously given for the local government’s decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

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s. 705

6.79B. Written reasons for certain determinations to be given and published

5 If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 6.77 or 6.78 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.

”.

10 **705. Section 6.80 amended**

Section 6.80 is amended by deleting “appeal” and inserting instead —

“ review ”.

706. Section 6.81 amended

15 Section 6.81 is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by deleting “or appeal”.

707. Section 6.82 amended

(1) Section 6.82(1) is amended as follows:

20 (a) by deleting “appeal to a Land Valuation Tribunal” and inserting instead —

“

refer the question to the State Administrative Tribunal

”;

25 (b) by deleting “have the question” and inserting instead —

“ have it ”.

(2) Section 6.82(3) is amended as follows:

(a) by deleting “Land Valuation Tribunal hearing an appeal” and inserting instead —

“

5 State Administrative Tribunal dealing with a matter referred to it

”;

(b) by deleting “the opinion of the Tribunal” and inserting instead —

10 “ its opinion ”.

708. Section 7.13 amended

Section 7.13(d)(iii) is amended as follows:

(a) by deleting “appeals to the Local Court against” and inserting instead —

15

“

applications to the State Administrative Tribunal for the review of

”;

(b) by deleting “and the procedure relating to such appeals”.

20

[The notes to Part 9 are altered by deleting “appeals” and inserting “review” instead.]

709. Heading to Part 9 Division 1 amended

The heading to Part 9 Division 1 is amended by deleting “appeals” and inserting instead —

25

“ **review** ”.

710. Section 9.4 amended

Section 9.4 is amended by deleting “and appeal against” and inserting instead —

“ against, and apply for a review of, ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 78 Local Government Act 1995

s. 711

711. Section 9.5 amended

Section 9.5(1) is amended by deleting “lodged an appeal against” and inserting instead —

“ applied under this Division for a review of ”.

5 **712. Section 9.7 amended**

(1) Section 9.7(1) is amended as follows:

(a) by deleting “appeal against” and inserting instead —

“

10 apply to the State Administrative Tribunal for a review of

”;

(b) in paragraph (b) after “objection but” by inserting —

“

15 , at the expiration of 35 days after it was lodged,

”;

(c) in paragraph (b) by deleting “at the expiration of 35 days after it was lodged”.

20 (2) Section 9.7(2) is amended by deleting “appeal against” and inserting instead —

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

(3) Section 9.7(3) is amended as follows:

25 (a) by deleting “appeal is made by preparing it in the prescribed form and lodging it in the prescribed manner” and inserting instead —

“ application is to be made ”;

(b) by deleting “of appeal” and inserting instead —

“ to make it ”;

- (c) by deleting after “arose” to the end of the subsection and inserting instead —

“

[i.e. —

- 5 • *within 42 days after the original decision, for an application under subsection (1)(a),*
 • *more than 35 days, but within 77 days, after the objection was lodged, for an application under subsection (1)(b); or*
10 • *within 42 days after the objection was decided, for an application under subsection (2)].*

”.

- (4) Section 9.7(4) is repealed.

713. Section 9.8 repealed

15 Section 9.8 is repealed.

714. Section 9.9 amended

Section 9.9(1) is amended as follows:

- (a) after “If an objection” by deleting “or appeal”;
(b) after “against a decision” by inserting —

20 “

or an application has been made under this Division for a review of the decision

”;

25 “

- (c) by deleting “court authorized” and inserting instead —

“ tribunal authorised ”;

- (d) before “has decided” by deleting “appeal” and inserting instead —

“ application ”;

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Part 2 Various Acts amended to confer jurisdiction

Division 79 Maritime Archaeology Act 1973

s. 715

- (e) in paragraph (a) by deleting “court” and inserting instead —
“ tribunal ”.

715. Section 9.29 amended

5 Section 9.29(1) is amended in paragraph (a) of the definition of “proceedings” after “sessions” by inserting —
“ or before the State Administrative Tribunal ”.

716. Schedule 9.1 amended

Schedule 9.1 item 12(3) is amended as follows:

- 10 (a) by deleting “provide for” and inserting instead —
“ state that ”;
- (b) by deleting “to have a right of appeal against” and inserting instead —

15 “
is an affected person for the purposes of Part 9 Division 1 and that Part 9 Division 1 applies to

”.

Division 79 — *Maritime Archaeology Act 1973*

717. The Act amended

20 The amendments in this Division are to the *Maritime Archaeology Act 1973**.

[* *Act No. 66 of 1973.*]

718. Section 18 amended

- 25 (1) Section 18(6) is amended by deleting “make application to a Judge in chambers” and inserting instead —
“ apply to the State Administrative Tribunal ”.

(2) After section 18(6) the following subsections are inserted —

“

5 (6a) The President of the State Administrative Tribunal is to ensure that the Tribunal is constituted by, or includes, a judicial member as defined in the *State Administrative Tribunal Act 2003* when dealing with an application under subsection (6).

10 (6b) Subsection (6a) does not apply to —
(a) a directions hearing or other procedural hearing;
(b) a compulsory conference; or
(c) the appointment of a Tribunal member as a mediator.

”.

15 (3) Section 18(7) is amended by deleting “Judge” and inserting instead —

“ Tribunal ”.

(4) Section 18(9) is amended as follows:

20 (a) by deleting “a Judge” and inserting instead —
“ the Tribunal ”;

(b) after “undesirable” by deleting “he” and inserting instead —
“ the Tribunal ”;

25 (c) after “amount as” by deleting “he” and inserting instead —
“ it ”.

(5) Section 18(10) is amended by deleting “Judge” in both places where it occurs and inserting instead in both places —

“ Tribunal ”.

30 (6) Section 18(11) is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 80 Marketing of Eggs Act 1945

s. 719

Division 80 — Marketing of Eggs Act 1945

719. The Act amended

The amendments in this Division are to the *Marketing of Eggs Act 1945*.*.

5 [* Reprinted as at 22 February 2002.]

720. Section 32 amended

Section 32(3) is amended by deleting “local court held nearest to the office of the Board” and inserting instead —

“ State Administrative Tribunal ”.

10 **721. Section 32H amended**

(1) Section 32H(1) is amended as follows:

(a) by deleting “appeal in writing” and inserting instead —

“

apply to the State Administrative Tribunal for a review,

15

”;

(b) by deleting “to the Minister against” and inserting instead —

“ , of ”;

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

20

(d) by deleting “and the person shall set out in his appeal the reasons on which the appeal is made.”.

(2) Section 32H(2) is repealed.

722. Section 32J amended

Section 32J(3) is amended by deleting all of the subsection after
“subsection (2) may” and inserting instead —

“

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

”.

Division 81 — *Marketing of Potatoes Act 1946*

723. The Act amended

10 The amendments in this Division are to the *Marketing of
Potatoes Act 1946**.

[* *Reprinted as at 7 January 2000.*]

724. Section 19A replaced

15 Section 19A is repealed and the following section is inserted
instead —

“

19A. Review of decision

20 A person aggrieved by a decision made by the
Corporation in exercise of a power conferred on the
Corporation, may apply to the State Administrative
Tribunal for a review of the decision.

”.

725. Section 28 amended

25 Section 28(3) is amended by deleting “appeal to the Minister
under section 19A.” and inserting instead —

“ apply under section 19A for a review of the decision. ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 82 Medical Act 1894

s. 726

726. Section 31 amended

Section 31 is amended as follows:

- (a) by deleting “a magistrate” and inserting instead —
“ the State Administrative Tribunal ”;
- 5 (b) by deleting “the magistrate” and inserting instead —
“ the State Administrative Tribunal ”;
- (c) by deleting “summons by”.

Division 82 — Medical Act 1894

727. The Act amended

10 The amendments in this Division are to the *Medical Act 1894**.

[* *Reprinted as at 25 February 2000.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 238 and
Act No. 9 of 2003.]*

15 **728. Section 3 amended**

Section 3(1) is amended by inserting the following definition in
the appropriate alphabetical position —

“

20 “**professional standards committee**” means the
professional standards committee appointed under
section 8AA;

”.

729. Part II heading amended

25 The Part II heading is amended by inserting after “Medical
Board” —

“ **and professional standards committee** ”.

730. Section 6 amended

(1) Section 6(1)(d) is amended by deleting “and the conduct of the proceedings in connection with” and inserting instead —

“ and handling ”.

5 (2) Section 6(2) is amended by deleting “impose and provide for the recovery of fines and penalties from any person or persons subject thereto, and” and inserting instead —

“

10 create an offence and specify a fine of not more than \$2 000 by which the offence is punishable and may

”.

(3) Section 6(3) is repealed.

731. Section 8 amended

Section 8(1) is amended by inserting after “court of law” —

15 “ and the State Administrative Tribunal ”.

732. Section 8AA inserted

After section 8 the following section is inserted —

“

8AA. Professional standards committee

20 (1) The Board is to appoint persons to be members of a committee to be known as the professional standards committee.

25 (2) Each member of the committee is to be a natural person chosen by the Board, and a member of the Board is not precluded from being a member of the committee.

(3) The Board is to appoint one of the members of the committee to preside at a meeting of the committee

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and, if that person is unable to preside, a member chosen by the members present at the meeting is to preside.

- 5 (4) The committee is to comply with any direction that the Board gives it about the conduct of its proceedings but otherwise is to determine its own procedures.
- (5) The committee is to ensure that —
- 10 (a) accurate records are made of the proceedings at its meetings, including details of each decision it makes; and
- (b) those records are retained.

”.

733. Section 8A amended

Section 8A is amended as follows:

- 15 (a) by inserting after “done by the Board” —
“ or the professional standards committee ”;
- (b) by inserting after “any member of the Board” —
“ or the professional standards committee ”;
- 20 (c) by inserting after “subject the Board or any member” —
“ of the Board or committee ”.

734. Section 9 amended

Section 9(3) is repealed.

25 **735. Section 10 amended**

Section 10(6) is amended by deleting “this section” and inserting instead —

“ subsection (5) ”.

736. Sections 12BA to 12H inserted

After section 12B the following sections are inserted —

“

12BA. Interim constraint on practice

- 5 (1) If the Board is of the opinion that an activity of a
medical practitioner, not being a body corporate,
involves or will involve a risk of imminent injury or
harm to the physical or mental health of any person, the
Board may, without further inquiry, order that for a
10 period of not more than 30 days specified in the
order —
- (a) either generally or in relation to particular
circumstances or services as specified in the
order, the medical practitioner is not to practise
15 medicine;
- (b) the medical practitioner is not to practise
medicine except on any conditions and
restrictions specified in the order;
- (c) the medical practitioner is prohibited from
20 carrying on an activity; or
- (d) the medical practitioner is subject to any
combination of the restrictions that could be
imposed under paragraphs (a), (b), or (c).
- 25 (2) An order under subsection (1) has no effect until it is
given personally to the medical practitioner.
- (3) The order has to —
- (a) state the Board’s opinion that is the basis for
the order;
- 30 (b) specify the activity that in the Board’s opinion
involves or will involve the risk and the matters
that give or will give rise to the risk; and

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- 5 (c) advise the medical practitioner against whom the order is made of the right given by subsection (5) to apply to the State Administrative Tribunal for a review of the order.
- 10 (4) The Board may, by a further order given to the medical practitioner, revoke or vary an order under subsection (1) at any time before making an allegation to the State Administrative Tribunal under section 12BB.
- (5) The person against whom an order is made under subsection (1) may apply to the State Administrative Tribunal for a review of the order.

12BB. Allegation to be made

- 15 (1) Within a period of 14 days after the day on which the Board makes an order under section 12BA(1), the Board is required to —
- 20 (a) make an allegation to the State Administrative Tribunal of the matter because of which the order was made; or
- (b) revoke the order under section 12BA(4).
- (2) Upon an allegation made under subsection (1) the State Administrative Tribunal may —
- 25 (a) make any order that it could make if an application had been for a review of the order under section 12BA(1); and
- (b) make an order under section 13(3a).

**12BC. Power to make interim constraint additional to
other powers**

The Board may deal under sections 12BA and 12BB
with a matter even if —

- 5
- (a) the Board is already dealing with the matter
under another provision of this Act; or
- (b) a complaint about the matter, or a matter
involving substantially the same elements, has
10 been made under the *Health Services
(Conciliation and Review) Act 1995* or is being
treated as a complaint that was made under that
Act.

12C. Appointment of investigator

- 15
- (1) The Board may appoint a person to investigate a matter
relevant to the performance of the Board's functions
under this Act and report to the Board.
- (2) The Board is to issue to each investigator it appoints a
certificate of appointment in an approved form.
- 20
- (3) A certificate purporting to have been issued under this
section is evidence in any court of the appointment to
which the certificate purports to relate.

12D. Report of investigator

- (1) An investigator must —
- 25
- (a) within such period as the Board requires
prepare a report on the investigation, and make
recommendations as to the manner in which the
matter should be dealt with; and
- (b) immediately after preparing the report, provide
the Board with a copy of the report.
- 30
- (2) The investigator must return his or her certificate of
appointment at the time the Board is provided with a
copy of the report.

12E. Powers of investigator

(1) An investigator may for the purposes of an investigation —

- 5
- (a) enter and inspect the premises of a person named in a warrant issued under section 12G(1), and exercise the powers referred to in section 12G(2)(b) and (c);
- 10
- (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
- 15
- (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
- 20
- (d) require a person —
- (i) to give the investigator such information as the investigator requires; and
- (ii) to answer any question put to that person,
- in relation to the matter the subject of the investigation; and
- 25
- (e) exercise other powers conferred on an investigator by the regulations.

(2) A requirement made under subsection (1)(b) —

- 30
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
- (b) must specify the time at or within which the document or other thing is to be produced;

-
- 5
- (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
- (d) where the document required is not in a readable format, must be treated as a requirement to produce —
- (i) the document itself; and
- (ii) the contents of the document in a readable format.
- 10 (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
- 15 (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
- (c) may, by its terms, require that the information or answer required —
- 20 (i) be given orally or in writing;
- (ii) be given at or sent or delivered to a place specified in the requirement;
- (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
- 25 (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is
- 30 required under this Act to give the information or answer the question.

- (5) An investigator must produce his or her certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

5 **12F. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a matter that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- 10
- (2) An application for a warrant must —
- 15 (a) be in writing;
- (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating the matter that may involve a threat to the physical or mental health of a person;
- 20 (c) set out the grounds for seeking the warrant; and
- (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
- 25 (a) the application does not comply with the requirements of this Act; or
- (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- 30

- 5
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

12G. Issue of warrant

- 10
- (1) A magistrate to whom an application is made under section 12F may issue a warrant if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
- 15
- (a) to enter and inspect the premises named in the warrant;
- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
- 20
- (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- 25
- (a) the purpose for which the warrant is issued;
- (b) the name of the person to whom the warrant is issued; and
- (c) a description of the premises that may be entered.

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- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

5 **12H. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises to do so, the person executing a warrant must produce it for inspection.

- (2) A warrant ceases to have effect —

- 10 (a) at the end of the period of one month after its issue;
- (b) if it is withdrawn by the magistrate who issued it; or
- (c) when it is executed,

15 whichever occurs first.

”.

737. Section 13 amended

- (1) Section 13(1) is amended by deleting “the Board shall hold an inquiry into the matter.” and inserting instead —

20 “

 the Board may allege to the State Administrative Tribunal that disciplinary action should be taken against the medical practitioner for that reason.

”.

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- (2) Section 13(2) is amended by deleting “may without an inquiry order the suspension of the registration of the medical practitioner or the removal of the name of the medical practitioner from the register.” and inserting instead —

5

“

may allege to the State Administrative Tribunal that disciplinary action should be taken against the medical practitioner for that reason.

”.

10

- (3) After section 13(2) the following subsections are inserted —

“

15

- (2a) Instead of making an allegation to the State Administrative Tribunal, if the Board is of the opinion that the nature of the matter might not warrant a proceeding before the Tribunal it may send the matter, and any material or report relating to the matter, to the professional standards committee.

20

- (2b) Sending a matter to the professional standards committee under subsection (2a) does not prevent the Board from making an allegation about it to the State Administrative Tribunal if the committee advises the Board to do so.

”.

25

- (4) Section 13(3) is repealed and the following subsections are inserted instead —

“

30

- (3) The State Administrative Tribunal may, on dealing with an allegation under subsection (1)(a), (b), (c) or (d) —
- (a) order the removal of the name of the medical practitioner from the register;

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- (b) order that the registration of the medical practitioner be suspended for such period not exceeding 12 months as is specified in the order;
- 5 (c) impose a fine not exceeding \$10 000;
- (d) reprimand the medical practitioner.
- (3a) The State Administrative Tribunal may, on dealing with an allegation under subsection (1)(e) —
- 10 (a) order the removal of the name of the medical practitioner from the register;
- (b) order that the registration of the medical practitioner be suspended; or
- (c) impose restrictions or conditions or both on the practice of medicine by the medical practitioner.
- 15 (3b) The State Administrative Tribunal may, on dealing with an allegation under subsection (2) —
- (a) order the removal of the name of the medical practitioner from the register; or
- 20 (b) order that the registration of the medical practitioner be suspended.
- ”.
- (5) Section 13(4) is amended as follows:
- 25 (a) by deleting “(2) or (3), the Board may, in lieu of imposing a punishment referred to in subsection (2) or (3)(a) or (b) on a medical practitioner” and inserting instead —
- “
- 30 (3) or (3b), the State Administrative Tribunal may, in lieu of making an order under subsection (3)(a) or (b) or (3b)
- ”;

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-
- (b) by inserting after “written undertaking to” —
“ the Board to ”;
- (c) by deleting “as the Board” in both places where it occurs
and inserting instead —
5 “ as the Tribunal ”.
- (6) Section 13(5), (6), (6a), (6b), (6c), (6d) and (6e) are repealed
and the following subsections are inserted instead —
“
- (5) If, under subsection (2a), the Board sends a matter to
10 the professional standards committee, the committee
may, if —
- (a) it has given the medical practitioner the option
of having the matter dealt with before the State
Administrative Tribunal and the medical
15 practitioner has not chosen that option by notice
in writing to the committee; and
- (b) it has given the medical practitioner an
opportunity to make submissions about the
matter,
- 20 make an order described in subsection (6), otherwise it
has to advise the Board to make an allegation to the
State Administrative Tribunal or to take no further
action.
- (6) The orders that a professional standards committee
25 may make are —
- (a) that the Board reprimand the medical
practitioner;
- (b) that the medical practitioner pay to the Board a
fine of an amount not exceeding \$5 000
30 specified in the order;
- (c) that the Board impose restrictions or conditions
or both on the practice of medicine by the
medical practitioner; or

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(d) a combination of the orders described in paragraphs (a) to (c).

5 (6a) The Board has to act according to any advice that the professional standards committee gives the Board under subsection (5) and has to give effect to an order that the professional standards committee makes under subsection (6), and a fine that the professional standards committee imposes under subsection (6) is recoverable in a court of competent jurisdiction as a debt due to the Board.

10

”.

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

(a) by deleting “pursuant to subsection (5)”;

(b) by deleting “the Board may” and inserting instead —

15

“

the Board may, and where an allegation is made to the State Administrative Tribunal under subsection (1)(e) the Tribunal may,

”;

20

(c) by deleting “by the Board” where it first occurs and inserting instead —

“ in the direction ”;

(d) in paragraphs (a) and (b) by deleting in both places where it occurs “appointed by the Board” and inserting instead —

25

“ appointed by the body giving the direction ”.

(8) Section 13(6g) is repealed.

(9) Section 13(6h) is amended by inserting after “Board” in each place where it occurs —

30

“ or the Tribunal ”.

(10) Section 13(6i) is repealed.

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(11) Section 13(8) is repealed and the following subsection is inserted instead —

“

(8) Any person who is or was registered as a medical practitioner and who is aggrieved by any decision of the Board or the professional standards committee, other than a decision to make or advise the making of an allegation to the State Administrative Tribunal, may apply to the State Administrative Tribunal for a review of the decision.

”.

(12) Section 13(9)(b) is amended by deleting “and (9b)” and inserting instead —

“, (9b) and (9ba) ”.

(13) Section 13(9b) is amended by deleting “order that —” and paragraphs (a) and (b) and inserting instead —

“

order that the period of suspension be extended for a period of not more than 30 days specified in the order.

”.

(14) After section 13(9b) the following subsections are inserted —

“

(9ba) If the Board makes an order under subsection (9b) (an **“interim order”**) it is required to refer the making of the order to the State Administrative Tribunal, within 14 days after the order is made, and the State Administrative Tribunal may affirm or revoke the interim order or order that —

(a) the period of suspension be extended for such further period not exceeding 12 months, as the Tribunal thinks fit; or

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(b) the name of that person be removed from the Register immediately upon the expiration of the period of suspension.

5 (9bb) A person against whom an interim order is made may apply to the State Administrative Tribunal for a review of the interim order.

”.

(15) Section 13(9d) is amended as follows:

(a) by inserting after “The Board” —

10

“

, the professional standards committee, or the State Administrative Tribunal

”;

15

(b) by deleting “it commences an inquiry under this section the person the subject of the inquiry” and inserting instead —

“

it does so the person concerned

”.

20 **738. Section 16A amended**

Section 16A(4)(c) is amended by deleting “has not been convicted or adjudged as mentioned in section 13(1),” and inserting instead —

“

25

is not and has not been the subject of an order under section 13(3), (3a), (3b), or (9b),

”.

739. Section 17 amended

Section 17(5) is amended by deleting “or inquiry”.

740. Section 17A inserted

After section 17 the following section is inserted —

“

**17A. Making false statement to the professional
standards committee**

A person who wilfully makes a false statement to the
professional standards committee in relation to a matter
being dealt with by the committee under this Act
commits an offence.

Penalty: Imprisonment for 3 years.

”.

741. Section 21CA amended

Section 21CA(8) is amended by deleting “within 30 days of that
decision appeal to the District Court in accordance with the
rules of court.” and inserting instead —

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

”.

742. Section 21CD amended

(1) Section 21CD(1) is amended as follows:

(a) by deleting “The Board shall cancel or suspend a
certificate of approval given under section 21CA if the
Board is satisfied that —” and inserting instead —

“

Where it appears to the Board that a certificate
of approval given under section 21CA should
be cancelled or suspended because —

”.

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

(c) by inserting below paragraph (e) —

“

5

the Board shall refer the matter to the State Administrative Tribunal which may suspend or cancel the certificate of approval.

”.

10

(2) Section 21CD(2) is amended by deleting “Board” and inserting instead —

“ Tribunal ”.

(3) Section 21CD(3) is repealed.

(4) Section 21CD(4) is amended by deleting “Board” in both places where it occurs and inserting instead —

15

“ Tribunal ”.

743. Section 21G amended

After section 21G(1) the following subsection is inserted —

“

20

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

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

(i) investigations and inquiries undertaken by, or at the direction of, the Board;

(ii) matters that have been referred to the professional standards committee; and

25

(iii) matters that have been brought before the State Administrative Tribunal by the Board;

(b) the number and nature of matters referred to in paragraph (a) that are outstanding;

- 5
- (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the operation of the Board.

”.

744. Section 22 amended

- 10
- (1) Section 22(2) is repealed.
 - (2) Section 22(3) is repealed and the following subsection is inserted instead —

“

- 15
- (3) All —
 - (a) fees paid under this Act or the rules; and
 - (b) fines imposed by the Board or the professional standards committee under this Act or the rules that are paid to or recovered by the Board,

shall be credited to the Board.

20

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 82 Medical Act 1894

s. 745

745. Section 22A inserted

After section 22 the following section is inserted —

“

22A. Constitution of State Administrative Tribunal under this Act

5

(1) For the purpose of exercising jurisdiction conferred by or under this Act, the State Administrative Tribunal is to be constituted by 4 members being —

10

(a) one person who is a legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2003*;

(b) 2 persons who are medical practitioners with extensive or special experience as medical practitioners; and

15

(c) one person who is not a medical practitioner but is familiar with the interests of medical practitioners or has knowledge and experience enabling understanding of those interests.

20

(2) Despite subsection (1), if the President is satisfied that it is appropriate to do so in particular circumstances, the President can specify that the Tribunal is to be constituted by 4 members as referred to in subsection (1) and a fifth member who is to be a person of a kind referred to in subsection (1)(a) or (c).

25

(3) The member referred to in subsection (1)(a) is to be the presiding member.

”.

Division 83 — Mental Health Act 1996

746. The Act amended

The amendments in this Division are to the *Mental Health Act 1996**.

5 [* Act No. 68 of 1996.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 239 and
Act No. 21 of 2003.*]

747. Section 3 amended

10 Section 3 is amended as follows:

- (a) by deleting the definitions of “Board”, “Mental Health Review Board”, “President” and “Registrar”;
- (b) by inserting in the appropriate alphabetical positions —

15 “**executive officer**” has the meaning given to that term
in section 3(1) of the *State Administrative Tribunal
Act 2003*;

20 “**legally qualified member**” has the meaning given to
that term in section 3(1) of the *State
Administrative Tribunal Act 2003*;

“**President**” means the President of the State
Administrative Tribunal;

”;

25 (c) in the definition of “legal practitioner” by deleting
“practitioner as defined in the *Legal Practitioners
Act 1893*” and inserting instead —

30 “
person admitted and entitled to practice as a
barrister and solicitor of the Supreme Court

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 83 Mental Health Act 1996

s. 748

748. Section 7 amended

Section 7(j) is amended by deleting “Mental Health Review Board” and inserting instead —

“ State Administrative Tribunal under this Act ”.

5 **749. Section 10 amended**

Section 10 is amended as follows:

(a) after paragraph (c) by inserting —

“

10 (ca) to enquire into any complaint made to him or her concerning any matter to do with the administration of this Act;

(cb) to enquire into any matter to do with the administration of this Act as directed by the Minister and report to the Minister on the results of the enquiry;

15

”;

(b) in paragraph (d) by deleting “Mental Health Review Board” and inserting instead —

“ Commissioner ”.

20 **750. Part 2 Division 5 repealed**

Part 2 Division 5 is repealed.

751. Section 76 amended

Section 76(6) is repealed.

752. Section 101 amended

Section 101(1)(b) is amended by deleting “Mental Health Review Board” and inserting instead —

“ State Administrative Tribunal ”.

5 **753. Section 102 amended**

(1) Section 102(1) is amended by deleting “Mental Health Review Board” and inserting instead —

“ State Administrative Tribunal ”.

(2) Section 102(2) is amended as follows:

10 (a) by deleting “Board to” and inserting instead —
“ State Administrative Tribunal to ”;

(b) in paragraph (b) by deleting “Board” in each place where it occurs and inserting instead —
“ Tribunal ”.

15 **754. Section 103 amended**

Section 103 is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

755. Section 106 amended

20 (1) Section 106(1) is amended by deleting “Mental Health Review Board” and inserting instead —

“ Chief Psychiatrist ”.

(2) Section 106(2) is amended as follows:

25 (a) by deleting “Board is” and inserting instead —
“ Chief Psychiatrist is ”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 83 Mental Health Act 1996

s. 756

- (b) by deleting “substitute its” and inserting instead —
“ substitute a ”;
- (c) by deleting “Board may” and inserting instead —
“ Chief Psychiatrist may ”;
- 5 (d) by deleting paragraph (c) and inserting instead —
“
- (c) apply under section 142(1)(a) to the State
Administrative Tribunal for review of whether
the involuntary patient should continue to be an
10 involuntary patient.
- ”.

756. Section 112 amended

- (1) Section 112(2)(b) is repealed and the following paragraph is
inserted instead —
- 15 “
- (b) apply for review under section 142(1)(a), (b),
(c), (d) or (e), as the Chief Psychiatrist thinks
fit.
- ”.
- 20 (2) Section 112(3) is repealed.

757. Section 115 amended

Section 115(b) is amended by deleting “Mental Health Review
Board” and inserting instead —

“ Chief Psychiatrist ”.

25 **758. Section 120 amended**

Section 120(d) is amended by deleting “Mental Health Review
Board” and inserting instead —

“ Chief Psychiatrist ”.

759. Section 124 amended

Section 124 is amended by deleting “Mental Health Review Board” and inserting instead —

“ Chief Psychiatrist ”.

5 **760. Heading to Part 6 amended**

The heading to Part 6 is amended by deleting “Mental Health Review Board” and inserting instead —

“ **State Administrative Tribunal** ”.

761. Heading to Part 6 Division 1 amended

10 The heading to Part 6 Division 1 is amended by deleting “Establishment and Administration” and inserting instead —

“ **Constitution and proceedings** ”.

762. Part 6 Division 1 Subdivision 1 repealed

Part 6 Division 1 Subdivision 1 is repealed.

15 **763. Heading to Part 6 Division 1 Subdivision 2 repealed**

The heading to Part 6 Division 1 Subdivision 2 is repealed.

764. Section 129 amended

(1) Section 129(1) is amended as follows:

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

20 “ State Administrative Tribunal ”;

(b) after “any matter” by inserting —

“ arising under this Act ”.

(2) Section 129(2) is amended as follows:

(a) after “particular matter” by inserting —

25 “ arising under this Act ”;

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Part 2 Various Acts amended to confer jurisdiction

Division 83 Mental Health Act 1996

s. 765

- (b) by deleting “Board is” and inserting instead —
“ State Administrative Tribunal is ”;
- (c) by deleting “Board specified” and inserting instead —
“ State Administrative Tribunal specified ”.

5 (3) Section 129(3) and (4) are repealed.

- (4) Section 129(5) is amended by deleting “legal practitioner” in both places where it occurs and inserting instead in both places —
“ legally qualified member ”.

10 **765. Section 130 amended**

- (1) Section 130(1) is amended by deleting “Board” and inserting instead —
“ State Administrative Tribunal ”.

(2) Section 130(2) is amended as follows:

- 15 (a) by deleting “Board is” and inserting instead —
“ State Administrative Tribunal is ”;
- (b) by deleting “Board specified” and inserting instead —
“ State Administrative Tribunal specified ”.

(3) Section 130(3) is repealed.

20 (4) Section 130(4) is repealed and the following subsection is inserted instead —

“

- (4) The members specified under subsection (2) are to include —

- 25 (a) a person who is a legally qualified member;
- (b) a person who has experience and qualifications in neurosurgery and who was appointed to the State Administrative Tribunal after consultation by the Minister administering the *State*

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction **Part 2**
Mental Health Act 1996 **Division 83**
s. 766

Administrative Tribunal Act 2003 with the
Minister administering the *Health Act 1911*
after that Minister has consulted with the Royal
Australasian College of Surgeons;

- 5 (c) 2 persons who are psychiatrists; and
(d) a person who is neither a legally qualified
member nor a medical practitioner.

”.

766. Section 131 repealed

10 Section 131 is repealed.

767. Heading to Part 6 Division 1 Subdivision 3 repealed

The heading to Part 6 Division 1 Subdivision 3 is repealed.

768. Sections 132, 133 and 134 repealed

Sections 132, 133 and 134 are repealed.

15 **769. Section 135 amended**

Section 135 is amended by deleting “Board” and inserting
instead —

“ State Administrative Tribunal ”.

770. Section 136 repealed

20 Section 136 is repealed.

771. Section 137 amended

Section 137 is amended as follows:

- (a) after “review” by inserting —
“ commenced under this Division ”;
25 (b) by deleting “Board” and inserting instead —
“ State Administrative Tribunal ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 83 Mental Health Act 1996

s. 772

772. Section 138 amended

- (1) Section 138(1) is amended by deleting “Board is” and inserting instead —

“

5 psychiatrist who made the order is to apply to the State
Administrative Tribunal

”.

- (2) Section 138(2) is amended by deleting “review is” and inserting instead —

“

10 psychiatrist is to ensure that the application is made in
sufficient time for the review

”.

- (3) After section 138(2) the following subsection is inserted —

“

15 (2a) The State Administrative Tribunal is to ensure that a
review under an application under this section is
carried out as soon as is practicable after the initial
order is made, and in any event not later than 8 weeks
20 after that time.

”.

773. Section 139 amended

- (1) Section 139(1) is amended as follows:

- (a) by deleting “Not later than 6 months after” and inserting
25 instead —

“ After ”;

- (b) by deleting “Board is ” and inserting instead —

“

30 the treating psychiatrist is to apply to the State
Administrative Tribunal

”.

(2) After section 139(1) the following subsections are inserted —

“

5 (1a) The treating psychiatrist is to ensure that the application is made in sufficient time for the further review to be carried out not later than 6 months after the review in respect of that person has been carried out under section 138 or this section.

10 (1b) The State Administrative Tribunal is to ensure that a review of a person under an application under this section is carried out not later than 6 months after the last review of that person has been carried out under section 138 or this section.

”.

774. Section 141 amended

15 (1) Section 141(1) is amended as follows:

- (a) by deleting “Board is required by” and inserting instead —
“ State Administrative Tribunal should under ”;
- (b) before “carry” by deleting “to”;
- 20 (c) by deleting “Board ” in the remaining 2 places where it occurs and inserting instead —
“ Tribunal ”;
- (d) by deleting “is required by that section to” and inserting instead —
25 “ should ”;
- (e) after “carried out” by inserting —
“ under that section ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 83 Mental Health Act 1996

s. 775

775. Section 142 amended

(1) Section 142(1) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

5 (2) Section 142(2) is amended as follows:

(a) by inserting after “may be made” —

“ under section 106 or 112 or ”;

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

“ State Administrative Tribunal ”.

10 (3) Section 142(3) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

776. Section 143 amended

Section 143 is amended as follows:

15 (a) by deleting “or the Board carries out a review of its own motion the Board” and inserting instead —

“ the Tribunal ”;

(b) by deleting “, or the review concluded”.

777. Section 144 repealed

20 Section 144 is repealed.

778. Section 145 amended

(1) Section 145(1) is amended as follows:

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

“

25 and the *State Administrative Tribunal Act 2003*, the
State Administrative Tribunal

”;

(b) after “before it” by inserting —
“ under this Act ”.

(2) Section 145(2) is amended by deleting “Board” and inserting
instead —

5 “ State Administrative Tribunal ”.

779. Section 146 replaced

Section 146 is repealed and the following section is inserted
instead —

“

10 **146. Complaints**

(1) Any person may make a complaint to the Director of
the Office of Health Review under the *Health Services
(Conciliation and Review) Act 1995* alleging failure to
15 recognise the rights given by this Act to an involuntary
patient.

(2) The complaint is to be dealt with under the *Health
Services (Conciliation and Review) Act 1995* as if it
were a complaint alleging a matter referred to in
20 section 25 of that Act.

”.

780. Sections 147 and 148 repealed

Sections 147 and 148 are repealed.

781. Heading to Part 6 Division 3 amended

25 The heading to Part 6 Division 3 is amended by deleting “, or
case stated by, Board” and inserting instead —

“ **State Administrative Tribunal** ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 83 Mental Health Act 1996

s. 782

782. Section 149 amended

(1) Section 149(1) is repealed.

(2) Section 149(2) is amended as follows:

(a) by deleting “other”;

5 (b) after “interest in” by deleting “the”;

(c) after “matter” by inserting —

“

in respect of which the State Administrative Tribunal
has made a decision or order

10

”.

(3) Section 149(3) is repealed.

783. Section 150 amended

Section 150 is amended as follows:

15 (a) by deleting “the appeal is made are to be clearly stated,
and may be” and inserting instead —

“

an appeal may be made against a decision of the State
Administrative Tribunal in the exercise of its
jurisdiction under this Act are

20

”;

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

“ State Administrative Tribunal ”.

784. Section 151 amended

25 Section 151 is amended as follows:

(a) after “An” by inserting —

“ application for leave to ”;

- (b) before “within” by deleting “brought” and inserting
instead —
“ made ”;
- (c) by deleting “Board” and inserting instead —
“ State Administrative Tribunal ”;
- (d) by deleting “appeal or”.

785. Section 152 amended

Section 152 is amended by deleting “Board” and inserting
instead —

“ State Administrative Tribunal ”.

786. Section 153 amended

Section 153 is amended as follows:

- (a) by deleting “Board,” and inserting instead —
“ State Administrative Tribunal, ”;

- (b) by deleting “Board or” and inserting instead —
“ Tribunal or ”.

787. Sections 154 and 155 repealed

Sections 154 and 155 are repealed.

788. Section 170 amended

- (1) Section 170(2) is amended by deleting “Mental Health Review
Board” and inserting instead —

“ State Administrative Tribunal ”.

- (2) Section 170(3) is amended by deleting “Board” and inserting
instead —

“ State Administrative Tribunal ”.

- (3) Section 170(4) is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 83 Mental Health Act 1996

s. 789

789. Section 171 amended

Section 171 is amended as follows:

- (a) by deleting “Board” in each place where it occurs and inserting instead —
5 “ State Administrative Tribunal ”;
- (b) after “next review” by inserting —
“ under this Act ”.

790. Section 203 amended

- (1) Section 203(1) is amended by deleting “Mental Health Review Board” and inserting instead —
10 “ State Administrative Tribunal ”.
- (2) Section 203(2) is amended by deleting “Board” and inserting instead —
“ State Administrative Tribunal ”.
- (3) Section 203(3) is repealed.
15
- (4) Section 203(4) is amended as follows:
 - (a) by deleting “Registrar” and inserting instead —
“ executive officer ”;
 - (b) by deleting “Board” and inserting instead —
20 “ State Administrative Tribunal ”.

791. Section 213 amended

Section 213(2) is amended by deleting

“ of —

(a) the Council of Official Visitors; or

(b) the Board,

for an act done by the Council or the Board ”

and inserting instead —

“

of the Council of Official Visitors for an act done by
the Council

”.

792. Section 215 amended

Section 215(1)(a) and (b) are amended by deleting “the Board
and”.

793. Schedule 1 repealed

Schedule 1 is repealed.

794. Schedule 2 amended

(1) The amendments in this section are to Schedule 2.

(2) The heading is amended by deleting “BOARD” and inserting
instead —

“ **STATE ADMINISTRATIVE TRIBUNAL** ”.

(3) The reference is amended by deleting “[Sections 133, 135, 136]
and inserting instead —

“ [s. 135] ”.

(4) Clauses 1 and 2 are repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 83 Mental Health Act 1996

s. 794

(5) Clause 3(1) is repealed and the following subclause is inserted instead —

“

5

(1) A party to proceedings before the State Administrative Tribunal commenced under this Act may appear personally unless the Tribunal, being of the opinion that the personal appearance of a person would be detrimental to the health of the person, orders that the person be represented.

”.

10

(6) Clause 3(2) is amended as follows:

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

“ State Administrative Tribunal ”;

(b) after “the” by deleting “Board” and inserting instead —

“ Tribunal ”.

15

(7) Clause 3(3), and its penalty, and clauses 4, 5, 6, 7, 8, 9, 10 and 11 are repealed.

(8) Clause 12(1) and (2) are amended by deleting “the Board” in each place where it occurs and inserting instead —

“the State Administrative Tribunal ”.

20

(9) Clause 13(1) is amended as follows:

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

“

25

State Administrative Tribunal commenced under this Act

”;

(b) in paragraphs (b) and (c) by deleting “Board” and inserting instead —

“

30

State Administrative Tribunal in proceedings commenced under this Act

”.

(10) Clause 13(2) is amended as follows:

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

“ State Administrative Tribunal ”;

(b) by deleting “to be dealt with by the Board” and inserting
instead —

“

commenced under this Act to be dealt with by the Tribunal

”.

(11) Clause 13(4) is amended as follows:

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

“ State Administrative Tribunal ”;

(b) by deleting “Board.” and inserting instead —

“ Tribunal. ”.

(12) Clause 13(5) is amended as follows:

(a) by deleting “or an order made under subclause (4)”;

(b) by deleting “\$2 000 or imprisonment for 6 months” and
inserting instead —

“ \$5 000 ”.

(13) Clauses 14, 15 and 16 are repealed.

**Division 84 — Metropolitan Region Town Planning Scheme
Act 1959**

795. The Act amended

The amendments in this Division are to the *Metropolitan Region
Town Planning Scheme Act 1959**.

[* *Reprinted as at 7 September 2001.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 244-5
and Act No. 24 of 2002.]*

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 84 Metropolitan Region Town Planning Scheme Act 1959

s. 796

796. Section 32A amended

Section 32A(2) is amended as follows:

- (a) by deleting “an appeal” and inserting instead —
“ an application ”;
- 5 (b) by deleting “Town Planning Appeal Tribunal” and inserting instead —
“ State Administrative Tribunal ”.

797. Section 35F amended

(1) Section 35F(1) is amended as follows:

- 10 (a) by deleting “appeal against that approval or refusal under” and inserting instead —
“
15 apply to the State Administrative Tribunal for a review,
in accordance with
”;
- (b) after “Act” by inserting —
“ , of that approval or refusal ”.

(2) Section 35F(2) is amended as follows:

- 20 (a) by deleting “appeal” and inserting instead —
“ application ”;
- (b) after “subsection (1)” by inserting —
“ for a review ”;
- (c) by deleting “section 56” and inserting instead —
“ section 61 ”;
- 25 (d) by deleting “thereto” and inserting instead —
“ to the application referred ”.

798. Section 36 amended

Section 36(2b)(b) is deleted and the following paragraph inserted instead —

- “
- 5 (b) by the State Administrative Tribunal on the owner of the land applying to it for a determination of that value;
- ”.

799. Section 43 amended

10 (1) Section 43(3) is amended as follows:

- (a) by deleting “this section may appeal under” and inserting instead —

“

15 subsection (1) or (2) may apply to the State Administrative Tribunal for a review in accordance with

”;

- (b) by deleting “against” and inserting instead —
“ of ”.

20 (2) Section 43(3a) is amended as follows:

- (a) by deleting “If the Town Planning Appeal Tribunal” and inserting instead —

“ If the State Administrative Tribunal ”;

25 (b) by deleting “Town Planning Appeal Tribunal may” and inserting instead —

“ it may ”.

(3) Section 43(4) is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 85 Metropolitan Water Authority Act 1982

s. 800

(4) Section 43(5) is amended as follows:

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

“

(ii) apply under subsection (3) for a review of any of the directions;

”;

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

“

(b) on an application by an owner of any land for a review of a direction specified in a notice served on the owner under subsection (1), the direction is confirmed or varied and the owner fails to carry out the direction as confirmed or varied within the time specified by the State Administrative Tribunal in the notice given under subsection (3a),

”.

Division 85 — Metropolitan Water Authority Act 1982

800. The Act amended

The amendments in this Division are to the *Metropolitan Water Authority Act 1982**.

[* Reprinted as at 21 January 2000.]

801. Section 4 amended

Section 4(2) is amended by deleting the definition of “Land Valuation Tribunal”.

802. Heading to Part IV amended

The heading to Part IV is amended by deleting “appeals” and inserting instead —

“ review ”.

803. Section 43 amended

- (1) Section 43(1) is amended by deleting “appeal” and inserting
instead —
“ review ”.
- 5 (2) Section 43(2a) is amended by deleting “appeal to the Land
Valuation Tribunal against the decision on that objection” and
inserting instead —
“
10 reference of the decision on that objection to the State
Administrative Tribunal for a review
”.
- (3) Section 43(9) is amended by deleting “an appeal against the
decision may be made” and inserting instead —
“ a review of the decision may be sought ”.
- 15 (4) Section 43(10) is amended by deleting “treat the objection as an
appeal against the relevant assessment” and inserting instead —
“
20 refer the relevant assessment to the State
Administrative Tribunal for a review
”.
- (5) Section 43(11) is amended by deleting “objection to a Land
Valuation Tribunal under the *Land Valuation Tribunals
Act 1978*” and inserting instead —
“
25 relevant assessment to the State Administrative
Tribunal for a review
”.
- (6) After section 43(11) the following subsection is inserted —
“
30 (11a) The Corporation is to effect the reference by
forwarding the notice to the executive officer of the

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 85 Metropolitan Water Authority Act 1982

s. 803

State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- 5 (a) the relevant assessment; and
(b) the reasons, if any, for the assessment.

”.

- 10 (7) Section 43(12) is amended by deleting “treat an objection as an appeal, may serve on the Corporation a notice requiring the Corporation to refer the decision to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal” and inserting instead —

“

- 15 refer the relevant assessment to the State Administrative Tribunal for a review, may serve on the Corporation a notice requiring the Corporation to refer the decision to refuse to extend time to the State Administrative Tribunal for a review

”.

- 20 (8) Section 43(13) is amended by deleting “to a Land Valuation Tribunal as an appeal” and inserting instead —

“ the State Administrative Tribunal for a review ”.

- (9) After section 43(13) the following subsection is inserted —

“

- 25 (13a) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

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

”.

(10) Section 43(14) is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by deleting “or appeal”.

(11) Section 43(15) is amended by deleting “or an appeal” and
inserting instead —

“

or in consequence of a review by the State
Administrative Tribunal,

”.

(12) Section 43(16) is amended as follows:

- (a) by deleting “, in consequence of the allowance, wholly or in part, of an objection or an appeal, whether in respect of an assessment in relation to any land or in respect of the use of land for residential purposes,”;
- (b) after “necessary” by inserting —
“ under subsection (15) ”.

804. Sections 44 and 45 inserted

After section 43 the following sections are inserted —

“

44. New matters raised on review

(1) Upon a review by the State Administrative Tribunal on a reference under section 43(11) or (13), the State Administrative Tribunal may consider —

- (a) grounds in addition to those stated in the notice of objection; and
- (b) reasons in addition to any reasons previously given for the Corporation’s decision that is under review.

(2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable

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Part 2 Various Acts amended to confer jurisdiction

Division 86 Metropolitan Water Supply, Sewerage, and Drainage Act 1909
s. 805

opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

5 **45. Written reasons for certain determinations to be given and published**

10 (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 43(11) or (13) is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.

15 (2) This section is in addition to the provisions of the *State Administrative Tribunal Act 2003*.

”.

Division 86 — Metropolitan Water Supply, Sewerage, and Drainage Act 1909

805. The Act amended

20 The amendments in this Division are to the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909**.

[* Reprinted as at 29 January 1999.]

806. Section 57D amended

25 (1) Section 57D(1) is amended by deleting “appeal to a Local Court established under the *Local Courts Act 1904* held at any place within the Area against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

(2) Section 57D(2), (3), (4) and (5) are repealed.

807. Section 57G amended

5 Section 57G(7) is amended by deleting “appeal against the
decision, and the provisions of section 57D shall, with such
modifications as circumstances require, apply to an in relation
to, the appeal” and inserting instead —

“

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

”.

10 **808. Section 152 amended**

Section 152(2) is amended by deleting all of the subsection after
“equitable basis” and inserting instead a full stop.

Division 87 — Midland Redevelopment Act 1999

809. The Act amended

15 The amendments in this Division are to the *Midland
Redevelopment Act 1999**.

[* *Act No. 38 of 1999.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 249 and
Act No. 24 of 2002.]*

20

810. Section 52 amended

(1) Section 52(1) is amended as follows:

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

“

25 apply to the State Administrative Tribunal for a review

”;

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

“ of ”.

(2) Section 52(2) is repealed.

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Part 2 Various Acts amended to confer jurisdiction

Division 87 Midland Redevelopment Act 1999

s. 811

811. Section 54 amended

- (1) Section 54(2) is amended by deleting “appeal under Part V of the Town Planning Act against” and inserting instead —

“

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

”.

- (2) Section 54(3) is amended by deleting “appeal” and inserting instead —

10

“ application ”.

- (3) Section 54(4) is amended as follows:

- (a) by deleting “Town Planning Appeal Tribunal” in the first place where it occurs and inserting instead —

15

“ State Administrative Tribunal ”;

- (b) by deleting “the Town Planning Appeal Tribunal” in the second place where it occurs and inserting instead —

“ it ”.

- (4) Section 54(6) is amended as follows:

20

- (a) by deleting “in any court of competent jurisdiction”;

- (b) by deleting “it in so doing” and inserting instead —

“

the Authority in so doing as a debt in a court of
competent jurisdiction

25

”.

Division 88 — Motor Vehicle Dealers Act 1973

812. The Act amended

The amendments in this Division are to the *Motor Vehicle Dealers Act 1973**.

5 [* Reprinted as at 14 November 1996.]

813. Section 6 amended

(1) Section 6(1) is amended as follows:

- (a) by deleting “any of the provisions of sections 19 to 23A,
24 and 25,” and inserting instead —
10 “ section 25 ”;
- (b) by deleting “those sections apply” and inserting
instead —
“ that section applies ”;
- (c) by deleting “those sections made” and inserting
15 instead —
“ that section made ”.

(2) Section 6(2) is repealed.

814. Sections 13A to 13D inserted

After section 13 the following sections are inserted —

20 “

13A. Powers of investigation

- (1) The Board may make any inquiry that the Board
considers necessary or expedient for the purposes of —
25 (a) determining any application or any other matter
before the Board;
(b) determining whether or not a licensed or
registered person is or has been complying with
the requirements of this Act;

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Division 88 Motor Vehicle Dealers Act 1973

s. 814

- (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.
- 5 (2) The Board may designate a person who is made available for performing functions under this Act to be an investigator to carry out an inquiry and report to the Board under this section.
- (3) The investigator may —
 - 10 (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,
 - 15 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
 - 20 (d) make a copy or abstract of any document produced or inspected under this section, or of any entry made in the document.
- 25 (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;
 - 30 (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

-
- 5 (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
10 statutory declaration for which purpose
the investigator may administer an oath
or affirmation and have the authority of
a commissioner for declarations.
- 15 (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
20 produced —
 - (i) at any place specified in the
requirement; and
 - (ii) by any means specified in the
requirement.
- 25 (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.
- 30 (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

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Part 2 Various Acts amended to confer jurisdiction

Division 88 Motor Vehicle Dealers Act 1973

s. 814

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 —

- 5 (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
- 10 (b) shall display to the person, if any, giving the investigator entry, a document executed by the Board and certifying that the person is designated as an investigator by the Board.

15 **13B. Incriminating information, questions, or documents**

Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 13A a person is required to —

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

25 he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate the person or render the person liable to any penalty, but the information or answer given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 13C(1)(b).

13C. Failure to comply with investigation

- 5 (1) Where under section 13A a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
- (a) fails to give that information or answer that question at or within the time specified in the requirement;
- 10 (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.

- 15 (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 13A, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
- 20 (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 13A, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
- 25 (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
- 30

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Part 2 Various Acts amended to confer jurisdiction

Division 88 Motor Vehicle Dealers Act 1973

s. 815

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

13D. Obstruction of investigator

10 A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 13A.

Penalty: \$2 000.

”.

815. Section 14 repealed

Section 14 is repealed.

15 **816. Section 18 amended**

(1) Section 18(1) is amended as follows:

(a) by inserting after “authorisation, if” —
“ , in the opinion of the Board, ”;

20 (b) by deleting “order” and inserting instead —
“ allegation ”.

(2) Section 18(1a) is amended by deleting paragraph (a) and “and” after it.

(3) Section 18(1b) is repealed.

817. Section 18A amended

25 Section 18A(6) is repealed.

818. Section 19A amended

- (1) After section 19A(2) the following subsection is inserted —

“

- (3) Despite the surrender by a person of an authorisation,
this Act applies, for the purpose of enabling the person
to be investigated or otherwise dealt with for a matter
arising before the surrender, as if the authorisation had
not been surrendered.

”.

819. Section 20 amended

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

- (a) by deleting “make one or more of the orders authorised
by section 20A in respect of a person if the person has
been found by the Board” and inserting instead —

“

allege to the State Administrative Tribunal that a
person

”;

- (b) in paragraph (a) by deleting “to have” and inserting
instead —

“ has ”;

- (c) in paragraph (b) —

- (i) by deleting “to have” and inserting instead —

“ has ”;

- (ii) by deleting “where in the opinion of the Board
the act, omission or conduct” and inserting
instead —

“ that ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 88 Motor Vehicle Dealers Act 1973

s. 819

(2) Section 20(2) is amended as follows:

(a) by deleting “make an order disqualifying” and inserting instead —

“

5 by notice in writing to the person concerned disqualify ”;

(b) by deleting “the person or persons has or have been found by the Board” and inserting instead —

“

10 , in the opinion of the Board, the person or persons has or have

”;

(c) in paragraph (c) by deleting “not to have sufficient” and inserting instead —

15 “ insufficient ”;

(d) in paragraph (d) by deleting “to have”.

(3) Section 20(3) is amended by deleting “make an order revoking” and inserting instead —

“

20 , by notice in writing to the holder of the authorisation, revoke

”.

(4) Section 20(4) is amended by deleting “make an order under this section of its own motion” and inserting instead —

25 “ give a notice under this section of its own initiative ”.

(5) Section 20(5) is amended as follows:

(a) by deleting “make an order” and inserting instead —

“ give a notice ”;

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

- (c) in paragraph (b) by deleting “order should not be made”
and inserting instead —
“ notice should not be given ”.

820. Section 20A amended

- 5 (1) Section 20A(1) is repealed and the following subsection is
inserted instead —

“

- 10 (1) In a proceeding commenced by an allegation under
section 20(1) the State Administrative Tribunal may, if
the matter alleged is established, make any order
provided for by this section.

”.

- (2) Section 20A(4) is amended by deleting “to the Board”.

- 15 (3) Section 20A(7)(b) is amended by deleting “Board” and inserting
instead —

“ State Administrative Tribunal ”.

821. Section 20C replaced

Section 20C is repealed and the following section is inserted
instead —

20 “

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

- 25 (1) Where the State Administrative Tribunal makes an order
against the holder of an authorisation and payment is
not made in accordance with the order or the order is
otherwise not complied with or is breached, the State
Administrative Tribunal may suspend the authorisation
until the payment is made, or for such period or upon
30 such event occurring as the State Administrative
Tribunal thinks fit.

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Part 2 Various Acts amended to confer jurisdiction

Division 88 Motor Vehicle Dealers Act 1973

s. 822

- (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 2003*.

5

”.

822. Section 20D amended

Section 20D(1) is repealed.

823. Section 22 replaced

Section 22 is repealed and the following section is inserted instead —

10

“

22. Application for review

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

15

- (2) In subsection (1) —

“**person aggrieved**” means —

- (a) a person who applies for the grant, or renewal of an authorisation;
- (b) a person who applies for —
- (i) the authorisation of premises under section 20E or 21A;
- (ii) the grant of an approval under section 20F or 21B; or
- (iii) the grant of a temporary permit under section 20H;

20

25

or

- (c) a person whose authorisation or temporary permit under section 20H is affected by a reviewable decision;

30

“reviewable decision” means a decision of the Board —

- 5 (a) refusing an application for —
(i) an authorisation; or
(ii) the renewal of an authorisation;
- 10 (b) refusing —
(i) to authorise premises under section 20E or 21A;
(ii) to grant an approval under section 20F or 21B; or
(iii) to grant a temporary permit under section 20H;
- 15 (c) in exercise of its powers under section 20(2) or (3);
(d) in exercise of its powers in relation to conditions and restrictions under section 18A or 20H;
- 20 (e) revoking a temporary permit under section 20H(4); or
(f) refusing to approve of a change submitted to it under section 23.

”.

824. Section 22A amended

Section 22A(1) is amended as follows:

- 25 (a) by deleting “the Board’s order,” and inserting instead —
“ that decision, ”;
- (b) by deleting “Local Court” and inserting instead —
“ State Administrative Tribunal ”.

825. Section 32O amended

30 Section 32O(4), (5) and (6) are repealed.

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Part 2 Various Acts amended to confer jurisdiction

Division 88 Motor Vehicle Dealers Act 1973

s. 826

826. Section 37B amended

Section 37B(2) is amended by deleting all of the subsection after “section 37 may” and inserting instead —

“

5 apply to the State Administrative Tribunal for a review of the determination or order.

”.

827. Section 38 amended

Section 38(2) is amended as follows:

- 10 (a) by deleting “an appeal made pursuant to subsection (2) of section 37B and”;
- (b) in paragraph (b) by deleting “and section 37B” and “or appeal”.

828. Section 51 amended

15 After section 51(1) the following subsection is inserted —

“

- (1a) The annual report is to include details of —
- (a) the number, nature, and outcome, of —
- 20 (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;
- 25 (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
- 30 (e) any proposals for improving the performance of the Board’s functions.

”.

829. Various references to “District Court” amended

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

“ State Administrative Tribunal ”.

5

Table

- s. 32K(1) (3 places)
- s. 32K(2)(a) and (b)
- s. 32K(4)
- s. 32L(1) (3 places)
- s. 32L(2)
- s. 32L(3) (both places)
- s. 32M(1) and (2)
- s. 32N(1) (both places)
- s. 32N(3) and (4)

Division 89 — Motor Vehicle Drivers Instructors Act 1963

830. The Act amended

The amendments in this Division are to the *Motor Vehicle Drivers Instructors Act 1963**.

10

[* Reprinted 8 February 2002.]

831. Section 10 amended

- (1) Section 10(2)(a) is amended by deleting “in the prescribed manner appeal to a Court of Petty Sessions against” and inserting instead —

15

“

apply to the State Administrative Tribunal for a review of

”.

- (2) Section 10(2)(b) is deleted.

20

- (3) Section 10(3), (4) and (5) are repealed.

Division 90 — Nurses Act 1992

832. The Act amended

The amendments in this Division are to the *Nurses Act 1992**.

[* *Reprinted as at 18 May 1994.*]

5

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 268 and
Act No. 9 of 2003.*]

833. Section 4 amended

10

Section 4 is amended by deleting the definition of “formal inquiry”.

834. Section 20 amended

After section 20(6) the following subsection is inserted —

“

15

(7) The annual report of the professional standards committee and the registration review committee is to include details of —

20

- (a) the number, nature, and outcome, of investigations undertaken by the committee;
- (b) the number and nature of investigations referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the committee in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the committee.

25

”.

835. Section 37 amended

Section 37 is amended by deleting “inquiry” and inserting instead —

“ proceedings ”.

5 **836. Section 43 amended**

After section 43(2) the following subsection is inserted —

“

10 (2a) The Board cannot grant an application under subsection (2) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

837. Section 44 amended

After section 44(2) the following subsection is inserted —

15 “

(3) The Board cannot to any extent revoke a suspension that was imposed to give effect to an order of the State Administrative Tribunal under section 69 unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

838. Section 54 amended

Section 54(1) is amended as follows:

- 25 (a) in paragraph (b) by deleting “pecuniary penalties,”;
(b) in paragraph (b) by deleting “, 69”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 90 Nurses Act 1992

s. 839

839. Section 57 amended

After section 57(1) the following subsection is inserted —

“

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

5

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

(i) investigations and inquiries undertaken by, or at the direction of, the Board or a committee appointed by it; and

10

(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;

15

(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

20

(e) any proposals for improving the operation of the Board.

”.

840. Section 59 amended

Section 59 is amended by deleting the definition of “affected person” and inserting the following definition instead —

25

“

“**affected person**” means a person to whom a complaint, investigation or proceeding relates or in respect of whom the Board has grounds under section 60(1) to appoint an investigator;

30

”.

841. Sections 59A to 59C inserted

After section 59 the following sections are inserted —

“

59A. Interim orders of Board

5 The Board may deal under sections 59B and 59C with
a matter notwithstanding that —

- (a) the Board is already dealing with the matter
under this Act, either directly or as part of
another matter; or
- 10 (b) a complaint about the same matter, or a
complaint elements of which include the same
matter, has been made under the *Health
Services (Conciliation and Review) Act 1995* or
is being treated as a complaint that was made
15 under that Act.

**59B. Order to cease activity or interim restriction on
practice**

- (1) If the Board is of the opinion that an activity of an
affected person involves or will involve —
- 20 (a) a risk of imminent injury or harm to the
physical or mental health of any person; or
- (b) a contravention or likely contravention of a
provision of this Act,
- the Board may, without further inquiry, do any or all of
25 the following —
- (c) deliver to the affected person who is carrying
on that activity an order prohibiting the
carrying on of the activity for a period of not
more than 30 days;
- 30 (d) deliver to the affected person an order to
comply, for a period of not more than 30 days,

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Part 2 Various Acts amended to confer jurisdiction

Division 90 Nurses Act 1992

s. 841

with such conditions and restrictions as the Board thinks fit in relation to the practice of nursing by that person; or

- 5 (e) deliver to the affected person an order suspending the person from the practice of nursing, either generally or in relation to any specified circumstances or service, for a period of not more than 30 days.
- 10 (2) An order made under subsection (1) must —
- (a) state that the Board is of the opinion that the activity of the affected person involves or will involve a risk of imminent injury or harm to the physical or mental health of any person or a contravention or likely contravention of a provision of this Act;
- 15 (b) specify the activity that in the Board's opinion involves or will involve the risk or contravention and the matters that give or will give rise to the risk or contravention; and
- 20 (c) advise that, within 14 days of the making of the order, the Board will revoke the order or make an allegation about the matter to the State Administrative Tribunal.
- 25 (3) The Board may, by order given to the person to whom the order made under subsection (1) was given, revoke or vary an order made under subsection (1) at any time before making an allegation about the matter to the State Administrative Tribunal under section 59C.
- 30 (4) The person against whom an order is made under subsection (1) may apply to the State Administrative Tribunal for a review of any order made under this section.

59C. What happens after making section 59B order

- 5 (1) Within 14 days of making an order under section 59B(1), if that order is not revoked under section 59B(3), the Board must make an allegation to the State Administrative Tribunal about the matter in respect of which the order was made.
- 10 (2) Upon an allegation made under subsection (1) the State Administrative Tribunal may, in addition to any other order it may make, affirm or revoke an order under section 59B(1) or vary the order by extending the period for which it applies or in any other respect.

”.

842. Section 60 amended

Section 60(1) is amended as follows:

- 15 (a) after paragraph (c) by inserting —
“ or ”;
- (b) by deleting paragraph (d) and “or” after it.

843. Section 63 amended

- 20 (1) Section 63(1)(b) is deleted and the following paragraph is inserted instead —

“

- (b) make an allegation about the matter to the State Administrative Tribunal.

”.

- 25 (2) Section 63(2) is amended by deleting “proceedings by way of a formal inquiry” and inserting instead —

“

having an allegation about the matter made to the State Administrative Tribunal

30

”.

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Part 2 Various Acts amended to confer jurisdiction

Division 90 Nurses Act 1992

s. 844

844. Section 64 amended

- (1) Section 64(2)(g) is deleted and the following paragraph is inserted instead —

“

5

- (g) to make an allegation about the matter to the State Administrative Tribunal.

”.

- (2) Section 64(3) is amended by deleting “does” and inserting instead —

10

“ do ”.

845. Sections 65 to 68 repealed

Sections 65, 66, 67 and 68 are repealed.

846. Section 69 amended

Section 69 is amended as follows:

15

- (a) by deleting “Where the committee reports to the Board under section 68 that a situation referred to in section 61 exists or has occurred in respect of a person, the Board may do any, or a combination of any, of the following — ” and inserting instead —

20

“

The State Administrative Tribunal may, in dealing with an allegation made to it under this Part —

”;

- (b) in paragraph (d) by deleting “to the Board”;

25

- (c) after paragraph (e) by deleting the full stop and inserting a semicolon;

- (d) after paragraph (e) by inserting —

“

30

- (f) if it is appropriate, do more than one of those things.

”.

847. Section 70 amended

- (1) Section 70(1) is repealed.
- (2) Section 70(2) is repealed and the following subsection is inserted instead —

5 “

(2) Where the Board under section 60(1)(e), the committee under section 64(2)(a) or the State Administrative Tribunal under section 69(a), declines to take any action under this Part in respect of a person the Board ,

10 the committee or the Tribunal may make a statement exonerating that person.

”.

- (3) Section 70(3) is amended by deleting “exercise any power under this Part in respect of” and inserting instead —

15 “

recommend to the Board that it make an allegation to the State Administrative Tribunal about

”.

- (4) Section 70(4) is repealed.

20 **848. Section 71 amended**

- (1) Section 71(1) is amended by deleting “(1) or”.
- (2) Section 71(2) is repealed.

849. Section 73 amended

- (1) Section 73(1) is amended as follows:

- 25 (a) by deleting “Board or the”;
- (b) by deleting “or 69”;
- (c) by deleting “or inquiry”;
- (d) by deleting “Board” and inserting instead —
- “ committee ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 90 Nurses Act 1992

s. 850

(2) Section 73(4) is amended by deleting “monetary penalty,”.

850. Section 74 amended

Section 74(1) is amended by inserting after “an order which the Board” —

5 “ or the State Administrative Tribunal ”.

851. Section 76 amended

Section 76 is amended by deleting “inquiry” and inserting instead —

“ proceeding ”.

10 **852. Section 77 amended**

Section 77(2)(a) is amended by deleting “69,”.

853. Section 78 replaced

Section 78 is repealed and the following section is inserted instead —

15 “

78. Review

A person who is aggrieved by a decision referred to in section 77(2) may apply to the State Administrative Tribunal for a review of the decision.

20

”.

854. Section 82 amended

Section 82(2)(f) is amended by deleting “and inquiries”.

Division 91 — Occupational Therapists Registration Act 1980

855. The Act amended

The amendments in this Division are to the *Occupational Therapists Registration Act 1980* *.

5 [* Reprinted as at 6 December 2002.]

856. Section 9 amended

Section 9(1) is amended as follows:

(a) in paragraph (e) by inserting after “this Act” —

10 “ other than for commencing a proceeding before
the State Administrative Tribunal ”;

(b) by deleting paragraph (g) and inserting instead —

15 “ (g) regulating the manner of making to the Board
any complaint against or concerning any
occupational therapist;
”.

857. Section 15 amended

20 After section 15(1) the following subsection is inserted —

“
(1aa) The Board cannot revoke or vary a condition that gives
effect to an order of the State Administrative Tribunal
unless it has applied for, and obtained, the approval of
25 the State Administrative Tribunal to do so.
”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 91 Occupational Therapists Registration Act 1980

s. 858

858. Section 17 amended

Section 17(1) is amended by inserting after “investigation” —
“ or proceedings in the State Administrative Tribunal ”.

859. Section 21 amended

5 (1) Section 21(1) is amended by inserting after “pursuant to” —
“ an order of the State Administrative Tribunal under ”.

(2) After section 21(1) the following subsection is inserted —

“

10 (1aa) The Board cannot grant an application under
subsection (1) unless it has applied for, and obtained,
the approval of the State Administrative Tribunal to
do so.

”.

860. Section 23 amended

15 After section 23(3) the following subsection is inserted —

“

20 (4) The Board cannot to any extent revoke a suspension
that was imposed to give effect to an order of the State
Administrative Tribunal unless it has applied for, and
obtained, the approval of the State Administrative
Tribunal to do so.

”.

861. Section 27A amended

After section 27A(1) the following subsection is inserted —

25 “

(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;
- 5 (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;
- 10 (d) forecasts of the workload of the Board in the
year after the year to which the report relates;
and
- (e) any proposals for improving the operation of
the Board.

”.

862. Part IVA inserted

15 After section 27A the following Part heading and sections are
inserted —

“

Part IVA — Investigation

27B. Investigator

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

27C. Report of investigator

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

27D. Powers of investigator

- (1) An investigator may for the purposes of an investigation —
- (a) enter and inspect the premises of a person named in a warrant issued under section 27F(1), and exercise the powers referred to in section 27F(2)(b) and (c);
 - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
 - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
 - (d) require a person —
 - (i) to give the investigator such information as the investigator requires; and

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

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Part 2 Various Acts amended to confer jurisdiction

Division 91 Occupational Therapists Registration Act 1980

s. 862

- 5
- (ii) be given at or sent or delivered to a place specified in the requirement;
- (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
- (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- 10
- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.
- 15

27E. Warrant to enter premises

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of investigating a matter that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- 20
- (2) An application for a warrant must —
- 25
- (a) be in writing;
- (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of investigating a matter that may involve a threat to the physical or mental health of a person;
- 30
- (c) set out the grounds for seeking the warrant; and

- (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
- 5 (a) the application does not comply with the requirements of this Act; or
- (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- 10 (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

27F. Issue of warrant

- 15 (1) A magistrate to whom an application is made under section 27E may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- 20 (2) A warrant under subsection (1) authorises the investigator —
- (a) to enter and inspect the premises named in the warrant;
- 25 (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
- 30 (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).

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Division 91 Occupational Therapists Registration Act 1980

s. 863

- 5 (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
 - (b) the name of the person to whom the warrant is issued; and
 - 5 (c) a description of the premises that may be entered.
- 10 (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

27G. Execution of warrant

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

”.

863. Section 28 amended

- 25 (1) Section 28(1) is amended as follows:
- (a) by deleting “, after an inquiry of the kind referred to in section 31,”;

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Various Acts amended to confer jurisdiction **Part 2**
Occupational Therapists Registration Act 1980 **Division 91**
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- (b) by deleting all of the subsection after “may” and
inserting instead —

“

5

allege to the State Administrative Tribunal that there
are grounds for the Tribunal to make an order under
this section and the Tribunal may order that his name
shall be struck off the Register.

”.

- (2) Section 28(2) is amended as follows:

10

- (a) by deleting “, after an inquiry of the kind referred to in
section 31, the Board” and inserting instead —

“ the Tribunal ”;

- (b) by deleting “Board may” and inserting instead —

“ Tribunal may ”;

15

- (c) in paragraph (a) —

- (i) by deleting “suspend that person” and inserting
instead —

“ order that the person be suspended ”; and

- (ii) by inserting after “12 months” —

20

“ specified in the order ”;

- (d) in paragraph (b) —

- (i) by deleting “to the Board”; and

- (ii) by deleting “Board” in the second place where it
occurs and inserting instead —

25

“ Tribunal ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 91 Occupational Therapists Registration Act 1980

s. 864

(3) Section 28(3) is amended as follows:

- (a) by deleting “the holding of a formal inquiry is not warranted by the nature of the allegations the Board, after affording to” and inserting instead —

5

“

an allegation about a matter to the State Administrative Tribunal is not warranted by the nature of the matter, after affording

”;

10

- (b) by deleting “the option thereafter of proceedings by way of an inquiry of the kind referred to in section 31,”;

- (c) Section 28(5) is amended by inserting after “are ordered” —

“ by the Board ”.

15

864. Section 28A inserted

After section 28 the following section is inserted —

“

28A. Suspension of licence by State Administrative Tribunal

20

- (1) Where the State Administrative Tribunal makes an order against an occupational therapist and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may order that the person be suspended from the practice of occupational therapy until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

25

30

- (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 2003*.

”.

865. Section 29 amended

- (1) Section 29(1) is amended by deleting all of the subsection after “the undertaking,” and inserting instead —

“

5 make an allegation under section 28 to the State
 Administrative Tribunal about the matter that gave rise to
 the undertaking being given to the Board.

”.

- (2) Section 29(2) is repealed.

10 **866. Section 31 repealed**

Section 31 is repealed.

867. Section 32 amended

Section 32(c) is amended by inserting after “disciplinary powers” —

15 “ under section 28(3) ”.

868. Section 33 replaced

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

“

20 **33. Review**

 A person aggrieved by an order of the Board, or by the
 refusal of an application to the Board for registration or
 restoration to the Register, or as to any limitation,
 restriction or condition imposed, may apply to the State
25 Administrative Tribunal for a review of the order,
 refusal, limitation, restriction or condition.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 92 Optical Dispensers Act 1966

s. 869

869. Section 34 amended

Section 34(1) is amended by inserting after “which the Board” —

“ or the State Administrative Tribunal ”.

5 **870. Section 38 amended**

Section 38(d) is amended by deleting “or any inquiry,”.

Division 92 — *Optical Dispensers Act 1966*

871. The Act amended

10 The amendments in this Division are to the *Optical Dispensers Act 1966**.

[* Reprinted as at 21 January 1986.]

872. Section 3 amended

Section 3 is amended by inserting before the definition of “licence” the following definition —

15

“

“**chief executive officer**” means the chief executive officer under the *Public Sector Management Act 1994* of the department principally assisting the Minister with the administration of this Act;

20

”.

873. Section 5 amended

(1) Section 5(1) is amended by deleting “Permanent Head” and inserting instead —

“ chief executive officer ”.

- (2) Section 5(2) is repealed and the following subsection is inserted instead —

“

5

- (2) Where the chief executive officer is satisfied that an applicant for a licence is of good character and that the chief executive officer shall issue to the applicant a licence, in the prescribed form, to carry out optical dispensing, except in relation to haptic lenses.

10

”.

- (3) Section 5(3) is repealed.

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

- (a) by deleting “of the Permanent Head” and inserting instead —

15

“ of the chief executive officer ”;

- (b) by deleting “, by notice in writing stating the grounds of his appeal, appeal to the Minister against that refusal, and the Minister may, as he thinks fit, confirm the refusal or direct the Permanent Head to issue a licence to that person” and inserting instead —

20

“

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

”.

25 **874. Section 6 amended**

Section 6(1) is amended by deleting “Permanent Head” in each place where it occurs and inserting instead —

“ chief executive officer ”.

875. Sections 6A to 6F inserted

After section 6 the following sections are inserted —

“

6A. Investigator

- 5 (1) If the chief executive officer has reason to investigate any matter relevant to the performance of the chief executive officer's functions under this Act, the chief executive officer may designate a person employed in the chief executive officer's department to investigate the matter and report to the chief executive officer.
- 10 (2) The chief executive officer is to issue to each person designated a certificate in an approved form of that person's designation as an investigator.
- 15 (3) A certificate purporting to have been issued under this section is evidence in any court of the designation to which the certificate purports to relate.

6B. Report of investigator

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

6C. Powers of investigator

(1) An investigator may for the purposes of an investigation —

- 5 (a) enter and inspect the premises of a person named in a warrant issued under section 6E(1), and exercise the powers referred to in section 6E(2)(b) and (c);
- 10 (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
- 15 (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
- 20 (d) require a person —
(i) to give the investigator such information as the investigator requires; and
(ii) to answer any question put to that person,
in relation to the matter the subject of the investigation; and
- 25 (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- 30 (a) must be made by notice in writing given to the person required to produce the document or other thing;
- (b) must specify the time at or within which the document or other thing is to be produced;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 92 Optical Dispensers Act 1966

s. 875

- 5
- (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
- (d) where the document required is not in a readable format, must be treated as a requirement to produce —
- (i) the document itself; and
- (ii) the contents of the document in a readable format.
- 10 (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
- 15 (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
- (c) may, by its terms, require that the information or answer required —
- 20 (i) be given orally or in writing;
- (ii) be given at or sent or delivered to a place specified in the requirement;
- (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
- 25 (iv) be verified by statutory declaration.
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is
- 30 required under this Act to give the information or answer the question.

- (5) An investigator must produce his or her certificate of designation if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

5 **6D. Warrant to enter premises**

- (1) If the chief executive officer has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of investigating a matter that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- 10
- (2) An application for a warrant must —
- 15 (a) be in writing;
- (b) be accompanied by a notice in writing from the chief executive officer stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of investigating a matter that may involve a threat to the physical or mental health of a person;
- 20 (c) set out the grounds for seeking the warrant; and
- (d) describe the premises that are to be entered.
- (3) A magistrate to whom an application is made under this section must refuse it if —
- 25 (a) the application does not comply with the requirements of this Act; or
- (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.
- 30

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- 5
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

6E. Issue of warrant

- 10
- (1) A magistrate to whom an application is made under section 6D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
- 15
- (a) to enter and inspect the premises named in the warrant;
- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
- 20
- (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- 25
- (a) the purpose for which the warrant is issued;
- (b) the name of the person to whom the warrant is issued; and
- (c) a description of the premises that may be entered.

- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

5 **6F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.

- (2) A warrant ceases to have effect —

- 10 (a) at the end of the period of one month after its issue;
- (b) if it is withdrawn by the magistrate who issued it; or
- (c) when it is executed,

15 whichever occurs first.

”.

876. Section 7 amended

- (1) Section 7(1) is amended as follows:

- 20 (a) after “Where the” by deleting “Permanent Head” and inserting instead —
- “ chief executive officer ”;
- (b) by deleting “Permanent Head shall, by writing under his hand, recommend to the Governor that the licence of that optical dispenser be revoked” and inserting
- 25 instead —

“

30 may allege to the State Administrative Tribunal that there are grounds for the Tribunal to revoke the licence of that optical dispenser and if the Tribunal finds that the optical dispenser is no longer a fit and proper

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Part 2 Various Acts amended to confer jurisdiction

Division 92 Optical Dispensers Act 1966

s. 877

person to continue to be the holder of a licence, it may order that the licence is revoked

”.

(2) Section 7(2) is repealed.

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

(a) after “to the” by deleting “Permanent Head” and inserting instead —

“ chief executive officer ”;

10 (b) by deleting “Governor may, on the recommendation of the Permanent Head,” and inserting instead —

“ chief executive officer may ”.

(4) After section 7(3) the following subsection is inserted —

“

15 (4) The chief executive officer cannot grant an application under subsection (3) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

877. Section 8 amended

20 Section 8(1) is amended as follows:

(a) by deleting “Permanent Head” and inserting instead —

“ chief executive officer ”;

(b) by deleting “section 7 (2)” and inserting instead —

“ section 7(1) ”.

25 **878. Section 10 amended**

(1) Section 10(1) is amended by deleting “Permanent Head” and inserting instead —

“ chief executive officer ”.

- (2) Section 10(2) is amended by deleting “Permanent Head” and inserting instead —
“ chief executive officer ”.

879. Section 11 amended

- 5 Section 11 is amended by deleting “Permanent Head” and inserting instead —
“ chief executive officer ”.

880. Section 11A inserted

- 10 After section 11 the following section is inserted —
“

11A. Reporting

15 The annual report under the *Financial Administration and Audit Act 1985* of the department principally assisting the Minister in the administration of this Act is to include details of —

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

”.

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Part 2 Various Acts amended to confer jurisdiction

Division 93 Optometrists Act 1940

s. 881

Division 93 — *Optometrists Act 1940*

881. The Act amended

The amendments in this Division are to the *Optometrists Act 1940**.

5 [* Reprint 3 as at 7 March 2003.]

882. Section 17 amended

Section 17(1) is amended as follows:

- (a) in paragraph (i) by deleting “, and the inquiry by the Board into such charge or complaint”;
- 10 (b) by deleting paragraphs (l) and (o).

883. Section 21 amended

Section 21(1) is amended by deleting “Board” in the third place where it occurs and inserting instead —

“ State Administrative Tribunal ”.

15 **884. Sections 25A to 25F inserted**

After section 25 the following sections are inserted —

“

25A. Investigator

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

25B. Report of investigator

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

25C. Powers of investigator

- (1) An investigator may for the purposes of an investigation —
- (a) enter and inspect the premises of a person named in a warrant issued under section 25E(1), and exercise the powers referred to in section 25E(2)(b) and (c);
 - (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
 - (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
 - (d) require a person —
 - (i) to give the investigator such information as the investigator requires; and

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Part 2 Various Acts amended to confer jurisdiction

Division 93 Optometrists Act 1940

s. 884

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

- 5
- (ii) be given at or sent or delivered to a place specified in the requirement;
 - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
 - (iv) be verified by statutory declaration.
- 10
- (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.
- 15
- (5) An investigator must produce his or her certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

25D. Warrant to enter premises

- 20
- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a suspicion that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- 25
- (2) An application for a warrant must —
- (a) be in writing;
 - (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a suspicion that may involve a threat to the physical or mental health of a person;
- 30

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Division 93 Optometrists Act 1940

s. 884

(c) set out the grounds for seeking the warrant; and

(d) describe the premises that are to be entered.

(3) A magistrate to whom an application is made under this section must refuse it if —

5

(a) the application does not comply with the requirements of this Act; or

(b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.

10

(4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

15

25E. Issue of warrant

(1) A magistrate to whom an application is made under section 25D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.

20

(2) A warrant under subsection (1) authorises the investigator —

(a) to enter and inspect the premises named in the warrant;

25

(b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and

30

(c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).

- 5 (3) There must be stated in a warrant —
- (a) the purpose for which the warrant is issued;
 - (b) the name of the person to whom the warrant is issued; and
 - 5 (c) a description of the premises that may be entered.
- 10 (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

25F. Execution of warrant

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

”.

885. Section 26 amended

- 25 (1) Section 26(1) is amended as follows:
- (a) after “The Board” by deleting “may” and inserting instead —
- 30 “
may, upon investigating a complaint against or concerning any registered optometrist or on its own initiative, allege to the State Administrative Tribunal

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Part 2 Various Acts amended to confer jurisdiction

Division 93 Optometrists Act 1940

s. 886

5 that there are grounds for the State Administrative Tribunal to exercise its powers under this section in respect of a registered optometrist and, in dealing with the allegation, the State Administrative Tribunal may by order

”;

(b) after “any registered optometrist, or” by deleting “cause” and inserting instead —

“ order ”;

10 (c) by deleting “the Board, after inquiry as prescribed and by reason of the conclusive proof of the complaint, allegation or charge made,” and inserting instead —

“ the Tribunal ”;

15 (d) in paragraph (f) by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

(2) Section 26(2) is amended by deleting “Board” in each place where it occurs and inserting instead —

“ Tribunal ”.

20 (3) Section 26(4), (5), (6) and (7) are repealed.

886. Section 27 repealed

Section 27 is repealed.

887. Section 28 amended

(1) Section 28(1) is amended as follows:

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

“ State Administrative Tribunal, or ”;

(b) by deleting “Board, in the manner prescribed,” and inserting instead —

“ Tribunal ”;

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction
Optometrists Act 1940

Part 2
Division 93
s. 888

(c) by deleting after “suspension annulled, or” and inserting
instead —
“ apply to the Board ”.

(2) Section 28(2) is amended as follows:

5 (a) by deleting “Board” and inserting instead —
“
State Administrative Tribunal or Board, as the case
may be,
”;

10 (b) after “subsection (1)” by inserting —
“
except that the Board cannot grant a person’s
application for the re-entry in the Register of the
person’s name unless it has applied for, and obtained,
15 the approval of the State Administrative Tribunal to do
so
”.

(3) Section 28(3) is repealed.

888. Section 29 amended

20 Section 29 is amended by deleting “Board” and inserting
instead —
“ State Administrative Tribunal ”.

889. Section 30 amended

25 Section 30(1) is amended by deleting “or direction of the
Board” and inserting instead —
“ of the State Administrative Tribunal ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 93 Optometrists Act 1940

s. 890

890. Section 31 replaced

Section 31 is repealed and the following section is inserted instead —

“

5

31. Review

Whenever the Board makes a decision —

- (a) refusing to register any person as an optometrist; or
- (b) refusing to re-enter in the Register the name of any person whose name has previously been withdrawn from or removed from the Register,

10

the person affected by the decision of the Board may apply to the State Administrative Tribunal for a review of the decision.

15

”.

891. Section 42 amended

- (1) Section 42(2) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

20

- (2) Section 42(3) is amended as follows:

- (a) by deleting “Board as” and inserting instead —
“ State Administrative Tribunal as ”;
- (b) by deleting “remove” and inserting instead —

“

25

refer the matter to the State Administrative Tribunal which may order the removal of

”.

Division 94 — *Osteopaths Act 1997*

892. The Act amended

The amendments in this Division are to the *Osteopaths Act 1997**.

5

[* *Act No. 58 of 1997.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 272 and
Act No. 21 of 2003.]*

893. Section 3 amended

10

Section 3 is amended by deleting the definition of “formal inquiry”.

894. Section 10 amended

Section 10(1)(e) is amended by deleting “the disciplinary and”.

895. Section 11 amended

15

Section 11(1) is amended by deleting “and the power to conduct a formal inquiry”.

896. Section 15 amended

Section 15(7) is repealed.

897. Section 20 amended

20

Section 20(4) is amended by deleting “, 36(5) or” and inserting instead —

“

or 36(5) or to give effect to an order of the State
Administrative Tribunal under

25

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 94 Osteopaths Act 1997

s. 898

898. Section 28 amended

Section 28(2)(g) is amended by inserting after “person” —

“

or any order made in a proceeding before the
State Administrative Tribunal under Part 5

”.

899. Section 31 amended

Section 31(1) is amended by inserting after “under Part 5” —

“

or a proceeding before the State Administrative
Tribunal commenced under Part 5

”.

900. Section 36 amended

After section 36(3) the following subsection is inserted —

“

- (3a) The Board cannot grant an application under subsection (3) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

”.

901. Section 37 amended

(1) Section 37(1) is amended as follows:

- (a) after “Where” by deleting “a person is suspended”;
(b) by deleting “, 70(1)(l) or 74” and inserting instead —

“

or 74 or to give effect to an order of the State
Administrative Tribunal under section 70(1)(l)

”;

- (c) in paragraph (a) by inserting before “from” —
“ a person is suspended ”
- (d) in paragraph (b) by inserting before “from” —
“ a person is suspended ”.
- 5 (2) After section 37(2) the following subsection is inserted —
“
- (3) The Board cannot to any extent revoke a suspension
that was imposed to give effect to an order of the State
Administrative Tribunal under section 70(1)(l) unless it
10 has applied for, and obtained, the approval of the State
Administrative Tribunal to do so.
- ”.

902. Section 41 amended

Section 41(1) is amended as follows:

- 15 (a) by inserting after paragraph (b) —
“ and ”;
- (b) by deleting paragraph (c) and the “and” that follows it.

903. Section 44 amended

After section 44(1) the following subsection is inserted —

- 20 “
- (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
- 25 (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;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 94 Osteopaths Act 1997

s. 904

- 5
- (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the operation of the Board.

”.

904. Section 48 amended

10 (1) Section 48(1)(b) is amended by deleting “, or of its own motion in the course of a formal inquiry”.

(2) Section 48(3) is repealed and the following subsection is inserted instead —

“

15 (3) If the examination was ordered on the request of the complaints assessment committee, the report of the examination is to be given by the Board to the committee for consideration.

”.

20 **905. Section 49 amended**

Section 49(3) is amended by deleting “hold a formal inquiry into” and inserting instead —

“

25 make an allegation to the State Administrative Tribunal based on

”.

906. Section 50 amended

Section 50(2) is amended by deleting paragraph (e) and “or”
after it and inserting instead —

“

- 5 (e) make an allegation to the State Administrative
Tribunal based on the complaint; or

”.

907. Section 54 amended

- 10 (1) Section 54(2) is amended by deleting paragraph (c) and
inserting the following paragraph instead —

“

- 15 (c) advise that, within 14 days of the making of the
order, the Board will revoke the order or make
an allegation about the matter to the State
Administrative Tribunal.

”.

- (2) Section 54(3) is amended by deleting “commencing a formal
inquiry into the matter under” and inserting instead —

“

- 20 making an allegation about the matter to the State
Administrative Tribunal as required by

”.

908. Section 55 amended

- (1) Section 55(1) is amended as follows:

- 25 (a) in paragraph (a) by deleting “commence a formal
inquiry into” and inserting instead —

“

- 30 make an allegation under section 70 to the State
Administrative Tribunal about

”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 94 Osteopaths Act 1997

s. 909

- (b) in paragraph (b) —
 - (i) by deleting “commenced”; and
 - (ii) by inserting after “matter” —
“ commenced ”.

5 (2) Section 55(2) is repealed.

909. Section 63 amended

Section 63(4)(b) is amended by deleting “Board” and inserting instead —

“ State Administrative Tribunal ”.

10 **910. Section 64 amended**

Section 64(f) is deleted and the following paragraph is inserted instead —

“

15 (f) make an allegation under section 70 about the matter to the State Administrative Tribunal.

”.

911. Heading to Part 5 Division 6 replaced

The heading to Part 5 Division 6 is repealed and the following heading is inserted instead —

20 “

Division 6 — Role of the State Administrative Tribunal

”.

912. Sections 65 to 69 repealed

Sections 65, 66, 67, 68 and 69 are repealed.

913. Section 70 amended

(1) Section 70(1) is amended as follows:

(a) by inserting after “The Board” —

“

5 may, on a complaint made or on its own initiative,
 allege to the State Administrative Tribunal that a
 disciplinary matter exists or has occurred, or may exist
 or have occurred, in respect of a person who is an
10 osteopath or who was an osteopath at the relevant time
 and the State Administrative Tribunal

”;

(b) by deleting “a matter under this Division in respect of an
osteopath, do any one or more of the following” and
inserting instead —

15 “ the allegation ”;

(c) in paragraph (d)(i) by deleting “Board” and inserting
instead —

“ State Administrative Tribunal ”;

(d) in paragraph (d)(iii) by deleting “Board” and inserting
instead —

20 “ State Administrative Tribunal ”;

(e) in paragraph (e) by deleting “Board” and inserting
instead —

“ State Administrative Tribunal ”;

25 (f) in paragraph (f) —

(i) by deleting “require” and inserting instead —

“ order that ”;

(ii) by deleting “to”; and

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

30 “ State Administrative Tribunal ”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 94 Osteopaths Act 1997

s. 913

5 (g) in paragraph (h) by deleting “such educational or clinical courses or both as are specified by the Board or to practise under such supervision as is specified by the Board for a period specified by the Board” and inserting instead —

“
10 educational or clinical courses, or both, as specified in the order or to practise under supervision as specified in the order for a period specified in the order
”;

(h) in paragraph (i) by deleting “by the Board” in each place where it occurs and inserting instead —

15 “ in the order ”;

(i) in paragraph (j) by deleting “to the Board”;

(j) in paragraph (l) —

(i) by deleting “suspend the person” and inserting instead —

20 “ order that the person be suspended ”; and

(ii) by deleting “years.” and inserting instead —

“ years specified in the order; or ”;

(k) after paragraph (l) by inserting —

25 “
(m) if it is appropriate, do more than one of those things.
”.

(2) Section 70(2) is amended as follows:

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

“ State Administrative Tribunal ”;

- (b) by deleting “a matter under this Division” and inserting
instead —

“

an allegation under this Part in respect of a matter

5

”;

- (c) by deleting “its powers” and inserting instead —

“ the powers it would have ”;

- (d) by deleting after “and (j)” —

“ if the person were an osteopath ”.

10 **914. Sections 71 to 73 repealed**

Sections 71, 72 and 73 are repealed.

915. Section 74 amended

Section 74(1) is amended as follows:

- (a) in paragraph (a) by inserting after “that the Board” —

15

“ or the State Administrative Tribunal ”;

- (b) in paragraph (b) —

- (i) by deleting “the Board does not have” and
inserting instead —

“

20

neither the Board or the State Administrative
Tribunal has

”;

and

- (ii) by deleting “, after due inquiry,” and inserting
instead —

25

“

refer to the State Administrative Tribunal the
question whether it should

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 94 Osteopaths Act 1997

s. 916

916. Section 80 amended

Section 80 is amended as follows:

- (a) by inserting at the end of paragraph (a) —
“ or ”;
- 5 (b) at the end of paragraph (b) by deleting the semicolon and “or” and inserting instead a full stop;
- (c) by deleting paragraph (c).

917. Section 81 amended

- (1) Section 81(1) is amended by deleting “or 69”.
- 10 (2) Section 81(2) (but not the penalty) is repealed and the following subsection is inserted instead —
“
15 (2) A person must not, without lawful excuse, refuse or fail to give information or answer a question when required to do so under section 59.
”.

918. Section 83 repealed

Section 83 is repealed.

919. Section 87 amended

20 Section 87(2) is amended by deleting “, inquiry or hearing”.

920. Section 88 amended

Section 88(2) is amended as follows:

- (a) in paragraph (a) by deleting “70, 71, 72 or”;
- (b) in paragraph (b) by deleting “the refusal of” and
25 inserting instead —
“ any decision refusing ”;

(c) in paragraph (c) by deleting “the removal of” and
inserting instead —

“ any decision to remove ”;

(d) in paragraph (d) by deleting “the imposition of” and
inserting instead —

“ any decision to impose ”.

921. Section 89 replaced

Section 89 is repealed and the following section is inserted
instead —

“

89. Review

A person who is aggrieved by an order under
section 54 or a decision or order referred to in
section 88(2) may apply to the State Administrative
Tribunal for a review of the order or decision.

”.

922. Section 90 amended

(1) Section 90(1) is amended as follows:

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

“ Board, the ”;

(b) by inserting after “committee” —

“ or the State Administrative Tribunal ”.

(2) Section 90(3) is amended as follows:

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

“ Board, ”;

(b) by inserting after “committee” —

“ or the State Administrative Tribunal ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 95 Painters' Registration Act 1961

s. 923

923. Schedule 1 amended

Schedule 1 clause 5(2) is repealed and the following subclause is inserted instead —

“

- 5 (2) A quorum for a meeting of the Board is 4 members.

”.

Division 95 — *Painters' Registration Act 1961*

924. The Act amended

10 The amendments in this Division are to the *Painters' Registration Act 1961**.

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

925. Section 14B amended

Section 14B(3) is amended by deleting “any other provision of this Act” and inserting instead —

- 15 “ the Board or the State Administrative Tribunal ”.

926. Section 16 amended

- (1) Section 16(1), (2) and (3) are repealed and the following subsections are inserted instead —

“

- 20 (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).

- 25 (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;

- 5
- 10
- 15
- 20
- 25
- 30
- (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, 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.

”.

927. Section 16A repealed

Section 16A is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 95 Painters' Registration Act 1961

s. 928

928. Section 16B replaced

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

“

5 **16B. Re-registration of painter**

- 10 (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.
- 15 (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.

”.

929. Section 16E amended

Section 16E(1)(b) is amended by deleting “a magistrate” and inserting instead —

20 “ the State Administrative Tribunal ”.

930. Section 16G amended

Section 16G is amended as follows:

- 25 (a) in paragraph (a) by deleting “appeal was duly brought under section 18 against the making of the order, or where such an appeal was brought but the order was not set aside or varied at the hearing of the appeal” and inserting instead —

“

30 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

”;

5 (b) in paragraph (b) by deleting “by a magistrate at the
hearing of an appeal under section 18 brought against
the making” and inserting instead —

“

following an application under section 18 for a
review

10

”.

931. Section 16H amended

(1) Section 16H(1) is amended as follows:

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

“ an application ”;

15

(b) by deleting “brought against the making” and inserting
instead —

“ made for a review ”;

(c) by deleting “the appeal” and inserting instead —

“ the application ”;

20

(2) Section 16H(2) is amended by deleting “by a magistrate” and
inserting instead —

“ following an application ”.

932. Section 16I amended

25 Section 16I(b) is amended by deleting “(whether or not the
Board also conducts a formal inquiry under section 16)”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 95 Painters' Registration Act 1961

s. 933

933. Section 18 replaced by sections 18, 18A and 18B

Section 18 is repealed and the following sections are inserted instead —

“

5

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) —

10

“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

15

(c) against whom an order is made under section 16D or 16E;

“reviewable decision” means —

20

(a) a decision of the Board refusing, cancelling, or suspending registration, or refusing re-registration; or

(b) an order of the Board under section 16D or 16E.

18A. Surrender of registration or certificate

25

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

18B. Suspension of registration by State Administrative Tribunal

5 (1) Where the State Administrative Tribunal makes an order against a registered painter and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

10 (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 2003*.

”.

934. Section 22 amended

After section 22(3) the following subsection is inserted —

“

20 (4) In this section—
“penalties” does not include penalties ordered to be paid by the State Administrative Tribunal.

”.

935. Section 23B amended

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

25 “

(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

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 96 Pawnbrokers and Second-hand Dealers Act 1994

s. 936

- (ii) matters that have been brought before the State Administrative Tribunal by the Board;
- 5 (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
- 10 (e) any proposals for improving the performance of the Board's functions.

”.

Division 96 — Pawnbrokers and Second-hand Dealers Act 1994

15 **936. The Act amended**

The amendments in this Division are to the *Pawnbrokers and Second-hand Dealers Act 1994*.*.

[* Reprinted as at 6 December 2002.]

937. Section 20 amended

20 Section 20(c) is amended by inserting after “proceedings” —
“ commenced ”.

938. Section 22 amended

(1) Section 22(1) is amended by inserting after “for the decision” —
25 “
and informing the applicant of the right to apply to the State Administrative Tribunal for a review of the decision

”.

- (2) Section 22(2) is amended by inserting after “for the decision” —

“

5 and informing the applicant of the right to apply to the State Administrative Tribunal for a review of the decision

”.

939. Section 27 amended

- 10 (1) Section 27(1) is repealed and the following subsection is inserted instead —

“

15 (1) A licensing officer who is a member of the Police Force may, on receiving a complaint or on the licensing officer’s own initiative, make any investigation or inquiry necessary to decide whether an allegation should be made under subsection (2) by that or any other licensing officer.

”.

- 20 (2) Section 27(2) is amended by deleting “exercise a power referred to in subsection (1)” and inserting instead —

“

25 make an allegation to the State Administrative Tribunal that it should take action against a specified licensee under this section

”.

- (3) Section 27(3) and (4) are repealed and the following subsections are inserted instead —

“

30 (3) If the State Administrative Tribunal, on dealing with an allegation under subsection (2), is satisfied that a ground referred to in that subsection has been made out, it may —

- (a) suspend a licence for such period as it thinks fit;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 96 Pawnbrokers and Second-hand Dealers Act 1994

s. 940

(b) revoke a licence; or

(c) disqualify a person from holding a licence or from having a licence held on the person's behalf, for such period as the Tribunal thinks fit or permanently.

5

(4) A person whose licence is suspended or revoked by the State Administrative Tribunal, or who is disqualified by the State Administrative Tribunal from holding a licence, is required to deliver the person's licence, if any, to a licensing officer.

10

Penalty: \$2 000.

”

940. Part 2 Division 3 heading replaced

The heading to Part 2 Division 3 is deleted and the following heading is inserted instead —

15

“

Division 3 — Review of licensing decisions

”

941. Section 29 repealed

Section 29 is repealed.

20

942. Section 30 amended

(1) Section 30(1) is amended by deleting “appeal to a Court within 14 days after receiving notice” and inserting instead —

“

apply to the State Administrative Tribunal for a review

25

”

(2) Section 30(2), (3), (4) and (5) are repealed.

943. Section 31 repealed

Section 31 is repealed.

944. Section 32 amended

(1) Section 32(1) is amended as follows:

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

“

5 executive officer of the State Administrative Tribunal ”;

(b) by deleting “clerk’s” and inserting instead —

“ executive officer’s ”.

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

10 (a) by deleting “appeal” and inserting instead —

“ application ”;

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

“

15 executive officer of the State Administrative Tribunal ”;

(c) by deleting “and where relevant, any licence that has
been delivered up to the Court”.

945. Section 33 amended

Section 33 is amended as follows:

20 (a) by deleting paragraph (a) and “and” after it and inserting
instead —

“

25 (a) an application has been made under this
Division for a review; and ”;

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

“ application ”;

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

30 “ State Administrative Tribunal ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 96 Pawnbrokers and Second-hand Dealers Act 1994

s. 946

946. Section 34 amended

Section 34(1)(b) is amended by deleting “impose” and inserting instead —

“ order the imposition of ”.

5 **947. Section 35 amended**

Section 35 is amended by deleting “the suspension or revocation of, or disqualification in relation to,”.

948. Section 73 amended

10 (1) Section 73(1) is amended by deleting the definition of “Tribunal” and inserting instead —

“

“**Tribunal**” means the State Administrative Tribunal; ”.

(2) Section 73(6) is repealed.

15 **949. Section 92 amended**

(1) Section 92 is amended by inserting before “The” the subsection designation “(1)”.

(2) At the end of section 92 the following subsection is inserted —

“

20 (2) The Department’s annual report is to include details of —

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

(i) investigations and inquiries undertaken for the purposes of this Act by licensing officers; and

25

(ii) matters that have been brought before the State Administrative Tribunal under this Act;

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Repeal Bill 2003**

Various Acts amended to confer jurisdiction
Pay-roll Tax Assessment Act 2002

**Part 2
Division 97
s. 950**

- 5
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of licensing officers in the year after the year to which the report relates; and
- 10 (e) any proposals for improving the performance of the functions under this Act of licensing officers.

”.

950. Section 93 amended

- (1) Section 93(1) is amended as follows:
- 15 (a) by deleting “a court of petty sessions” and inserting instead —
“the State Administrative Tribunal”;
- (b) by deleting “the court” and inserting instead —
“ it ”.
- 20 (2) Section 93(2) is amended by deleting “a court” and inserting instead —
“ the State Administrative Tribunal ”.

Division 97 — Pay-roll Tax Assessment Act 2002

951. The Act amended

25 The amendments in this Division are to the *Pay-roll Tax Assessment Act 2002**.

[* *Act No. 48 of 2002.*]

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 98 Pearling Act 1990

s. 952

952. Section 41 amended

Section 41(5) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

5

Division 98 — Pearling Act 1990

953. The Act amended

The amendments in this Division are to the *Pearling Act 1990**.

[* Reprinted as at 3 November 2000.]

954. Section 23 amended

10

Section 23(8) is amended by deleting “appeal” and inserting instead —

“ review ”.

955. Section 31 amended

15

Section 31(1) is amended by deleting paragraph (b) and “or” after it and inserting instead —

“

20

(b) if an application for a review is made under Part 4 against a cancellation under section 30(2) but is then withdrawn, 3 months from the day on which the application is withdrawn;

25

(ba) if, on an application for review made under Part 4 against a cancellation under section 30(2), an order is made by the State Administrative Tribunal that results in the lease remaining cancelled, 3 months after —

(i) the time fixed for applying for leave to appeal from the order under section 104 of the *State Administrative Tribunal*

Act 2003 has passed without an application having been made; or

(ii) leave to appeal has been refused; or

(iii) leave to appeal has been granted and the time fixed for instituting an appeal has passed without an appeal having been instituted; or

(iv) an appeal has been instituted and has been withdrawn, dismissed or otherwise determined unfavourably;

or

”.

956. Part 12 heading amended

The heading to Part 12 is amended by deleting “Appeals” and inserting instead —

“ **Review** ”.

957. Section 33 amended

(1) Section 33(1) is amended by deleting “, within 14 days after publication of notice of that decision in the *Gazette* under section 23(8), appeal against that decision by serving on the Minister a statement in writing of the grounds of that appeal.” and inserting instead —

“

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

”.

(2) Section 33(2) is amended by deleting “appeal” and inserting instead —

“ review ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 98 Pearling Act 1990

s. 958

- (3) Section 33(3) is amended by deleting “, within 14 days after receiving notice of a decision under that subsection, appeal against that decision by serving on the Minister a statement in writing of the grounds of that appeal.” and inserting instead —

5

“

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

”.

- (4) Section 33(4) is repealed and the following subsection is inserted instead —

10

“

- (4) On receiving a copy of an application under subsection (3) the Executive Director shall cause a copy of the application to be given to the body known as the Pearl Producers’ Association (Incorporated).

15

”.

- (5) Section 33(5), (6), (7), (8) and (9) are repealed.

958. Section 34 amended

Section 34 is amended as follows:

20

- (a) by inserting after “in this Act” —

“ or the *State Administrative Tribunal Act 2003* ”;

- (b) by deleting “appeal under this Part from” and inserting instead —

“ application under this Part for a review of ”.

25

959. Schedule 2 amended

Schedule 2 item 10 is amended by inserting after “this Act,” —

“

other than fees for applications to the State Administrative Tribunal,

30

”.

Division 99 — Perth Parking Management Act 1999

960. The Act amended

The amendments in this Division are to the *Perth Parking Management Act 1999**.

5 [* *Act No. 14 of 1999.*
*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 288.*]

961. Section 17 amended

- 10 (1) Section 17(1) and (2) are each amended by deleting “Minister”
and inserting instead —
“ State Administrative Tribunal ”.
- (2) Section 17(3) and (4) are repealed.

Division 100 — Petroleum (Submerged Lands) Act 1982

962. The Act amended

15 The amendments in this Division are to the *Petroleum
(Submerged Lands) Act 1982**.

[* *Reprinted as at 6 August 1999.*
*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 293 and*
20 *Act No. 20 of 2003.*]

963. Section 87 amended

- (1) Section 87(1) is amended by inserting after “courts” —
“ and tribunals ”.
- 25 (2) Section 87(2) and (3) are each amended by inserting after
“courts” —
“ , tribunals ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 100 Petroleum (Submerged Lands) Act 1982

s. 964

964. Section 88 amended

(1) Section 88(1) is amended as follows:

(a) by deleting “The Supreme Court may on the application of a” and inserting instead —

5 “ A ”;

(b) by deleting “make such order as it” and inserting instead —

“

10 may apply to the State Administrative Tribunal in its original jurisdiction for such order as the Tribunal

”.

(2) Section 88(2), (3) and (4) are each amended by deleting “Supreme Court” and inserting instead —

“ Tribunal ”.

15 **965. Section 92 amended**

(1) Section 92(1) is amended by deleting “appeal to the Supreme Court against” and inserting instead —

“

20 apply to the State Administrative Tribunal for a review of

”.

(2) Section 92(2) is repealed.

Division 101 — *Petroleum Act 1967*

966. The Act amended

The amendments in this Division are to the *Petroleum Act 1967**.

5 [* Reprinted as at 14 January 2000.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 290 and
Act No. 20 of 2003.*]

967. Section 12 amended

10 Section 12(4) is amended as follows:

- (a) by deleting “Compensation Court” and inserting
instead —
“ State Administrative Tribunal ”;
- (b) by deleting “the Court” and inserting instead —
15 “ the Tribunal ”.

968. Section 81 amended

(1) Section 81(1) is amended by inserting after “courts” —
“ and tribunals ”.

20 (2) Section 81(2) and (3) are each amended by inserting after
“courts” —
“ , tribunals ”.

969. Section 82 amended

(1) Section 82(1) is amended as follows:

25 (a) by deleting “The Supreme Court may, on the application
of a” and inserting instead —
“ A ”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 102 Petroleum Pipelines Act 1969

s. 970

- (b) by deleting “make such order as it” and inserting instead —

“

5 may apply to the State Administrative Tribunal in its original jurisdiction for such order as the Tribunal

”.

- (2) Section 82(2), (3) and (4) are each amended by deleting “Supreme Court” and inserting instead —

“ Tribunal ”.

10 **970. Section 85 amended**

- (1) Section 85(2) is amended by deleting “appeal to the Supreme Court against” and inserting instead —

“

15 apply to the State Administrative Tribunal for a review of

”.

- (2) Section 85(3) is repealed.

Division 102 — Petroleum Pipelines Act 1969

971. The Act amended

20 The amendments in this Division are to the *Petroleum Pipelines Act 1969**.

[* *Reprinted as at 12 May 2000.*

25 *For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 291 and Act No. 20 of 2003.]*

972. Section 54 amended

(1) Section 54(1) is amended as follows:

(a) by deleting “The Supreme Court may, on the application
of a” and inserting instead —

5 “ A ”;

(b) by deleting “make such order as it” and inserting
instead —

“

10 may apply to the State Administrative Tribunal in its
original jurisdiction for such order as the Tribunal

”.

(2) Section 54(2), (3) and (4) are each amended by deleting
“Supreme Court” and inserting instead —

“ Tribunal ”.

15 **Division 103 — *Petroleum Retailers Rights and Liabilities*
Act 1982**

973. The Act amended

The amendments in this Division are to the *Petroleum Retailers
Rights and Liabilities Act 1982**.

20 [* Reprinted as at 22 November 2002.]

974. Section 5 amended

(1) Section 5(4c)(a) is amended as follows:

(a) by deleting “appeal against” and inserting instead —
“ application for a review of ”;

25 (b) by deleting “appeal having” and inserting instead —
“ application having ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 103 Petroleum Retailers Rights and Liabilities Act 1982

s. 974

(2) Section 5(4c)(b) is amended as follows:

(a) by deleting “appeal against” and inserting instead —

“ application for a review of ”;

(b) by deleting “appeal has” and inserting instead —

“ application has ”.

(3) After section 5(4c) the following subsection is inserted —

“

(4d) For the purposes of subsection (4c), an application is not finally disposed of until —

(a) the time fixed for applying for leave to appeal under section 104 of the *State Administrative Tribunal Act 2003* has passed without an application having been made; or

(b) leave to appeal has been refused; or

(c) leave to appeal has been granted and the time fixed for instituting an appeal has passed without an appeal having been instituted; or

(d) an appeal has been instituted and has been withdrawn or finally disposed of.

”.

(4) Section 5(10) is amended by deleting all of the subsection after “may” and inserting instead —

“

apply to the State Administrative Tribunal for a review of the determination within 7 days of that determination.

”.

Division 104 — Pharmacy Act 1964

975. The Act amended

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

5 [* Reprinted as at 29 January 1999.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 294 and
Acts Nos. 9 and 20 of 2003.*]

976. Section 16C amended

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

“

- (1a) The Council’s annual report is to include details of —
- (a) the number, nature, and outcome, of —
 - 15 (i) investigations and inquiries undertaken
by, or at the direction of, the Council;
and
 - (ii) matters that have been brought before
the State Administrative Tribunal by the
Council;
 - 20 (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;
 - 25 (d) forecasts of the workload of the Council in the
year after the year to which the report relates;
and
 - (e) any proposals for improving the operation of
the Council.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 104 Pharmacy Act 1964

s. 977

977. Sections 17 and 18 repealed

Sections 17 and 18 are repealed.

978. Section 22 amended

5 Section 22(3) is amended by deleting “appeal against such refusal in the manner prescribed by section 27 and the regulations to a Judge of the Supreme Court.” and inserting instead —

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

979. Section 23 amended

15 Section 23(4) is amended by deleting “appeal against the decision of the Council in the manner prescribed by section 27 and the regulations to a Judge of the Supreme Court.” and inserting instead —

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

980. Section 26 amended

25 (1) Section 26(3) is amended by deleting “appeal against the decision of the Council in the manner prescribed by section 27 and the regulations to a Judge of the Supreme Court.” and inserting instead —

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

- (2) Section 26(5) is repealed and the following subsection is inserted instead —

“

- (5) If a registered pharmaceutical chemist is convicted of an offence under subsection (1) the Council may refer the matter to the State Administrative Tribunal and the Tribunal may order that his name be erased from the register for such period and subject to such conditions as the Tribunal may specify in the order.

”.

981. Section 27 repealed

Section 27 is repealed.

982. Sections 31A to 31F inserted

After section 31 the following sections are inserted —

“

31A. Investigator

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

31B. Report of investigator

- (1) An investigator must —
- (a) within such period as the Council requires prepare a report on the investigation, and make recommendations as to the manner in which the matter should be dealt with; and

(b) immediately after preparing the report, provide the Council with a copy of the report.

(2) The investigator must return his certificate of appointment at the time the Council is provided with a copy of the report.

5

31C. Powers of investigator

(1) An investigator may for the purposes of an investigation —

10

(a) enter and inspect the premises of a person named in a warrant issued under section 31E(1), and exercise the powers referred to in section 31E(2)(b) and (c);

15

(b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;

20

(c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;

25

(d) require a person —

(i) to give the investigator such information as the investigator requires; and

(ii) to answer any question put to that person,

in relation to the matter the subject of the investigation; and

30

(e) exercise other powers conferred on an investigator by the regulations.

-
- (2) A requirement made under subsection (1)(b) —
- (a) must be made by notice in writing given to the person required to produce the document or other thing;
 - 5 (b) must specify the time at or within which the document or other thing is to be produced;
 - (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
 - 10 (d) where the document required is not in a readable format, must be treated as a requirement to produce —
 - (i) the document itself; and
 - 15 (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
 - 20 (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
 - (c) may, by its terms, require that the information or answer required —
 - 25 (i) be given orally or in writing;
 - (ii) be given at or sent or delivered to a place specified in the requirement;
 - (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
 - 30 (iv) be verified by statutory declaration.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 104 Pharmacy Act 1964

s. 982

5 (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.

(5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

10 **31D. Warrant to enter premises**

15 (1) If the Council has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of an investigation, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.

(2) An application for a warrant must —
20 (a) be in writing;
(b) be accompanied by a notice in writing from the Council stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of the investigation;
25 (c) set out the grounds for seeking the warrant; and
(d) describe the premises that are to be entered.

(3) A magistrate to whom an application is made under this section must refuse it if —
30 (a) the application does not comply with the requirements of this Act; or

(b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.

5 (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

31E. Issue of warrant

10 (1) A magistrate to whom an application is made under section 31D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.

15 (2) A warrant under subsection (1) authorises the investigator —

- 20 (a) to enter and inspect the premises named in the warrant;
- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
- 25 (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).

(3) There must be stated in a warrant —

- 30 (a) the purpose for which the warrant is issued;
- (b) the name of the person to whom the warrant is issued; and
- (c) a description of the premises that may be entered.

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Part 2 Various Acts amended to confer jurisdiction

Division 104 Pharmacy Act 1964

s. 983

- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

5 **31F. Execution of warrant**

- (1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.

- (2) A warrant ceases to have effect —

- 10 (a) at the end of the period of one month after its issue;
- (b) if it is withdrawn by the magistrate who issued it; or
- (c) when it is executed,

15 whichever occurs first.

”.

983. Section 32 replaced

Section 32 is repealed and the following section is inserted instead —

20 “ **32. Disciplinary matters**

- (1) There is proper cause for disciplinary action if a pharmaceutical chemist, company or friendly society —

- 25 (a) has been convicted of an offence that renders that person, company or friendly society unfit to continue to be engaged in carrying on the practice of a pharmaceutical chemist;
- (b) being a pharmaceutical chemist, is by reason of
- 30 mental or physical incapacity, alcohol, or

-
- addiction to any deleterious drug unfit to
continue to practise;
- 5 (c) is guilty of carelessness, incompetence,
impropriety, misconduct or infamous conduct
in a professional respect;
- (d) is guilty of the breach of an undertaking given
by or on behalf of that party pursuant to
previous proceedings commenced under this
section; or
- 10 (e) is guilty of contravening the regulations
relating to advertising.
- (2) The Council may allege to the State Administrative
Tribunal that there is proper cause for disciplinary
action, as mentioned in subsection (1), against a
15 pharmaceutical chemist, company or friendly society.
- (3) If in a proceeding commenced by an allegation under
this section the State Administrative Tribunal is of the
opinion that proper cause exists for disciplinary action,
the Tribunal may —
- 20 (a) where that person is a pharmaceutical
chemist, —
- (i) order that his name be erased from the
register;
- 25 (ii) order that for such period as is specified
in the order, not being a period in excess
of 3 years, he be prohibited from
carrying on the practice of a
pharmaceutical chemist, and that his
licence be accordingly suspended;
- 30 (iii) impose on him a fine not exceeding
\$500; or
- (iv) censure him;

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Part 2 Various Acts amended to confer jurisdiction

Division 104 Pharmacy Act 1964

s. 984

- 5 (b) in the case of a company or friendly society —
- (i) impose on it a fine not exceeding \$500;
or
 - (ii) censure it;
- and
- (c) in any case —
- (i) by order require any party to the
10 proceedings to give an undertaking to
the Council in such terms as the
Tribunal specifies in the order, either
personally or in the case of a company
or friendly society under the hand of a
proper officer; and
 - (ii) by order impose or vary any condition
15 in relation to a licence or registration.
- ”.

984. Section 32B replaced

Section 32B is repealed and the following section is inserted
instead —

- 20 “
- 32B. Appeals in disciplinary matters**
- A person, company or friendly society that is aggrieved
by the peremptory suspension of a licence or
25 registration under section 32A may apply to the State
Administrative Tribunal for a review of the decision.
- ”.

985. Section 33 amended

- (1) Section 33(1) and (2) are each amended by deleting
“section 32” and inserting instead —
- 30 “ an order of the State Administrative Tribunal ”.

- (2) Section 33(3) is amended by deleting “section 32 or 32A” and inserting instead —

“

an order of the State Administrative Tribunal or
section 32A

”.

986. Section 47 amended

Section 47(2) is amended as follows:

- (a) in paragraph (j) by deleting “this Act” and inserting instead —

“ section 40A(3) ”;

- (b) in paragraph (k) by deleting “32,”.

Division 105 — *Physiotherapists Act 1950*

987. The Act amended

The amendments in this Division are to the *Physiotherapists Act 1950**.

[* *Reprinted as at 12 October 2001.*]

988. Section 7C amended

After section 7C(1) the following subsection is inserted —

“

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

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

(i) investigations and inquiries undertaken by, or at the direction of, the Board; and

(ii) matters that have been brought before the State Administrative Tribunal by the Board;

- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 105 Physiotherapists Act 1950

s. 989

- 5
- (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the operation of the Board.

”.

989. Section 8 amended

10 Section 8(1)(d) is amended by deleting “and the holding of an inquiry by the Board into the charge or complaint”.

990. Sections 10A to 10F inserted

After section 10 the following sections are inserted —

“

15 **10A. Investigator**

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

10B. Report of investigator

- 25 (1) An investigator must —
- (a) within such period as the Board requires prepare a report on the investigation; and
 - (b) immediately after preparing the report, provide the Board with a copy of the report.

- (2) The investigator must return his certificate of appointment at the time the Board is provided with a copy of the report.

10C. Powers of investigator

- 5 (1) An investigator may for the purposes of an investigation —
- 10 (a) enter and inspect the premises of a person named in a warrant issued under section 10E(1), and exercise the powers referred to in section 10E(2)(b) and (c);
- (b) require a person to produce to the investigator any document or other thing concerning the investigation that is in the possession or under the control of the person;
- 15 (c) inspect any document or other thing produced to the investigator and retain it for such reasonable period as the investigator thinks fit, and make copies of a document or any of its contents;
- 20 (d) require a person —
- (i) to give the investigator such information as the investigator requires; and
- (ii) to answer any question put to that person,
- 25 in relation to the matter the subject of the investigation; and
- (e) exercise other powers conferred on an investigator by the regulations.
- (2) A requirement made under subsection (1)(b) —
- 30 (a) must be made by notice in writing given to the person required to produce the document or other thing;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 105 Physiotherapists Act 1950

s. 990

- 5
- (b) must specify the time at or within which the document or other thing is to be produced;
- (c) may, by its terms, require that the document or other thing required be produced at a place and by means specified in the requirement; and
- (d) where the document required is not in a readable format, must be treated as a requirement to produce —
- 10 (i) the document itself; and
- (ii) the contents of the document in a readable format.
- (3) A requirement made under subsection (1)(d) —
- 15 (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
- (b) must specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
- 20 (c) may, by its terms, require that the information or answer required —
- (i) be given orally or in writing;
- (ii) be given at or sent or delivered to a place specified in the requirement;
- 25 (iii) in the case of written information or answers be sent or delivered by means specified in the requirement; and
- (iv) be verified by statutory declaration.
- 30 (4) If under subsection (1)(d) an investigator requires a person to give information or answer a question, the investigator must inform that person that the person is required under this Act to give the information or answer the question.

- (5) An investigator must produce his certificate of appointment if requested to do so by a person in respect of whom the investigator has exercised, or is about to exercise, a power under this section.

5 **10D. Warrant to enter premises**

- (1) If the Board has determined in a particular case that an investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person the investigator may apply to a magistrate for a warrant to be issued in respect of those premises.
- 10
- (2) An application for a warrant must —
- 15 (a) be in writing;
- (b) be accompanied by a notice in writing from the Board stating that it has determined in the particular case that the investigator has reasonable grounds for believing that entry to premises is necessary for the purpose of substantiating a complaint that may involve a threat to the physical or mental health of a person;
- 20 (c) set out the grounds for seeking the warrant; and
- (d) describe the premises that are to be entered.
- 25 (3) A magistrate to whom an application is made under this section must refuse it if —
- (a) the application does not comply with the requirements of this Act; or
- 30 (b) when required to do so by the magistrate, the investigator does not give to the magistrate more information about the application.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 105 Physiotherapists Act 1950

s. 990

- 5
- (4) The information in an application or given to a magistrate under this section must be verified before the magistrate on oath or affirmation or by affidavit, and the magistrate may for that purpose administer an oath or affirmation or take an affidavit.

10E. Issue of warrant

- 10
- (1) A magistrate to whom an application is made under section 10D may issue a warrant, if satisfied that there are reasonable grounds for believing that entry and inspection of the premises are necessary for the purpose referred to in that section.
- (2) A warrant under subsection (1) authorises the investigator —
- 15
- (a) to enter and inspect the premises named in the warrant;
- (b) to require a person on the premises to answer questions or produce documents or other things in the person's possession concerning the investigation; and
- 20
- (c) to inspect documents and other things, and take copies of or extracts from documents, produced in compliance with a requirement made under paragraph (b).
- (3) There must be stated in a warrant —
- 25
- (a) the purpose for which the warrant is issued;
- (b) the name of the person to whom the warrant is issued; and
- (c) a description of the premises that may be entered.
- 30
- (4) A magistrate who issues a warrant must cause a record to be made of particulars of the grounds that the magistrate has relied on to justify the issue of the warrant.

10F. Execution of warrant

(1) If asked by the occupier or a person in charge of the premises, the person executing a warrant must produce it for inspection.

5

(2) A warrant ceases to have effect —

(a) at the end of the period of one month after its issue;

(b) if it is withdrawn by the magistrate who issued it; or

10

(c) when it is executed,

whichever occurs first.

”.

991. Section 16 amended

After section 16(a) the following paragraph is inserted —

15

“

(aa) for regulating the making of allegations in respect of disciplinary matters by the Board to the State Administrative Tribunal and specifying the penalties that may be imposed and disciplinary action, including suspending or cancelling the registration of a physiotherapist, that may be taken by the State Administrative Tribunal in dealing with an allegation;

20

”.

25

Division 106 — *Pig Industry Compensation Act 1942*

992. The Act amended

The amendments in this Division are to the *Pig Industry Compensation Act 1942**.

[* Reprinted as at 21 June 2002.]

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 107 Plant Diseases Act 1914

s. 993

993. Section 8 amended

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

“

5 apply to the State Administrative Tribunal for a review of such valuation.

”.

- (2) After section 8(3) the following subsection is inserted —

“

10 (3a) The State Administrative Tribunal may order that all or any of its costs of obtaining the assistance of an expert in determining a value under this section are to be paid from the Fund, and section 13(3) applies to the payment of an amount ordered to be paid as if it were
15 towards payment of a claim for compensation.

”.

Division 107 — *Plant Diseases Act 1914*

994. The Act amended

20 The amendments in this Division are to the *Plant Diseases Act 1914**.

[* *Reprinted as at 21 December 2001.*]

995. Section 18 amended

- (1) Section 18(1) is amended by deleting “and subject to an appeal to”.

- 25 (2) After section 18(3) the following subsection is inserted —

“

 (4) The occupier or owner on whom an inspector serves a notice under subsection (1) may apply to the State Administrative Tribunal for a review of the inspector’s
30 decision to serve the notice.

”.

996. Section 22 amended

- (1) Section 22(5) is amended by deleting “appeal to the Minister in the prescribed manner to review “and inserting instead —
- “ apply to the State Administrative Tribunal for a review of ”.
- 5 (2) Section 22(6) is repealed.
- (3) Section 22(7) is amended by deleting “Without limiting subsection (6) the lodging of an appeal with the Minister” and inserting instead —
- “ The making of an application ”.

10 **Division 108 — *Plant Pests and Diseases (Eradication Funds) Act 1974***

997. The Act amended

The amendments in this Division are to the *Plant Pests and Diseases (Eradication Funds) Act 1974**.

- 15 [* Reprinted as at 30 July 1999.
*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 299.*]

998. Section 13 amended

- 20 Section 13(6) is amended by deleting “appeal to a local court constituted under the *Local Courts Act 1904*, and the decision of the court is final.” and inserting instead —
- “
- apply to the State Administrative Tribunal for a
determination of the value.
- 25 ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 109 Podiatrists Registration Act 1984

s. 999

Division 109 — Podiatrists Registration Act 1984

999. The Act amended

The amendments in this Division are to the *Podiatrists Registration Act 1984**.

5 [* Reprint 1 as at 11 April 2003.]

1000. Section 8 amended

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

(a) in paragraph (e) by inserting after “under this Act” —

10 “ , other than the commencement of a proceeding before the State Administrative Tribunal ”;

(b) in paragraph (g) by deleting “, and the conduct of the inquiry by the Board into such charge or complaint”.

15 **1001. Section 16 amended**

Section 16(1) is amended by inserting after “subject of investigation” —

20 “ or a disciplinary proceeding before the State Administrative Tribunal commenced under this Act ”.

1002. Section 22 amended

Section 22(3) is repealed and the following subsection is inserted instead —

25 “ (3) On the application of the Board or the person suspended, the State Administrative Tribunal may order that the suspension of a person from the practice of podiatry is terminated either generally or to a specified extent. ”.

30

1003. Section 27A amended

After section 27A(1) the following subsection is inserted —

“

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

5

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

(i) investigations and inquiries undertaken
by, or at the direction of, the Board; and

10

(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;

15

(d) forecasts of the workload of the Board in the
year after the year to which the report relates;
and

(e) any proposals for improving the operation of
the Board.

20

”.

1004. Section 28 amended

(1) Section 28(1) is amended as follows:

25

(a) by deleting “Where the Board, after an inquiry of the
kind referred to in section 31, is satisfied —” and
inserting instead —

“

There is proper cause for disciplinary action in respect
of a person registered under this Act if —

”;

30

(b) in paragraph (a) by deleting “that the registration of a”
and inserting instead —

“ the registration of the ”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 109 Podiatrists Registration Act 1984

s. 1004

- (c) by deleting paragraph (b) and inserting instead —
“
(b) the person has been convicted of an offence
that renders him unfit to practise as a podiatrist;
”;
- 5
- (d) in paragraph (c) by deleting “that” where it first occurs;
(e) in paragraph (c) by deleting “name of a person has
ceased” and inserting instead —
“ name of the person has ceased ”;
- 10
- (f) in paragraph (c) by deleting “in the opinion of the
Board”;
- (g) in paragraph (d) by deleting “that a” and inserting
instead —
“ the ”;
- 15
- (h) in paragraph (e) by deleting “that a” and inserting
instead —
“ the ”;
- (i) in paragraph (e) by deleting the comma and instead
inserting a full stop;
- 20
- (j) by deleting “the Board may order that his name shall be
struck off the Register and the Registrar shall comply
with the order of the Board.”.
- (2) After section 28(1) the following subsections are inserted —
“
- 25
- (1a) The Board may allege to the State Administrative
Tribunal that there is proper cause for disciplinary
action, as mentioned in subsection (1), against a person
registered under this Act.
- (1b) If in a proceeding commenced by an allegation under
30 this section against a person registered under this Act,
the State Administrative Tribunal is of the opinion that
proper cause exists for disciplinary action the Tribunal

may order that the name of the person be struck off the Register.

”.

(3) Section 28(2) is amended as follows:

- 5 (a) by deleting “Where after an inquiry of the kind referred to in section 31, the Board considers that a matter does not in the public interest require that the name of the person concerned should be struck off the Register, the Board may —” and inserting instead —

10

“

Where the State Administrative Tribunal considers that a matter does not in the public interest require that the name of the person concerned be struck off the Register, the Tribunal may —

15

”;

- (b) in paragraph (b) by deleting “to the Board”;
(c) by deleting paragraph (c) and inserting instead —

20

“

(c) deal with that person in the manner described in paragraph (d), (e), or (f) of section 28A(1).

”.

(4) Section 28(3) to (5) are repealed.

1005. Section 28A inserted

After section 28 the following section is inserted —

25

“

28A. Alternative to bringing proceeding

- (1) Instead of making an allegation to the State Administrative Tribunal, if the Board —
30 (a) is of the opinion that a proceeding before the Tribunal is not warranted by the nature of the allegations;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 109 Podiatrists Registration Act 1984

s. 028A

- (b) has afforded to the person concerned the opportunity of giving an explanation to the Board either in person or in writing and is not satisfied by any explanation offered; and
- 5 (c) has afforded to the person concerned the option of the matter proceeding before the Tribunal and that option has not been taken up,
- the Board may —
- (d) order that the particulars entered in the Register in relation to that person be amended;
- 10 (e) censure that person;
- (f) require that person to give an undertaking, either with or without security, for such period as is specified —
- 15 (i) in relation to his future conduct as a podiatrist; or
- (ii) to comply with such conditions as are specified in relation to his practice; or
- (g) order that person to pay to the Board a penalty not exceeding \$250.
- 20
- (2) The Board may, in addition to or instead of imposing one or more of the penalties specified in subsection (1), order the person concerned to pay such costs and expenses of or incidental to the proceedings as the
- 25 Board thinks fit.
- (3) Where any penalty, costs or expenses are ordered to be paid under this section the amount ordered to be paid shall be recoverable in any court of competent jurisdiction as a debt due to the Board.
- 30 ”.

1006. Section 29 replaced

Section 29 is repealed and the following section is inserted instead —

“

5

29. Breach of undertaking

10

(1) Where the Board is satisfied that a person who has given an undertaking to the Board under section 28A has at any time during the currency of the undertaking been in breach of that undertaking, or failed to comply with any condition imposed, the Board may refer the matter to the State Administrative Tribunal.

15

(2) The State Administrative Tribunal may, with or without discharging the person from any obligation under the undertaking, impose on him —

20

(a) a penalty or suspension that the State Administrative Tribunal could have imposed in a proceeding in respect of the original matter as a consequence of which he was required to give the undertaking; and

25

(b) whether or not imposing a penalty or suspension in relation to the original matter, a penalty in relation to the conduct or omission giving rise to the breach of the undertaking or the failure to comply with the conditions.

”.

1007. Section 30 repealed

Section 30 is repealed.

1008. Section 31 replaced by sections 31 to 31C

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

“

5

31. Powers of investigation

(1) The Board may make any inquiry that the Board considers necessary or expedient for the purposes of —

(a) determining any application or any other matter before the Board;

10

(b) determining whether or not a person registered under this Act is or has been acting in conformity with the conditions, if any, of his registration and is or has been complying with the requirements of this Act;

15

(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.

20

(2) The Board may appoint an investigator to carry out an inquiry and report to the Board under this section.

(3) The investigator may —

(a) require any person —

(i) to give the investigator such information as the investigator requires; and

25

(ii) to answer any question put to the person,

in relation to any matter the subject of such inquiry;

30

(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.
- 5
- (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;
- 10
- (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 —
- 15
- (i) be given orally or in writing;
- (ii) be given at or sent or delivered to any place specified in the requirement;
- 20
- (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.
- 25
- (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;
- 30
- (b) shall specify the time at or within which the document is to be produced; and

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Part 2 Various Acts amended to confer jurisdiction

Division 109 Podiatrists Registration Act 1984

s. 1008

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

31A. Incriminating information, questions, or documents

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

- 5
- (a) give any information;
 - (b) answer any question; or
 - (c) produce any document,

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

31B. Failure to comply with investigation

- 20 (1) Where under section 31 a person is required to give
any information, answer any question, or produce any
document and that person, without reasonable excuse
(proof of which shall lie on him) —
- (a) fails to give that information or answer that
question at or within the time specified in the
requirement;
 - 25 (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,

30 the person commits an offence.

Penalty: \$2 000.

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Part 2 Various Acts amended to confer jurisdiction

Division 109 Podiatrists Registration Act 1984

s. 1008

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

31C. Obstruction of investigator

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

Penalty: \$2 000.

”.

1009. Section 32 amended

Section 32(c) is deleted and the following paragraph is inserted instead —

“

- 5 (c) makes any order or takes any other action
 against a person under section 28A,

”.

1010. Section 33 replaced

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

10

“

33. Review

15

A person aggrieved by an order of the Board, or by the refusal of an application to the Board for registration or restoration to the Register, or by any limitation, restriction or condition imposed, may apply to the State Administrative Tribunal for a review of the decision.

”.

1011. Section 34 amended

- 20 (1) Section 34(1) is repealed and the following subsection is inserted instead —

“

25

- (1) Subject to subsection (2), where under the law of a place outside the State an order is made against a person similar in kind to an order which the Board has power to make under this Act or the State Administrative Tribunal can make in the exercise of jurisdiction conferred on it by this Act, the Board may make a like order to take effect in the State for a period not extending beyond the period of the order made under the law of that place.

30

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 110 Poisons Act 1964

s. 1012

- (2) Section 34(2) is amended by deleting “and had failed to satisfy the board or authority thereon”.

1012. Section 35 amended

5 Section 35(1) is amended by deleting “, inquiry or findings before or” and inserting instead —

“ before, or findings by, ”.

1013. Section 38 amended

Section 38(d) is amended by deleting “, or any inquiry or disciplinary proceedings held by or on behalf of the Board”.

10 **Division 110 — *Poisons Act 1964***

1014. The Act amended

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

[* *Reprinted as at 22 January 1999.*

15 *For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 300 and Act No. 9 of 2003.]*

1015. Section 29 amended

20 (1) Section 29(1) is amended by deleting “appeal against the same to a stipendiary magistrate sitting as a court of summary jurisdiction.” and inserting instead —

“

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

”.

25 (2) Section 29(2) and (3) are repealed.

1016. Section 64 amended

Section 64(2)(k) is deleted.

Division 111 — *Psychologists Registration Act 1976*

1017. The Act amended

The amendments in this Division are to the *Psychologists Registration Act 1976**.

5 [* Reprint 1 as at 3 January 2003.]

1018. Section 3 amended

Section 3 is amended in the definition of “improper conduct in a professional respect” by deleting “, in the opinion of the Board,”.

10 **1019. Section 18A amended**

After section 18A(1) the following subsection is inserted —

“

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

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

- 15 (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;

20 (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;

25 (d) forecasts of the workload of the Board in the year after the year to which the report relates; and

(e) any proposals for improving the operation of the Board.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 111 Psychologists Registration Act 1976

s. 1020

1020. Section 21 amended

Section 21(1) is amended as follows:

(a) in paragraph (f) by inserting after “under this Act” —

“

5

, other than the commencement of a proceeding
before the State Administrative Tribunal

”;

(b) by deleting paragraph (i).

1021. Section 29 amended

10

Section 29(1) is amended by inserting after “investigation” —

“

or a disciplinary proceeding before the State
Administrative Tribunal commenced under this Act

”.

15

1022. Section 35 amended

Section 35(3) is repealed and the following subsection is
inserted instead —

“

20

(3) On the application of the Board or the person
suspended, the State Administrative Tribunal may
order that the suspension of a person from the practice
of psychology is terminated either generally or to a
specified extent.

”.

1023. Section 39 amended

(1) Section 39(1) is amended as follows:

(a) by deleting “Where the Board, after an inquiry of the kind referred to in section 42, is satisfied” and inserting instead —

“

There is proper cause for disciplinary action in respect of a person who is a registered psychologist if

”;

(b) in paragraph (a) —

(i) by deleting “that”; and

(ii) by deleting “of a” and inserting instead —
“ of the ”;

(c) in paragraph (b) —

(i) by deleting “that a” and inserting instead —
“ the ”; and

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

(d) in paragraph (c) —

(i) by deleting “that as a” and inserting instead —
“ as a ”;

(ii) by deleting “a person” and inserting instead —
“ the person ”; and

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

(e) in paragraph (d) by deleting “that a” and inserting instead —

“ the ”;

(f) in paragraph (e) —

(i) by deleting “that a” and inserting instead —
“ the ”; and

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Part 2 Various Acts amended to confer jurisdiction

Division 111 Psychologists Registration Act 1976

s. 1023

- (ii) by deleting the comma at the end of the paragraph and inserting instead a full stop;
- (g) by deleting “the Board may order that his name shall be struck off the Register and the Registrar shall comply with the order of the Board.”.
- 5
- (2) After section 39(1) the following subsections are inserted —
- “
- (1a) The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1), against a registered psychologist.
- 10
- (1b) If in a proceeding commenced by an allegation under this section against a registered psychologist, the State Administrative Tribunal is of the opinion that proper cause exists for disciplinary action the Tribunal may order that the name of the person be struck off the Register.
- 15
- (1c) Where the State Administrative Tribunal considers that a matter does not in the public interest require that the name of the person concerned be struck off the Register, the Tribunal may —
- 20
- (a) suspend that person from the practice of psychology, either generally or in relation to any specified circumstances or service, for a period not exceeding 12 months;
- 25
- (b) order the person to pay a penalty not exceeding \$1 000; or
- (c) deal with the person in any of the ways described in paragraph (d), (e) or (f) of section 39A(1).
- 30
- ”.
- (3) Section 39(2) is repealed.

1024. Section 39A inserted

After section 39 the following section is inserted —

“

39A. Alternative to bringing proceedings

- 5 (1) Instead of making an allegation to the State
Administrative Tribunal, if the Board is of the opinion
that a proceeding before the Tribunal is not warranted
by the nature of the allegations the Board, after
affording to the person concerned the opportunity of
10 giving an explanation to the Board either in person or
in writing and the option thereafter of the matter
proceeding before the Tribunal, may —
- (a) order that the particulars entered in the Register
in relation to that person be amended;
- 15 (b) censure that person;
- (c) require that person to give an undertaking,
either with or without security, for such period
as is specified —
- 20 (i) in relation to his future conduct in a
professional respect; or
- (ii) to comply with such conditions as are
specified in relation to his practice;
- or
- (d) order that person to pay to the Board a penalty
25 not exceeding \$100.
- (2) The Board may, in addition to or in lieu of imposing
any one or more of the penalties specified in
subsection (1), order the person concerned to pay such
costs and expenses of or incidental to the proceedings
30 as the Board thinks fit.
- (3) Where any penalty, costs or expenses are ordered to be
paid under this section the amount ordered to be paid

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Part 2 Various Acts amended to confer jurisdiction

Division 111 Psychologists Registration Act 1976

s. 1025

shall be recoverable in any court of competent jurisdiction as a debt due to the Board.

”.

1025. Section 40 replaced

5 Section 40 is repealed and the following section is inserted —

“

10 (1) Where the Board is satisfied that a person who has given an undertaking to the Board required of him under section 39A has at any time during the currency of the undertaking been in breach of that undertaking, or failed to comply with any condition imposed, the Board, after giving to the person concerned an opportunity to show cause why he should not so be dealt with, may refer the matter to the State Administrative Tribunal.

15

20 (2) The State Administrative Tribunal may, with or without discharging the person from any obligation under the undertaking, impose on the person a penalty or suspension that the State Administrative Tribunal could have imposed in a proceeding in respect of the original matter as a consequence of which the person was required to give the undertaking.

20

”.

1026. Section 41 amended

25 Section 41(1) and (2) are each amended by deleting “disciplinary proceedings under this Act.” and inserting instead —

“ action under section 39A. ”.

1027. Section 42 replaced

Section 42 is repealed and the following section is inserted
instead —

“

5

42. Powers of investigation

(1) The Board may make any inquiry that the Board
considers necessary or expedient for the purposes of —

(a) determining any application or any other matter
before the Board;

10

(b) determining whether or not a registered
psychologist is or has been acting in conformity
with the conditions, if any, of his licence and is
or has been complying with the requirements of
this Act;

15

(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.

20

(2) The Board may appoint an investigator to carry out an
inquiry and report to the Board under this section.

(3) For the purposes of carrying out an inquiry under this
section, the investigator may —

(a) require any person —

25

(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;

30

(b) require any person to produce any document
relating to the investigator;

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Part 2 Various Acts amended to confer jurisdiction

Division 111 Psychologists Registration Act 1976

s. 1027

- (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.
- 5
- (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;
- 10
- (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 —
- 15
- (i) be given orally or in writing;
- (ii) be given at or sent or delivered to any place specified in the requirement;
- 20
- (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.
- 25
- (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;
- 30
- (b) shall specify the time at or within which the document is to be produced; and

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

1028. Sections 42A, 42B and 42C inserted

After section 42 the following sections are inserted —

“

42A. Incriminating information, questions, or documents

5 Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under section 42 a person is required to —

- (a) give any information;
- (b) answer any question; or
- 10 (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
15 given, or document produced, by the person shall not be admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against section 42B(1)(b).

42B. Failure to comply with investigation

20 (1) Where under section 42 a person is required to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —

- 25 (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
- 30 (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$2 000.

- (2) It is a defence in any proceeding for an offence under subsection (1)(a) or (c) for the defendant to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under section 42, the investigator did not, when making the requirement, inform the defendant that he was required under this Act to give the information or answer the question, as the case may be;
 - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under section 42, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
 - (c) that the time specified in the requirement did not afford the defendant sufficient notice to enable him to comply with the requirement; or
 - (d) that, in any case, the investigator did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the inquiry being carried out.

42C. Obstruction of investigator

A person shall not prevent or attempt to prevent an investigator from entering premises or otherwise obstruct or impede an investigator in the exercise of his powers under section 42.

Penalty: \$2 000.

”.

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Part 2 Various Acts amended to confer jurisdiction

Division 111 Psychologists Registration Act 1976

s. 1029

1029. Section 43 amended

Section 43(c) is amended as follows:

- (a) by inserting after “order” —
“ or takes other action ”;
- 5 (b) by deleting “in the exercise of its disciplinary powers”
and inserting instead —
“ under section 39A ”.

1030. Section 44 replaced

10 Section 44 is repealed and the following section is inserted
instead —

“

44. Application for review

15 A person aggrieved by an order of the Board, or by the
refusal of an application to the Board for registration or
restoration to the Register, or as to any limitation,
restriction or condition imposed, may apply to the State
Administrative Tribunal for a review of the decision.

”.

1031. Section 45 amended

20 Section 45(1) is amended by inserting after “under this Act” —

“

or the State Administrative Tribunal has power to make
in the exercise of jurisdiction conferred on it by this
Act

25

”.

1032. Section 46 amended

- (1) Section 46(1) is amended by deleting “, inquiry or findings
before or” and inserting instead —

“ before or findings ”.

(2) Section 46(2) is amended by inserting before “under this Act” —

“ in proceedings commenced ”.

1033. Section 47 amended

5 Section 47(1) is amended as follows:

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

“ the State Administrative Tribunal ”;

(b) by inserting after “disciplinary proceedings” —

“ commenced ”.

10 **1034. Section 48 amended**

Section 48(1) is amended by inserting before “under this Act” —

“ in proceedings commenced ”.

1035. Section 50 amended

15 Section 50(d) is amended by deleting “, or any inquiry, examination, or disciplinary proceedings held by or on behalf of the Board”.

Division 112 — Public Meetings and Processions Act 1984

Subdivision 1 — Amendments to the Act

20 **1036. The Act amended**

The amendments in this Subdivision are to the *Public Meetings and Processions Act 1984**.

[* Reprinted as at 16 August 2002.]

1037. Section 3 amended

25 Section 3 is amended by deleting the definitions of “magistrate” and “order”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 112 Public Meetings and Processions Act 1984

s. 1038

1038. Section 4 amended

Section 4(2) is amended by deleting “, or an order made by a magistrate,”.

1039. Section 8 amended

5 (1) Section 8(1) is amended by deleting all of the subsection after “or” after paragraph (b) and inserting instead —

“

(c) believes that the application has been dealt with unreasonably, as described in subsection (2),

10

that person or body may apply to the State Administrative Tribunal for a review of the refusal of the permit, any condition or limitation specified in the permit, or how the application has been dealt with.

”.

15

(2) Section 8(2), (3), (4), (5), (6) and (7) are repealed and the following subsection is inserted instead —

“

(2) For the purposes of subsection (1) an application is dealt with unreasonably if —

20

(a) the application for the permit has not been granted and there is reason to apprehend that it may not be dealt with sufficiently expeditiously; or

25

(b) otherwise, there is good cause why it should be reviewed.

”.

1040. Section 9 amended

Section 9(3)(a) is amended by deleting “or the making of the order”.

1041. Various references to “or order” deleted

The Act is amended by deleting “or order” in each place specified in the Table to this section.

Table

- s. 4(1) (3 places)
- s. 4(2)
- s. 9(1)
- s. 9(1)(b)
- s. 9(2)(a) and (b)
- s. 9(3)
- s. 9(3)(b)

5 **Subdivision 2 — Amendment needed because Act amended**

1042. Police Act 1892 amended

- (1) The amendment in section is to the *Police Act 1892**.

[* *Reprinted as at 12 January 2001.*

For subsequent amendments see Western Australian

10 *Legislation Information Tables for 2002, Table 1, p. 304.]*

- (2) Section 52(1)(a) is amended by deleting “or order”.

Division 113 — *Racing Penalties (Appeals) Act 1990*

Subdivision 1 — Amendments to the Act

1043. The Act amended

5 The amendments in this Subdivision are to the *Racing Penalties (Appeals) Act 1990**.

[* *Reprinted as at 19 October 2001 and amended by the Racing and Gambling Legislation Amendment and Repeal Act 2003 Part 11.*]

1044. Long title amended

10 The long title is amended by deleting “constitute the Racing Penalties Appeal Tribunal of Western Australia, to confer” and inserting instead —

“ **confer on the State Administrative Tribunal** ”.

1045. Section 3 amended

15 (1) Section 3(1) is amended by deleting the definitions of “bookmaker”, “Chairperson”, “member”, “owner”, “Registrar”, and “Tribunal”.

(2) Section 3(1) is amended in the definition of “trial” by deleting the semicolon and inserting instead a full stop.

20 **1046. Part 2 heading replaced**

The heading to Part 2 is deleted and the following heading is inserted instead —

25 “
Part 2 — Appeals and review
”.

1047. Part 2 Division 1 repealed

Part 2 Division 1 is repealed.

1048. Part 2 Division 2 heading deleted

The heading to Part 2 Division 2 is deleted.

5 **1049. Sections 10 and 11 repealed**

Sections 10 and 11 are repealed.

1050. Section 12 amended

(1) Section 12(1) is amended as follows:

- 10 (a) by deleting “Subject to” and inserting instead —
“ Unless ”;
- (b) by deleting “and leave of” and inserting instead —
“ gives ”;
- (c) by inserting before “Tribunal” in both places where it
occurs —
15 “ State Administrative ”;
- (d) by inserting after “Tribunal” where it first occurs —
“ jurisdiction ”;
- (e) by inserting after “does not extend to” —
“ reviewing ”.

20 (2) Section 12(3) is amended as follows:

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

1051. Section 13 amended

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

- (a) by deleting “(in this Part referred to as “the appellant”)”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 113 Racing Penalties (Appeals) Act 1990

s. 1051

- (b) in paragraph (d) by inserting before “Tribunal” —
“ State Administrative ”;
- (c) in paragraph (d) by deleting “appeal” and inserting
instead —
5 “ apply for a review ”;
- (d) by deleting “, within 14 days after the making of the
determination, or in the case of a notice of warning-off
the giving of the notice, appeal to the Tribunal.” and
inserting instead —
10 “
apply to the State Administrative Tribunal for a review
of the determination or finding.
”.
- (2) Section 13(2) is repealed and the following subsection is
15 inserted instead —
“
- (2) An application may, with the leave of the State
Administrative Tribunal, be made to the State
Administrative Tribunal for —
- 20 (a) a review of a determination the review of
which —
- (i) by reason of section 12, would not be
within the State Administrative
25 Tribunal’s jurisdiction were it not for
this subsection; and
- (ii) would, in the opinion of the State
Administrative Tribunal, involve the
same incident, or incidents, as a review
by the State Administrative Tribunal that
30 could have been or has been sought;
- or
- (b) a review that by reason of the public interest,
the State Administrative Tribunal has

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction **Part 2**
Racing Penalties (Appeals) Act 1990 **Division 113**
s. 1051

determined is a review to which this subsection
should apply.

”.

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

“

10 (3) A person shall not sit as a member of the State
Administrative Tribunal on an appeal where the person
is, or at the time when the event giving rise to the
appeal occurred was, interested in —

(a) a greyhound, where the appeal relates to
greyhound racing;

(b) a thoroughbred, where the appeal relates to
thoroughbred racing; or

15 (c) a pacer, where the appeal relates to harness
racing,

and any person who so sits as a member commits an
offence.

Penalty: \$5 000.

20 (4) A person shall not sit as a member of the State
Administrative Tribunal on an appeal arising out of —

(a) the running of a race;

(b) any matter which occurred during a race; or

25 (c) a swab which was taken from a runner
competing in a race,

if that person had an interest in a runner in the race, and
any person who so sits as a member commits an
offence.

Penalty: \$5 000.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 113 Racing Penalties (Appeals) Act 1990

s. 1052

- (5) For the purposes of subsections (3) and (4) a person shall be deemed to have had an interest in a runner if that person —
- 5 (a) at the time when the event giving rise to the appeal occurred was —
- (i) an owner or the trainer of the runner; or
- (ii) an employee or agent of the owner or trainer;
- or
- 10 (b) bet on the race or matter which is the subject of the appeal, whether or not on that runner.
- (6) Section 142 of the *State Administrative Tribunal Act 2003* does not apply in relation to an application under this section.
- 15 ”.

1052. Section 14 repealed

Section 14 is repealed.

1053. Section 15 amended

- (1) Section 15(1) is amended as follows:
- 20 (a) by deleting “Subject to subsection (2), notwithstanding — ” and inserting instead —
- “ Notwithstanding — ”;
- (b) by deleting “appeal” in the second place where it occurs and inserting instead —
- 25 “ application ”;
- (c) by inserting before “Tribunal” —
- “ State Administrative ”;
- (d) by inserting after “section 13” —
- “ for a review ”.

(2) Section 15(2) is repealed.

1054. Part 2 Division 3 heading deleted

The heading to Part 2 Division 3 is deleted.

1055. Section 16 repealed

5 Section 16 is repealed.

1056. Section 17 replaced

Section 17 is repealed and the following section is inserted
instead —

“

10 **17. Refund of stakes**

Without limiting any powers given to the State
Administrative Tribunal by the *State Administrative
Tribunal Act 2003*, upon the determination of an
application for a review the State Administrative
15 Tribunal may order the refund or repayment of any
stakes paid in respect of a race to which the appeal
relates.

”.

1057. Sections 18 and 19 repealed

20 Sections 18 and 19 are repealed.

1058. Sections 20 to 23 repealed

Sections 20, 21, 22 and 23 are repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 113 Racing Penalties (Appeals) Act 1990

s. 1059

1059. Section 24 amended

(1) Section 24(1) is repealed and the following subsection is inserted instead —

“

5 (1) The funds available to the Tribunal to enable it to perform its functions in relation to proceedings commenced under this Act include moneys payable under subsection.(4).

”.

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

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

“

executive officer of the State Administrative Tribunal

15

”;

(b) in paragraph (a) by inserting after “operations of the Tribunal” —

“

in relation to proceedings commenced under this Act

20

”;

(c) in paragraph (b) by inserting after “approval” —

“

after consultation with the Minister responsible for the administration of the *State Administrative Tribunal Act 2003*

25

”.

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

(a) in paragraph (a) by inserting after “operations of the Tribunal” —

30

“

in relation to proceedings commenced under this Act

”;

(b) in paragraph (b) by inserting after “operations of the
Tribunal” —

“

in relation to proceedings commenced under
this Act

”.

(4) Section 24(8), (9) and (10) are repealed.

1060. Sections 25 and 26 repealed

Sections 25 and 26 are repealed.

1061. Schedule repealed

The Schedule is repealed.

Subdivision 2 — Transitional provisions

1062. Transitional provisions in relation to funds

(1) Despite the amendments effected by Subdivision 1 —

(a) the amount of funds available to the State
Administrative Tribunal under section 24 of the *Racing
Penalties (Appeals) Act 1990* for any financial year
commencing before the coming into operation of this
Division is to be the amount approved for that financial
year under that section before the coming into operation
of this Division, less any expenditure already charged in
respect of that year; and

(b) to the extent that an amount payable under section 24(4)
of the *Racing Penalties (Appeals) Act 1990* before the
coming into operation of this Division has not been paid,
that amount is to be paid to the State Administrative
Tribunal.

(2) On the coming into operation of this Division, any amount in an
account referred to in section 24(8) of the *Racing Penalties
(Appeals) Act 1990* is to be credited to the State Administrative
Tribunal and the account is to be closed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 114 Radiation Safety Act 1975

s. 1063

Division 114 — Radiation Safety Act 1975

1063. The Act amended

The amendments in this Division are to the *Radiation Safety Act 1975*.*.

5 [* Reprinted as at 25 February 2000.
For subsequent amendments see Act No. 9 of 2003.]

1064. Section 12 amended

(1) Section 12(1) is amended by deleting “appeal therefrom to the Supreme Court.” and inserting instead —

10 “
apply to the State Administrative Tribunal for a review
of the decision.
”.

(2) Section 12(2), (3) and (4) are repealed.

15 **1065. Section 54 amended**

(1) Section 54(3) is amended by deleting “appeal against the same to a Court of Petty Sessions, constituted by a Stipendiary Magistrate sitting alone” and inserting instead —

20 “
apply to the State Administrative Tribunal for a review
of the decision
”.

(2) Section 54(4) is amended by deleting “appeal” and inserting instead —

25 “ application for review ”.

Division 115 — Rail Safety Act 1998

1066. The Act amended

The amendments in this Division are to the *Rail Safety Act 1998**.

5

[* *Act No. 32 of 1998.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 325.]*

1067. Section 16 amended

10

Section 16(c) is amended by deleting “appeal” and inserting
instead —

“ review ”.

1068. Section 17 amended

15

Section 17(6)(c) is amended by deleting “appeal” and inserting
instead —

“ review ”.

1069. Section 18 amended

Section 18(5)(b) is amended by deleting “appeal” and inserting
instead —

“ review ”.

20

1070. Section 20 amended

(1) Section 20(1)(e) is amended by deleting “appeal to the District
Court.” and inserting instead —

25

“

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 115 Rail Safety Act 1998

s. 1071

(2) Section 20(2) is amended as follows:

- (a) by deleting “or appeal”;
- (b) by inserting after “subsection (1)” —
“ (d) ”.

5 (3) Section 20(3) is amended as follows:

- (a) by inserting after “subsection (1)” —
“ (d) ”;
- (b) by deleting “within one month after the conclusion of the proceedings, appeal to the District Court.” and
10 inserting instead —

“
apply to the State Administrative Tribunal for a review
of the outcome of conciliation or mediation
proceedings.
15 ”.

(4) Section 20(4) is amended by deleting “an appeal.” and inserting
instead —

“ a review. ”.

(5) Section 20(5) is amended by deleting “or the District Court”.

20 (6) Section 20(6) and (7) are repealed.

1071. Schedule 1 amended

Schedule 1 clause 28 is amended by inserting after “of any
matter” —

“
25 , other than an application to the State Administrative
Tribunal,
”.

Division 116 — Real Estate and Business Agents Act 1978

1072. The Act amended

The amendments in this Division are to the *Real Estate and Business Agents Act 1978**.

- 5 [* Reprinted as at 9 March 2001.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 328 and
Act No. 21 of 2003.*]

1073. Part II Division 3 heading amended

- 10 The heading to Part II Division 3 is amended by deleting
“Proceedings before” and inserting instead —
“ **Review of decision of** ”.

1074. Sections 19 to 22 repealed

Sections 19, 20, 21 and 22 are repealed.

15 **1075. Section 23 replaced**

Section 23 is repealed and the following section is inserted
instead —

- “
- 23. Application for review**
- 20 (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 —
- 25 (a) a person whose licence or triennial certificate
is affected by a reviewable decision or who,
under Part III, applies for or objects to the
grant of a licence or applies for the renewal
of a triennial certificate;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 116 Real Estate and Business Agents Act 1978

s. 1076

- (b) a person whose certificate of registration is affected by a reviewable decision or who, under Part IV, applies for the grant or renewal of a certificate of registration;
- 5 (c) a licensee who has, or seeks, the Board's approval under section 56 to carry on business pursuant to a franchising agreement or another party to the agreement;
- 10 (d) a person affected by a decision of the Board under Part VI; or
- (e) a person claiming against, or seeking the leave of the Board to commence an action in relation to, the Fidelity Fund;

“reviewable decision” means —

- 15 (a) a decision under Part III other than a determination of the form in which an application or objection is to be made;
- (b) a decision under Part IV other than a determination of the form in which an application is to be made;
- 20 (c) a decision under section 56;
- (d) a decision under Part VI; or
- (e) a decision under section 116 or 117.

”.

25 **1076. Section 23C amended**

Section 23C(5)(a) is amended by deleting “the Board or”.

1077. Section 24 amended

Section 24(5) is repealed.

1078. Section 25 amended

30 Section 25(4) is repealed.

1079. Section 30 amended

After section 30(3) the following subsection is inserted —

“

- 5 (4) Despite the surrender by a person of a licence or triennial certificate, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or certificate had not been surrendered.

”.

10 **1080. Section 31 amended**

Section 31(4) is repealed.

1081. Section 33 amended

Section 33(5) is repealed.

1082. Sections 34A and 34B inserted

15 After section 34 the following sections are inserted —

“

34A. Unopposed applications

- 20 (1) Subject to this Part, a licence may be granted and a triennial certificate may be granted or renewed, (as long as there is no objection in respect of a licence and special conditions are not imposed or changed) by —
- (a) the Board, in a meeting at any time and place;
or
 - (b) the Registrar, at any time or place,
- 25 without notice to the applicant, and the performance of a function by the Registrar under this subsection is to be treated as performance by the Board.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 116 Real Estate and Business Agents Act 1978

s. 1083

- 5
- (2) Where the Board or Registrar performs a function under subsection (1), the Registrar shall forthwith deliver the licence or triennial certificate or the renewed triennial certificate, as the case may be, to the applicant.
- 10
- (3) Sections 27, 28, and 29 apply to the Registrar in the performance of a function under subsection (1) as if a reference in any of those provisions to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

34B. Suspension of licence by State Administrative Tribunal

- 15
- (1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- 20
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by Part VII or by the *State Administrative Tribunal Act 2003*.

25

”.

1083. Section 43 amended

Section 43(4) is repealed.

1084. Section 48 amended

Section 48(6) is repealed.

1085. Section 49 amended

Section 49(7) is repealed.

1086. Sections 50A and 50B inserted

After section 50 the following section is inserted —

5 “

50A. Unopposed applications

(1) Subject to this Part, a certificate of registration may be granted or renewed, (as long as special conditions are not imposed or changed) by —

10 (a) the Board, in a meeting at any time and place;
or

(b) the Registrar, at any time or place,

15 without notice to the applicant, and the performance of a function by the Registrar under this subsection is to be treated as performance by the Board.

20 (2) Where the Board or Registrar performs a function under subsection (1), the Registrar shall forthwith deliver the certificate of registration or the renewed certificate of registration, as the case may be, to the applicant.

25 (3) Section 47 applies to the Registrar in the performance of a function under subsection (1) as if a reference in that provision to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

50B. Suspension of registration by State Administrative Tribunal

30 (1) Where the State Administrative Tribunal makes an order against a sales representative and payment is not made in accordance with the order or the order is

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 116 Real Estate and Business Agents Act 1978

s. 1087

5 otherwise not complied with or is breached, the State Administrative Tribunal may suspend the registration until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

10 (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by Part VII or by the *State Administrative Tribunal Act 2003*.

”.

1087. Section 53 amended

(1) Section 53 is amended by inserting before “A” the subsection designation “(1)”.

15 (2) At the end of section 53 the following subsection is inserted —
“

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

”.

1088. Section 76 repealed

Section 76 is repealed.

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction
Real Estate and Business Agents Act 1978

**Part 2
Division 116
s. 1089**

1089. Section 102 amended

- (1) Section 102(1), (2), (3), (4) and (5) are repealed and the following subsection is inserted instead —

“

- 5 (1) The Board may allege to the State Administrative Tribunal that —
- (a) there is proper cause for disciplinary action, as mentioned in section 103(2), against an agent; or
- 10 (b) there is proper cause for disciplinary action, as mentioned in section 103(4), against a sales representative.

”.

- (2) Section 102(6) is amended as follows:

- 15 (a) by deleting “application” in the first place where it occurs and inserting instead —
- “ allegation ”;
- (b) by deleting “the conduct of ” in the first place where it occurs;
- 20 (c) by deleting “such an application, the Board may hold an inquiry under this section into the conduct of that sales representative and” and inserting instead —

“

- 25 the allegation, the State Administrative Tribunal may

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 116 Real Estate and Business Agents Act 1978

s. 1090

1090. Section 103 amended

(1) Section 103(1) is amended as follows:

- (a) by deleting “after conducting an inquiry under section 102(1) into the conduct of an agent” and inserting instead —

“

, in a proceeding commenced by an allegation under section 102(1) against an agent,

”;

- (b) in paragraph (c) by deleting “Board or until the further order of the Board” and inserting instead —

“ State Administrative Tribunal ”.

(2) Section 103(3) is amended as follows:

- (a) by deleting “after conducting an inquiry under section 102(1) into the conduct of a sales representative” and inserting instead —

“

, in a proceeding commenced by an allegation under section 102(1) against a sales representative,

”;

- (b) in paragraph (c) by deleting “Board or until the further order of the Board” and inserting instead —

“ State Administrative Tribunal ”.

(3) Section 103(5)(a) and “and” after it are deleted.

1091. Section 124B amended

Section 124B is amended as follows:

- (a) in paragraph (d) by deleting “103 or”.

(b) in paragraph (e) by inserting after “fines” —

“

, other than those imposed by the State
Administrative Tribunal, that are

5

”.

1092. Section 135 amended

After section 135(1) the following subsection is inserted —

“

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

10

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

(i) investigations and inquiries undertaken
by, or at the direction of, the Board or
the Registrar;

15

(ii) matters that have been brought before
the State Administrative Tribunal under
this Act; and

(iii) matters that have been dealt with
through the conciliation process under
this Act;

20

(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;

25

(d) forecasts of the workload of the Board in the
year after the year to which the report relates;
and

(e) any proposals for improving the operation of
the Board.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 116 Real Estate and Business Agents Act 1978

s. 1093

1093. Section 139 amended

Section 139(3) is amended by deleting “21(2)” and inserting instead —

“ 34B(1) ”.

5 **1094. Section 145 amended**

Section 145(2) is amended as follows:

- (a) by deleting paragraph (b);
- (b) in paragraph (d) by inserting after “Act” —

“

10 , but not in connection with the initiation of a proceeding before the State Administrative Tribunal;

”.

1095. Schedule amended

15 The Schedule is amended by deleting the heading “Transitional” and all the items and headings under it.

1096. Various references to “Board” amended

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

20 “ State Administrative Tribunal ”.

Table

- s. 23C(3)
- s. 102(6) (in the first place)
- s. 103(1) (both places)
- s. 103(1)(d)
- s. 103(1)(d)(i)
- s. 103(1)(e) (both places)
- s. 103(2)(d)
- s. 103(3) (both places)
- s. 103(3)(d) (both places)

- s. 103(4)(d)
- s. 103(5)
- s. 103(6)
- s. 105(2)
- s. 139(2)

1097. Various references to “District Court” amended

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

“ State Administrative Tribunal ”.

5

Table

- s. 92(1) (3 places)
- s. 92(2) (both places)
- s. 92(4)
- s. 93(1) (4 places)
- s. 93(2) (3 places)
- s. 93(3) (both places)
- s. 93(4)(b) (both places)
- s. 97 (both places)
- s. 98(1) (both places)
- s. 98(3) and (4)

Division 117 — Retirement Villages Act 1992

1098. The Act amended

The amendments in this Division are to the *Retirement Villages Act 1992**.

10

[* *Reprinted as at 22 January 1999.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 334-5.]*

1099. Section 3 amended

15

Section 3(1) is amended by deleting the definitions of “referee”, “registrar” and “Tribunal”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 117 Retirement Villages Act 1992

s. 1100

1100. Part 4 Division 1 heading replaced

The heading to Part 4 Division 1 is deleted and the following heading is inserted instead —

“ **Division 1 — General** ”.

5 **1101. Sections 23 to 26 repealed**

Sections 23 to 26 are repealed.

1102. Part 4 Divisions 2 and 3 repealed

Part 4 Divisions 2 and 3 are repealed.

1103. Part 4 Division 4 heading deleted

10 The heading to Part 4 Division 4 is deleted.

1104. Sections 38 to 41 repealed

Sections 38 to 41 are repealed.

1105. Section 42 replaced

15 Section 42 is repealed and the following section is inserted instead —

“

42. Use of other means of resolution

20 The State Administrative Tribunal may decline to entertain an application if it considers that the matter in dispute could be adequately dealt with under an applicable code or applicable residence rules or by negotiation by the Department under section 8(1)(d).

”.

1106. Section 43 repealed

25 Section 43 is repealed.

1107. Section 44 amended

Section 44(1) is amended as follows:

- (a) by inserting before “Tribunal” —
“ State Administrative Tribunal ”;
- 5 (b) by deleting “of its own motion or”.

1108. Sections 45 to 47 repealed

Sections 45, 46 and 47 are repealed.

1109. Section 48 amended

- Section 48 is amended by deleting “the Tribunal” in the second
10 place where it occurs and inserting instead —
“ it ”.

1110. Sections 49 to 51 repealed

Sections 49 to 51 are repealed.

1111. Part 4 Division 5 heading amended

- The heading to Part 4 Division 5 is amended by deleting
15 “Tribunal” and inserting instead —
“ State Administrative Tribunal ”.

1112. Sections 53 and 55 repealed

Sections 53 and 55 are repealed.

20 **1113. Section 56 amended**

Section 56(2) is repealed.

1114. Sections 71 to 73 repealed

Sections 71 to 73 are repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 117 Retirement Villages Act 1992

s. 1115

1115. Section 74 amended

Section 74 is amended as follows:

- (a) by deleting “a member of the Tribunal, the Tribunal,”;
- (b) by deleting “the registrar,”;
- 5 (c) by deleting “the Tribunal or” in both places where it occurs.

1116. Section 75 amended

Section 75(4) is amended by deleting “the Tribunal” in the third place where it occurs and inserting instead —

10 “ it ”.

1117. Section 76 repealed

Section 76 is repealed.

1118. Section 81 repealed

Section 81 is repealed.

15 **1119. Section 82 amended**

Section 82(2)(a) and (d) are deleted.

1120. Various references to “Tribunal” amended

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

20 “ State Administrative Tribunal ”.

Table

- s. 9(3)(c) (both places)
- s. 9(3)(e) (both places)
- s. 9(6) (3 places)
- s. 17(1)(d)
- s. 19(2)
- s. 48 (in the first and third places)

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction
Retirement Villages Act 1992

**Part 2
Division 117
s. 1120**

-
- s. 52(1)
 - s. 54
 - s. 56(1)
 - s. 56(3) (3 places)
 - s. 56(4) (both places)
 - s. 57(1) (both places)
 - s. 57(2)
 - s. 57(3) (both places)
 - s. 57(4) (both places)
 - s. 57(6)
 - s. 58(1)
 - s. 58(2) (3 places)
 - s. 58(3)
 - s. 58(4) (both places)
 - s. 58(5) (both places)
 - s. 59(1)
 - s. 59(2) (both places)
 - s. 59(3) (both places)
 - s. 59(4) (both places)
 - s. 61 (both places)
 - s. 62(1) (both places)
 - s. 62(2) (3 places)
 - s. 63(1) (both places)
 - s. 63(2) (3 places)
 - s. 64(1) (both places)
 - s. 64(2) (both places)
 - s. 64(3) (4 places)
 - s. 66(1)
 - s. 67(2) (both places)
 - s. 68(1) (both places)
 - s. 68(2)
 - s. 69(3) (both places)
 - s. 70(1)
 - s. 70(2) (both places)
 - s. 70(3) and (4)
 - s. 75(4) (both places)

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 118 Rights in Water and Irrigation Act 1914

s. 1121

Division 118 — Rights in Water and Irrigation Act 1914

1121. The Act amended

The amendments in this Division are to the *Rights in Water and Irrigation Act 1914**.

5 [* Reprinted as at 10 January 2001.]

1122. Section 26B amended

(1) Section 26B(4)(d) is amended as follows:

(a) by deleting “appeal” and inserting instead —
“ an application ”;

10 (b) by inserting after “section 26GI” —
“ for review ”.

(2) Section 26B(5)(d) is amended as follows:

(a) by deleting “appeal” and inserting instead —
“ an application ”;

15 (b) by inserting after “section 26GI” —
“ for review ”.

1123. Part III Division 3B amended

The heading to Part III Division 3B is amended by deleting
“Appeals” and inserting instead —

20 “ **Review** ”.

1124. Section 26GG amended

(1) Section 26GG(1) is amended by deleting “appeal under
Schedule 2” and inserting instead —

25 “
apply to the State Administrative Tribunal for a review
of the decision
”.

- (2) Section 26GG(2) is amended as follows:
- (a) by deleting “may appeal” and inserting instead —
“ may apply ”;
 - (b) by inserting after “subsection (1)” —
“ for a review ”;
 - (c) by deleting “the appeal” and inserting instead —
“ the application ”.

1125. Section 26GH amended

- (1) Section 26GH(1) is amended as follows:

- (a) by deleting “appeal under Schedule 2” and inserting
instead —

“

apply to the State Administrative Tribunal for a review
of the decision to give the direction or variation

”;

- (b) by deleting “direction or variation.” and inserting
instead —

“ decision. ”.

- (2) Section 26GH(2) is amended by deleting “appeal under
Schedule 2” and inserting instead —

“

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

”.

1126. Section 26GI amended

Section 26GI is amended by deleting “appeal under Schedule 2”
and inserting instead —

“

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 118 Rights in Water and Irrigation Act 1914

s. 1127

1127. Section 26GJ replaced

Section 26GJ is repealed and the following section is inserted instead —

“

5 **26GJ. Notice to relevant water resources management committee**

- 10 (1) The State Administrative Tribunal is to give notice of its final order in a proceeding commenced by an application under this Part, and of the reasons for its final order, to any relevant water resources management committee.
- (2) In subsection (1) —
 “**relevant water resources management committee**”
 means a water resources management committee established under Part III Division 3C for a locality to which the subject matter of the application relates.
- (3) A notice under subsection (1) has to be given in writing or in any other manner prescribed.
- 20 (4) The obligation imposed by subsection (1) is in addition to any obligation under the *State Administrative Tribunal Act 2003*.

”.

1128. Section 26M amended

25 Section 26M(g) is amended by deleting “appeals against” and inserting instead —

“

30 applications to the State Administrative Tribunal for review of

”.

1129. Section 27B amended

Section 27B(h) is amended by deleting “appeals against” and inserting instead —

“

5 applications to the State Administrative Tribunal
for review of

”.

1130. Section 39E amended

10 Section 39E(7) is amended by deleting “an appeal against the
decision may be made.” and inserting instead —

“ a review of the decision may be sought. ”.

1131. Section 39F amended

(1) Section 39F(1) is amended by deleting “treat the objection as an
15 appeal against the relevant entry.” and inserting instead —

“

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

”.

(2) Section 39F(2) is amended by deleting “objection to a Land
20 Valuation Tribunal under the *Land Valuation Tribunals
Act 1978* as an appeal.” and inserting instead —

“

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

25

”.

(3) After section 39F(2) the following subsection is inserted —

“

(3) The Corporation is to effect the reference by
30 forwarding the notice to the executive officer of the
State Administrative Tribunal together with the

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 118 Rights in Water and Irrigation Act 1914

s. 1132

objection and a copy certified by or on behalf of the Corporation of —

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

5

”.

1132. Section 39G amended

- (1) Section 39G(1) is amended by deleting “treat an objection as an appeal may serve on the Corporation a notice requiring the Corporation to refer the decision to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal.” and inserting instead —

10

“

refer the relevant entry in the records to the State Administrative Tribunal for a review may serve on the Corporation a notice requiring the Corporation to refer the decision to refuse to extend time to the State Administrative Tribunal for a review.

15

”.

- (2) Section 39G(2) is amended by deleting “such a Tribunal as an appeal.” and inserting instead —

20

“ the State Administrative Tribunal for a review. ”.

- (3) After section 39G(2) the following subsection is inserted —

“

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

25

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

30

”.

1133. Sections 39GA and 39GB inserted

After section 39G the following sections are inserted —

“

39GA. New matters raised on review

- 5 (1) Upon a review by the State Administrative Tribunal on
a reference under section 39F or 39G, the State
Administrative Tribunal may consider —
- (a) grounds in addition to those stated in the notice
of objection; and
- 10 (b) reasons in addition to any reasons previously
given for the Corporation’s decision that is
under review.
- (2) The State Administrative Tribunal is to ensure, by
adjournment or otherwise, that each party and any
15 other person entitled to be heard has a reasonable
opportunity of properly considering and responding to
any new ground or reason that the State Administrative
Tribunal proposes to consider in accordance with
subsection (1).

20 **39GB. Written reasons for certain determinations to be
given and published**

- (1) If the State Administrative Tribunal considers that an
order it makes determining a matter coming before it
25 on a reference under section 39F or 39G is of general
interest or significance, it is to prepare written reasons
for its order and give a copy of the reasons to each
party and publish the written reasons.
- (2) The obligation imposed by subsection (1) is in addition
30 to, and does not derogate from, any obligation of the
State Administrative Tribunal under the *State
Administrative Tribunal Act 2003*.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 119 Road Traffic Act 1974

s. 1134

1134. Section 39H amended

Section 39H is amended as follows:

- (a) by deleting “or an appeal”;
- (b) by deleting “or the appeal”.

5 **1135. Section 39I amended**

(1) Section 39I(1) is amended as follows:

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

“

10 or in consequence of a review by the State
Administrative Tribunal

”.

(2) Section 39I(2) is amended as follows:

- (a) by deleting “, in consequence of the allowance, wholly
15 or in part, of an objection or appeal under this Act,”;
- (b) by inserting after “an assessment is necessary” —
“ under subsection (1) ”.

1136. Schedule 2 repealed

Schedule 2 is repealed.

20 **Division 119 — Road Traffic Act 1974**

1137. The Act amended

The amendments in this Division are to the *Road Traffic Act 1974**.

[* Reprinted as at 19 October 2001.

25 *For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 342 and
Act No. 9 of 2003 and Gazette 20 May 2003 p. 1804-6.]*

1138. Section 25 amended

- (1) Section 25(1) is amended by deleting “There shall be an appeal to a court of petty sessions, whose order shall be final,” and inserting instead —

5

“

An application for review may be made to the State
Administrative Tribunal

”.

- (2) Section 25(2) is repealed.

10 **1139. Section 48 amended**

- (1) Section 48(4) is amended by deleting “, within 30 days after the receipt of the notice, apply, by way of complaint, to a court of petty sessions” and inserting instead —

“ apply to the State Administrative Tribunal ”.

15

- (2) Section 48(5) and (6) are repealed.

- (3) Section 48(8) is amended by deleting “under subsection (5) or (6)” and inserting instead —

“ after an application to the State Administrative Tribunal ”.

1140. Section 49 amended

20

After section 49(2) the following subsection is inserted —

“

- (2a) In subsection (2)(a), a reference to anything done under section 48 refers to the doing of that thing after an application has been made to the State Administrative Tribunal for the review of anything done under that section.

25

”.

1141. Section 78B amended

Section 78B(2) is amended by deleting “or (6)”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 120 Royal Agricultural Society Act 1926

s. 1142

Division 120 — Royal Agricultural Society Act 1926

1142. The Act amended

The amendments in this Division are to the *Royal Agricultural Society Act 1926**.

5 [* Reprinted as at 24 August 2001.]

1143. Section 2 amended

Section 2 is amended by deleting the definition of “Minister”.

1144. Section 3 amended

Section 3(3) is amended as follows:

10 (a) by deleting “there shall be an appeal to the Minister from” and inserting instead —

“

an application may be made to the State Administrative Tribunal for a review of

15

”;

(b) by deleting all of the subsection after “other body of persons”.

Division 121 — Security and Related Activities (Control) Act 1996

20 **1145. The Act amended**

The amendments in this Division are to the *Security and Related Activities (Control) Act 1996**.

[Act No. 27 of 1996.]

1146. Section 48 amended

25 Section 48(4) is amended as follows:

(a) by deleting “an appeal lies” and inserting instead —
“ a review is available ”;

- (b) in paragraph (a) by deleting “bringing an appeal” and inserting instead —
“ applying for a review ”;
- 5 (c) in paragraph (b) by deleting “an appeal is brought” and inserting instead —
“ an application for a review is made ”.

1147. Section 55 amended

Section 55 is amended as follows:

- (a) by inserting after “sufficient grounds” —
10 “ to make an allegation under section 67(1) or ”;
- (b) by deleting “under section 67” and inserting instead —
“ under section 67(3) or 81(1) ”.

1148. Part 7 Division 4 heading replaced

15 The heading to Part 7 Division 4 is deleted and the following heading is inserted instead —

“
Division 4 — Disciplinary proceedings against licensees
”.

1149. Section 67 amended

- 20 (1) Section 67(1) and (2) are repealed and the following subsections are inserted instead —

- “
- (1) The Commissioner may allege to the State
25 Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection (1a), against a licensee.
- (1a) There is proper cause for disciplinary action against a licensee —
- (a) if the licensee no longer meets the requirements
30 described in section 52(c), (e), (f) or (i);

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 121 Security and Related Activities (Control) Act 1996

s. 1149

- 5
- (b) where the licence is held on behalf of a partnership or body corporate, that the partnership and any of the partners or the body and any of the body's officers, as the case may be, no longer meet the requirements described in section 52(c), (d), (e) or (f);
- (c) if there is power to cancel an endorsement on the licence under section 68;
- 10 (d) if the licensee has committed a breach of a code of conduct prescribed as being a proper cause for disciplinary action against a licensee under section 94(2); or
- (e) if the licensee or a person referred to in paragraph (b) has contravened, or failed to comply with —
- 15 (i) a provision of this Act; or
- (ii) the licence or a condition or restriction to which the licence is subject.
- 20 (2) If, in a proceeding commenced by an allegation under subsection (1) against a licensee, the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may revoke the licence of the licensee or cancel an endorsement on the licence under section 24 or 26.
- 25
- ”.
- (2) Section 67(3) is amended by deleting “stating the grounds on which the revocation is made, and the licence is revoked when the notice is received or deemed to be received by the licensee.” and inserting instead —
- 30 “
-
- (a) stating the grounds on which the revocation is made; and

**State Administrative Tribunal (Conferral of Jurisdiction) Amendment and
Repeal Bill 2003**

Various Acts amended to confer jurisdiction **Part 2**
Security and Related Activities (Control) Act 1996 **Division 121**
s. 1150

(b) advising that the Commissioner will refer the matter to the State Administrative Tribunal within 14 days of the making of the notice,
5 and the licence is revoked when the notice is received or deemed to be received by the licensee. ”.

(3) After section 67(3) the following subsections are inserted —

“
10 (3a) A copy of a notice given under subsection (3) is to be given to the Commissioner by the licensing officer who gave the notice as soon as is practicable, but in any event not later than 3 days, after giving the notice.

(3b) Within 14 days of a notice being given under subsection (3) the Commissioner must —
15 (a) refer the matter in respect of which the notice was given to the State Administrative Tribunal;
and
(b) ensure that any other proceedings under this
20 Division in respect of the matter commenced before the notice was given are discontinued.

”.

1150. Section 68 amended

(1) Section 68(2) is repealed and the following subsections are inserted instead —

“
25 (2) Subject to subsection (2a), a cancellation of an endorsement is not effective unless a licensing officer —
(a) has given to the licensee written notice of the
30 intention to cancel the endorsement stating the grounds on which the cancellation is intended to be made and allowing the licensee 21 days within which to respond to the notice;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 121 Security and Related Activities (Control) Act 1996

s. 1151

(b) has had due regard to any response to the notice made within that time; and

5 (c) has given to the licensee written notice of cancellation of the endorsement at least 14 days before the cancellation is to take effect, stating the grounds on which the cancellation is made.

10 (2a) If in the opinion of the licensing officer the safety or welfare of members of the public is or may be at risk from the continuance in force of an endorsement the licensing officer may give to the licensee written notice of the cancellation stating the grounds on which the cancellation is made, and the endorsement is cancelled when the notice is received or deemed to be received by the licensee.

15 (2b) A person to whom notice of cancellation of an endorsement is given must comply with any directions of a licensing officer in relation to delivering up the licence and the identity card issued to the person.
Penalty: \$2 000.

20 (2) Section 68(3) is amended by deleting “section 67(4) as applied by subsection (2),” and inserting instead —
“ subsection (2b) ”.

1151. Part 7 Division 5 heading replaced

25 The heading to Part 7 Division 4 is deleted and the following heading is inserted instead —

“
Division 5 — Review of licensing decisions”.

30 **1152. Section 71 repealed**

Section 71 is repealed.

1153. Section 72 replaced

Section 72 is repealed and the following section is inserted instead —

“

5

72. Application for review

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

(2) In subsection (1) —

10

“**person aggrieved**” means a person whose licence is affected by a reviewable decision or who applies for the grant or renewal of a licence;

“**reviewable decision**” means a decision —

15

(a) to refuse to issue or renew a licence or refuse to grant an endorsement under section 24 or 26;

(b) as to the period for which a licence is issued or renewed;

20

(c) as to a condition or restriction which is attached to a licence or an endorsement under section 24 or 26;

(d) to revoke a licence; or

(e) to cancel an endorsement under section 24 or 26;

25

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 121 Security and Related Activities (Control) Act 1996

s. 1154

1154. Sections 73 and 74 replaced

Sections 73 and 74 are repealed and the following sections are inserted instead —

“

5

73. Surrender of licence

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

10

74. Suspension of licence by State Administrative Tribunal

(1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the person's licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.

15

(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 2003*.

20

”.

1155. Section 81 amended

Section 81(2) is repealed and the following subsections are inserted instead —

“

- 5 (2) Subject to subsection (3), a revocation of a crowd
controller’s licence is not effective unless a licensing
officer —
- 10 (a) has given to the licensee written notice of the
intention to revoke the licence stating the
grounds on which the revocation is intended to
be made and allowing the licensee 21 days
within which to respond to the notice;
- 15 (b) has had due regard to any response to the notice
made within that time; and
- (c) has given to the licensee written notice of
revocation of the licence at least 14 days before
the revocation is to take effect, stating the
grounds on which the revocation is made.
- 20 (3) If in the opinion of the licensing officer the safety or
welfare of members of the public is or may be at risk
from the continuance in force of a crowd controller’s
licence the licensing officer may give to the licensee
written notice of the revocation stating the grounds on
which the revocation is made, and the licence is
25 revoked when the notice is received or deemed to be
received by the licensee.
- 30 (4) A person to whom notice of revocation of a licence is
given must comply with any directions of a licensing
officer in relation to delivering up the licence and the
identity card issued to the person.

Penalty: \$2 000.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 122 Settlement Agents Act 1981

s. 1156

1156. Section 94 amended

Section 94(2)(b) is amended by deleting “ground on which a licence may be revoked under section 67.” and inserting instead —

5

“

proper cause for disciplinary action against a licensee under section 67(1a)(d).

”.

Division 122 — Settlement Agents Act 1981

10 **1157. The Act amended**

The amendments in this Division are to the *Settlement Agents Act 1981**.

[* Reprinted as at 3 November 2000.

15

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 354 and Act No. 21 of 2003.]

1158. Section 3 amended

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

20 **1159. Part II Division 3 heading replaced**

The heading to Part II Division 3 is deleted and the following heading is inserted instead —

“

Division 3 — Review of decision of the Board

25

”.

1160. Sections 19 to 22 repealed

Sections 19 to 22 are repealed.

1161. Section 23 replaced

Section 23 is repealed and the following section is inserted instead —

“

5

23. Application for review

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

(2) In subsection (1) —

10

“**person aggrieved**” means —

15

(a) a person whose licence or triennial certificate is affected by a reviewable decision or who, under Part III, applies for or objects to the grant of a licence or applies for the renewal of a triennial certificate;

(b) a person affected by a decision of the Board under Part IV Division 2; or

20

(c) a person claiming against, or seeking the leave of the Board to commence an action in relation to, the Fidelity Guarantee Fund;

“**reviewable decision**” means —

25

(a) a decision under Part III other than —

(i) a decision under section 35; or

(ii) a determination of the form in which an application or objection is made;

(b) a decision under Part IV Division 2; or

(c) a decision under section 93 or 95.

”.

1162. Section 24 amended

30

Section 24(5) is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 122 Settlement Agents Act 1981

s. 1163

1163. Section 25 amended

Section 25(4) is repealed.

1164. Section 30 amended

After section 30(4) the following subsection is inserted —

5

“

- (5) Despite the surrender by a person of a licence or triennial certificate, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence or certificate had not been surrendered.

10

”

1165. Section 33 amended

Section 33(5) is repealed.

1166. Section 34 amended

15

Section 34(4) is repealed.

1167. Section 34A and 34B inserted

After section 34 the following sections are inserted —

“

34A. Unopposed applications

20

- (1) Subject to this Part, a licence may be granted and a triennial certificate may be granted or renewed, (as long as there is no objection in respect of a licence and special conditions are not imposed or changed) by —

25

- (a) the Board, in a meeting at any time and place;
or
(b) the Registrar, at any time or place,

without notice to the applicant, and the performance of a function by the Registrar under this subsection is to be treated as performance by the Board.

- 5
- (2) Where the Board or Registrar performs a function under subsection (1), the Registrar shall forthwith deliver the licence or triennial certificate or the renewed triennial certificate, as the case may be, to the applicant.
- 10
- (3) Sections 27, 28, and 29 apply to the Registrar in the performance of a function under subsection (1) as if a reference in any of those provisions to the Board being satisfied as to a matter were a reference to the Registrar being satisfied as to the matter.

34B. Suspension of licence by State Administrative Tribunal

- 15
- (1) Where the State Administrative Tribunal makes an order against a licensee and payment is not made in accordance with the order or the order is otherwise not complied with or is breached, the State Administrative Tribunal may suspend the licence until the payment is made, or for such period or upon such event occurring as the State Administrative Tribunal thinks fit.
- 20
- (2) The power conferred on the State Administrative Tribunal by subsection (1) is in addition to, and does not derogate from, the powers conferred on it by Part IV Division 3 or by the *State Administrative Tribunal Act 2003*.

25

”.

1168. Section 57 repealed

Section 57 is repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 122 Settlement Agents Act 1981

s. 1169

1169. Section 83 replaced

Section 83 is repealed and the following section is inserted instead —

“

5 **83. Disciplinary proceedings against settlement agents**

The Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in section 84(2).

”.

10 **1170. Section 84 amended**

(1) Section 84(1) is amended as follows:

- (a) by deleting “If after conducting an inquiry under section 83(1) the Board is satisfied that proper cause exists for disciplinary action, the Board” and inserting

15

instead —

“

If, in a proceeding commenced by an allegation under section 83 the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action, the

20

State Administrative Tribunal

”;

- (b) in paragraph (c) by deleting “Board” in both places where it occurs and inserting instead —

“ State Administrative Tribunal ”.

25 (2) Section 84(2) is amended as follows:

- (a) in paragraph (a) by deleting “Board” and inserting

“ State Administrative Tribunal ”;

- (b) in paragraph (d) by deleting “Board” and inserting

30

instead —

“ State Administrative Tribunal ”.

(3) Section 84(3) is amended as follows:

- (a) by deleting “Board” and inserting instead —
“ State Administrative Tribunal ”;
- (b) by deleting paragraph (a) and “and” after it.

5 (4) Section 84(4) is amended by deleting “Board” and inserting
instead —

“ State Administrative Tribunal ”.

1171. Section 102B amended

Section 102B is amended as follows:

10

- (a) by deleting paragraph (d);
- (b) in paragraph (e) by inserting after “fines” —
“

, other than those imposed by the State
Administrative Tribunal, that are

15

”;

- (c) in paragraph (f) by deleting “, (d)”.

1172. Section 112 amended

After section 112(1) the following subsection is inserted —

“

20

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

- (a) the number, nature, and outcome, of—
 - (i) investigations and inquiries undertaken
by, or at the direction of, the Board or
the Registrar; and
 - 25 (ii) matters that have been brought before
the State Administrative Tribunal under
this Act;
- (b) the number and nature of matters referred to in
paragraph (a) that are outstanding;

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Division 122 Settlement Agents Act 1981

s. 1173

- 5
- (c) any trends or special problems that may have emerged;
 - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
 - (e) any proposals for improving the operation of the Board.

”.

1173. Section 123 amended

10 Section 123(2) is amended as follows:

- (a) by deleting paragraph (b);
- (b) in paragraph (f) by inserting after “of this Act” —

“

15 , but not in connection with the initiation of a proceeding before the State Administrative Tribunal

”.

1174. Various references to “District Court” amended

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

“ State Administrative Tribunal ”.

Table

- s. 73(1) (3 places)
- s. 73(2) (both places)
- s. 73(4)
- s. 74(1) (4 places)
- s. 74(2) (3 places)
- s. 74(3) (both places)
- s. 74(4)(b) (both places)
- s. 78 (both places)
- s. 79(1) (both places)
- s. 79(3) and (4)

Division 123 — Soil and Land Conservation Act 1945

1175. The Act amended

The amendments in this Division are to the *Soil and Land Conservation Act 1945**

5 [* Reprinted as at 12 August 1997.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 359.*]

1176. Section 25B amended

Section 25B(4) is amended as follows:

- 10 (a) by deleting “of the allowance, wholly or in part,”;
(b) by deleting “or an appeal”;
(c) by inserting after “*Valuation of Land Act 1978*” —
“ or a review by the State Administrative Tribunal ”.

1177. Section 33 repealed

15 Section 33 is repealed.

1178. Section 34 amended

- 20 (1) Section 34(1) is amended by deleting “, within 30 days of
service of the notice, appeal against the notice to the Minister by
causing written grounds of his objection to be served on the
Minister.” and inserting instead —

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

- 25 (2) Section 34(2) and (3) are repealed.

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Division 123 Soil and Land Conservation Act 1945

s. 1179

(3) Section 34(4) is amended as follows:

(a) by deleting “appeal” in the first, third and fourth places where it occurs and inserting instead —

“ application for review ”;

5

(b) by deleting “appeal” in the second place where it occurs and inserting instead —

“ application ”;

(c) by deleting “of this section” in both places where it occurs.

10 **1179. Section 34A amended**

Section 34A(3) is amended as follows:

(a) in paragraph (a) by deleting “quashed under section 33 or 34” and inserting instead —

“

15

withdrawn as a result of an application under section 34

”;

(b) in paragraph (b) by deleting “or 39”;

(c) by inserting after “soil conservation notice was quashed” —

20

“ , withdrawn ”.

1180. Section 39 amended

(1) Section 39(1) is amended by deleting “appeal against the refusal to the Minister by causing written grounds of his appeal to be served on the Minister.” and inserting instead —

25

“

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

”.

30

(2) Section 39(2) and (3) are repealed.

1181. Section 39A repealed

Section 39A is repealed.

1182. Section 48 amended

Section 48(2)(j) is deleted.

5

Division 124 — Stamp Act 1921

1183. The Act amended

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

[* *Reprinted as at 3 August 2001.*

10 *For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 368 and
Act No. 21 of 2003.]*

1184. Section 75JA amended

Section 75JA(5) is amended by deleting “non-reviewable” and
inserting instead —

15 “ directly reviewable ”.

1185. Section 75JB amended

Section 75JB(9) is amended by deleting “non-reviewable” and
inserting instead —

“ directly reviewable ”.

20

Division 125 — State Superannuation Act 2000

1186. The Act amended

The amendments in this Division are to the *State
Superannuation Act 2000**.

[* *Act No. 42 of 2000.*

25 *For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 370 and
Act No. 21 of 2003.]*

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Part 2 Various Acts amended to confer jurisdiction

Division 126 Strata Titles Act 1985

s. 1187

1187. Section 13 amended

- (1) Section 13(3)(a) is amended by deleting “appeal to a Judge” and inserting instead —

“

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

”.

- (2) Section 13(4) is repealed and the following subsection is inserted instead —

10 “

- (4) A referral under subsection (3)(b) is to be made and dealt with in accordance with the regulations.

”.

- (3) Section 13(5) is amended by deleting “an appeal or”.

15 **1188. Section 38 amended**

Section 38(2)(1) is deleted and the following paragraph is inserted instead —

“

- 20 (1) reviews, other than by the State Administrative Tribunal, of decisions of the Board.

”.

Division 126 — Strata Titles Act 1985

1189. The Act amended

25 The amendments in this Division are to the *Strata Titles Act 1985**.

[* Reprinted as at 1 July 1999.

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 376-7.]

1190. Section 3 amended

Section 3 is amended by deleting the definition of “referee”.

1191. Section 3B amended

Section 3B(7) is amended by deleting “under Division 4” and
inserting instead —

“ against the refusal ”.

1192. Section 16 amended

(1) Section 16(1) and (2) are amended by deleting “a Land
Valuation Tribunal” in each place where it occurs and inserting
instead —

“ the State Administrative Tribunal ”.

(2) Section 16(3) is amended as follows:

(a) in paragraph (b) by deleting “the Land Valuation
Tribunal” and inserting instead —

“ the State Administrative Tribunal ”;

(b) by deleting all of the subsection after “of the
application” and inserting instead a full stop.

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

“

(3a) Subsection (3) does not limit the ability of the State
Administrative Tribunal to order that a person be joined
as a party to the proceedings.

”.

(4) Section 16(4) is amended as follows:

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

“ the State Administrative Tribunal ”;

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s. 1193

(b) by deleting “the Tribunal” and inserting instead —
“ the State Administrative Tribunal ”.

(5) Section 16(6) is amended as follows:

5 (a) by deleting “The Land Valuation Tribunal” and
inserting instead —

“ The State Administrative Tribunal ”;

(b) by deleting “the Tribunal” and inserting instead —
“ the State Administrative Tribunal ”.

1193. Section 21G amended

10 Section 21G(1)(b) is amended by deleting “a referee” and
inserting instead —

“ the executive officer of the State Administrative Tribunal ”.

1194. Section 21T amended

15 Section 21T(1)(a) is amended by deleting “a referee” and
inserting instead —

“ the executive officer of the State Administrative Tribunal ”.

1195. Section 23 amended

(1) Section 23(1)(a) is amended by deleting all of the paragraph
after “local government” and inserting instead —

20 “
at first instance, or as a result of a review by the
State Administrative Tribunal;

”.

(2) Section 23(3) is amended by deleting “or on appeal by order of
25 the relevant Minister” and inserting instead —

“
or as a result of a review by the State
Administrative Tribunal

”.

1196. Section 24 amended

Section 24(7) is amended by deleting “8” and inserting
instead —

“ 8A ”.

5 **1197. Section 25 amended**

Section 25(2) is amended by deleting “8” and inserting
instead —

“ 8A ”.

1198. Section 25B amended

10 (1) Section 25B(3) is repealed.

(2) Section 25B(4)(a) is amended by deleting “certificate under
subsection (3);” and inserting instead —

“

15 certificate of the executive officer of the State
Administrative Tribunal to the effect that a successful
application has been made to the State Administrative
Tribunal for a review of the Commission’s refusal or
failure to give an approval referred to in subsection (2);

”.

20 **1199. Section 26 amended**

(1) Section 26(1)(l) is amended by deleting “8(3)(e)” and inserting
instead —

“ 8A(f) ”.

(2) Section 26(3)(b) is amended as follows:

25 (a) by deleting “to appeal against the refusal”;

(b) by inserting after “this section” —

“ to apply for a review of the refusal ”.

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s. 1199

(3) Section 26(4) is amended as follows:

(a) by deleting “appeal to the Minister to whom the administration of the *Local Government (Miscellaneous Provisions) Act 1960* is for the time being committed by the Governor against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”;

(b) in paragraph (a) by deleting “of the kind referred to in subsection (1)(a), (b), (d), (h), (i) and (l)(i);” and inserting instead —

“ ; or “;

(c) in paragraph (b) by deleting “of the kind referred to in subsection (1)(i); or” and inserting instead a full stop;

(d) by deleting paragraph (c).

(4) Section 26(5) is amended as follows:

(a) by deleting “Subject to this section, an applicant may appeal under” and inserting instead —

“ A review is to be in accordance with “;

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

“ , if the review is of ”;

(c) by inserting after paragraph (a) —

“ or ”;

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

(e) by deleting paragraph (c).

(5) After section 26(5) the following subsection is inserted —

“

(6) For the purposes of subsections (4) and (5), if a local government fails to notify its approval of an

application to the applicant within 40 days of receiving
the application, it is taken to have refused the
application at the end of that period.

”.

- 5 (6) Section 26(7) is amended as follows:
- (a) by deleting “appeal” and inserting instead —
“ application ”;
 - (b) by deleting “commenced” and inserting instead —
“ made ”;
 - 10 (c) by deleting all of the subsection after “case may be” and
inserting instead a full stop.
- (7) Section 26(8), (9), (10), (11) and (12) are repealed.

1200. Section 27 amended

- (1) Section 27(3) is amended as follows:
- 15 (a) by deleting “appeal under” and inserting instead —
“
apply to the State Administrative Tribunal for a review,
in accordance with
”;
- 20 (b) by deleting “against” and inserting instead —
“ , of ”;
- (c) by inserting after paragraph (a) —
“ or ”;
- (d) by deleting at the end of paragraph (b) the semicolon
and “or” after it and inserting instead a full stop;
- 25 (e) by deleting paragraph (c).
- (2) After section 27(3) the following subsection is inserted —
“
- 30 (4) For the purposes of subsection (3), if a local
government fails to notify its approval of an

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Division 126 Strata Titles Act 1985

s. 1201

application to the applicant within 40 days of receiving the application, it is taken to have refused the application at the end of that period.

”.

- 5 (3) Section 27(6) is amended as follows:
- (a) by deleting “appeal” and inserting instead —
“ application ”;
 - (b) by deleting “Town Planning Appeal Tribunal may be commenced” and inserting instead —
10 “ State Administrative Tribunal may be made ”;
 - (c) by deleting all of the subsection after “case may be” and inserting instead a full stop.
- (4) Section 27(7), (8), (9) and (10) are repealed.

1201. Section 38 amended

15 Section 38(3) is amended by deleting “, tribunal or a referee” and inserting instead —
“ or tribunal ”.

1202. Section 39 amended

20 Section 39(1)(e) is amended by deleting “, tribunal or referee” and inserting instead —
“ or tribunal ”.

1203. Section 39A amended

25 Section 39A(5) is amended by deleting “The referee” and inserting instead —
“ The State Administrative Tribunal ”.

1204. Section 47 amended

Section 47(2)(d)(ii) is amended by deleting “or the referee”.

1205. Section 62 amended

Section 62(2) is amended by deleting “appeal against” and inserting instead —

“ review of ”.

5 **1206. Section 64 amended**

Section 64(1) is amended as follows:

(a) by deleting “appeal” in the first place where it occurs and inserting instead —

“ review ”;

10 (b) by deleting “appeal against” and inserting instead —

“ seek a review of ”.

1207. Part VI Division 1 repealed

Part VI Division 1 is repealed.

1208. Section 77 amended

15 Section 77 is amended as follows:

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

“

In addition to complying with any requirements of the
State Administrative Tribunal Act 2003, an

20

”;

(b) by deleting paragraph (a);

(c) by inserting after paragraph (b) —

“ and ”;

25

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

(e) by deleting paragraph (d).

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s. 1209

1209. Section 77A repealed

Section 77A is repealed.

1210. Section 79 amended

(1) Section 79(1) is repealed.

5 (2) Section 79(2) is amended by deleting “under subsection (1)(a) or (c)” and inserting instead —

“

of an application to the State Administrative Tribunal
under this Part

10

”.

1211. Part VI Division 2A repealed

Part VI Division 2A is repealed.

1212. Part VI Division 3 heading amended

15 The heading to Part VI Division 3 is amended by deleting “referee” and inserting instead —

“ **State Administrative Tribunal** ”.

1213. Section 81 amended

(1) Section 81(1) is repealed and the following subsection is
inserting instead —

20

“

(1) The State Administrative Tribunal may make
an order sought by the applicant and an order
made may be expressed in terms different
from the order sought, so long as it does not
differ in substance from the order sought.

25

”.

(2) Section 81(2a) is repealed.

(3) Section 81(7) is amended as follows:

(a) by deleting “Subject to sections 79(1)(d) and 103H(8), a referee may not” and inserting instead —

“ The State Administrative Tribunal cannot ”.

5 (b) by deleting the full stop at the end of the subsection and inserting instead —

“

except —

10 (c) when allowing an applicant to amend the application, to compensate persons for time unnecessarily spent in connection with the application; or

(d) under section 103H(8).

”.

15 (4) Section 81(8) and (9) are repealed.

1214. Section 82 amended

(1) Section 82(2) is amended by deleting “he” in the third place where it occurs and inserting instead —

“ it ”.

20 (2) Section 82(3) is repealed and the following subsection is inserted instead —

“

25 (3) An interim order may be made or renewed notwithstanding that the time within which a person may make a written submission has not expired.

”.

(3) Section 82(4) is amended as follows:

(a) in paragraph (b) by deleting “District Court under section 106 or by a referee under subsection (5), when it is so revoked” and inserting instead —

30

“

Supreme Court on appeal from the State
Administrative Tribunal

”;

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s. 1215

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

“

if the State Administrative Tribunal (or the
Supreme Court on appeal from the State
Administrative Tribunal)

”;

(c) in paragraph (c)(i) and (ii) by deleting “a referee”;

(d) in paragraph (c) by deleting all of the paragraph after
“application” in paragraph (c)(ii) and inserting instead a
full stop.

(4) Section 82(5) is amended by deleting “he does so, he” and
inserting instead —

“ it does so, ”.

(5) Section 82(6) is repealed.

1215. Section 83 amended

Section 83(5) is amended by deleting “by the District Court”.

1216. Section 84 amended

(1) Section 84(1)(a), (b) and (c) are amended by deleting “him” and
inserting instead —

“ it ”.

(2) Section 84(3) is amended by deleting “the referee” and inserting
instead —

“ it ”.

1217. Section 85 amended

Section 85 is amended by deleting “the referee” in the second
place where it occurs and inserting instead —

“ it ”.

1218. Section 89 amended

Section 89 is amended by deleting “by him”.

1219. Section 97 amended

Section 97(2) is amended by deleting “he” and inserting
instead —

“ it ”.

1220. Section 98 amended

Section 98 is amended by deleting “to a Land Valuation
Tribunal”.

1221. Section 99 amended

Section 99(2) is amended as follows:

- (a) by deleting “of a referee”;
- (b) in paragraphs (a) and (b) by deleting “of the referee” in
each place where it occurs.

1222. Section 99A amended

Section 99A(4) is amended by deleting “him” and inserting
instead —

“ it ”.

1223. Section 102 amended

(1) Section 102(2) is amended as follows:

- (a) by deleting “A referee who” and inserting instead —
“ If it ”;
- (b) by inserting after “subsection (1)” —
“ , the State Administrative Tribunal ”.

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s. 1224

(2) Section 102(5) is amended by deleting “the referee specifies” and inserting instead —

“ are specified ”.

1224. Section 103F amended

5 Section 103F(5) is amended by deleting “The referee” and inserting instead —

“ The State Administrative Tribunal ”.

1225. Section 103H amended

10 Section 103H(6) is amended by deleting “referee” and inserting instead —

“ executive officer of the State Administrative Tribunal ”.

1226. Section 104 amended

15 (1) Section 104(1) is amended by deleting “An order by a referee shall be made in writing and a copy, certified by the referee to be a true copy, shall be served by the referee” and inserting instead —

“

A copy of an order by the State Administrative Tribunal shall be served

20

”.

(2) Section 104(2) is amended by deleting “the referee’s” and inserting instead —

“ the State Administrative Tribunal’s ”.

1227. Sections 105, 106 and 107 repealed

25 Sections 105, 106 and 107 are repealed.

1228. Section 110 repealed

Section 110 is repealed.

1229. Section 111 amended

Section 111(1) is amended by deleting “District Court under this Division” and inserting instead —

“

5

Supreme Court from the State Administrative Tribunal

”.

1230. Section 113 amended

(1) Section 113(1) is repealed.

(2) Section 113(2) is amended as follows:

10

(a) by deleting “sent to the referee under subsection (1), the referee shall cause a copy of the order, certified by him to be a true copy,” and inserting instead —

“

15

made by the Supreme Court on appeal from the State Administrative Tribunal, the executive officer of the State Administrative Tribunal shall cause a copy of the order

”;

(b) by deleting paragraph (c).

20 **1231. Section 114 amended**

(1) Section 114(2) is amended by deleting “by the referee”.

(2) Section 114(5) is amended as follows:

(a) by inserting after paragraph (a) —

“ and ”;

25

(b) in paragraph (b) by deleting the semicolon and inserting instead a full stop;

(c) by deleting paragraphs (c) and (d) and “and” after paragraph (c).

(3) Section 114(6) is repealed.

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s. 1232

1232. Section 115 amended

Section 115(1)(b) is amended as follows:

- (a) by deleting “referee to be registered” and inserting instead —

5 “ State Administrative Tribunal to be recorded ”;

- (b) by deleting “referee” and inserting instead —

“

executive officer of the State Administrative Tribunal

”.

10 **1233. Sections 116 to 119 repealed**

Sections 116, 116A, 117, 118 and 119 are repealed.

1234. Sections 128 repealed

Section 128 is repealed.

1235. Section 130 amended

15 Section 130 is amended as follows:

- (a) in paragraph (b) —

- (i) by deleting “including” and inserting instead —

“ except ”; and

- (ii) by deleting “referees” and inserting instead —

20 “ the State Administrative Tribunal ”;

- (b) after paragraph (f) by inserting “and”;

- (c) by deleting paragraphs (g) and (h) and “and” after paragraph (h).

1236. Schedule 3 amended

- (1) Schedule 3 clause 12(11) is repealed and the following subclause is inserted instead —

“

- 5 (11) An application for an order referred to in subclause (10) cannot be accepted unless the proprietor satisfies the State Administrative Tribunal that the justice of the case requires that the application be accepted.

”.

- 10 (2) Schedule 3 clause 13A(7) is repealed and the following subclause is inserted instead —

“

- 15 (7) An application under subclause (5) cannot be accepted unless the proprietor satisfies the State Administrative Tribunal that the justice of the case requires that the application be accepted.

”.

- (3) Schedule 3 clause 13A(8) is amended by deleting “he” and inserting instead —

20 “ it ”.

1237. Schedule 4 amended

Schedule 4 clause 2(8) is repealed and the following subclause is inserted instead —

“

- 25 (8) An application for an order referred to in subclause (7) cannot be accepted unless the proprietor satisfies the State Administrative Tribunal that the justice of the case requires that the application be accepted.

”.

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s. 1238

1238. Various references to “referee” amended

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

5

Table

s. 3(1) (in the definition of “administrator”)
s. 39A(7)
s. 42(2)(b)
s. 77
s. 78(1) (both places)
s. 78(2)
s. 83(4) and (5)
s. 84(2) and (3)
s. 93(1) and (3)
s. 94(1)
s. 95(1)
s. 97(1)
s. 99(1)
s. 99A(1)
s. 100(1)
s. 101
s. 102(1), (3) and (4)
s. 103(1)
s. 103A(1) and (3)
s. 103B(1)
s. 103C(1)
s. 103D(1)
s. 103E(1) and (3)
s. 103F(1) and (3)
s. 103G(1) and (4)
s. 103H(1) and (3)
s. 103I(1)
s. 103J(1) and (3)
s. 103K(1)
s. 103L(1) and (3)
s. 103M(1)
s. 103N(1)
s. 103O(1) (both places)

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s. 103P(1)
s. 103Q(1)
s. 103R(1)
s. 114(4)(b)
s. 121
s. 125(3)
Sch. 3 item 12(10) (both places)
Sch. 3 item 13A(5) and (6)
Sch. 4 item 2(7)(a) and (b)

- (2) The Act is amended by deleting “A referee” in each place specified in the Table to this section and inserting instead —
“ The State Administrative Tribunal ”.

Table

s. 81(3) and (4)
s. 82(5)
s. 83(1)
s. 84(1)
s. 94(2)
s. 97(2)
s. 103H(8)
s. 103I(4)

- 5 (3) The Act is amended by deleting “the referee” in each place specified in the Table to this section and inserting instead —
“ the State Administrative Tribunal ”.

Table

s. 3B(7)(c)
s. 39A(4)(c)(ii)
s. 39A(7)
s. 42A(2)
s. 47(2)(a)
s. 81(2)
s. 82(2) and (4)(a)
s. 85
s. 86 (both places)
s. 87 (both places)

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- s. 88 (both places)
- s. 89 (both places)
- s. 90 (both places)
- s. 91 (both places)
- s. 92 (3 places)
- s. 95 (both places)
- s. 97(1)
- s. 98 (both places)
- s. 99(1)
- s. 99A(4)
- s. 100(1)
- s. 101
- s. 103(2) and (3)
- s. 103B(2) and (3)
- s. 103C(3)
- s. 103D(4)
- s. 103H(2) and (8)
- s. 103I(3)
- s. 103K(3) and (4)
- s. 103L(2)
- s. 103M(4)
- s. 103N(5)
- s. 103O(5)
- s. 103P(3)
- s. 103Q(3)
- s. 103R(3)
- s. 104(1)(c)
- s. 114(1)
- s. 121 (both places)
- Sch. 2A item 14
- Sch. 3 item 13A(6) and (8)

1239. Various references to “by a referee” deleted

The Act is amended by deleting “by a referee” in each place specified in the Table to this section.

Table

s. 3AB(2)(b)
s. 21F(2)(c)
s. 21Q(2)(c)

5 **1240. Various references to “he is” deleted**

The Act is amended by deleting “he is” in each place specified in the Table to this section.

Table

s. 39A(5)
s. 82(2)
s. 93(3)
s. 94(2)
s. 103A(3)
s. 103B(3)
s. 103C(3)
s. 103D(4)
s. 103E(3)
s. 103F(3)
s. 103G(4)(a) and (b)
s. 103H(3)
s. 103I(3)
s. 103J(3)
s. 103K(3) and (4)
s. 103L(3)
s. 103M(4)
s. 103N(5)
s. 103O(5)
s. 103P(3)
s. 103Q(3)
s. 103R(3)

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Part 2 Various Acts amended to confer jurisdiction

Division 127 Subiaco Redevelopment Act 1994

s. 1241

Division 127 — Subiaco Redevelopment Act 1994

1241. The Act amended

The amendments in this Division are to the *Subiaco Redevelopment Act 1994**.

5 [* Reprinted as at 25 February 2000.
For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 378.*]

1242. Section 52 amended

(1) Section 52(1) is amended as follows:

- 10 (a) by deleting “appeal” and inserting instead —
“
apply to the State Administrative Tribunal for a review ”;
(b) by deleting “from” and inserting instead —
15 “ of ”.

(2) Section 52(2) is repealed.

1243. Section 54 amended

(1) Section 54(2) is amended by deleting “appeal under Part V of the Town Planning Act against” and inserting instead —

- 20 “
apply to the State Administrative Tribunal for a review,
in accordance with Part V of the Town Planning Act,
of the decision to give ”.

- 25 (2) Section 54(3) is amended by deleting “appeal” and inserting
instead —
“ application ”.

(3) Section 54(4) is amended as follows:

(a) by deleting “Town Planning Appeal Tribunal” in the first place where it occurs and inserting instead —
“ State Administrative Tribunal ”;

5 (b) by deleting “the Town Planning Appeal Tribunal” in the second place where it occurs and inserting instead —
“ it ”.

(4) Section 54(6) is amended as follows:

(a) by deleting “in any court of competent jurisdiction”;

10 (b) by deleting “it in so doing” and inserting instead —

“

the Authority in so doing as a debt in a court of
competent jurisdiction

”.

15 **Division 128 — Swan River Trust Act 1988**

1244. The Act amended

The amendments in this Division are to the *Swan River Trust Act 1988**.

[* Reprinted as at 1 December 2000.]

20 **1245. Section 68 amended**

(1) Section 68(2) is amended by deleting all of the subsection after “the notice” and inserting instead —

“

25 apply to the State Administrative Tribunal for a review
of the direction.

”.

(2) Section 68(3) by deleting “appeal” and inserting instead —

“ application for a review ”.

(3) Section 68(4) is repealed.

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Part 2 Various Acts amended to confer jurisdiction

Division 129 Taxation Administration Act 2003

s. 1246

Division 129 — Taxation Administration Act 2003

1246. The Act amended

The amendments in this Division are to the *Taxation Administration Act 2003**.

5 [* Act No. 1 of 2003.]

1247. Section 16 amended

Section 16(1)(b) is amended by deleting “a court or tribunal hearing an appeal under section 41” and inserting instead —
“ the State Administrative Tribunal ”.

10 **1248. Section 17 amended**

Section 17(2)(a) is amended by deleting “a court or tribunal hearing an appeal under section 41” and inserting instead —
“ the State Administrative Tribunal ”.

1249. Part 4 heading amended

15 The heading to Part 4 is amended by deleting “appeals” and inserting instead —
“ **review** ”.

1250. Section 31 amended

Section 31 is amended as follows:

- 20 (a) by deleting “and appeal” and inserting instead —
“ or review ”;
- (b) in paragraph (a) by deleting “or appeal”;

(c) in paragraph (a) by inserting after “under this Act” —

“

or in a proceeding before the State
Administrative Tribunal commenced under this
Act

”.

1251. Section 32 amended

Section 32 is amended as follows:

(a) by deleting “or appeal”;

(b) by inserting after “based on the valuation” —

“ or an application under this Act for a review ”.

1252. Section 33 amended

(1) Section 33 is amended as follows:

(a) by inserting before “An objection” the subsection
designation “(1)”;

(b) by deleting “, appeal”.

(2) At the end of section 33 the following subsection is inserted —

“

(2) Despite anything in the *State Administrative Tribunal
Act 2003*, the State Administrative Tribunal cannot,
before finally determining a matter brought before it
under this Act, make an order that has the effect of
suspending or deferring an obligation to pay tax.

”.

1253. Section 34 amended

(1) Section 34(2)(c) is amended by deleting “non-reviewable” and
inserting instead —

“ directly reviewable ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 129 Taxation Administration Act 2003

s. 1254

(2) Section 34(4) is amended as follows:

(a) by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”;

(b) by deleting “a Small Claims Tribunal constituted by a Magistrate for the decision to be reconsidered.” and inserting instead —

“

the State Administrative Tribunal for a review of the decision.

”.

(3) Section 34(5) is repealed.

1254. Section 38 amended

(1) Section 38(4) is amended by deleting “appeal body” and inserting instead —

“ State Administrative Tribunal ”.

(2) Section 38(5) is amended by deleting “appeal body” and inserting instead —

“ State Administrative Tribunal ”.

(3) Section 38(6) is repealed and the following subsection is inserted instead —

“

(6) The State Administrative Tribunal may decide the questions raised by the referred objection.

”.

(4) Section 38(8) is repealed.

1255. Part 4 Division 3 heading amended

The heading to Part 4 Division 3 is amended by deleting
“Appeals” and inserting instead —

“ **Reviews** ”.

5 **1256. Section 40 amended**

(1) Section 40(1) is amended by deleting “appeal against” and
inserting instead —

“

10 apply to the State Administrative Tribunal for a
review of

”.

(2) Section 40(2) is repealed.

1257. Section 41 repealed

Section 41 is repealed.

15 **1258. Section 42 amended**

(1) Section 42(1) is amended as follows:

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

“

20 application to the State Administrative Tribunal for a
review of a decision

”;

(b) by deleting “to which it relates”.

(2) Section 42(2) is repealed.

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Division 129 Taxation Administration Act 2003

s. 1259

1259. Section 43 amended

- (1) Section 43(1) and (2) are repealed and the following subsections are inserted instead —

“

- 5 (1) When the State Administrative Tribunal is dealing with a matter brought before it under this Act other than a matter to which subsection (2) applies, the State Administrative Tribunal is to be constituted by, or include a member who is —
- 10 (a) a judicial member; or
(b) a senior member who is a legal practitioner.
- (2) When the State Administrative Tribunal is dealing with a matter brought before it under this Act that relates to an assessment or decision under the *Debits Tax Assessment Act 2002*, the *Pay-roll Tax Assessment Act 2002*, or the *Stamp Act 1921*, the State Administrative Tribunal is to be constituted by its President sitting alone.
- 15
- (2a) In subsections (1) and (2) —
20 **“judicial member”**, **“legal practitioner”**, **“member”**, **“President”**, and **“senior member”**, each have the meanings given to those terms in section 3(1) of the *State Administrative Tribunal Act 2003*.
- (2b) Subsections (1) and (2) apply to the constitution of the State Administrative Tribunal at every stage of a proceeding before it, including a directions hearing or other hearing of a procedural nature before the Tribunal.
- 25

”.

(2) Section 43(3) is amended by inserting after “If” —

“

, following an application under this Act to the State
Administrative Tribunal for a review of a decision,

5

”.

(3) Section 43(4) is amended as follows:

(a) by deleting “(3)” and inserting instead —

“ (1) ”;

(b) in paragraph (a) by deleting “a court or tribunal” and
inserting instead —

10

“ the State Administrative Tribunal ”;

(c) in paragraph (b) by inserting after “rights of appeal
against the” —

“ State Administrative Tribunal’s ”.

15 **1260. Section 43A inserted**

After section 43 the following section is inserted —

“

**43A. Appeal from decision of State Administrative
Tribunal**

20

(1) An appeal from a decision of the State Administrative
Tribunal can be brought on a question of law, of fact,
or mixed law and fact, without having first obtained
leave to appeal.

25

(2) The appeal has to be instituted in accordance with the
rules of the Supreme Court and within the period of
28 days after —

(a) the day on which the Tribunal’s decision is
made; or

30

(b) if the Tribunal gives oral reasons for the
decision and the appellant then requests it to
give written reasons under section 78 of the

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s. 1261

State Administrative Tribunal Act 2003, the day on which the written reasons are given to the appellant.

”.

5 **1261. Section 47 amended**

Section 47(8) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

1262. Section 56 amended

10 Section 56(3) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

1263. Section 57 amended

15 Section 57(3) is amended by deleting “non-reviewable” and inserting instead —

“ directly reviewable ”.

1264. Section 59 amended

(1) Section 59 is amended by inserting before “No action” the subsection designation “(1)”.

20 (2) At the end of section 59 the following subsection is inserted —

“

(2) Subsection (1) does not prevent an appeal from a decision of the State Administrative Tribunal.

”.

1265. Glossary amended

The Glossary is amended by deleting the definition of “non-reviewable decision” and inserting the following definition in the appropriate alphabetical position —

5

“

“**directly reviewable decision**” means a decision under a taxation Act that is expressed by the Act to be directly reviewable;

”.

10

Division 130 — Taxi Act 1994

1266. The Act amended

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

[* *Reprinted as at 11 October 2002.*]

1267. Section 20 amended

15

- (1) Section 20(4) is amended by deleting “, within 14 days of being notified of the imposition of that condition, appeal to a Local Court against” and inserting instead —

“

20

apply to the State Administrative Tribunal for a review of

”.

- (2) Section 20(5) is repealed.

1268. Section 22 amended

25

- (1) Section 22(2) is amended by deleting “, within 14 days of being served with the relevant notice, appeal to a Local Court against” and inserting instead —

“

30

apply to the State Administrative Tribunal for a review of

”.

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Division 130 Taxi Act 1994

s. 1269

(2) Section 22(3) is repealed.

1269. Section 23 amended

(1) Section 23(3) is amended by deleting “appealed under subsection (4)” and inserting instead —

5 “ applied under subsection (4) for a review ”.

(2) Section 23(4) is amended as follows:

(a) by inserting after “14 days” —

“ after the day ”;

10 (b) by deleting “appeal to a Local Court against” and inserting instead —

“

apply to the State Administrative Tribunal for a review of

”.

15 (3) Section 23(5) is repealed.

1270. Section 30 amended

(1) Section 30(2)(b) is amended by deleting “appeal is lodged” and inserting instead —

“ application for review is made ”.

20 (2) Section 30(3) is amended as follows:

(a) by inserting after “14 days after” —

“ the day of ”;

(b) by deleting “appeal to a Local Court against” and inserting instead —

25 “

apply to the State Administrative Tribunal for a review of

”.

(3) Section 30(4) is repealed.

1271. Section 37 amended

- (1) Section 37(2) is amended by deleting “, within 14 days of service of the notice under that subsection, appeal to a Local Court against” and inserting instead —

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

- (2) Section 37(3) is repealed.

1272. Section 38 repealed

Section 38 is repealed.

Division 131 — Town Planning and Development Act 1928

10 **Subdivision 1 — Amendments to the Act**

1273. The Act amended

The amendments in this Subdivision are to the *Town Planning and Development Act 1928**.

[* *Reprinted as at 3 November 2000.*

15 *For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 397.]*

1274. Section 2 amended

- (1) Section 2(1) is amended by deleting the definitions of “appeal”, “deputy President”, “member”, “party”, “President”, “Principal Registrar” and “Tribunal”.

20

- (2) Section 2(1) is amended in the definition of “legal practitioner” by deleting “practitioner within the meaning of the *Legal Practitioners Act 1893*” and inserting instead —

“

25

person entitled to practise as a barrister and
solicitor of the Supreme Court

”.

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Division 131 Town Planning and Development Act 1928

s. 1275

(3) Section 2(1) is amended in the definition of “regulations” by deleting “section 75” and inserting instead —

“ the *State Administrative Tribunal Act 2003* ”.

(4) Section 2(1) is amended in the definition of “rules” as follows:

5 (a) by inserting before “Tribunal” —

“ State Administrative ”;

(b) by deleting “section 74” and inserting instead —

“ the *State Administrative Tribunal Act 2003* ”.

1275. Section 7B amended

10 (1) Section 7B(6) is amended as follows:

(a) in paragraph (a) by deleting “appeal under Part V.” and inserting instead —

“

15 apply to the State Administrative Tribunal for a review, in accordance with Part V, of the decision to refuse or to impose the conditions.

”;

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

20 “ application for a review ”;

(c) in paragraph (d) by deleting “appeal” and inserting instead —

“ apply for a review ”.

(2) Section 7B(8) is amended as follows:

25 (a) in paragraph (b) by deleting “appeal under Part V against” and inserting instead —

“

30 apply to the State Administrative Tribunal for a review, in accordance with Part V, of the decision to give

”;

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(b) in paragraph (ba) by inserting before “Tribunal” —
“ State Administrative ”;

(c) in paragraph (ba) by deleting “a direction appealed
against” and inserting instead —
“ the direction ”.

(3) Section 7B(12)(a)(ii) is deleted and the following subparagraph
is inserted instead —

“

(ii) any decision for the review of which the
claimant has made an application under
subsection (6) has been affirmed in
whole or in part by the State
Administrative Tribunal.

”.

1276. Section 8A amended

(1) Section 8A(1) is amended as follows:

(a) by deleting “appeal against” and inserting instead —

“

apply to the State Administrative Tribunal for a review,
in accordance with Part V, of

”;

(b) by deleting “under Part V”.

(2) Section 8A(2) is repealed and the following subsection is
inserted instead —

“

(2) Subsection (1) does not affect the operation of a right
given or taken to be given by a town planning scheme
to apply for a review of a decision; but, where rights
are given or taken to be given by a scheme and under
subsection (1), the exercise of one of those rights
extinguishes the other right to apply for a review of the
same decision.

”.

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1277. Section 8B amended

Section 8B is amended by deleting “appeal against that decision under Part V.” and inserting instead —

“

5 apply to the State Administrative Tribunal for a review,
in accordance with Part V, of the decision.

”.

1278. Section 10AA amended

10 Section 10AA is repealed and the following section is inserted
instead —

“

10AA. Review of section 10 direction

15 A person to whom a direction is given under section 10
may apply to the State Administrative Tribunal for a
review, in accordance with Part V, of the decision to
give the direction.

”.

1279. Section 17 amended

20 Section 17(3) is repealed and the following subsection is
inserted instead —

“

25 (3) A local government may apply to the State
Administrative Tribunal for a review, in accordance
with Part V, of any order of the Minister under this
section.

”.

1280. Section 18 amended

(1) Section 18(2a) is amended by inserting before “Tribunal” —

“ State Administrative ”.

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s. 1281

(2) Section 18(2b) is amended by deleting “appeal.” and inserting
instead —

“ application for review. ”.

(3) Section 18(2c) is amended by inserting before “Tribunal” —

“ State Administrative ”.

(4) Section 18(3) is repealed and the following subsection is
inserted instead —

“

(3) The local government may apply to the State
Administrative Tribunal for a review, in accordance
with Part V, of any order of the Minister under
subsection (2c).

”.

(5) Section 18(4) is repealed.

1281. Section 26 amended

(1) Section 26(1) is amended as follows:

(a) in paragraph (a) by deleting “appeal under Part V
against” and inserting instead —

“

apply to the State Administrative Tribunal for a
review, in accordance with Part V, of

”;

(b) in paragraph (ab) by deleting “appeal under Part V” and
inserting instead —

“

apply to the State Administrative Tribunal for a
review, in accordance with Part V,

”;

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(c) in paragraph (ad) by deleting “appeal under Part V from” and inserting instead —

“

apply to the State Administrative Tribunal for a review, in accordance with Part V, of

5

”;

(d) by deleting paragraph (c).

(2) Section 26(2) is amended as follows:

(a) by deleting “appeal under” and inserting instead —

10

“ application under ”;

(b) by deleting “appeal from” and inserting instead —

“ application for a review of ”.

1282. Section 28A amended

Section 28A(5) is repealed.

15 **1283. Part V heading replaced**

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

“

Part V — Applications for review

20

”.

1284. Sections 36 and 37 replaced

Sections 36 and 37 are repealed and the following sections are inserted instead —

“

25 **36. When this Part applies**

(1) This Part applies if this Act or a planning scheme gives the State Administrative Tribunal jurisdiction to carry out a review in accordance with this Part.

- 5 (2) Even if a planning scheme does not expressly give a person a right to apply to the State Administrative Tribunal for a review, in accordance with this Part, of a decision or matter, the planning scheme is taken to give that right if —
- (a) the planning scheme is expressed as conferring on the person a right to appeal against the decision, or to refer the matter, under Part V of this Act; or
- 10 (b) the planning scheme is expressed as conferring on the person a right to appeal or apply for review in respect of the matter and the matter involves the exercise by the responsible authority of a discretionary power.
- 15 (3) Subsection (2) applies even if the planning scheme provides for the appeal, referral or application to be made otherwise than to the State Administrative Tribunal or, in the circumstances described in paragraph (b) of that subsection, otherwise than in
- 20 accordance with Part V of this Act.
- (4) A provision in a planning scheme of the kind described in subsection (2)(a) or (b) has no effect other than the effect given to that provision by subsection (2).
- (5) In subsections (2), (3) and (4) —
- 25 **“planning scheme”** means —
- (a) a town planning scheme in force under this Act;
- (b) the Metropolitan Region Scheme;
- (c) a regional planning scheme; or
- 30 (d) any other instrument that the regulations specify to be a planning scheme for the purposes of subsection (2).

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37. Terms used in this Part

In this Part, unless the contrary intention appears —

“**ordinary member**” has the meaning given to that term in section 3(1) of the *State Administrative Tribunal Act 2003*;

“**party**” has the meaning given to that term in section 36 of the *State Administrative Tribunal Act 2003*;

“**President**” means the President of the State Administrative Tribunal;

“**regional planning scheme**” has the meaning given to that term in section 3 of the *Western Australian Planning Commission Act 1985*.

”.

1285. Section 38 amended

- (1) Section 38(1) is amended by deleting “Each member is to be a person who, in the opinion of the Minister,” and inserting instead —

“

The member constituting the State Administrative Tribunal, or each of them if there is more than one, is to be a person who

”.

- (2) Section 38(2) is amended by deleting “As far as practicable, the members appointed under section 37(1) are to between them have” and inserting instead —

“

As far as practicable, the member is to have, or the members between them are to have,

”.

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- (3) Section 38(3) to (5) are repealed and the following subsections are inserted instead —

“

- 5 (3) If the application is for a review of a decision referred to in section 8B or a decision relating to an environmental condition, the member constituting the State Administrative Tribunal, or at least one of them if there is more than one, is to be a person who has knowledge of and experience in the field of environmental science.
- 10 (4) Unless this subsection does not apply because of subsection (5), the State Administrative Tribunal is to be constituted by an ordinary member sitting alone when dealing with —
- 15 (a) an application for a review of —
- (i) the determination of, or conditions imposed in respect of, a planning application to commence a development of a value of less than \$250 000 or such other amount as is prescribed by the regulations;
- 20 (ii) the determination of, or conditions imposed in respect of, a planning application to commence a development of a single house on a single lot of a value that is less than \$500 000 or such other amount as is prescribed by the regulations, or any development ancillary to that development; or
- 25 (iii) the determination of, or conditions imposed in respect of, an application for approval to subdivide a lot into not more than 3 lots;
- 30

or

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- 5 (b) an application that the applicant, with the agreement of each other party, has elected at the time of making the application to have determined by an ordinary member sitting alone.
- (5) Subsection (4) does not apply if the President is of the opinion that the application is likely to raise complex or significant planning issues.

”.

10 **1286. Section 39 repealed**

Section 39 is repealed.

1287. Part V Divisions 2 and 3 repealed

Part V Divisions 2 and 3 are repealed.

1288. Part V Division 4 heading deleted

15 The heading to Part V Division 4 is deleted.

1289. Sections 47 to 57 repealed

Sections 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 57 are repealed.

1290. Section 58 amended

20 (1) Section 58(1) and (2) are repealed.

(2) Section 58(3) is amended as follows:

- (a) by deleting “An appellant in an appeal referred to in section 40(3)” and inserting instead —

“

25 In the case of an application described in section 38(4)(a), the applicant

”;

- (b) by deleting “appeal is commenced” and inserting
instead —
“ application is made ”;
- (c) by deleting “appeal” and inserting instead —
“ application ”.
- 5
- (3) Section 58(4) is amended as follows:
- (a) by deleting “appellant” in each place where it occurs and
inserting instead —
“ applicant ”;
- 10 (b) by deleting “appeal” in the first place where it occurs
and in paragraph (b) and inserting instead —
“ application ”;
- (c) in paragraph (a) by deleting “has given a direction under
section 40(4) in respect of the appeal” and inserting
instead —
15 “
, being of the opinion that the application is
likely to raise complex or significant planning
issues, directs that the parties may be so
20 represented
”;
- (d) in paragraph (b) by inserting after “directs” —
“ in any other case ”.

1291. Section 59 repealed

25 Section 59 is repealed.

1292. Section 60 amended

Section 60 is amended as follows:

- (a) by deleting “appeal to the Tribunal from” and inserting
instead —
30 “ application for the review of ”;

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- (b) by inserting before “Tribunal” —
“ State Administrative ”;
- (c) by deleting “appeal.” and inserting instead —
“ application. ”.

5 **1293. Section 61 amended**

(1) Section 61(1) is amended as follows:

- (a) by deleting “appeal the Appeal Tribunal” and inserting instead —

“

10 application in accordance with this Part the State
Administrative Tribunal

”;

- (b) in paragraph (b) by deleting “appeal.” and inserting instead —

15 “ application. ”.

(2) Section 61(2) is amended as follows:

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

“ application ”;

20 (b) by inserting before “Tribunal” —

“ State Administrative ”.

(3) Section 61(3) is amended as follows:

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

“ application for a review of ”;

25 (b) by deleting “appellant” and inserting instead —

“ applicant ”;

- (c) by inserting before “Tribunal” in each place where it occurs —

“ State Administrative ”.

1294. Section 62 replaced

Section 62 is repealed and the following section is inserted
instead —

“

5

62. Submissions from persons who are not parties

The State Administrative Tribunal may receive or hear
submissions in respect of an application from a person
who is not a party to the application if the Tribunal is
of the opinion that the person has a sufficient interest in
the matter.

10

”.

1295. Sections 63 to 65 repealed and section 63 inserted

Sections 63, 64 and 65 are repealed and the following section is
inserted instead —

15

“

63. Exclusion of powers to join parties

Section 38 of the *State Administrative Tribunal
Act 2003* does not apply in a proceeding for a review in
accordance with this Part.

20

”.

1296. Section 66 amended

(1) Section 66(1) is repealed and the following subsection is
inserted instead —

“

25

(1) The State Administrative Tribunal constituted by the
President may, of its own motion or upon an
application made under subsection (3), review a
direction, determination or order upon a matter
involving a question of law that was made by the State
Administrative Tribunal when constituted without a

30

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legally qualified member as defined in section 3(1) of the *State Administrative Tribunal Act 2003* .

”.

- 5 (2) Section 66(2) is amended by inserting before “Tribunal” in both places where it occurs —
- “ State Administrative ”.
- (3) Section 66(3) is amended as follows:
- (a) by inserting before “review of a direction” —
- “ a ”;
- 10 (b) by deleting “to the appeal”.
- (4) Section 66(4) is amended by deleting “under section 63”.
- (5) Section 66(5) is amended by inserting before “Tribunal” —
- “ State Administrative ”.

1297. Sections 67 and 68 repealed

15 Sections 67 and 68 are repealed.

1298. Part V Division 5 heading deleted

The heading to Part V Division 5 is deleted.

1299. Section 69 amended

- (1) Section 69(1) is amended as follows:
- 20 (a) by inserting before “Tribunal” in the 3 places where it occurs —
- “ State Administrative ”;
- (b) by deleting “appeal” in both places where it occurs and inserting instead —
- 25 “ application. ”.

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-
- (2) Section 69(2) is amended as follows:
- (a) by deleting “appeal” in both places where it occurs and inserting instead —
“ application. ”;
 - 5 (b) by inserting before “Tribunal” —
“ State Administrative ”.
- (3) Section 69(3) is amended by deleting “appeal” in both places where it occurs and inserting instead —
“ application ”.
- 10 (4) Section 69(4) is amended by inserting before “Tribunal” —
“ State Administrative ”.
- (5) Section 69(5) is amended as follows:
- (a) in paragraph (a) by deleting “appeal is situate” and inserting instead —
15 “ application is situated ”;
 - (b) in paragraph (b) by deleting “appeal is situate” and inserting instead —
“ application is situated ”.

1300. Section 70 amended

- 20 (1) Section 70(1) is amended by deleting “appeal” in each place where it occurs and inserting instead —
“ application ”.
- (2) Section 70(2) is amended as follows:
- 25 (a) by deleting “appeal” in the both places where it occurs and inserting instead —
“ application ”;

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- (b) in paragraph (a) by deleting “Principal Registrar” and inserting instead —
“ President ”;
- (c) in paragraph (b) by inserting before “Tribunal” —
5 “ State Administrative ”.
- (3) Section 70(3) is amended as follows:
- (a) in paragraphs (a) and (c) by deleting “appeal” and inserting instead —
“ application ”;
- 10 (b) by deleting paragraph (b) and “or” after it and inserting instead —
“
(b) more than 14 days after the application was
made to the State Administrative Tribunal; or
15 ”.
- (4) Section 70(4) is amended by inserting after “laid before” —
“
, or transmitted in accordance with section 72(1) to the
Clerk of,
20 ”.
- (5) Section 70(5) is amended by deleting “appeal” and inserting instead —
“ proceeding ”.
- (6) Section 70(7)(a) is amended by deleting “to the appeal”.
- 25 **1301. Section 71 amended**
- (1) Section 71(1) and (2) are amended by deleting “appeal” and inserting instead —
“ application ”.

(2) Section 71(3) is amended as follows:

(a) deleting “an appeal” and inserting instead —
“ an application ”;

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

5

“

executive officer of the State Administrative Tribunal

”;

(c) in paragraph (a) by deleting “to the appeal”.

(3) Section 71(4)(a) is amended by deleting “appeal” and inserting
10 instead —

“ application ”.

1302. Part V Division 6 heading deleted

The heading to Part V Division 6 is deleted.

1303. Section 72 replaced

15

Section 72 is repealed and the following section is inserted
instead —

“

**72. Laying before House of Parliament that is not
sitting**

20

(1) If section 70(4) requires the Minister, as soon as is
practicable, to cause a copy of a direction to be laid
before, or transmitted in accordance with this
subsection to the Clerk of, each House of Parliament
and —

25

(a) at the commencement of the period of 14 days
after the day on which the direction is given, a
House of Parliament is not sitting; and

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(b) the Minister is of the opinion that the House will not sit during that period,

the Minister is to transmit a copy of the direction to the Clerk of that House.

5 (2) A copy of a direction transmitted to the Clerk of a House is to be regarded as having been laid before that House.

10 (3) The laying of a copy of a direction that is to be regarded as having occurred under subsection (2) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

”.

1304. Sections 73 to 75 repealed

15 Sections 73, 74 and 75 are repealed.

1305. The First Schedule amended

The First Schedule clause 27A is amended as follows:

(a) by deleting “of a right of appeal to the Tribunal”;

(b) by inserting after “exercise of that power” —

20

“

of a right to apply to the State Administrative Tribunal for a review of the exercise of the power

”.

1306. Schedules 3 and 4 repealed

25 Schedules 3 and 4 are repealed.

Subdivision 2 — Amendments needed because Act amended

1307. *Planning Appeals Amendment Act 2002* amended

- (1) The amendments in this section are to the *Planning Appeals Amendment Act 2002**.

5 [* *Act No. 24 of 2002.*]

- (2) Section 12 is repealed.
(3) Section 17(4) is repealed.
(4) Section 18 is repealed.

Subdivision 3 — Transitional provisions

10 **1308. Ministerial referrals**

- (1) In this section —

15 “**appeal**” means an appeal within the meaning of section 37 of the repealed Part V of the *Town Planning and Development Act 1928* as repealed by section 11 of the *Planning Appeals Amendment Act 2002*;

“**Minister**” means the Minister administering the *Town Planning and Development Act 1928*.

- 20 (2) If an appeal has been made to the Minister after 1 July 2001 but not finally determined or referred to the Town Planning Appeal Tribunal under section 17(4) of the *Planning Appeals Amendment Act 2002* before the commencement of this Division, the appeal may be referred by the Minister to the State Administrative Tribunal for determination and the State Administrative Tribunal has the same powers and functions in
25 relation to the appeal as if it were an application for a review of the matter made to the State Administrative Tribunal.
- (3) Section 164 of the *State Administrative Tribunal Act 2003* extends to an appeal made to the Minister after 1 July 2001 and referred to the Town Planning Appeal Tribunal under

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section 17(4) of the *Planning Appeals Amendment Act 2002* before the commencement of this section.

1309. References to Committee and Tribunal

- 5 (1) Unless the context otherwise requires, where in any written law or in any document of any other kind there is a reference to an appeal to the Town Planning Appeal Committee or the Town Planning Appeal Tribunal that reference is to be read and construed as a reference to an application for review made to the State Administrative Tribunal.
- 10 (2) Unless the context otherwise requires, where in any written law or in any document of any other kind there is a reference to a decision or determination of the Town Planning Appeal Committee or the Town Planning Appeal Tribunal that reference is to be read and construed as a reference to a decision or determination of the State Administrative Tribunal.
- 15

1310. Entitlements

- (1) In this section —
- 20 **“former President”** means the person who was the President of the Town Planning Appeal Tribunal immediately before the commencement of section 1284;
- “unexpired term”** means that portion of the term of office of the former President that had not expired before the commencement of section 1284.
- 25 (2) Despite section 117(2) of the *State Administrative Tribunal Act 2003*, the rate of remuneration and allowances to which the former President is entitled in respect of any service as a member of the State Administrative Tribunal during the unexpired term are not to be less than the rate of remuneration and allowances to which he or she would have been entitled in
- 30 respect of the performance of his or her functions as the President of the Town Planning Appeal Tribunal during the unexpired term if this Act had not been enacted.

Division 132 — Transport Co-ordination Act 1966

1311. The Act amended

The amendments in this Division are to the *Transport Co-ordination Act 1966**.

5 [* Reprinted as at 11 May 2001.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 402-3.*]

1312. Section 47Z amended

10 Section 47Z(1) is amended by deleting the definition of
“Local Court”.

1313. Section 47ZF amended

Section 47ZF(1)(l) is deleted and the following paragraph is
inserted instead —

15 “
(l) providing for an application to the State
Administrative Tribunal for a review of a
decision of the Minister suspending, cancelling
or refusing to renew a licence;
”.

20 **1314. Section 57 amended**

(1) Section 57(3) is amended as follows:

(a) by deleting “appeal lies to a stipendiary magistrate
against” and inserting instead —

25 “
application may be made to the State Administrative
Tribunal for a review of
”;

(b) by deleting “, and the provisions of this section apply to
any such appeal”.

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s. 1315

- (2) Section 57(4) is repealed and the following subsection is inserted instead —

“

- 5 (4) A person applying under subsection (3) for a review shall lodge in the State Administrative Tribunal an amount of \$20, by way of security for the costs of his application; and the application shall not be heard until such time as that amount is so lodged.

”.

- 10 (3) Section 57(5) and (6) are repealed.

1315. Section 60 amended

Section 60(2)(n) is amended by inserting after “under this Act” —

“

- 15 other than applications to the State Administrative Tribunal for a review

”.

Division 133 — *Travel Agents Act 1985*

1316. The Act amended

- 20 The amendments in this Division are to the *Travel Agents Act 1985**.

[* Reprinted as at 22 April 1997.

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 402-3.]

25 **1317. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definitions of “inspector”, “the Chairman”, “the Registrar” and “the Tribunal”;

- (b) in the definition of “the Compensation Trustees” by deleting the semicolon and inserting a full stop.

1318. Section 9 amended

5 Section 9(5) is amended by deleting “or the Registrar” in both places where it occurs.

1319. Section 10 amended

- (1) Section 10(1) and (2) are repealed and the following subsections are inserted instead —

“

10 (1) When an application has been made in accordance with section 9, the Commissioner shall as soon as practicable publish in a newspaper circulating generally throughout Western Australia a notice giving particulars of the application.

15 (2) The Commissioner may make such inquiries about the applicant and matters relevant to the application as the Commissioner considers necessary.

”.

20 (2) Section 10(3) is amended by deleting “both an application a copy of which is sent to the Commissioner under subsection (1)” and inserting instead —

“ matters relevant to an application ”.

1320. Section 11 amended

25 (1) Section 11(1) is amended by deleting “Tribunal in a particular case allows, the Commissioner may with the consent of the Minister, and any other person may, lodge with the Tribunal” and inserting instead —

“

30 Commissioner in a particular case allows, any person may lodge with the Commissioner

”.

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Division 133 Travel Agents Act 1985

s. 1321

- (2) Section 11(2)(c) is amended by deleting “Commissioner or other”.

1321. Section 12 amended

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

“

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

”.

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

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

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

“

- 25 (6) When an application is refused, the Commissioner shall forthwith, by notice in writing, inform the applicant and each objector (if any) to the granting of the application of that refusal and of the ground on which that refusal is based and inform the applicant of the right to apply to the State Administrative Tribunal for a review of the refusal, and the Commissioner shall, as soon as practicable, refund to the applicant so much of the relevant application fee as is appropriate to be refunded.
- 30

”.

(4) Section 12(7) is amended as follows:

(a) in subparagraph (a)(i) by inserting after “applicant” —

“

of the granting of the application and
the right to apply to the State
Administrative Tribunal for a review of
any condition imposed

”;

(b) in subparagraph (a)(ii) by deleting “objector,” and
inserting instead —

“

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

”;

(c) in paragraph (a) by deleting “of the granting of the
application;”.

(5) Section 12(8) is amended by deleting “appeared personally
before” and inserting instead —

“ attended personally on ”.

1322. Section 13 amended

(1) Section 13(3) is repealed and the following subsection is
inserted instead —

“

(3) The Commissioner shall not under subsection (1)
impose conditions to which a licence is to be subject,
or vary conditions to which a licence is subject, unless
the Commissioner has first afforded the applicant for,
or, as the case requires, the holder of, the licence an
opportunity to make written submissions with respect

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to the conditions that are proposed to be imposed or varied.

”.

(2) Section 13(4) is repealed.

5 **1323. Section 18 amended**

Section 18(1) is amended by deleting “or 61 (5)”.

1324. Section 20 amended

Section 20(2) is repealed and the following subsection is inserted instead —

10

“

(2) If the Commissioner makes an allegation under section 21 against the holder of a licence, the licence cannot be surrendered under subsection (1) until after effect has been given to any order made by the State Administrative Tribunal in disposing of the allegation or by the court dealing with an appeal from an order of the State Administrative Tribunal.

15

”.

1325. Section 21 amended

20 (1) Section 21(1) to (3) are repealed and the following subsections are inserted instead —

“

(1) Any person may, at any time make to the Commissioner a complaint in writing about the holding of a licence by a specified licensee if the complaint complies with subsection (2).

25

(2) For a complaint to comply with this subsection —
(a) the complaint has to specify the licensee and the grounds of the complaint; and

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(b) the grounds of the complaint have to be capable of reasonably giving rise to a belief described in subsection (4).

”.

5 (2) Section 21(4) is amended as follows:

(a) by deleting all of the subsection after the subsection designation but for paragraph (a) and inserting instead —

“

10 The Commissioner may, on receiving a complaint under subsection (1) or on the Commissioner’s own initiative, make any investigation or inquiry that the Commissioner considers necessary to decide whether there are grounds for believing that —

15

”;

(b) in paragraph (b) by deleting “of the Tribunal”;

(c) by deleting all of the subsection after “licence” at the end of paragraph (i) and inserting instead a full stop.

20 (3) Section 21(5) to (7) are repealed and the following subsections are inserted instead —

“

25 (5) If the Commissioner decides that it is appropriate to do so, the Commissioner may make an allegation to the State Administrative Tribunal that there are reasonable grounds for a belief described in subsection (4) concerning a specified licensee.

30 (6) If the Commissioner decides not to make an allegation concerning a licensee about whom a complaint was made to the Commissioner under subsection (1), the Commissioner is required to notify the person who made the complaint of that decision and the reason for it.

”.

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s. 1326

1326. Section 22 amended

(1) Section 22(1) is amended —

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

5

“

If the State Administrative Tribunal, on dealing with an allegation under section 21(5), is satisfied that any ground for a belief referred to in section 21(4) has been made out, it may —

10

”;

(b) in paragraph (b) by deleting “to the Registrar”;

(c) in paragraph (f) by deleting “impose” and inserting instead —

15

“ order the imposition of ”.

(2) Section 22(2) and (3) are repealed.

(3) Section 22(5) is amended by deleting “61(5) or”.

(4) Section 22(7) is amended by deleting “an inquiry under section 21,” and inserting instead —

20

“

a proceeding before the State Administrative Tribunal upon an allegation under section 21(5),

”.

1327. Part II Division 4 heading amended

25

The heading to Part II Division 4 is amended by deleting “Appeal” and inserting instead —

“ **Review** ”.

1328. Section 23 replaced

Section 23 is repealed and the following section is inserted
instead —

“

5

23. Application for review

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

(2) In subsection (1) —

10

“person aggrieved” means —

- (a) a person upon whose application a
reviewable decision is made or a person who
lodged an objection to the application;
- (b) the holder of the licence to which a
reviewable decision relates; or
- (c) a person referred to in paragraph (d) of the
definition of “reviewable decision”;

15

“reviewable decision” means —

- (a) a decision under section 12 to grant or refuse
an application for a licence;
- (b) a decision under section 13 to impose or vary
a condition;
- (c) a decision under section 33(3) to grant or
refuse an application or impose a condition;
or
- (d) a decision that either prevents a person from
participating in the Compensation Scheme or
terminates a person’s participation in the
Compensation Scheme, other than a decision
of the person whose participation the
decision concerns.

20

25

30

”.

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s. 1329

1329. Section 24 replaced

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

“

5 **24. Decisions about participation in the Compensation Scheme**

10 (1) When the State Administrative Tribunal deals with an application for a review of a decision described in paragraph (d) of the definition of “reviewable decision” in section 23(2) it may —

15 (a) if the decision prevents a person from participating in the Compensation Scheme, order that the person be admitted to participation in the Compensation Scheme conditionally on the appellant being or becoming licensed; or

 (b) if the decision terminates a person’s participation in the Compensation Scheme, annul that termination.

20 (2) An order under subsection (4)(b) or (c) shall be given effect as if the corresponding decision had been made in accordance with the law governing the Compensation Scheme.

”.

25 **1330. Section 25 repealed**

Section 25 is repealed.

1331. Section 30 amended

Section 30(1)(e) is amended by deleting “section 19(6), 22(1)(g) or (4) or 61(5).” and inserting instead —

30 “ section 19(6) or 22(1)(g) or (4). ”.

1332. Section 33 amended

Section 33(2) and (3) are repealed and the following subsections are inserted instead —

“

- 5 (2) The Commissioner may make any investigation or inquiry that the Commissioner considers necessary for the purpose of dealing with the application.
- (3) The Commissioner shall grant or refuse the application and, on granting the application, may impose
10 conditions subject to which the business to which the application relates may be carried on.

”.

1333. Section 37 amended

Section 37(3) is amended as follows:

- 15 (a) by deleting paragraph (a) and “and” after it and inserting instead —

“

- (a) the Commissioner cannot make an allegation
20 under section 21(5) to the State Administrative Tribunal; and

”;

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

“ cannot ”.

25 **1334. Section 38 amended**

Section 38(1)(a) and “and” after it are deleted.

1335. Section 39 amended

Section 39(1) is amended by deleting “after inquiry”.

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Division 133 Travel Agents Act 1985

s. 1336

1336. Sections 42 to 47 repealed

Sections 42, 43, 44, 45, 46 and 47 are repealed.

1337. Section 52 amended

(1) Section 52(1) is amended as follows:

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

“

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

”;

(b) after paragraph (d) by deleting the semicolon and
inserting a full stop instead;

(c) by deleting paragraphs (e) and (f).

15 (2) Section 52(3)(a) is amended by deleting “*Commercial Tribunal Act 1984*” and inserting instead —

“ *State Administrative Tribunal Act 2003* ”.

1338. Section 54 repealed

Section 54 is repealed.

20 **1339. Section 58 amended**

After section 58(1) the following subsection is inserted —

“

(1a) The Commissioner’s annual report is to include details
of —

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

(i) investigations and inquiries undertaken
by, or at the direction of, the
Commissioner for the purposes of this
Act; and

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

”.

1340. Part V repealed

Part V is repealed.

1341. Various references to “Tribunal” amended

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

Table

- s. 9(1), (4), and (5) (3 places)
s. 11(2)(b)
s. 12(2), (3), (4) (both places), and (8) (5 places)
s. 13(1)
s. 15(2)
s. 20(3)
s. 21(4)(e)
s. 22(4) (in the second place)
s. 30(1)
s. 34(2) (both places) and (3)
s. 41(1)(d)

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s. 1342

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

“ State Administrative Tribunal ”.

Table

s. 35
s. 36(d)
s. 37(1)(b)
s. 38(5)
s. 39(1), (2), and (3) (all in the first place)
s. 39(4)
s. 40

5 **1342. Various references to “Registrar” amended**

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

“ Commissioner ”.

Table

s. 12(7) (4 places)
s. 13(2a)(b)
s. 15(1)(a) and (3) (both places)
s. 16(1) and (2)
s. 17(1), (3), and (4)
s. 19(2), (4), (5), (6), and (8)
s. 20(1)
s. 22(5) (3 places)
s. 33(1) (both places)
s. 35 (3 places)
s. 59(2)(c)

Division 134 — Valuation of Land Act 1978

1343. The Act amended

The amendments in this Division are to the *Valuation of Land Act 1978**.

5 [* Reprinted as at 15 June 2001.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 412.*]

1344. Section 4 amended

10 Section 4(1) is amended by deleting the definition of “Land
Valuation Tribunal”.

1345. Section 13 amended

Section 13(3) is amended by deleting “a Land Valuation
Tribunal” and inserting instead —

“ the State Administrative Tribunal ”.

15 **1346. Part IV heading amended**

The heading to Part IV is amended by deleting “appeals” and
inserting instead —

“ **review** ”.

1347. Section 32 amended

20 Section 32(9) is amended by deleting “an appeal against the
decision may be made” and inserting instead —

“ a review of the valuation may be sought ”.

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Part 2 Various Acts amended to confer jurisdiction

Division 134 Valuation of Land Act 1978

s. 1348

1348. Section 33 amended

(1) Section 33(1) is amended by deleting “treat the objection as an appeal against the valuation” and inserting instead —

“

5 refer the valuation to the State Administrative Tribunal for a review

”.

(2) Section 33(2) is amended by deleting “objection to a Land Valuation Tribunal as an appeal” and inserting instead —

10 “

valuation to the State Administrative Tribunal for a review

”.

(3) After section 33(2) the following subsection is inserted —

15 “

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

20

- (a) the record of the valuation; and
- (b) the reasons, if any, for the valuation.

”.

1349. Section 34 amended

25 Section 34 is amended by deleting “treat an objection to the valuation as an appeal” and inserting instead —

“

refer the valuation to the State Administrative Tribunal for a review

30

”.

1350. Section 34A amended

Section 34A is amended by deleting “or an appeal against a valuation” and inserting instead —

“

5 a valuation or consequent upon a review by the
State Administrative Tribunal

”.

1351. Section 35 amended

(1) Section 35(1) is amended as follows:

10 (a) by deleting “treat an objection to a valuation as an
appeal against the valuation” and inserting instead —

“

refer the valuation to the State Administrative Tribunal
for a review

15

”;

(b) by deleting “to a Land Valuation Tribunal as an appeal”
and inserting instead —

“

20

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

”.

(2) Section 35(2) is amended by deleting “to a Land Valuation
Tribunal as an appeal” and inserting instead —

“

25

to the State Administrative Tribunal for a review

”.

(3) After section 35(2) the following subsection is inserted —

“

30

(3) The Valuer-General is to effect the reference by
forwarding the notice to the executive officer of the
State Administrative Tribunal together with the

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Part 2 Various Acts amended to confer jurisdiction

Division 134 Valuation of Land Act 1978

s. 1352

objection and a copy certified by or on behalf of the Valuer-General of —

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

5

”.

1352. Section 36 amended

- (1) Section 36(1) is amended by deleting “appeal to a Land Valuation Tribunal to have the question resolved” and inserting instead —

10

“

apply to the State Administrative Tribunal for a review of the question

”.

15

- (2) Section 36(2) is amended by deleting “appeal” and inserting instead —

“ apply ”.

- (3) Section 36(3) is repealed.

1353. Sections 36A and 36B inserted

After section 36 the following sections are inserted —

20

“

36A. New matters raised on review

- (1) Upon a review by the State Administrative Tribunal on a referral under section 33 or 35, the State Administrative Tribunal may consider —

25

- (a) grounds in addition to those stated in the notice of objection; and
- (b) reasons in addition to any reasons previously given for the Valuer-General’s decision that is under review.

- 5 (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

36B. Written reasons for certain determinations to be given and published

- 10 (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a referral under section 33 or 35 is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- 15 (2) Subsection (1) has effect in addition to the provisions of the *State Administrative Tribunal Act 2003*.

”.

20 **Division 135 — Veterinary Preparations and Animal Feeding
Stuffs Act 1976**

1354. The Act amended

The amendments in this Division are to the *Veterinary Preparations and Animal Feeding Stuffs Act 1976**.

[* *Reprinted as at 20 August 1999.*

25 *For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 413.]*

1355. Section 40 amended

- (1) Section 40(3) is amended by deleting all of the subsection after “such seizure” and inserting instead —

30 “

apply to the State Administrative Tribunal for a review of the seizure or detention.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 136 Veterinary Surgeons Act 1960

s. 1356

(2) Section 40(4) is amended by deleting “appeal” and inserting instead —

“ review ”.

(3) Section 40(5) is amended as follows:

5 (a) by deleting “appeal” and inserting instead —

“ review ”;

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

“

10 is ordered in those proceedings or on that review.

”.

1356. Section 68 amended

(1) Section 68(2)(c) is deleted.

(2) Section 68(3)(b) is amended as follows:

15 (a) by deleting “may”;

(b) by inserting after “Act,” —

“

other than an application to the State
Administrative Tribunal for a review,

20

”.

Division 136 — Veterinary Surgeons Act 1960

1357. The Act amended

The amendments in this Division are to the *Veterinary Surgeons Act 1960**.

25 [* Reprinted as at 12 February 1990.]

1358. Section 2 amended

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

1359. Section 16AC amended

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

“

(1a) The annual report is to include details of —

- 10 (a) the number, nature, and outcome, of matters that have been brought before the State Administrative Tribunal by the Board;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- 15 (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.

20

”.

1360. Section 16A amended

Section 16A is amended after paragraph (c) by deleting “or” and inserting instead —

“

- 25 (ca) determining whether to make an allegation to the State Administrative Tribunal that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon;
- 30 or

30

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 136 Veterinary Surgeons Act 1960

s. 1361

1361. Section 16B amended

Section 16B(1) is amended as follows:

- 5 (a) by deleting “his duties” and inserting instead —
“ functions ”;
- (b) by deleting subparagraph (a)(i) and “and” after it and
inserting instead —
“
10 (i) to give such information as the Registrar
or inspector requires; and
”;
- (c) in paragraph (c) by deleting “that he finds” and inserting
instead —
“ found ”;
- 15 (d) in paragraph (d) by deleting “him” and inserting
instead —
“ the Registrar or inspector ”.

1362. Section 22 amended

- 20 (1) Section 22(1) is amended by deleting “has the right of appeal
against refusal to the District Court which shall have jurisdiction
to, and may, determine the matter.” and inserting instead —
“
may apply to the State Administrative Tribunal for a
review of the decision.
”.
- 25 (2) Section 22(2) is repealed.

1363. Section 23 amended

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

“

- 5 (2a) The Board may allege to the State Administrative Tribunal that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon.
- (2aa) If, in a proceeding commenced by an allegation under subsection (2a), the State Administrative Tribunal is satisfied that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon, the Tribunal may —
- 10 (a) reprimand the veterinary surgeon;
- 15 (b) require the veterinary surgeon to give an undertaking to refrain from such conduct as may be specified by the Board;
- (c) fine the veterinary surgeon an amount not exceeding \$1 000;
- 20 (d) order the suspension of the registration of that veterinary surgeon for such period not exceeding 12 months, as the Tribunal thinks fit;
- (e) order the removal of the name of that veterinary surgeon from the Register;
- 25 (f) order the imposition of conditions as to the registration of that veterinary surgeon or restrictions on the practice of veterinary surgery by that person.

”.

- 30 (2) Section 23(2b) is amended by inserting after “conferred on the Board” —

“ or the State Administrative Tribunal ”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 136 Veterinary Surgeons Act 1960

s. 1363

(3) Section 23(3) is amended by inserting after “under this Act” —

“

or by the State Administrative Tribunal in proceedings commenced under this Act

5

”.

(4) Section 23(6) to (9) are repealed.

(5) Section 23(10) is repealed and the following subsection is inserted instead —

“

10

(10) The Registrar shall enter in the Register against the entry relating to the person details of any order made against a person in proceedings commenced before the State Administrative Tribunal by an allegation under this section.

15

”.

(6) Section 23(11) is amended as follows:

(a) by deleting “or order”;

(b) by deleting “or that relates to any penalty or the payment of costs,”.

20

(7) Section 23(12) is repealed and the following subsection is inserted instead —

“

25

(12) A person aggrieved by a decision or order of the Board made in respect of that person under this section, other than a decision to make an allegation to the State Administrative Tribunal, may apply to the State Administrative Tribunal for a review of the decision.

”.

(8) Section 23(13), (14) and (15) are repealed.

1364. Section 24 amended

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

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

“

5 or the State Administrative Tribunal causes or orders
 the removal of

”;

(b) by deleting “District Court on appeal” and inserting
instead —

10

“

State Administrative Tribunal upon application for
review

”.

(2) Section 24(2) is amended by inserting after “The Board” —

15

“

cannot direct that the name of a person be again
entered in the Register if the State Administrative
Tribunal ordered the removal of the person’s name
from the Register but otherwise

20

”.

(3) Section 24(3) is repealed.

(4) Section 24(4) is amended as follows:

(a) after paragraph (a)(i) by inserting —

“ or ”;

25

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

(c) by deleting subparagraph (a)(iii).

(5) After section 24(4) the following subsection is inserted —

“

30

(4a) An application under subsection (4) cannot be made
without first applying for and obtaining the leave of the

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 136 Veterinary Surgeons Act 1960

s. 1365

State Administrative Tribunal if the person's name was removed or the suspension was imposed as a result of a proceeding before the State Administrative Tribunal commenced by an allegation under section 23.

5

”.

(6) Section 24(5) is amended by inserting after “an application made” —

“ to the Board ”.

1365. Section 24A amended

10

(1) Section 24A(10) is amended by deleting all of the subsection after “hospital the” and inserting instead —

“

Board may allege to the State Administrative Tribunal that the provisions of this Act have not been complied with in relation to that veterinary clinic or veterinary hospital.

15

”.

(2) After section 24A(10) the following subsection is inserted —

“

20

(11) If, in a proceeding commenced by an allegation under subsection (10), the State Administrative Tribunal is satisfied that the provisions of this Act have not been complied with in relation to a veterinary clinic or veterinary hospital, the Tribunal may cancel the registration of the veterinary clinic or veterinary hospital.

25

”.

1366. Section 24B amended

- (1) Section 24B(1) is amended by deleting all of the subsection after “hospital” and inserting instead —

“

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

”.

- (2) Section 24B(2) is repealed.

1367. Section 26E amended

- 10 (1) Section 26E(5) is amended by deleting “has the right of appeal against refusal to the District Court, which shall have jurisdiction to, and may, determine the matter.” and inserting instead —

“

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

”.

- (2) Section 26E(6) is repealed.

1368. Section 26F amended

- 20 Section 26F(2) is amended by deleting “refer the matter in writing to the Minister and the Minister shall determine the matter and give such directions to the Board as the case requires, and effect shall be given to any such direction.” and inserting instead —

25 “

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 137 Water Boards Act 1904

s. 1369

1369. Section 31 amended

Section 31(1) is amended as follows:

(a) in paragraph (e) by inserting after “under this Act” —

“

5

, but not for the initiation of a proceeding
before the State Administrative Tribunal

”;

(b) in paragraph (f) by deleting “and deregistration”;

(c) in paragraph (h) by deleting “cancellation.”

10

Division 137 — Water Boards Act 1904

1370. The Act amended

The amendments in this Division are to the *Water Boards Act 1904* *

[* *Reprint 4 as at 3 January 2003.*

15

For subsequent amendments see Act No. 22 of 2003.]

1371. Heading amended

The heading before section 87 is amended by deleting
“Appeals” and inserting instead —

“ *Review* ”.

20

1372. Section 87 amended

Section 87(7) is amended by deleting “an appeal against the
decision may be made” and inserting instead —

“ a review of the decision may be sought ”.

1373. Section 88 amended

(1) Section 88(1) is amended as follows:

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

5 “ refer ”;

(b) by inserting after “records” —

“ to the State Administrative Tribunal for a review ”.

(2) Section 88(2) is amended by deleting “objection to a Land
Valuation Tribunal under the *Land Valuation Tribunals*
10 *Act 1978* as an appeal” and inserting instead —

“

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

”.

15 (3) After section 88(2) the following subsection is inserted —

“

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

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

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

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 137 Water Boards Act 1904

s. 1374

1374. Section 89 amended

(1) Section 89(1) is amended as follows:

(a) by deleting “treat an objection to an entry in the rating records as an appeal against that entry” and inserting instead —

“

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

”;

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

“

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

”.

(2) Section 89(2) is amended by deleting “a Land Valuation Tribunal as an appeal” and inserting instead —

“ the State Administrative Tribunal for a review ”.

(3) After section 89(2) the following subsection is inserted —

“

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

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

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

”.

1375. Sections 89A and 89B inserted

After section 89 the following sections are inserted —

“

89A. New matters raised on review

- 5 (1) Upon a review by the State Administrative Tribunal on
a reference under section 88 or 89, the State
Administrative Tribunal may consider —
- (a) grounds in addition to those stated in the notice
of objection; and
- 10 (b) reasons in addition to any reasons previously
given for the Water Board’s decision that is
under review.
- (2) The State Administrative Tribunal is to ensure, by
adjournment or otherwise, that each party and any
15 other person entitled to be heard has a reasonable
opportunity of properly considering and responding to
any new ground or reason that the State Administrative
Tribunal proposes to consider in accordance with
subsection (1).

20 **89B. Written reasons for certain determinations to be
given and published**

- (1) If the State Administrative Tribunal considers that an
order it makes determining a matter coming before it
25 on a reference under section 88 or 89 is of general
interest or significance, it is to prepare written reasons
for its order and give a copy of the reasons to each
party and publish the written reasons.
- (2) The obligation imposed by subsection (1) is in addition
30 to, and does not derogate from, any obligation of the
State Administrative Tribunal under the *State
Administrative Tribunal Act 2003*.

”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 138 Water Services Coordination Act 1995

s. 1376

1376. Section 90 amended

Section 90 is amended by deleting “appeal” and inserting instead —

“ review ”.

5 **1377. Section 91 amended**

Section 91 is amended by deleting “or an appeal” in both places where it occurs.

1378. Section 91A amended

(1) Section 91A(1) is amended as follows:

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

“

or in consequence of a review by the State
Administrative Tribunal

15

”.

(2) Section 91A(2) is amended by deleting all of the subsection after “when” and inserting instead —

“

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

20

”.

Division 138 — Water Services Coordination Act 1995

1379. The Act amended

25 The amendments in this Division are to the *Water Services Coordination Act 1995**.

[* *Reprinted as at 28 July 2000.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 420.]*

1380. Section 21 amended

- (1) Section 21(2)(b)(ii) is deleted and the following subparagraph is inserted instead —

“

- 5 (ii) the time for applying under section 44
for a review of the refusal has expired
without an application being made or an
application has been made but has been
unsuccessful,

10

”.

- (2) Section 21(3) is amended by deleting “appeal” and inserting
instead —

“ application ”.

1381. Part 3 Division 8 heading replaced

15

The heading to Part 3 Division 8 is deleted and the following
heading is inserted instead —

“

Division 8 — Review

”.

20

1382. Section 44 amended

- (1) Section 44(1) is amended by deleting “may appeal to the
Minister against the decision within 30 days after receiving
notice in writing of the decision from the Coordinator.” and
inserting instead —

25

“

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

”.

- (2) Section 44(2) to (5) are repealed.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 138 Water Services Coordination Act 1995

s. 1383

1383. Section 54 amended

- (1) Section 54(1) is amended by deleting “appeal in the prescribed manner to the Minister.” and inserting instead —

“

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

”.

- (2) Section 54(2) and (3) are repealed.

1384. Section 57 amended

10 Section 57(4) and (5) are repealed and the following subsection is inserted instead —

“

15 (4) If the Minister refuses to exempt the objector or grants a partial exemption, the objector may apply to the State Administrative Tribunal for a review of the decision.

”.

1385. Section 59H amended

- (1) Section 59H is amended by inserting before “Any acts” the subsection designation “(1)”.

20 (2) At the end of section 59H the following subsection is inserted —

“

25 (2) The department’s annual report is to include details of —
 (a) the number, nature, and outcome, of —
 (i) investigations and inquiries undertaken by, or at the direction of, the Board into licensing under this Act; and

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Repeal Bill 2003**

Various Acts amended to confer jurisdiction **Part 2**
Water Services Coordination Act 1995 **Division 138**
s. 1386

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

1386. Schedule 3 amended

- (1) Schedule 3 clause 7 is amended by deleting “disciplinary” and inserting instead —
“ supervisory, regulatory, ”.
- (2) Schedule 3 clause 8 is amended as follows:
 - (a) in paragraph (i) by deleting “, and inquiry into,”;
 - (b) by deleting paragraphs (j) to (l) and inserting instead —
“
 - (j) the conferral on the State Administrative Tribunal of jurisdiction to deal with disciplinary matters and the orders that may be made following the hearing and determination of disciplinary matters, which may include orders imposing disciplinary penalties;
 - (k) the conferral on the State Administrative Tribunal of jurisdiction to deal with applications for the review of decisions of the Board or any committee established by the Board;”.

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 139 Waterways Conservation Act 1976

s. 1387

- (3) Schedule 3 clause 13 is amended by inserting after “provided for in the regulations” —

“

, other than for bringing matters before the State Administrative Tribunal,

”.

Division 139 — Waterways Conservation Act 1976

1387. The Act amended

The amendments in this Division are to the *Waterways Conservation Act 1976**.

[* Reprinted as at 20 September 2002.]

1388. Section 46 amended

- (1) Section 46(11) is amended by deleting all of the subsection after “may” in the first place where it occurs and inserting instead —

“

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

”.

- (2) Section 46(12) is repealed.

1389. Section 76 amended

Section 76(2)(f) is amended by deleting “for the making and determination of appeals,”.

Division 140 — Western Australian Marine Act 1982

1390. The Act amended

The amendments in this Division are to the *Western Australian Marine Act 1982**.

[* Reprinted as at 28 January 2000.]

1391. Section 3 amended

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

1392. Section 10 amended

5 Section 10 is amended as follows:

(a) in paragraph (f) by inserting after “coxswains” —

“

10 and providing for applications to the State
Administrative Tribunal for review of decisions
about the grant, endorsement, and revalidation
of those certificates of competency

”;

(b) in paragraph (g) by deleting “appeals against” and
inserting instead —

15

“

applications to the State Administrative
Tribunal for review of

”.

(c) after paragraph (h) by inserting —

20

“ and ”;

(d) by deleting at the end of paragraph (i) the semicolon and
“and” after it and instead inserting a full stop;

(e) by deleting paragraph (j).

1393. Section 11 replaced

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

“

11. Constituting the State Administrative Tribunal

30 (1) When the State Administrative Tribunal is dealing with
an application for a review of a decision about the

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Part 2 Various Acts amended to confer jurisdiction

Division 140 Western Australian Marine Act 1982

s. 1394

5 certificate of competency of a master, mate, or
coxswain, or a candidate for such a certificate, the
member constituting the State Administrative Tribunal,
or at least one of them if there is more than one, is to be
a person who holds a certificate of competency as a
master class I, or an equivalent or higher certificate.

10 (2) When the State Administrative Tribunal is dealing with
an application for a review of a decision about the
certificate of competency of a marine engineer or
marine engine driver, or a candidate for such a
certificate, the member constituting the State
Administrative Tribunal, or at least one of them if there
is more than one, is to be a person who holds a
certificate of competency as a marine engineer class I,
15 or an equivalent or higher certificate.

”.

1394. Section 127 amended

(1) Section 127 is amended by inserting before “Service” the
subsection designation “(1)”.

20 (2) At the end of section 127 the following subsection is inserted —
“

(2) In subsection (1) —
“**legal proceeding under this Act**” includes any
proceeding under the *State Administrative*
25 *Tribunal Act 2003* in a matter commenced by an
application under this Act for a review.

”.

**Division 141 — Western Australian Meat Industry Authority
Act 1976**

1395. The Act amended

5 The amendments in this Division are to the *Western Australian
Meat Industry Authority Act 1976*.*.

[* Reprinted as at 1 March 2002.]

1396. Section 22 amended

(1) Section 22(1) is amended by deleting all of the subsection after
“may” and inserting instead —

10

“

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

”.

(2) Section 22(2) is repealed.

15

**Division 142 — Western Australian Planning Commission
Act 1985**

1397. The Act amended

The amendments in this Division are to the *Western Australian
Planning Commission Act 1985**.

20

[* Reprinted as at 16 March 2001.

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 429 and
Act No. 24 of 2002.]*

1398. Section 18 amended

25

Section 18(1b)(a) is amended as follows:

- (a) by deleting “appeal” and inserting instead —
“ application ”;

State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003

Part 2 Various Acts amended to confer jurisdiction

Division 142 Western Australian Planning Commission Act 1985

s. 1399

- (b) by deleting “Town Planning Appeal Tribunal” and inserting instead —
“ State Administrative Tribunal ”.

1399. Section 25 amended

- 5 (1) Section 25(1) is amended by deleting all of the subsection after “that person” and inserting instead —

“

10 apply to the State Administrative Tribunal for a review, in accordance with Part V of the *Town Planning and Development Act 1928*, of that refusal or condition.

”.

- (2) Section 25(2) is amended by deleting all of the subsection after “that expiry” and inserting instead —

“

15 apply to the State Administrative Tribunal for a review, in accordance with Part V of the *Town Planning and Development Act 1928*, of that deemed refusal.

”.

- 20 (3) Section 25(3) is amended by deleting “appeal shall not be made or heard under this section” and inserting instead —

“

application under this section for a review shall not be made or heard

”.

25 **1400. Section 29 amended**

Section 29(1)(b) is amended as follows:

- (a) by deleting “appeal” and inserting instead —

“

30 application for review of the Commission’s decision

”;

- (b) by deleting “disallowed wholly or in part” and inserting instead —
“ wholly or in part unsuccessful ”.

1401. Section 32 amended

- 5 (1) Section 32(2)(b) is deleted and the following paragraph is inserted instead —

“
10 (b) by the State Administrative Tribunal on the owner of the land applying to it for a determination of that value;
”.

- (2) Section 32(3) is repealed.

1402. Section 37E amended

- (1) Section 37E(1) is amended as follows:

- 15 (a) by deleting “appeal against that approval or refusal under” and inserting instead —

“
20 apply to the State Administrative Tribunal for a review, in accordance with
”;

- (b) by inserting after “1928” —
“ , of that approval or refusal ”.

- (2) Section 37E(2) is amended as follows:

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

“ application ”;

- (b) by inserting after “subsection (1)” —
“ for a review ”;

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Division 142 Western Australian Planning Commission Act 1985

s. 1403

- (c) by deleting “56(2)” and inserting instead —
“ 61(2) ”.

1403. Section 37J amended

(1) Section 37J(4) is amended as follows:

- 5 (a) by deleting “this section may appeal under” and
inserting instead —
“
10 subsection (1) or (2) may apply to the State
Administrative Tribunal for a review in accordance
with
”.
- (b) by deleting “Act against” and inserting instead —
“ Act of ”.

(2) Section 37J(5) is amended as follows:

- 15 (a) by deleting “Town Planning Appeal” in the first place
where it occurs and inserting instead —
“ State Administrative ”;
- (b) by deleting “the Town Planning Appeal Tribunal” in the
second place where it occurs and inserting instead —
20 “ it ”.

(3) Section 37J(6) is repealed.

(4) Section 37J(7)(a) is amended as follows:

- (a) in subparagraph (i) by inserting after “directions” —
“ within the time specified in the notice ”;
- 25 (b) by deleting subparagraph (ii) and inserting instead —
“
30 (ii) apply under subsection (4), within the
time for making the application, for a
review of any of the directions; or
”;

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Various Acts amended to confer jurisdiction **Part 2**
Western Australian Planning Commission Act 1985 **Division 142**
s. 1403

(c) by deleting “within the time specified in the notice; or”.

(5) Section 37J(7)(b) is amended as follows:

(a) by deleting “appeal by an owner of any land” and
inserting instead —

5

“

an application by an owner of any land for a review of

”;

(b) by inserting after “or (2)” —

“ , the direction ”;

10

(c) by deleting “subsection (5)” in the first and second
places where it occurs;

(d) by deleting “Town Planning Appeal Tribunal” and
inserting instead —

“ State Administrative Tribunal ”.

15

Part 3 — Certain Acts repealed

1404. *Commercial Tribunal Act 1984* repealed

The *Commercial Tribunal Act 1984* is repealed.

1405. *Land Valuation Tribunals Act 1978* repealed

5 The *Land Valuation Tribunals Act 1978* is repealed.

Part 4 — Other amendments

1406. *Constitution Acts Amendment Act 1899* amended

- (1) The amendments in this section are to the *Constitution Acts Amendment Act 1899**.

5

[* *Reprinted 8 June 2001.*]

*For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 75-6 and
Acts Nos. 24 of 2002 and 8 of 2003.*

- (2) Schedule V is amended as set out in the Table to this subsection.

10

Table

Item	Provision	Amendment
1.	Part 1 Division 1	Delete “President or other member of the Mental Health Review Board established under the <i>Mental Health Act 1996</i> , including a member of a panel established under section 127 of that Act.”
2.	Part 1 Division 1	Delete “Retirement villages referee appointed under the <i>Retirement Villages Act 1992</i> .”
3.	Part 3	Delete “Any land valuation tribunal established under the <i>Land Valuation Tribunals Act 1978</i> .”
4.	Part 3	Delete “The Town Planning Appeal Tribunal constituted under the <i>Town Planning and Development Act 1928</i> .”

s. 1407

1407. *Financial Administration and Audit Act 1985* amended

- (1) The amendment in this section is to the *Financial Administration and Audit Act 1985**.

[* Reprinted 16 September 2002.

5 For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 139.*]

- (2) Schedule 1 is amended by deleting “Racing Penalties Appeal Tribunal of Western Australia”.

1408. *Parliamentary Commissioner Act 1971* amended

- 10 (1) The amendment in this section is to the *Parliamentary Commissioner Act 1971**.

[* Reprinted 16 March 2001.]

- (2) After section 13(2)(k) the following paragraph is inserted —

“

- 15 (ka) the State Administrative Tribunal, a judicial or non-judicial member of that Tribunal or any person acting in the office, or performing the functions, of the executive officer of that Tribunal;

20

”.

Part 5 — Some transitional issues

1409. General principles governing transfer of jurisdiction

- 5 (1) This section describes the general principles governing how to deal with issues arising when this Act amends an Act so that a function that was performed by a particular functionary (the “**former functionary**”) before the day on which the amendment has effect (the “**transfer day**”) ceases to be performed by that person and instead a different functionary (the “**new functionary**”) performs a function that is
- 10 substantially similar.
- (2) This section does not apply if the new functionary is the State Administrative Tribunal.
- (3) On the transfer day —
- 15 (a) any matter involved in the performance of the function is to be transferred to the new functionary;
- (b) any application, objection, or other thing made, addressed, or otherwise directed or given to the former functionary to do with the performance of the function becomes of the same effect as if it had been given to the
- 20 new functionary to be dealt with under the Act as amended by this Act;
- (c) anything ordered, decided, or otherwise done by a former functionary in the performance of the function becomes of the same effect as if, and as enforceable and
- 25 reviewable as if, it were ordered, decided, or done by the new functionary under the provisions authorising the new functionary to order, decide, or do corresponding things after the transfer day.
- 30 (4) A former functionary is to cause the new functionary to be sent all records relating to a matter that is transferred under this section to the new functionary.

s. 1410

1410. Regulations about transitional issues

The Governor may make regulations required, or necessary or convenient, to apply any of the general principles described in section 1409 in a case of a particular kind.

