

# Land Legislation Amendment Bill 2014

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Western Australia

LEGISLATIVE ASSEMBLY

## **Land Legislation Amendment Bill 2014**

**A Bill for**

**An Act to amend the following Acts —**

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

The Parliament of Western Australia enacts as follows:

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**Part 1 — Preliminary**

**1. Short title**

This is the *Land Legislation Amendment Act 2014*.

**2. Commencement**

This Act comes into operation as follows —

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

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

**3. Act amended**

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

**4. Section 94A inserted**

At the end of Part 6 Division 2 insert:

**94A. Review to include consideration of fee-setting**

(1) Without limiting section 93, in the course of each review carried out under that section the Minister is also to consider and have regard to —

(a) how the fees prescribed for the purposes of the following Acts have been calculated during the period covered by the review —

(i) the *Registration of Deeds Act 1856*;

(ii) the *Strata Titles Act 1985*;

(iii) the *Transfer of Land Act 1893*;

(iv) the *Valuation of Land Act 1978*;

and

(b) whether, since the last review carried out under that section, the Authority has achieved efficiencies in its operations that would enable the fees referred to in paragraph (a) to be reduced or not increased.

(2) For the purposes of subsection (1)(a), the things that the Minister is to consider and have regard to include —

(a) the principles and methodologies applied in determining the prescribed fees; and

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- 1 (b) how those principles and methodologies were  
2 applied in determining the amount of each  
3 prescribed fee.
- 4 (3) Subsection (1) ceases to apply in relation to fees  
5 prescribed for the purposes of an Act listed in  
6 subsection (1)(a) if the provision of that Act referred to  
7 in subsection (5) expires.
- 8 (4) This section expires on a day fixed by proclamation.
- 9 (5) The day fixed under subsection (4) must not be before  
10 all of the following provisions have expired —
- 11 (a) the *Registration of Deeds Act 1856*  
12 section 22AA;
- 13 (b) the *Strata Titles Act 1985* section 131A;
- 14 (c) the *Transfer of Land Act 1893* section 182AA;
- 15 (d) the *Valuation of Land Act 1978* section 50.  
16

1 **Part 3 — Registration of Deeds Act 1856 amended**

2 **5. Act amended**

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

4 **6. Sections 22AA and 22AB inserted**

5 After section 22 insert:  
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7 **22AA. Certain prescribed fees may exceed cost recovery**

8 (1) Regulations made under section 22 prescribing a fee  
9 that may be charged by the Registrar of Deeds and  
10 Transfers may prescribe a fee that is more than the  
11 amount, or an estimate of the amount, needed to allow  
12 recovery of expenditure —

13 (a) incurred in connection with the matter in  
14 relation to which the fee is charged; or

15 (b) that is relevant to —

16 (i) the scheme or system under which the  
17 action to which the fee relates is taken;  
18 or

19 (ii) the performance of any function to  
20 which the fee relates.

21 (2) This section does not limit the *Interpretation Act 1984*  
22 section 45A.

23 **22AB. Expiry of section 22AA**

24 (1) Section 22AA expires at the end of 31 December 2019.

25 (2) However, the Governor, on the recommendation of the  
26 Minister, may, by proclamation made before  
27 section 22AA expires, postpone the expiry of  
28 section 22AA until the end of a date specified in the

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- 1 proclamation, and in that case that section expires at  
2 the end of that date.
- 3 (3) The Minister cannot make a recommendation under  
4 subsection (2) unless the Minister is satisfied, on the  
5 basis of the most recent report laid before each House  
6 of Parliament under the *Land Information Authority*  
7 *Act 2006* section 93(2), that the expiry of section 22AA  
8 should be postponed.
- 9 (4) There is no limit on the number of times the expiry of  
10 section 22AA may be postponed, but each  
11 postponement cannot be for longer than 5 years  
12 beginning on the day after the most recent date on  
13 which section 22AA would expire if that expiry were  
14 not postponed.
- 15 (5) The *Interpretation Act 1984* section 42 applies to and  
16 in relation to a proclamation made under subsection (2)  
17 as if the proclamation were a regulation.
- 18 (6) The expiry of section 22AA does not affect the validity  
19 of any regulations made under section 22 and in effect  
20 immediately before that expiry.  
21

1 **Part 4 — *Strata Titles Act 1985* amended**

2 **7. Act amended**

3 This Part amends the *Strata Titles Act 1985*.

4 **8. Sections 131A and 131B inserted**

5 After section 130 insert:

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7 **131A. Certain prescribed fees may exceed cost recovery**

8 (1) Regulations made under section 130 prescribing a fee  
9 payable to the Registrar of Titles may prescribe a fee  
10 that is more than the amount, or an estimate of the  
11 amount, needed to allow recovery of expenditure —

12 (a) incurred in connection with the matter in  
13 relation to which the fee is charged; or

14 (b) that is relevant to —

15 (i) the scheme or system under which the  
16 action to which the fee relates is taken;  
17 or

18 (ii) the performance of any function to  
19 which the fee relates.

20 (2) The definition of *scheme* in section 3(1) does not apply  
21 to subsection (1).

22 (3) This section does not limit the *Interpretation Act 1984*  
23 section 45A.

24 **131B. Expiry of section 131A**

25 (1) Section 131A expires at the end of 31 December 2019.

26 (2) However, the Governor, on the recommendation of the  
27 Minister, may, by proclamation made before  
28 section 131A expires, postpone the expiry of

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- 1                      section 131A until the end of a date specified in the  
2                      proclamation, and in that case that section expires at  
3                      the end of that date.
- 4                      (3)    The Minister cannot make a recommendation under  
5                      subsection (2) unless the Minister is satisfied, on the  
6                      basis of the most recent report laid before each House  
7                      of Parliament under the *Land Information Authority*  
8                      *Act 2006* section 93(2), that the expiry of section 131A  
9                      should be postponed.
- 10                     (4)    There is no limit on the number of times the expiry of  
11                     section 131A may be postponed, but each  
12                     postponement cannot be for longer than 5 years  
13                     beginning on the day after the most recent date on  
14                     which section 131A would expire if that expiry were  
15                     not postponed.
- 16                     (5)    The *Interpretation Act 1984* section 42 applies to and  
17                     in relation to a proclamation made under subsection (2)  
18                     as if the proclamation were a regulation.
- 19                     (6)    The expiry of section 131A does not affect the validity  
20                     of any regulations made under section 130 and in effect  
21                     immediately before that expiry.  
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1           **Part 5 — *Transfer of Land Act 1893* amended**

2       **9.       Act amended**

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

4       **10.       Sections 182AA and 182AB inserted**

5           After section 181 insert:

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7           **182AA. Prescribed fees may exceed cost recovery**

8           (1) Regulations made under section 181 prescribing a fee  
9           may prescribe a fee that is more than the amount, or an  
10          estimate of the amount, needed to allow recovery of  
11          expenditure —

12           (a) incurred in connection with the matter in  
13           relation to which the fee is charged; or

14           (b) that is relevant to —

15           (i) the scheme or system under which the  
16           action to which the fee relates is taken;  
17           or

18           (ii) the performance of any function to  
19           which the fee relates.

20          (2) This section does not limit —

21           (a) the *Interpretation Act 1984* section 45A; or

22           (b) the extent to which fees prescribed under  
23           section 181 may take into account the  
24           indemnity of any amount payable out of the  
25           Consolidated Account under Part XII that is not  
26           recovered under Part XI.

27           **182AB. Expiry of section 182AA**

28          (1) Section 182AA expires at the end of  
29          31 December 2019.

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- 1                      (2)    However, the Governor, on the recommendation of the  
2                                              Minister, may, by proclamation made before  
3                                              section 182AA expires, postpone the expiry of  
4                                              section 182AA until the end of a date specified in the  
5                                              proclamation, and in that case that section expires at  
6                                              the end of that date.
- 7                      (3)    The Minister cannot make a recommendation under  
8                                              subsection (2) unless the Minister is satisfied, on the  
9                                              basis of the most recent report laid before each House  
10                                             of Parliament under the *Land Information Authority*  
11                                             *Act 2006* section 93(2), that the expiry of  
12                                             section 182AA should be postponed.
- 13                     (4)    There is no limit on the number of times the expiry of  
14                                             section 182AA may be postponed, but each  
15                                             postponement cannot be for longer than 5 years  
16                                             beginning on the day after the most recent date on  
17                                             which section 182AA would expire if that expiry were  
18                                             not postponed.
- 19                     (5)    The *Interpretation Act 1984* section 42 applies to and  
20                                             in relation to a proclamation made under subsection (2)  
21                                             as if the proclamation were a regulation.
- 22                     (6)    The expiry of section 182AA does not affect the  
23                                             validity of any regulations made under section 181 and  
24                                             in effect immediately before that expiry.  
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1           **Part 6 — *Valuation of Land Act 1978* amended**

2   **11.     Act amended**

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

4   **12.     Sections 50 and 51 inserted**

5           At the end of Part V insert:

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7           **50.     Prescribed fees may exceed cost recovery**

8           (1) Regulations made under section 49 prescribing a fee  
9           may prescribe a fee that is more than the amount, or an  
10           estimate of the amount, needed to allow recovery of  
11           expenditure —

12           (a) incurred in connection with the matter in  
13           relation to which the fee is charged; or

14           (b) that is relevant to —

15           (i) the scheme or system under which the  
16           action to which the fee relates is taken;  
17           or

18           (ii) the performance of any function to  
19           which the fee relates.

20           (2) This section does not limit the *Interpretation Act 1984*  
21           section 45A.

22           **51.     Expiry of section 50**

23           (1) Section 50 expires at the end of 31 December 2019.

24           (2) However, the Governor, on the recommendation of the  
25           Minister, may, by proclamation made before section 50  
26           expires, postpone the expiry of section 50 until the end  
27           of a date specified in the proclamation, and in that case  
28           that section expires at the end of that date.

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

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