

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:

1

Part 1 — Preliminary

2

1. Short title

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This is the *Land Legislation Amendment Act 2014*.

4

2. Commencement

5

This Act comes into operation as follows —

6

(a) Part 1 — on the day on which this Act receives the
Royal Assent;

7

8

(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:

6

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.
22

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.
25

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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