

Part 1 — Preliminary

1. Short title

The Act is to be known as the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2003*.

2. Commencement

Provides for the Act to come into operation on a day, or different days to be fixed by proclamation in the Government Gazette.

Part 2 — Various Acts amended to confer jurisdiction

Division 1 — *Aboriginal Heritage Act 1972*

3. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Aboriginal Heritage Act 1972*.

4. Section 4 amended

Inserts a new definition in the *Aboriginal Heritage Act 1972* (the Act) to include as a proceeding, a proceeding commenced under this Act before the State Administrative Tribunal.

5. Section 18 amended

Consent in this section, refers to the consent given by the Minister on recommendation of the Aboriginal Cultural Material Committee (committee) to an owner of land to use their land for a purpose requested by the owner. Unless the Minister's prior consent is obtained the owner commits an offence under s17 of the Act.

Subsection 5 provides that where an owner of land is aggrieved by a decision of the Minister (based on the recommendation of the committee) to decline consent to use of their land for the purpose requested by the owner, then the owner may appeal to the Supreme Court. The State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Supreme Court under s18 of this Act. Therefore, section 18(5) is to be amended to enable the aggrieved person to be able to seek a review of the Minister's decision through the State Administrative Tribunal and subsection 18(6) is to be repealed as similar powers are available to the State Administrative Tribunal under the *State Administrative Tribunal Bill 2003*.

6. Section 43 amended

Subsection 3 provides that where an authorised person has made an offer to the Minister for the sale of an Aboriginal object that the Minister considers is excessive, the Minister may apply to the Perth Local Court to determine a reasonable price for the object.

Subsection 4 provides that where the Perth Local Court determines that a reasonable price for the object is greater than the price at which the object was originally offered for sale to the Minister, then the price determined by the Perth Local Court will be deemed to be the price at which the object is to be offered for sale to the Minister. The subsection further provides that within 14 days of the determination by SAT the Minister shall accept or decline the offer.

Subsection 5 provides that where the Perth Local Court determines that a reasonable price for the object is less than the price at which the object was originally offered for sale to the Minister, then the person who originally made the offer for sale to the Minister shall be deemed not to have made a valid offer until he offers the object for sale to the Minister at the price determined by the Perth Local Court.

SAT is to assume jurisdiction over matters that were previously referred to the Perth Local Court under subsections 43(3) to 43(5) of this Act and subsection 43(6) is to be repealed as similar powers are available to SAT under the *State Administrative Tribunal Bill 2003*.

7. Section 46 amended

Notice in this section means written notice by the Registrar of Aboriginal sites to a person who has possession of an object of Aboriginal cultural significance that in the Minister's opinion has been obtained in an unlawful manner and requests this object to be delivered up to the Registrar.

Subsection 3 provides that a person aggrieved by a notice issued under this section may apply to the Local Court for a review of the decision of the Minister.

Subsection 5 provides a person commits an offence if they fail to comply with the terms of a notice served by the Registrar and this includes where appeal was made to the Local Court for review of the Minister's decision but the notice was not set-aside at the subsequent hearing of the appeal.

SAT is to assume jurisdiction over matters that were previously referred to the Local Court under subsections 46(3) and 46(5) of this Act and subsections 46(4) and 46(6) are repealed as similar powers are available to SAT under the *State Administrative Tribunal Bill 2003*.

8. Section 50 amended

Under the Act, Honorary wardens may be appointed to perform functions prescribed in regulations made under the Act and are given a certificate as proof of their appointment.

Subsection 3 provides that production of such a certificate in any *court* is conclusive evidence of the appointment and authority of the Honorary warden. This subsection has been amended to include any *tribunal*.

9. Various references to “Local Court” amended

A range of references in the Act to “Local Court” are amended to instead refer to “State Administrative Tribunal” instead.

Division 2 — Adoption Act 1994

10. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Adoption Act 1994*.

11. Section 10 amended

Section 10 of the Act indicates that the detail relating to the process by which a body corporate makes application to conduct business as an adoption service, is to be contained in regulations. The relevant regulations are the *Adoption Regulations 1995*.

Subsection 10(f) of the Act currently provides for regulations to be made conferring on a body corporate a right of appeal from a decision of the Minister and the procedure to be followed. The current provision is contained in section 17 of the *Adoption Regulations 1995* (the Regulations) and provides for a right of appeal against a refusal, revocation, suspension or terms of licence to the District Court.

It is proposed to confer jurisdiction for the right to review the Minister’s decision from the District Court to the State Administrative Tribunal. The substance of this conferral of jurisdiction will be effected through a change in the Regulations. However, it is necessary to amend subsection 10(f) of the Act deleting the references to right “of appeal” and inserting instead right “to apply to the State Administrative Tribunal for a review of a decision of the Minister...” to allow the necessary changes to the Regulations.

12. Section 143 amended

This section contains general heads of regulation making power. Subsection 143(4)(g) currently provides for the conferral of a right of appeal from decisions as to applications and accreditation.

It is proposed to confer jurisdiction for this right of appeal and make it a right to review by the State Administrative Tribunal. Therefore, consistent with the amendment to section 10, it is proposed to delete the words in subsection 143(4)(g) “of appeal...and the procedure for...” and insert instead “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

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Aerial Spraying Control Act 1966*.

14. Section 8 amended

Certificate is defined to mean a current and valid pilot chemical rating certificate granted to a pilot of an aircraft by the Director of Agriculture.

Section 8 provides that a person whose application for a certificate or renewal of a certificate has been refused, varied, suspended or cancelled by the Director of Agriculture may appeal to a Court of Petty Sessions constituted by a magistrate sitting alone.

SAT is to assume jurisdiction over matters that were previously referred to the Court of Petty Sessions under s8 of the *Aerial Spraying Control Act 1966*. Therefore, section 8(1) is to be amended to enable a person to be able to seek a review of the Director's decision through the State Administrative Tribunal and subsections 8(2) and 8(3) have been repealed as similar powers are available to the State Administrative Tribunal under the *State Administrative Tribunal Bill 2003*.

15. Section 13A amended

Inspector is defined to mean a person appointed by the Minister to enter land or premises where aerial spraying is taking place and inspect and examine the method of aerial spraying used and the suitability of the aircraft, apparatus to undertake this work. An inspector, after having made an inspection, may find that the method of work or equipment used is unsafe and may make an order that prohibits or places restrictions or limitations until such time as the inspector is satisfied that the method of work or equipment conforms with the Act and is safe.

Subsection 8 provides a person aggrieved by such an order given by an inspector may appeal to the Minister for a review of the decision to make the order and the Minister's decision in relation to that appeal shall be final.

This function of review of the inspector's order has now been assumed by the State Administrative Tribunal.

Division 4 — *Agricultural Produce (Chemical Residues) Act 1983*

16. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Agricultural Produce (Chemical Residues) Act 1983*.

17. Section 8 amended

Subsection 2 provides that a direction as to time to comply provided in a notice issued by an authorised person under subsection 1, that specifies a time limit within which the owner of any agricultural produce (or animal or plant from which agricultural produce can be derived) that contains chemical residue in excess of the maximum limit allowable is to comply with the direction and destroy or dispose of that agricultural produce, cannot be less time than that allowed under section 20 of the *Agricultural Produce (Chemical Residues) Act 1983* (the Act) for an appeal by the owner to the Minister against that direction. Where such an appeal is made, the time for compliance is extended until the determination of the appeal.

Subsection 2 is to be amended to provide that the time for compliance with the notice cannot be less time than that provided for a person to lodge an application for a review of the direction by the State Administrative Tribunal contained in the notice under section 20 and where such an application to the State Administrative Tribunal is made, the time for compliance is extended until the determination of the application by the State Administrative Tribunal.

18. Section 20 amended

Subsection (1) provides that a person aggrieved by:

- a direction contained in a notice under section 7 or 8;
 - or a refusal to give approval under section 11; or
 - the seizure of anything under section 23
- may, within such time as is prescribed, appeal to the Minister against that direction or decision.

Subsection (2) provides in dealing with an appeal a Minister may:

- reverse, vary or confirm the direction;
- confirm the refusal to give approval or determine that the application shall be approved; or
- determine whether anything seized is to be forfeited to the Crown or restored to the person to whom it was seized.

SAT is to assume jurisdiction over matters that were previously referred to the Minister under subsection 20(1) of this Act and subsection 20(2) (a) and (b) are to be repealed as similar powers are available to the State Administrative Tribunal under the *State Administrative Tribunal Bill 2003*. However, subsection 20(2)(c) is to be retained and a new subsection 20(3) inserted expressly stating subsection 2 does not limit the powers of the State Administrative Tribunal under the *State Administrative Tribunal Act 2003*.

19. Section 23 amended

Subsection 3 provides that a declaration made by an authorised person that any agricultural produce be seized and forfeited to the Crown because the owner did not comply with a direction in a notice made under s7 or s8 of the Act, shall not be executed before the expiry of the time within which an appeal against the seizure order may be made by the owner to the Minister in accordance with section 20 of the Act or in the case where an appeal against seizure has actually been made, before the determination of that appeal.

The State Administrative Tribunal is now to assume jurisdiction over matters previously referred to the Minister under subsection 23(3) of the Act.

Division 5 — *Agricultural Produce Commission Act 1988*

20. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Agricultural Produce Commission Act 1988*.

21. Section 16 amended

Section 16(1) indicates a list of producers refers to a list of agricultural producers compiled by the Agricultural Produce Commission established under s4 of the Act. From this list of producers it is proposed to establish a producers' committee.

Section 16(2) currently provides that a person who is aggrieved because their name has been included or omitted from a list of producers compiled under s16(1), may appeal to a Local Court. Section 16(3) provides a decision of the Local Court on an appeal is final.

The proposed amendment confers on the State Administrative Tribunal jurisdiction to review such a decision. Therefore, it is proposed an aggrieved person apply to the State Administrative Tribunal for review of the Agricultural Produce Commission's decision to include or omit the person's name. In addition s16(3) has been deleted.

Division 6 — *Agriculture and Related Resources Protection Act 1976*

22. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Agriculture and Related Resources Protection Act 1976*.

23. Section 7 amended

The definition of Local Court meaning a Local Court established under the *Local Courts Act 1904* has been deleted.

24. Section 54 amended

Section 54(1) currently provides that the apportionment of expense of controlling declared plants or declared animals in compliance with a direction under section 50 of the *Agriculture and Related Resources Protection Act 1976* shall, subject to any agreement between the owner and the occupier be borne in such proportions as prescribed in regulations and if not prescribed in regulations then as determined by the Agriculture Protection Board (the Board). The Board shall notify the parties forthwith of its decision.

Section 54(2) currently provides a party dissatisfied with a decision of the Board may, within a month of being notified, appeal in the prescribed manner to the Local Court. The Local Court has the power to modify or vary the decision and make such order as to costs as it thinks fit.

Section 54(3) provides a party paying more than their proportion of the expense to control a declared plant or animal may recover the excess from the other by action in a court of competent jurisdiction.

Section 54(4) currently provides an owner who has only a partial interest or a particular estate in land may apply to the Local Court for an order declaring what portion of expense they are to bear and what portion of expense each other part owner in the land is to bear in relation to the expense of controlling declared plants or animals in or on the land. The court may make such order as it considers just, and any part owner who has paid more than their proportion of the expense may recover the excess from any other part owner declared in the order to be liable.

The proposed amendments to this section do two things. Firstly, the right of a part owner of land to apply to the Local Court pursuant to s54(4) for a determination as to what is their fair share of the expense for controlling declared plants or animals on their land, has been replaced in this section by a general right to apply to the Board. Therefore, the proposed amendments make the Board responsible for all decisions at first instance under both s54(1) in relation to owners and occupiers and under s54(4) in relation to part owners collectively. Secondly, a new section 54(5) confers jurisdiction on the State Administrative Tribunal to review decisions where a party is dissatisfied with a decision of the Board under either subsection 54(1) or 54(4).

Division 7 — *Animal Welfare Act 2002*

25. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Animal Welfare Act 2002*.

26. Heading to Part 5 Division 4 amended

The heading to Part 5 Division 4 is amended to delete reference to “appeals”.

27. Section 71 amended

Subsection 71(1) currently provides for an appealable decision to be made by the Minister. It is proposed that jurisdiction for these appeals be conferred on the State Administrative Tribunal (instead of the Local Court) and therefore the amendment to this subsection provides for a reviewable decision and references to appeal are deleted.

28. Section 72 amended

Subsection 72(1) currently provides a person aggrieved by an appealable decision may elect to object to that decision if the person has not lodged an appeal against the decision.

It is proposed to amend this subsection to provide for the conferral of jurisdiction for these appeals to the State Administrative Tribunal and therefore the reference to “an appealable” decision is changed to “a reviewable” decision and the reference to “lodged an appeal against” is changed to “applied for a review of”.

29. Section 74 amended

Section 74 currently deals with an aggrieved persons right to object or appeal against an appealable decision made by the Minister.

Subsection 74(1) currently provides an aggrieved person may appeal against an appealable decision if that person:

- has not lodged an objection; or
- having lodged an objection has not been given written notice by the Minister of the decision and reasons for it 35 days after having made the objection.

It is proposed that jurisdiction for these appeals be conferred on the State Administrative Tribunal and therefore the reference in this subsection to “an appealable” is to be replaced by “a reviewable” and the reference to “appeal against” be replaced by “apply to the State Administrative Tribunal for a review of”.

Subsection 74(2) currently provides a person who lodged an objection and has been given notice within 35 days pursuant to subsection 73(3) may appeal against the Minister’s decision on their objection. It is proposed that jurisdiction for appeals on an objection also be conferred on the State Administrative Tribunal and therefore this subsection is amended to delete the reference to “appeal against” and replace it with “apply to the State Administrative Tribunal for review of”.

Subsection 74(3) currently outlines the rules and procedure governing an appeal to the Local Court. Subsection 74(4) requires an appellant under s74(3) to provide a copy of their appeal to the Minister. Consistent with the amendments above, it is proposed that both these subsections be deleted as jurisdiction is to be conferred to the State Administrative Tribunal.

Subsection 74(5) currently provides where an appeal has been made against a decision of the Minister, then the effect of the Minister’s decision is suspended until the Local Court deals with the appeal, unless the court orders otherwise.

Consistent with the amendments above, it is proposed to amend this subsection to reflect conferral of jurisdiction to the State Administrative Tribunal and therefore the reference to “appeal...” has been replaced by “application for review...” and the effect of the Minister’s decision is suspended until the State Administrative Tribunal deals with the matter unless the State Administrative Tribunal makes an order otherwise.

30. Section 75 repealed

This section outlines in more detail the procedure that currently exists when the Local Court hears and determines an appeal.

Consistent with the conferral of jurisdiction to the State Administrative Tribunal, section 75 is to be repealed as similar powers are available to the State Administrative Tribunal under the *State Administrative Tribunal Bill 2003*.

Division 8 — *Architects Act 1921*

31. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Architects Act 1921*.

32. Part 1 heading amended

In order to tidy up the arrangement of the Act, at Part 1 heading is inserted.

33. Section 2 amended

Section 2 of the *Architects Act 1921* contains definition of commonly used terms in the Act. Section 2 is to be amended to delete the reference to 'District Court'. Under section 16 of the Act, a person can appeal certain decisions to the District Court. Section 16 is to be amended to enable people to instead seek a review through the State Administrative Tribunal. As a consequence, the definition of 'District Court' in section 3 of the Act is therefore to be repealed.

34. Part 2 heading amended

In order to tidy up the arrangement of the Act, at Part 2 heading is inserted.

35. Section 10 repealed

Section 10 of the *Architects Act 1921* enables the Board to administer an oath to a person for the purpose of examining that person at an inquiry into disciplinary action established under section 22A of the Act. Section 22A is to be amended to provide that disciplinary matters be referred to SAT for determination. As a consequence, the powers of the Board to examine persons and administer oaths is no longer required and therefore section 10 of the Act is to be repealed.

36. Part 3 heading amended

In order to tidy up the arrangement of the Act, at Part 3 heading is inserted.

37. Section 12 amended

Section 12 of the *Architects Act 1921* deals with the Register of Architects that is maintained by the Board. Subsection 12(3) contains a reference to the 'District Court'. Under section 16 of the Act, the District Court can make decisions on appeals lodged by persons against decisions of the Board. Section 16 is to be amended to enable people to instead seek a review through the State Administrative Tribunal. As a consequence, the reference of 'District Court' in subsection 12(3) of the Act is therefore to be amended to refer instead to the State Administrative Tribunal.

38. Section 14B amended

Section 14B of the *Architects Act 1921* enables to Board to suspend or cancel the registration of a practising corporation for a variety of reasons. Essentially, these are akin to disciplinary action in respect of an architect. It is proposed to amend section 14B of the Act to reference conduct that would be a cause for disciplinary action under section 22A of the Act. In doing so, the powers of the Board to suspend or cancel the registration of a practicing corporation are removed from section 14B as these matters will now be available instead to the State Administrative Tribunal through amendments to section 22A of the Act.

39. Section 14D amended

Section 14D of the *Architects Act 1921* enables to Board to suspend or cancel the registration of a practising firm for a variety of reasons. Essentially, these are akin to disciplinary action in respect of an architect. It is proposed to amend section 14D of the Act to reference conduct that would be a cause for disciplinary action under section 22A of the Act. In doing so, the powers of the Board to suspend or cancel the registration of a practicing firm are removed from section 14D as these matters will now be available instead to the State Administrative Tribunal through amendments to section 22A of the Act.

40. Section 16 replaced

Section 16 of the *Architects Act 1921* provides that a person who is aggrieved with a decision made by the Board to refuse the application for registration, can appeal to the District Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously were referred to the District Court under the Act. Therefore, section 16 of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal.

41. Section 22 amended

Section 22 of the *Architects Act 1921* deals with correction of the Register of Architects that is maintained by the Board. Subsection 22(1) contains a reference to the 'District Court'. Under section 16 of the Act, the District Court can make decisions on appeals lodged by persons against decisions of the Board. Section 16 is to be amended to enable people to instead seek a review through the State Administrative Tribunal. As a consequence, the reference of 'District Court' in subsection 22(1) of the Act is therefore to be amended to refer instead to the State Administrative Tribunal.

42. Section 22A amended

Section 22A of the *Architects Act 1921* deals with misconduct by architects, how the Board deals with such matters and powers available to the Board if the architect is found guilty of misconduct. Section 22A is to be amended to provide that where there is cause for disciplinary action, the Board will make an allegation of such to the State Administrative Tribunal rather than dealing with the matter itself. As a consequence, section 22A contains a range of amendments to outline the powers of the State Administrative Tribunal in relation to disciplinary action taken against an architect. Procedural matters currently in section 22A dealing with how the Board conducts disciplinary inquiries under the Act, are proposed to be deleted. Relevant provisions in relation to the SAT are contained in the *State Administrative Tribunal Bill 2003*.

43. Section 22AB inserted

Section 22AB of the *Architects Act 1921* is a new section that is to prescribe the actions available to the State Administrative Tribunal if an architect fails to make a payment with respect to an order made by the State Administrative Tribunal. Subsection 22AB(1) is to give the State Administrative Tribunal the authority to suspend an architect's registration until payment is made, or for a period of time it sees fit.

Subsection 22AB(2) is a new section that is to highlight the powers outlined in subsection 22AB(1) are in addition to the powers conferred on the State Administrative Tribunal in other Acts.

44. Section 25 amended

Section 25 of the *Architects Act 1921* deals with the resignations of architects and their subsequent removal from the register. A revised subsection (2) is proposed to deal with resignations in the context of disciplinary action. Revised subsection (2) enables a person to be dealt with for a matter that arose before they resigned and ensures that people don't avoid disciplinary or other actions being taken against them by resigning their registration as an architect.

45. Part 4 heading amended

In order to tidy up the arrangement of the Act, at Part 4 heading is inserted.

46. Part 5 heading amended

In order to tidy up the arrangement of the Act, at Part 5 heading is inserted.

47. Part 6 heading amended

In order to tidy up the arrangement of the Act, at Part 6 heading is inserted.

48. Part 7 heading amended

In order to tidy up the arrangement of the Act, at Part 7 heading is inserted.

49. Section 30 amended

As a consequence of the change in process of the Board in determining whether to register a person as an architect, section 30 which deals with offence provisions is amended accordingly.

50. Section 31 replaced by sections 31 to 31C

Section 31 of the *Architects Act 1921* deals the awarding of costs in relation to matters dealt with before the District Court concerning appeals against decisions of the Board. Section 16 is to be amended to enable people to instead seek a review through the State Administrative Tribunal. As a consequence, section 31 of the Act is no longer necessary and is therefore to be repealed. Matters relating to the awarding of costs by the State Administrative Tribunal are provided for in the *State Administrative Tribunal Bill 2003*.

Section 31 of the *Architects Act 1921* is a new section which provides that the Board may appoint a person to investigate any matter relevant to the performance of the Board's functions under the Act. Subsections (3)-(7) also outlines the powers of, and responsibilities of, an investigator for the purposes of an investigation. Subsection (8) provides that where an investigator believes that entry to premises is necessary for the purposes of an investigation, the investigator may apply to a magistrate or JP for a warrant to be issued in respect of those premises.

New section 31A provides that where a person is required to give information, answer questions or produce documents under section 31, the person cannot refuse to comply with such a requirement on the grounds that it might incriminate them. To provide a safeguard, any information or answer given, or document produced is not admissible in evidence in any proceedings, other than in respect of proceedings for an offence of giving false information under section 31B of the Act.

New section 31B creates an offence provision in circumstances where a person fails to give information or answer a question, provides false information, or fails to produce documentation within the timeframe specified. This is in relation to requirements imposed under section 31 of the Act. The penalty for such an offence is a fine of up to \$2000. Subsection 31B(2) provides a range of defences in relation to such offences.

New section 31C creates an offence provision in circumstances where a person obstructs an investigator from entering premises or from generally exercising their powers under section 31. The penalty for such an offence is a fine of up to \$2000.

51. Section 35 amended

Section 35 of the *Architects Act 1921* contains the annual reporting requirements in relation to the Architects' Board. It is proposed to add subsection 35(1a), which will outline additional matters to be reported on. The proposed subsection (1a) will outline the requirement of the Board to report on matters that have been referred to the State Administrative Tribunal under the Act, including matters that are still pending, and to report on general administrative issues in relation to the operations of the Board. Proposed subsection (1a) is consistent with comments at paragraph 55 in Chapter 4 of the Taskforce Report [p.74].

Division 9 — *Armadaale Redevelopment Act 2001*

52. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Armadaale Redevelopment Act 2001*.

53. Section 50 replaced

Section 50(1) of the *Armadaale Redevelopment Act 2001* (the Act) currently provides that an applicant may appeal against a decision made by the Armadaale Redevelopment Authority under s48 of this Act to the Town Planning Appeal Tribunal in accordance with Part V of the *Town Planning and Development Act 1928*. Subsection 50(2) provides the tribunal may allow or reject the appeal, and if allowed, conditions may or may not be imposed.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were appealable to the Town Planning Appeal Tribunal, under amendments to the *Town Planning and Development Act 1928*. As a consequence, section 50 (1) of the Act is to be amended to enable an applicant to apply to SAT for a review of a decision of the Armadaale Redevelopment Authority.

54. Section 52 amended

Section 52 of the Act deals with the powers of the Armadale Redevelopment Authority (the Authority) to issue notices or give directions in relation to unlawful developments. Under subsection 52(1)(b), the Authority can order a person who has completed an unlawful development to remove it, pull it down, take it up or alter it by issuing a notice in writing to that person. Subsection 52(2) provides a person on whom such a notice is served may currently appeal that decision to the Town Planning Appeal Tribunal under Part V of the *Town Planning and Development Act 1928*. Subsection 52(3) provides such a notice is suspended pending determination of the appeal by the tribunal. Subsection 52(4) provides should the tribunal confirm or vary the direction in the notice, the person has to comply with this decision.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Town Planning Appeal Tribunal under section 52 of the Act. Therefore, section 52(2) of the Act is to be amended to enable these persons to be able to seek a review of the Authority's notice or directions through the State Administrative Tribunal. Other amendments to section 52 are proposed as a consequence of the amendment to subsection 52(2).

Division 10 — *Associations Incorporation Act 1987*

55. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Associations Incorporation Act 1987*.

56. Section 4 amended

This section of the *Associations Incorporation Act 1987* (the Act) deals with eligibility requirements for an association to be incorporated under the Act.

Subsection 4(1) currently lists a range of types of associations that may be eligible to become incorporated. Subsection 4(1)(f) gives the Commissioner for Fair Trading a general power to incorporate an association (provided it has more than 5 members) that is not included in the types of associations listed in subsections 4(1)(a) to 4(1)(e) of this section. Subsection 4(6) provides that should the Commissioner refuse to approve an application under subsection 4(1)(f) then the applicant may within a month of receiving such notice, request the Minister for Consumer and Employment Protection to review the decision of the Commissioner. Subsection 4(7) provides the Minister's decision on a review is final.

It is proposed to amend subsection 4(6) to confer jurisdiction for the review of the Commissioner's decision to SAT. Accordingly, subsection 4(7) will be deleted as a consequence of this referral of jurisdiction.

57. Section 7 amended

Subsection 7(2) currently provides that if the Commissioner for Fair Trading declines a request made by any person under subsection 7(1) to refuse to incorporate an association, then the person who made the request may apply to the Minister for Consumer and Employment Protection to review the decision of the Commissioner, within 14 days of receipt of notice of the Commissioner's refusal. Subsection 7(3) currently provides the Minister's decision on review is final.

It is proposed to confer jurisdiction for review of the Commissioner's decision under this section to SAT. As a consequence, subsection 7(2)(a) is amended to delete the reference to "request the Minister to review" and replace it with "apply to the State Administrative Tribunal for a review of". As a consequence of the amendment to subsection 7(2)(a), subsections 7(2)(b) and subsection 7(3) are deleted.

58. Section 8 amended

Subsection 8(2) currently provides that if the Commissioner for Fair Trading refuses to incorporate an association because the Commissioner considers the name is inappropriate, offensive or misleading as defined in subsection 8(1), then the applicant for incorporation may request the Minister for Consumer and Employment Protection to review the Commissioner's decision within one month of receipt of the notice of the Commissioner's refusal. Subsection 8(3) provides that the Minister's decision on review is final.

It is proposed to confer jurisdiction for review of the Commissioner's decision under this section to SAT. As a consequence, subsection 8(2)(a) is amended to delete the reference to "request the Minister to review" and replace it with "apply to the State Administrative Tribunal for a review of". As a consequence of the amendment to subsection 8(2)(a), subsections 8(2)(b) and subsection 8(3) are deleted.

59. Section 9 amended

Subsection 9(3) currently provides that if the Commissioner for Fair Trading refuses an application to incorporate an association under subsection 9(2), because the Commissioner considers that incorporation should be made under another written law or because incorporation is not in the public interest, then the applicant for incorporation may request the Minister for Consumer and Employment Protection to review the Commissioner's decision within one month of receipt of the notice of the Commissioner's refusal. Subsection 9(4) provides that the Minister's decision on review is final.

It is proposed to confer jurisdiction for review of the Commissioner's decision under this section to SAT. As a consequence, subsection 9(3)(a) is amended to delete the reference to "request the Minister to review" and replace it with "apply to the State Administrative Tribunal for a review of". As a consequence of the amendment to subsection 9(3)(a), subsections 9(3)(b) and subsection 9(4) are deleted.

60. Section 18 amended

Section 18 deals with what an incorporated association has to do to change the name of the association.

Subsection 18(4) currently provides that if the Commissioner for Fair Trading refuses to approve a name change application because, pursuant to subsection 18(3) of this section, the Commissioner considers that the proposed name change is inappropriate, then the association may request the Minister for Consumer and Employment Protection to review the Commissioner's decision within one month of receipt of the notice of the Commissioner's refusal. Subsection 18(5) provides that the Minister's decision on such a review is final.

It is proposed to confer jurisdiction for review of the Commissioner's decisions under this section to SAT. As a consequence, subsection 18(4)(a) is amended to delete the reference to "request the Minister to review" and replace it with "apply to the State Administrative Tribunal for a review of". As a consequence of the amendment to subsection 18(4)(a), subsections 18(4)(b) and subsection 18(5) are deleted.

61. Section 19 amended

Section 19 deals with what an incorporated association does when it wishes to alter the purpose or object for which the association is formed.

Subsection 19(3) currently provides that if the Commissioner for Fair Trading refuses to approve an alteration of the purpose or object for which an association is formed, then the incorporated association may request the Minister for Consumer and Employment Protection to review the Commissioner's decision within one month of receipt of the notice of the Commissioner's refusal. Subsection 19(4) provides that the Minister's decision on such a review is final.

It is proposed to confer jurisdiction for review of the Commissioner's decisions under this section to SAT. As a consequence, subsection 19(3)(a) is amended to delete the reference to "request the Minister to review" and replace it with "apply to the State Administrative Tribunal for a review of". As a consequence of the amendment to subsection 19(3)(a), subsections 19(3)(b) and subsection 19(4) are deleted.

Division 11 — *Biological Control Act 1986*

62. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Biological Control Act 1986*.

63. Section 3 amended

The definition of the Biological Control Appeals Board is to be deleted from section 3 of the *Biological Control Act 1986*, as the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Board.

64. Section 54 amended

Section 54 of the *Biological Control Act 1986* provides that a person whose interests are affected by various decisions made by the Biological Control Authority, can lodge an appeal with the Biological Control Appeals Board. Given that the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Board, section 54 of the Act is to be amended to enable these aggrieved persons to be able to seek a review of such decisions through the State Administrative Tribunal.

65. Sections 55 to 58 repealed

Section 55 of the *Biological Control Act 1986* deals with the constitution of the Biological Control Appeals Board. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Board, section 55 of the Act is no longer relevant and is therefore being repealed.

Section 56 of the *Biological Control Act 1986* deals with the powers of the Biological Control Appeals Board. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Board, section 56 of the Act is no longer relevant and is therefore being repealed.

Section 57 of the *Biological Control Act 1986* refers to the decisions of the Biological Control Appeals Board. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Board, section 57 of the Act is no longer relevant and is therefore being repealed.

Section 58 of the *Biological Control Act 1986* deals with the procedures of the Biological Control Appeals Board. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Board, section 58 of the Act is no longer relevant and is therefore being repealed.

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

66. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Births, Deaths and Marriages Registration Act 1998*.

67. Section 67 amended

Section 67 of the *Births Deaths and Marriages Registration Act 1998* provides that a person who is dissatisfied with a decision made by the Registrar of Births Deaths and Marriages, can apply to the relevant Minister for a review of such decisions. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Minister under section 67 of the Act. Therefore, section 67(1) of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal. Section 67(2) of the *Births Deaths and Marriages Registration Act 1998* is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Division 13 — *Boxing Control Act 1987*

68. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Boxing Control Act 1987*.

69. Part V heading replaced

The heading to Part V of the Act is amended to refer to “Review”.

70. Section 34 amended

Section 34 of the *Boxing Control Act 1987* provides that a person who is aggrieved by a decision made by the Boxing Commission or the Minister, can lodge an appeal with the Local Court. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Local Court under section 34 of the Act. Therefore, section 34(1) of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal. Subsections 34(2)-(5) of the *Boxing Control Act 1987* are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

71. Section 40 amended

Section 40 of the *Boxing Control Act 1987* deals with the re-issuing of medical record books by the Boxing Commission. Section 40 contains references to appeals that may have been lodged in relation to the cancellation or suspension of a boxer’s registration. These various “appeal” references are amended to reflect terminology related to “applications for review”, consistent with the amendments made to section 34 of the *Boxing Control Act 1987*.

Division 14 — *Bread Act 1982*

72. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Bread Act 1982*.

73. Section 7 amended

Section 7 of the *Bread Act 1982* deals with the issuing of bakehouse licences. Subsection 7(5) of the Act provides that a person who is aggrieved by a decision made by the chief executive officer can lodge an appeal against this decision. Such appeals are dealt with in the Local Court.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Local Court under section 7 of the *Bread Act 1982*. Therefore, section 7(5) of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal. Subsections 7(6)-(8) of the *Bread Act 1982* are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Division 15 — *Builders’ Registration Act 1939*

74. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Builders’ Registration Act 1939*.

75. Section 6 amended

Subsection 6(3) of the *Builders' Registration Act 1939* provides that subject to section 13(4), four members of the Board shall be the quorum, and a quorum can lawfully exercise the powers of the Board. Subsection 13(4) which provides that an inquiry under this section may be held by a panel comprising not less than three members of the Board is to be repealed. Therefore, subsection 6(3) is to be amended to remove reference to section 13(4).

76. Section 8 amended

Subsection 8(1) of the *Builders' Registration Act 1939* contains the powers of the Board which include issuing or cancelling certificates of registration. The State Administrative Tribunal is to assume jurisdiction over disciplinary matters, including cancelling certificates. Therefore, subsection 8(1)(c) is to be amended to remove reference to cancel certificates.

Subsection 8(1) of the *Builders' Registration Act 1939* contains the powers of the Board which include cancelling or suspending the registration of any person under this Act. The State Administrative Tribunal is to assume jurisdiction over disciplinary matters, including cancelling or suspending registrations. Therefore, subsection 8(1)(d) is to be repealed.

Subsection 8(1) of the *Builders' Registration Act 1939* contains the powers of the Board which include annulling cancellations or suspensions. The State Administrative Tribunal is to assume jurisdiction over disciplinary matters, including annulling cancellations or suspensions. Therefore, subsection 8(1)(e) is to be repealed.

77. Section 10D amended

Subsection 10D of the *Builders' Registration Act 1939* provides that the penalties imposed by provisions 10AA, 10B and 10C are in addition to and not in any derogation of any penalty, suspension or cancellation of registration imposed by any other provision of this Act. Subsection 10D is to be amended to delete reference to “by” and replace it with “under” for drafting reasons.

78. Section 12A amended

Subsection 12A(5) of the *Builders' Registration Act 1939* provides that the making of an order by the Disputes Tribunal under this section in respect of building work carried out by a builder does not, irrespective of whether an appeal is made against the making of the order or the manner in which the appeal is disposed of, limit or affect the power of the Board to deal with that or any other builder. The State Administrative Tribunal is to assume jurisdiction over appeals in relation to orders by the Disputes Tribunal. Accordingly, subsection 12A(5) is to be amended to remove reference to “appeals” and make reference to “application is made for a review” and the “State Administrative Tribunal”.

79. Section 12D inserted

A new section 12D is to be inserted into the *Builders' Registration Act 1939* to provide that the Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action against a builder. The State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings against builders.

Subsection 12D(2) provides that if the allegation could result in the State Administrative Tribunal cancelling or suspending the registration of a person, the Board is required to give a copy of the allegation to that person and the person is entitled in the proceedings to submit to State Administrative Tribunal an explanation personally or in writing. This subsection is derived from 13(1c) which has been repealed.

80. Section 13 amended

Subsection 13(1) provides that the Board may cancel or suspend registration of any builder under this Act. The State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings against builders. Therefore, subsection 13(1) is to be amended to remove reference to the Board and provide that in any proceeding under subsection 1(aa) State Administrative Tribunal may cancel or suspend registration of any builder because there is proper cause for disciplinary action.

Subsection 13(1)(f) provides that the Board may cancel or suspend registration of any builder under this Act where the builder is a partnership, company or body corporate and the registration of the partner, director of the company etc, has been cancelled or suspended under the Act. Subsection 13(1)(f) is to be amended to remove reference to “under this Act” as it is redundant.

Subsection 13(1)(g) provides that the Board may cancel or suspend registration of any builder under this Act where the builder is a partnership, company or body corporate and after such registration, a person who is ineligible under 13(1ba) has been involved in the management of the partnership, company or body corporate or a person who is involved in the management of the partnership, company or body corporate is declared to be ineligible under 13(1ba), and upon the making of the order or for the period specified in the order, the builder shall cease to be registered under the Act. Subsection 13(1)(g) is to be amended to remove reference to upon the making of the order or for the period specified in the order, the builder shall cease to be registered under the Act, as this is redundant.

Subsection 13(1a) provides that where the registration of partnership, company or corporate body has been cancelled by the Board after holding an inquiry, the Board may by order cancel or suspend the registration of the partner, director, member of the board of management or employee by whom the building work to which the inquiry relates was to be managed. The State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings against builders. Therefore, subsection 13(1a) is to be amended to remove reference to the Board and provide that the State Administrative Tribunal may by order cancel or suspend the registration of such persons.

Subsection 13(1ba) provides that where the registration of partnership, company or corporate body has been cancelled by the Board after holding an inquiry, the Board may declare a person who is a partner, director, member of the board of management or otherwise involved in the management of the partnership, company or body corporate to be for a period of not more than 3 years, an ineligible person for registration. The State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings against builders. Therefore, subsection 13(1ba) is to be amended to remove reference to the Board and provide that the State Administrative Tribunal may declare such person to be for a period of not more than 3 years, an ineligible person for registration.

Subsection 13(1bb) provides that the Board shall not make a declaration under subsection 1(ba)(a) unless it has sent to the person a copy of the notice sent to the partnership, company or corporate body and afforded the person an opportunity of giving an explanation. The State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings against builders. Therefore, subsection 13(1bb) is to be amended to remove reference to the Board and provide that the State Administrative Tribunal shall not make the declaration unless it has afforded the person an opportunity of giving an explanation. The requirement to send to the person a copy of the notice sent to the partnership, company or body corporate is deleted as this is covered under the proposed new section 12D.

Subsection 13(1c) provides that the Board shall not cancel or suspend the registration of a person under subsection (1a) unless it has sent to the partner, director, member of the board of management, or employee, a copy of the notice sent to the partnership, company or body corporate, and afforded the person an opportunity of giving an explanation. Subsection 13(1c) is repealed as these requirements are covered under the proposed new section 12D.

Subsection 13(2) provides that the Board may annul the cancellation or suspension of the registration of a builder, and a builder whose registration has been suspended or cancelled may at any time after the expiration of three months apply to the Board to annul the cancellation. The State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings against builders. Therefore, subsection 13(2) is to be amended to remove reference to the Board undertaking disciplinary proceedings, and provide that on the application of the Board or builder, the State Administrative Tribunal may order that a suspension of a registration is terminated or a registration reinstated.

A new subsection 13(2a) provides that an application for the termination of a suspension or the reinstatement of a registration that was cancelled cannot be made before the expiry of three months. Subclause 13(2a) will insert a provision which is being deleted from 13(2).

Subsection 13(3) provides that before cancelling or suspending the registration of or imposing a fine on a builder under 13(a) the Board shall send in writing notice to the builder of the allegation, hold a full inquiry into the matter and afford the builder an opportunity to give an explanation. Subsection 13(3) is to be repealed as these requirements are covered under the proposed new section 12D.

Subsection 13(4) provides that an inquiry under this section may be held by a panel comprising not less than three members of the Board. The State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings against builders. Therefore, subsection 13(4) is to be repealed.

81. Section 13A amended

Section 13A of the *Builders' Registration Act 1939* provides that where after holding an inquiry in accordance with section 13 the Board makes a finding that a situation described in paragraphs (a), or (c) to (f) of subsection 1 of that section exists, the Board may, instead of or in addition to cancelling or suspending the registration, impose a fine on the builder and others. The State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings against builders. Therefore, subsection 13A is to be amended to remove reference to the Board, and provide that the State Administrative Tribunal may, instead of or in addition to cancelling or suspending the registration, impose a fine on the builder and others.

82. Section 14 replaced

Section 14 of the *Builders' Registration Act 1939* provides that a person, who is dissatisfied with a decision of the Board in relation to refusing, cancelling or suspending registration; or refusing registration or annulment of the cancellation or suspension of registration, may appeal to the District Court. Decisions of the District Court are final, and have the effect as if they were a decision of the Board. The State Administrative Tribunal to be amended to remove reference to the Board refusing, cancelling or suspending registration, etc., appeals to the District Court and the effect of District Court decisions. It provides that persons aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review. It defines "persons aggrieved" and "reviewable decision".

83. Section 17 amended

Subsection 17(1) of the *Builders' Registration Act 1939* contains the powers of the Board for the purposes of conducting any investigation or inquiry. Subsection 17(1) is to be amended to remove reference to inquiry, as the State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings.

Subsection 17(2) provides for the making of orders for the payment of costs and expenses in relation to inquiries. Subsection 17(2) is to be deleted, as the State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings.

Subsection 17(3) provides that the Board may suspend the registration of a builder for failing to pay fines, costs and expenses ordered by the Board. Subsection 17(3) is to be deleted, as the State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings.

Subsection 17(4) provides that the powers conferred on the Board by subsection 17(3) is not to be taken as limiting the powers of the Board. Subsection 17(3) is to be deleted, as the State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings.

Subsection 17(4) provides that costs, expenses and fines can be recovered as a judgment debt in a court. Subsection 17(4) is to be deleted, as the State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings.

84. Section 17A inserted

A new section 17A is to be inserted into the *Builders' Registration Act 1939*. It provides that where the State Administrative Tribunal makes an order and payment is not made in accordance with the order or the order is not otherwise complied with or breached, the State Administrative Tribunal may suspend the registration until payment is made or upon such event occurring as the State Administrative Tribunal thinks fit. Such power is in addition to any powers conferred by this Act or the *State Administrative Tribunal Act 2003*. These provisions replace the repealed subsections 17(3) and (4).

A new section 17A is to be inserted into the *Builders' Registration Act 1939*. It provides that where the State Administrative Tribunal makes an order and payment is not made in accordance with the order or the order is not otherwise complied with or breached, the State Administrative Tribunal may suspend the registration until payment is made or upon such event occurring as the State Administrative Tribunal thinks fit. Such power is in addition to any powers conferred by this Act or the *State Administrative Tribunal Act 2003*. These provisions replace the repealed subsections 17(3) and (4).

85. Section 19A inserted

A new section 19A is to be inserted into the *Builders' Registration Act 1939*. It provides that despite the surrender or a registration or certificate, this Act applies for the purpose of enabling the person to be investigated or dealt with for a matter arising before the surrender.

86. Section 22 amended

Subsection 22(4) of the *Builders' Registration Act 1939* provides that subject to 4B, all fees, costs and expenses and monetary penalties paid or recovered under this Act are to be paid to the Board. Penalties ordered by the State Administrative Tribunal are to be paid into consolidated revenue. Subsection 22(4) is to be amended to exclude penalties ordered by the State Administrative Tribunal.

87. Section 23B amended

A new subsection 23B(1b) is to be inserted into the *Builders' Registration Act 1939*. It contains specific requirements, such as the need to report on the number, nature and outcome of investigations undertaken by or at the investigation by the Board, matters brought before the State Administrative Tribunal, etc., on which the Board is to report. Proposed subsection (1b) is consistent with comments at paragraph 55 in Chapter 4 of the Taskforce Report [p.74].

88. Section 41 amended

Section 41 of the Act allows an aggrieved person to appeal to the District Court against a decision of the Disputes Tribunal. The State Administrative Tribunal is to assume jurisdiction over matters previously dealt with by the District Court under section 41 of the Act. Section 41 is amended to provide that an aggrieved person may apply to the State Administrative Tribunal for a review of a decisions of the Disputes Tribunal.

89. Section 42 amended

Section 42 enables the Disputes Tribunal to refer questions of law to the District Court. The State Administrative Tribunal is to assume jurisdiction over matters previously dealt with by the District Court under section 42 of the Act. Section 42 is amended to provide that the Disputes Tribunal can refer questions of law to the State Administrative Tribunal. When the State Administrative Tribunal is dealing with matters under section 42 it must be constituted by a judicial member.

Division 16 — *Business Names Act 1962*

90. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Business Names Act 1962*.

91. Section 14 amended

Section 14 of the *Business Names Act 1962* contains enables a court to makes order against a person who has lodged an action in relation to a business name. Section 14 details which judicial officer can exercise these powers depending upon which court the action has been lodged in.

It is proposed to insert two new subsections [(1a) and (3)] into section 14 of the *Business Names Act 1962*. The effect of these new provisions will be to also enable the State Administrative Tribunal to make such orders, and when doing so to require that the Tribunal's power is only exercisable by a judicial member or a senior member.

92. Section 19 amended

Section 19 of the *Business Names Act 1962* deals with the powers of the Commissioner for Fair Trading to cancel the registration of a business name. Under subsection 19(3), the person whose business registration has been cancelled, can apply to the Supreme Court for an order directing the Commissioner to restore the registration of the business name.

The State Administrative Tribunal is to assume jurisdiction over matters that previously where referred to the Supreme Court under section 19(3) of the *Business Names Act 1962*. Therefore, section 19(3) of the Act is to be amended to enable these persons to be able to seek a review of the Commissioner's decision through the State Administrative Tribunal. Other amendments to section 19 are proposed as a consequence of the amendment to subsection 19(3).

Division 17 — *Caravan Parks and Camping Grounds Act 1995*

93. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Caravan Parks and Camping Grounds Act 1995*.

94. Section 7 amended

Section 7 of the *Caravan Parks and Camping Grounds Act 1995* provides that an applicant can apply to the local government for the grant or renewal of a licence for a facility. Section 7 also details when local government may refuse to renew a licence. The local government is required to provide an applicant with a notice of the decision and to advise them of their right of appeal to the Minister under section 27 of the Act.

The State Administrative Tribunal is to assume jurisdiction over decisions that were previously referred to the Minister under section 27 of the Act. Section 7(8) is to be amended to provide that the notice of decision is to advise applicants or licence holders of their right to apply to the State Administrative Tribunal for a review of the decision.

95. Section 10 amended

Section 10 of the *Caravan Parks and Camping Grounds Act 1995* enables the local government to issue a prohibition notice to a licence holder if the licence holder is contravening the Act, any conditions imposed on the licence or any matter which may be prescribed for the purpose of section 10(1). A prohibition notice must also state that the licence holder is entitled to appeal to the Minister under section 27 of the Act.

Decisions that were previously referred the Minister will now be reviewed by the State Administrative Tribunal. Therefore, section 10(2)(b) will be amended to provide that the notice of decision is to advise licence holders of their right to apply to the State Administrative Tribunal for a review of the decision to give notice.

96. Section 11 amended

Section 11 of the *Caravan Parks and Camping Grounds Act 1995* states what a licence holder must not do when a prohibition notice is in force. Section 11(3) also provides that a prohibition notice continues to have effect, pending the decision of an appeal by the Minister under section 27.

Subsection 11(3) is to be repealed as the State Administrative Tribunal will now review decisions under section 27. However, clause 25 of the *State Administrative Tribunal Bill 2003* provides that the original decision is still in effect, pending review by the State Administrative Tribunal, unless the Tribunal, on application of a party or on its own initiative, makes an order staying the operation of a decision that is the subject of a proceeding for review.

97. Section 12 amended

Section 12 of the *Caravan Parks and Camping Grounds Act 1995* provides that the local government may cancel the licence of a licence holder based on the specified grounds stated in subsection 12(1)(a)-(c.). Section 12 also includes that a notice to cancel a licence under subsection 12(1) must state that the licence holder may appeal to the Minister.

Matters that were previously referred to the Minister on appeal will now be referred to the State Administrative Tribunal. Section 12(4) will be amended to provide that the notice of decision is to advise a licence holder of their right to apply to the State Administrative Tribunal for a review of the decision.

98. Section 21 amended

Section 21 of the *Caravan Parks and Camping Grounds Act 1995* states that a local government must inspect each facility in its district. After inspection of a facility, a local government may give a person licensed to operate a facility a works specification notice which details the work that must be carried out by the person specified on the notice. Section 21 also provides that a licence holder has 14 days to lodge an objection with the local government concerning the requirements specified in the notice. The local government may then amend, cancel or refuse to amend a works specification notice under subsection 21(5). A works specification notice and a notice of a decision under subsection 21(5) must state that the licence holder is entitled to appeal to the Minister.

Matters that were previously referred to the Minister on appeal will now be referred to the State Administrative Tribunal. Section 21(6) will be amended to provide that the notice of decision is to advise a licence holder of their right to apply to the State Administrative Tribunal for a review of the decision to give the works specification notice or the decision under subsection 21(5), as the case requires.

99. Section 27 replaced

Section 27 of the *Caravan Parks and Camping Grounds Act 1995* provides that a person may appeal to the Minister against a decision made by a local government under sections 7, 10, 12 and 21.

Section 27 will be amended to enable aggrieved persons to apply to the State Administrative Tribunal for a review of a decision made by local government. Subsections 27(2)-(4) are to be repealed as the powers of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

100. Section 28 amended

Section 28 of the *Caravan Parks and Camping Grounds Act 1995* is the regulation making powers of the Act. Under subsection 28(2)(h) regulations can be made outlining procedures to be followed in relation to appeals to the Minister under section 27 of the Act. As the SAT is to assume jurisdiction over decisions that were previously referred to the Minister under section 27 of the Act, subsection 28(2)(h) is no longer necessary and is therefore to be repealed.

101. Section 34 amended

Section 34(4) of the *Caravan Parks and Camping Grounds Act 1995* provides that a person may appeal to the Minister against a decision made by a local government under section 34(3) of the Act.

Matters that were previously referred to the Minister on appeal will now be referred to the State Administrative Tribunal. Section 34(4) of the Act will be amended to enable aggrieved persons to apply to the State Administrative Tribunal for a review of a decision made by local government.

Division 18 — *Cemeteries Act 1986*

102. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Cemeteries Act 1986*.

103. Section 19 amended

Section 19 of the *Cemeteries Act 1986* requires that when the Board refuses an application for a licence or cancels or suspends a licence, it must notify the applicant or person to whom the licence was issued of its reasons for the decision. Subsection 19(2) also provides that when a person's application for a licence has been refused or when a person's licence has been cancelled or suspended, they may appeal to the Local Court against a decision of the Board.

The State Administrative Tribunal is to assume jurisdiction over decisions that were previously referred to the Local Court under section 19. Section 19(2) is to be amended to enable aggrieved applicants or a person whose licence has been cancelled or suspended to apply to the State Administrative Tribunal for a review of the decision of the Board. Subsections 19(3)-(6) of the *Cemeteries Act 1986* are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Division 19 — Chattel Securities Act 1987

104. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Cemeteries Act 1986*.

105. Section 3 amended

The definition of “tribunal” is deleted as the tribunal for the Act is to be the State Administrative Tribunal in future.

106. Section 26 amended

Section 26 is amended to provide that a person who is aggrieved by a decision of the Commissioner of Consumer Affairs may seek a review by the State Administrative Tribunal rather than the former Commercial Tribunal.

107. Sections 27 and 28 repealed

Provides that the Commissioner is to be the nominal respondent in an appeal and for the powers of the Commercial Tribunal, respectively, are repealed as they are no longer necessary.

108. Section 29 amended

Section 29 is amended to provide that moneys formerly due to the Commercial Tribunal to give effect to a decision and now due to the State Administrative Tribunal are to be paid to the Consolidated Fund.

Division 20 — Chicken Meat Industry Act 1977

109. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Chicken Meat Industry Act 1977*.

110. Section 18 amended

Section 18 of the *Chicken Meat Industry Act 1977* provides that when a dispute arises between a grower and a processor concerning an agreement that they have entered into, the matter in dispute may be determined by the Committee. A person who is aggrieved by a determination of the Committee may appeal to the Supreme Court under subsection 18(2). Subsection 18(3) further provides that if an appeal is not lodged within the prescribed time or it is discontinued after it is lodged, the determination made by the Committee is final.

Decisions that were previously referred to the Supreme Court under section 18(2) will now be reviewed by the State Administrative Tribunal. Therefore, section 18(2) will be amended to enable a person who is aggrieved by a determination of the Committee to apply to the State Administrative Tribunal for a review of that determination. The appeal references in subsection 18(3) will be amended to reflect the terminology relating to the making of application for review, consistent with subsection 18(2). Subsection 18(4) is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Bill 2003*.

111. Section 19A amended

Section 19A of the *Chicken Meat Industry Act 1977* deals with the growing of broiler chickens at approved premises. Under subsection 19A(5) an application for approval of growing premises should be made to the Committee in a form approved by the Committee. Subsection 19A(11) provides for appeals to the Minister against a decision under subsection 19A(5) or when an approval for growing premises has been revoked.

Subsection 19A(11) will be amended to allow aggrieved person to apply to the State Administrative Tribunal for a review of the decision. Subsections 19A(11)(a) and (b) will be repealed as the powers of the State Administrative Tribunal are contained in the *State Administrative Bill 2003*.

Division 21 — *Chiropractors Act 1964*

112. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Chiropractors Act 1964*.

113. Section 16C amended

Section 16C of the *Chiropractors Act 1964* outlines the annual reporting requirements in relation to the Chiropractors Registration Board. It is proposed to amend section 16C by inserting five new subsections (1a), (1b), (1c), (1d), and (1e) which outline additional matters required to be reported on. The proposed subsection 16C(1a) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board.

114. Section 18 amended

Section 18 of the *Chiropractors Act 1964* outlines the Board may, with the approval of the Governor, make rules. It is proposed that the Board will simply make rules for prescribing the professional and ethical standards to be maintained by chiropractors and for regulating the manner of making to the Board any charge or complaint against or concerning a chiropractor or a student. The current power of the Board to inquire into disciplinary matters and fixing penalties in relation to such is proposed to be vested in the State Administrative Tribunal. Section 18 of the Act is to be amended to provide that rules can be made in relation to the making of allegations to the State Administrative Tribunal and for the types of orders that the State Administrative Tribunal can make in relation to disciplinary matters.

115. Section 20A amended

Section 20a of the *Chiropractors Act 1964* provides that a person who is aggrieved with a decision made by the Board to refuse the application for registration, can appeal to the Local Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously were referred to the Local Court under the Act. Therefore, section 20A of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal.

116. Part IVA inserted

Section 21A of the *Chiropractors Act 1964* is a new section which provides that the Board may appoint a person to investigate any matter relevant to the performance of the Board's functions under the Act and report to the Board. The Board is to issue each investigator it appoints a certificate of appointment, which is evidence in any court of the appointment to which the certificate purports to relate.

Section 21B of the *Chiropractors Act 1964* is a new section which provides that an investigator must within such period as the Board requires prepare a report on the investigation and immediately after preparing the report, provide the Board with a copy of the report. The new section outlines the investigator must return the certificate of appointment at the time the Board is provided with a copy of the report.

Section 21C of the *Chiropractors Act 1964* is a new section which outlines the powers of an investigator for the purposes of an investigation.

Section 21D of the *Chiropractors Act 1964* is a new section which provides that 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, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises. The new subsection 21D(2) outlines the requirements for an application for a warrant. The new subsection 21D(3) outlines that a magistrate to whom an application is made must refuse it if the application does not comply with the requirements or when required by the magistrate, the investigator does not give to the magistrate more information about the application. The new subsection 21D(4) provides that information in an application must be verified before the magistrate on oath or affirmation or by affidavit.

Section 21E of the *Chiropractors Act 1964* is a new section which outlines the requirements for the issue of a warrant by a magistrate. The new subsection 21E(2) outlines a warrant under subsection 21E(1) authorises the investigator to enter and inspect the premises, to require a person on the premises to answer the questions or produce documents or other things concerning the investigation, and to inspect document and other things. The new subsection 21E(3) outlines the purpose and the name of the person to whom the warrant is issued, and a description of the premises that may be entered.

Section 21F of the *Chiropractors Act 1964* is a new section which outlines the execution of a warrant. The new subsection 21F(1) provides that the person executing a warrant must produce it for inspection if asked by the occupier or a person in charge of the premises. The new subsection 21F(2) provides that a warrant ceases to have effect at the end of period of one month after its issue, if it is withdrawn by the magistrate who issued it, or when it is executed, whichever occurs first.

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

117. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Commercial Tenancy (Retail Shops) Agreements Act 1985*.

118. Section 3 amended

The definition of “Registrar” is deleted and “Tribunal” is amended to mean the State Administrative Tribunal.

119. Section 4 amended

Subsection (2) is amended to delete references to other sections in the Act that have been deleted as they will not be relevant following commencement of the SAT legislation.

120. Section 9 amended

Subsection (3) is amended to clarify provisions relating to payments made under a lease which is void pursuant to section 9 are recoverable in the SAT or a court of competent jurisdiction.

121. Section 11 amended

Subsection (5) is amended to provide that the SAT rather than the Registrar may determine the rent payable following a review if the parties are unable to reach an agreement.

Subsections (6) and (7) which provided how the Registrar should act are repealed as they are no longer required.

Subsection (8) is amended to provide that the SAT rather than the Registrar may determine the increase or reduction in the rent payable following a disputed review.

122. Section 12 amended

Subsection (1)(b) is amended to substitute a requirement for approval by SAT rather than the Registrar.

122. Section 12A amended

Subsection (3)(e)(ii) is amended to substitute a requirement for approval of a scheme of repayment under a sinking fund by SAT rather than the Registrar.

Subsection (4) is amended to provide for examination of a scheme of repayment under a sinking fund by SAT rather than the Registrar.

124. Section 12B amended

Subsection (3)(e)(ii) is amended to substitute a requirement for approval of a scheme of repayment under any other fund by SAT rather than the Registrar.

Subsection (4) is amended to provide for examination of a scheme of repayment under any other fund by SAT rather than the Registrar.

125. Section 13 amended

Subsection (3) is amended to substitute reference to SAT rather than the Registrar in relation to requirements for the time limit for the exercise of an option to lease.

Subsection (3a) is amended to substitute a reference to SAT rather than the Registrar in the determination of any question regarding remedied defaults that have not been in relation to an option to lease.

Subsection (6) is amended to substitute a reference to SAT rather than the Registrar in the determination of any question regarding tenancy defaults in relation to a lease.

Subsection (7) is amended to substitute a reference to SAT rather than the Registrar in the relation to proceedings to amend certain leases before their expiry.

Subsection (7a) is amended to substitute a reference to SAT rather than the Registrar in the relation to proceedings by a landlord to amend leases in certain circumstances.

Subsection (7b) is amended to substitute a reference to SAT rather than the Registrar in the relation to exercise of certain options by the tenant or prospective tenant.

126. Section 13A amended

Subsection (2) is amended to substitute a reference to SAT rather than the Registrar in the relation to the resolution of certain proceedings pertaining to leases.

Subsection (3) is amended to substitute a reference to SAT rather than the Registrar in the relation to the avoidance of certain leases.

127. Section 15 amended

Subsection (1) is amended to insert a reference to SAT in place of a reference to the Registrar in relation to any provision seeking to either exclude the Act or the right to refer a matter to the Tribunal.

128. Section 16 amended

Subsection (1) provides that a party to a retail shop lease may refer any question between the parties arising under the lease. The subsection is amended to insert a reference to SAT in place of a reference to the Registrar.

Subsection (2) is amended to insert a reference to SAT in place of a reference to the Registrar in relation to matters referred for decision under subsection (1).

Subsection (3) is inserted to remove any doubt that a matter referred to the SAT may be referred to a compulsory conference or mediation process.

129. Sections 18 to 25 repealed

The sections which provided for the operation of the Commercial Tribunal are repealed as necessary provisions are included in the SAT legislation.

130. Section 26 amended

Subsection (1) is amended to provide for the making of orders by the SAT under the Act in addition to the orders it can make in the enabling legislation.

Subsections (2) and (4) are deleted as the relevant matters are included in the enabling SAT legislation.

131. Section 27 amended

Subsections (1), (2) and (3) are amended to substitute a reference to SAT in place of the Commercial tribunal in cases where matters are referred to or from another jurisdiction.

132. Section 29 repealed

Section 29 which provided for the preparation and tabling of an annual report on the exercise of the duties of the Commercial Tribunal are deleted.

Division 23 — *Community Services Act 1972*

133. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Community Services Act 1972*.

134. Section 17C amended

Section 17C of the *Community Services Act 1972* provides that a person may appeal to the Local Court against a decision of the Director General to refuse an application for a licence or permit or the renewal of a licence. An applicant may also appeal to the Local Court against a permit that is issued with a condition that the applicant objects to or if the Director General cancels or suspends a licence or permit. Furthermore, subsection 17C(c) provides that an officer may appeal to the Local Court if the Director General refuses to approve an officer of a body corporate, department of the public service or public authority for the purposes of section 17B(3)(a).

The State Administrative Tribunal will assume jurisdiction over decisions that were previously referred to the Local Court under section 17C. Therefore, section 17C is to be amended to enable applicants or, in the case of subsection 17C(c), the officer, to apply to the State Administrative Tribunal for a review of the decision of the Director General. Subsections 17C(3) and (4) are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Bill 2003*.

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

135. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Competition Policy Reform (Western Australia) Act 1996*.

136. Section 45 amended

The definitions of the words “Chairman”, “Commercial Tribunal”, “Deputy Chairman” and “Registrar”, which all relate to offices and functions of the Commercial tribunal are deleted as these functions will be undertaken by the State Administrative Tribunal. In addition, the Commercial Tribunal Act 1984 (WA) is also to be repealed and the positions will no longer exist.

The words “executive officer of the State Administrative Tribunal” are inserted into the definition and are defined to mean the “executive officer” as defined in section 3 of the proposed State Administrative Tribunal Act 2003 (WA).

137. Section 52 amended

Section 52 is a “translation” provision that provides that references to Commonwealth officer and authorities in the Competition Code, which is taken from the *Trade Practices Act 1974* (Cth), are to be read as referring to State officers and authorities. A previous reference to the Commercial Tribunal is now a reference to the State Administrative Tribunal. References to the Chairperson and the Deputy Chairperson of the Commercial Tribunal will be a reference to the Commissioner for Consumer Affairs. A reference to the Registrar of the Commercial Tribunal is to be changed to 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 to confer jurisdiction on the State Administrative Tribunal are being made to the *Consumer Affairs Act 1971*.

139. Section 15 amended

Subsection (1) is amended to include the words “or any other” before the word Act to make it clear that the Commissioner can exercise powers under other Acts such as the State Administrative Tribunal legislation.

Subsection (1a) is amended to include the words “for the purposes of this or any other Act” to make it clear that an officer appointed to assist the Commissioner, when so acting, is deemed to be the Commissioner for the purposes of the *Consumer Affairs Act 1971* (WA) or any other Act including the State Administrative Tribunal legislation.

140. Section 15A amended

Subsection (1) provides the duties of the Commissioner under the Act. The subsection is amended to include words providing that the duties may be given by of the *Consumer Affairs Act 1971* (WA) or any other Act including the State Administrative Tribunal legislation.

141. Section 19 amended

Subsection (1) is amended to delete the words “the *Fair Trading Act 1987*” and include the words “any other Act” to make it clear that the Commissioner may have powers under the *Consumer Affairs Act 1971* (WA), the *Fair Trading Act 1987* (WA) or any other Act including the State Administrative Tribunal legislation.

Subsection (1d) is amended to delete the words “*Fair Trading Act 1987*” and include the words “other Act that is relevant” to make it clear that the Commissioner may require persons to provide written information under the *Consumer Affairs Act 1971* (WA), the *Fair Trading Act 1987* (WA) or any other Act including the State Administrative Tribunal legislation.

Subsection (2)(a) is amended to delete the words “the *Fair Trading Act 1987*” and include the words “another Act” to make it clear that the Commissioner may obtain a warrant to search premises under the *Consumer Affairs Act 1971* (WA), the *Fair Trading Act 1987* (WA) or any other Act including the State Administrative Tribunal legislation.

142. Section 20 amended

Subsection (2) is amended to delete the words “the *Fair Trading Act 1987*” and include the words “another Act” and “by the Commissioner” to make it clear that the Commissioner has powers under the *Consumer Affairs Act 1971* (WA), the *Fair Trading Act 1987* (WA) or any other Act including the State Administrative Tribunal legislation to require information, answer questions and produce a document.

143. Section 21 amended

Subsections (2)(a) and (b) is amended to delete the words “*Fair Trading Act 1987*” and include the words “other Act that is relevant” to make it clear that there is a defence if the Commissioner does not state the law under which a person is required to provide written information.

144. Section 23 amended

Section 23 is amended to delete to words “ the *Fair Trading Act 1987*” and include the words “another Act” to make it clear that the use of the word “Commissioner” includes other persons referred to in the *Consumer Affairs Act 1971* (WA), the *Fair Trading Act 1987* (WA) or any other Act including the State Administrative Tribunal legislation.

145. Section 24 amended

Subsection (2) is amended to extend the secrecy provisions of the *Consumer Affairs Act 1971* (WA) to other relevant Acts including the State Administrative Tribunal legislation.

Subsection (3) is amended to continue and extend the exclusions from the secrecy provisions in relation to persons performing duties under the *Petroleum Products Pricing Act 1983* (WA).

Division 26 — *Consumer Credit (Western Australia) Act 1996*

146. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Consumer Credit (Western Australia) Act 1996*.

147. Section 7 amended

Subsection (1) presently provides that certain jurisdictions under the Consumer Credit (Western Australia) Code and the Consumer Credit (Western Australia) Regulations are exercisable only by the Commercial Tribunal. The subsection is to be amended to provide that the jurisdictions will now be vested in the State Administrative Tribunal.

Division 27 — *Control of Vehicles (Off-road Areas) Act 1978*

148. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Control of Vehicles (Off-road Areas) Act 1978*.

149. Section 33 replaced

Section 33 of the *Control of Vehicles (Off-road Areas) Act 1978* provides that an appeal can be made to the Court of Petty Sessions where a registration, or the renewal or transfer of a registration is refused or suspended.

The State Administrative Tribunal will assume jurisdiction over decisions that were previously referred to the Court of Petty Sessions under section 33. Section 33(1) is to be amended to enable a person to apply to the State Administrative Tribunal for a review of a decision to refuse a registration, or the renewal or a transfer of a registration under the Act, or to suspend a registration. Subsection 33(2) is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Bill 2003*.

Division 28 — *Co-operative and Provident Societies Act 1903*

150. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Co-operative and Provident Societies Act 1903*.

151. Section 6 amended

Section 6 of the *Co-operative and Provident Societies Act 1903* enables a society to appeal to the Supreme Court if the Registrar refuses to register the society or any rules, or amendments to rules.

Section 6 will be amended to allow a society to apply to the State Administrative Tribunal for a review of a Registrar's refusal to register the society or any rules or amendments to rule. Subsection 6(2) will be repealed as the State Administrative Tribunal will now deal with the review of Registrar's refusal to register.

152. Section 8 amended

Section 8 of the *Co-operative and Provident Societies Act 1903* provides that a Registrar may, with the approval of the minister, cancel the registry of a society based on the reasons stated in subsections 8(1)(a) and (b)(i)-(v). Section 8(4) also entitles a society to appeal to the Supreme Court against the cancelling of its registry, or any suspension of the registry which is renewed after 3 months.

The State Administrative Tribunal will assume jurisdiction over appeals that were previously referred to the Supreme Court. Section 8(4) will be amended to enable a society to apply to the State Administrative Tribunal for a review of the cancelling or suspension of registry. The terminology in section 8(5) will also be amended to reflect the review powers of the State Administrative Tribunal. Therefore, any references to 'appeal' will be amended to 'review', consistent with the amendments made to section 8(4) of the *Co-operative and Provident Societies Act 1903*.

Division 29 — *Country Areas Water Supply Act 1947*

153. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Country Areas Water Supply Act 1947*.

154. Section 12BE amended

Subsection 12BE (1) (c) concerns the restraining of a person by the Supreme Court from doing anything to land that has been cleared notwithstanding that an appeal under section 12 D may be pending. To reflect that those matters will now be subject to a review by the State Administrative Tribunal the word “appeal” is deleted and is replaced by “application...for a review”.

155. Section 12C amended

Subsection 12C (5) To reflect that matters related to clearing licenses will now be subject to a review by the State Administrative Tribunal the word “appeal” is deleted and is replaced by “application or a review”.

156. Section 12D amended

Subsection 12D (1) Provides for applicants to appeal to the Minister who after causing an inquiry uphold, reverse or vary the decision of the Commissioner. The subsection is amended to allow applicants to apply to the State Administrative Tribunal for a review. The outcomes of a review will be in line with outcomes provided in the *State Administrative Tribunal Bill 2003*.

Subsection 12D (2) To reflect that matters related to clearing licenses will now be subject to a review by the State Administrative Tribunal the word “appeal” is deleted and is replaced by “application ...for a review”.

157. Part VI Division 2 heading amended

The heading of division 2 has been amended by replacing “appeals” with “review”.

158. Section 58 amended

Subsection 58 (7) provides that if the Corporation allows and objection it shall advise the person of the relevant amendment to the records and also advise of the time within and the manner in which an appeal may be made. The subsection is amended to replace “an appeal against” with “review” and “made” with “sought”.

159. Section 59 amended

Subsection 59 (1) Provides that a person dissatisfied with a decision of the Corporation may within 42 days of the service of the notice of the decision serve a notice on the Corporation requiring the Corporation to treat the objection as an appeal against the entry. The subsection is amended to require the Corporation to refer the notice to the State Administrative Tribunal for a review.

Subsection 59 (2) Requires the Corporation to promptly refer the objection to the Land Valuation Tribunal. As the Land Valuation Tribunal is abolished and its functions subsumed by the State Administrative Tribunal the subsection is amended to require the Corporation to promptly refer the relevant entry to the State Administrative Tribunal for a review.

Subsection 59 (3) This is a new subsection which requires the Corporation to forward notice to the executive officer of the State Administrative Tribunal together with a certified copy of the relevant entry in the records and the reasons, if any.

160. Section 60 amended

Subsection 60(1) provides for a person dissatisfied with a decision of the Corporation to refuse to extend time for the service of a notice requiring the Corporation to treat an objection as an appeal, to serve notice requiring the Corporation to refer the decision to the Land Valuation Tribunal. The section is amended to provide that if the Corporation does not extend time for a person to serve a notice of objection requiring the Corporation to refer the entry for a review by the State Administrative Tribunal, the person may serve notice on the Corporation requiring it to refer the decision to refuse to extend time to the State Administrative Tribunal for a review.

Subsection 60 (2) is amended by replacing “such a Tribunal as an appeal” with “the State Administrative Tribunal for a review”.

Subsection 60 (3) is inserted and concerns the obligations of the Corporation to forward to the Executive Officer of the State Administrative Tribunal, the notice together with the objection and certified copies of the decision to refuse to extend time and reasons for the decision, if any.

161. Sections 60A and 60B inserted

Subsection 60A provides that upon a review by the State Administrative Tribunal it may consider grounds in addition to those stated in the notice of objection and reasons in addition to those previously given by the Corporation.

Subsection 60A (2) Provides that the State Administrative Tribunal shall ensure that each part has a reasonable opportunity be heard and properly considering and responding to any new ground or reason.

Section 60B provides that the State Administrative Tribunal may prepare written reasons for its orders and give a copy to each party and publish the reasons if it considers matters determined under section 59 or 60 are of general interest or significance.

162. Section 61 amended

The reference to “appeal” is amended to instead refer to “review”.

163. Section 62 amended

The words “or an appeal” and “or the appeal” are deleted from the section.

164. Section 62A amended

The heading is amended to read “Corporation to amend rating record and assessment consequent on objection or review”

Subsection 62A (1) concerns the Corporation making and amendment of an entry consequent to an appeal. The subsection is amended to delete the words “or an appeal” and inserts at the end of the subsection, “or in consequence of a review by the State Administrative Tribunal”.

Subsection 62A (2) Concerns the issuing of a notice of an amended assessment in consequence of an objection or an appeal under this Act or the *Land Valuation Act 1978*. The subsection is amended by deleting “in consequence of the allowance, wholly or in part, of an objection or appeal under this Act or the *Land Valuation Act 1978*, and adding at the end of the subsection “under subsection (1)”.

Division 30 — *Country Towns Sewerage Act 1948*

165. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Country Town Sewerage Act 1948*.

166. Heading amended

The heading before section 61 “Review”.

167. Section 61 amended

Section 61 was is amended by including the word rating in the heading so that it reads “Objection to entry in rating records”.

Subsection 61(6) Provides for advice to be provided to a person objecting to an entry in rating records of any consequential amendment or decision to disallow an objection and advises of the time in which an appeal against the decision can be made. The section is amended to delete reference to an appeal against a decision being made and substitute that a review of a decision may be sought.

168. Section 62 amended

The heading of Section 62 is amended to “Review of entry in rating records”.

Subsection 62(1) Provides that a person dissatisfied with the decision of the Corporation on an objection within 42 days of service of the notice serve notice on the Corporation requiring that they treat the objection as an appeal against the entry. The section is amended so that once notice is served on the Corporation it is to refer it to the State Administrative Tribunal for a review.

Subsection 62(2) Provides that the Corporation, on receipt of the notice requiring the objection be treated as an appeal, promptly refers it to the Land Valuation Tribunal. The section is amended for the Corporation on receipt of the notice to refer the relevant entry in records to the State Administrative Tribunal for a review.

Subsection 62(3) is added and provides for the Corporation to forward to the Executive Officer of the State Administrative Tribunal the objection as well as certified copies of the relevant entry in records and reasons for the entry.

169. Section 63 amended

The heading of Section 63 is amended to read “Review of refusal to extend time”.

Subsection 63(1) provides for a person dissatisfied with a decision of the Corporation to refuse to extend time for the service of a notice requiring the Corporation to treat an objection as an appeal, to serve notice requiring the Corporation to refer the decision to the Land Valuation Tribunal. The section is amended to provide that if the Corporation does not extend time for a person to serve a notice of objection requiring the Corporation to refer the entry for a review by the State Administrative Tribunal, the person may serve notice on the Corporation requiring it to refer the decision to refuse to extend time to the State Administrative Tribunal for a review.

Subsection 63(2) is amended by replacing “a Land Valuation Tribunal as an appeal” with “the State Administrative Tribunal for a review”.

Subsection 63(3) is inserted and concerns the obligations of the Corporation to forward to the Executive Officer of the State Administrative Tribunal, the notice together with the objection and certified copies of the decision to refuse to extend time and reasons for the decision, if any.

170. Sections 63A and 63B inserted

Subsection 63A (1) provides that the State Administrative Tribunal may consider grounds in addition to those stated in the notice of objection and reasons in addition to those previously given by the Corporation.

Subsection 63A (2) Provides that the State Administrative Tribunal shall ensure that each part has a reasonable opportunity be heard and properly considering and responding to any new ground or reason.

Section 63B provides that the State Administrative Tribunal may prepare written reasons for its orders and give a copy to each party and publish the reasons if it considers matters determined under section 62 or 63 are of general interest or significance.

171. Section 64 amended

The heading of Section 64 for amended to read, “No other objection or review to do with valuations”

172. Section 65 amended

The heading of Section 65 is amended to read “Objection not to affect liability to pay charges”. The words or appeal are deleted from the section.

173. Section 65A amended

The heading of section 65A is amended by deleting the word “appeal” and substituting “review”.

Subsection 65A (1) concerns the amendment of records as a consequence of an objection or an appeal. The words “or an appeal” are deleted and instead provision is made in relation to the consequence of a review of the State Administrative Tribunal.

Subsection 65A (2) is amended by providing that an amended assessment of a sewerage charge when it is necessary under subsection (1) rather than in consequence of an allowance wholly or in part of an objection or an appeal under this Act or the *Valuation of Land Act 1978*.

Division 31 — *Credit Act 1984*

174. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Credit Act 1984*.

175. Section 5 amended

Section 5 of the *Credit Act 1984* sets out the main definitions of terms contained within the Act. The meaning of the term “Tribunal” within the Act is to be amended to refer to the State Administrative Tribunal.

176. Section 85B amended

Section 85B of the *Credit Act 1984* explains the status of any civil penalty that is the subject of proceedings before the State Administrative Tribunal, during the course of those proceedings. Subsection 85B(9) refers to special provisions for proceedings that were pending in the Tribunal on the coming into operation of section 10 of the Credit Amendment Act 1992. This subsection is no longer relevant and is therefore being repealed.

177. Section 86 amended

Section 86 of the *Credit Act 1984* outlines the requirements of a credit provider who has contravened the Act, or the *Credit (Administration) Act 1984* to make application to the State Administrative Tribunal, notifying them of the circumstances of the contravention and taking relevant action. Subsection 86(5) refers to the entitlements of the debtor who is affected by such applications, despite any contrary legislation. As the *State Administrative Tribunal Act 2003* is to assume jurisdiction over such matters, the name of the legislation replaces previous referral to the *Commercial Tribunal Act 1984*.

Subsection 86(6) of the *Credit Act 1984* is no longer relevant and is therefore being repealed, as it provides for previous amendments by other legislation.

178. Section 167A amended

Section 167A of the *Credit Act 1984* provides for contracts entered into before the commencement of section 6 of the *Credit Amendment Act 1992*. Subsection 167A(5) is to be amended to reflect that the section does not apply to liability which was charged by the former Commercial Tribunal established under the *Commercial Tribunal Act 1984*, prior to the commencement of section 6 of the *Credit Amendment Act 1992*.

179. Section 167B amended

Section 167B of the *Credit Act 1984* provides for contracts entered into both before and after the commencement of section 6 of the *Credit Amendment Act 1992* that may not conform to the *Credit Act 1984*. Subsection 167B(3) is to be amended to reflect that the section does not apply to liability which was charged by the former Commercial Tribunal established under the *Commercial Tribunal Act 1984*, prior to the commencement of section 6 of the *Credit Amendment Act 1992*.

180. Section 170 amended

Section 170 of the *Credit Act 1984* provides the circumstances under which the State Administrative Tribunal may fix maximum annual percentage rates. Subsection 170(1)(a) is to be amended to provide that a declaration by the Commissioner, under certain circumstances, may provide appropriate circumstance.

Division 32 — *Credit (Administration) Act 1984*

181. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Credit (Administration) Act 1984*.

182. Section 3 repealed

Section 3 is deleted as the transitional provisions previously contained in Schedule 1 are no longer relevant.

183. Section 4 amended

The definitions of “Registrar” and “Tribunal” relating to the Commercial Tribunal are deleted as the Commercial Tribunal is to be abolished.

184. Section 9 amended

Subsections (1), (4) and (5) are amended to substitute “Commissioner” for “Tribunal” or “Registrar” where those words appear as the Tribunal is abolished and the Commissioner will undertake the licensing functions of those bodies in future.

185. Section 10 amended

Subsection (1) is amended to provide that where an application is made for a licence under section 9 the Commissioner for Fair Trading may make such enquiries as considered necessary. Previously the subsection provided that the Registrar of the Commercial Tribunal was to ask in writing that the Commissioner make the necessary inquiries.

Subsection (2) is deleted. The subsection previously provided that the Commissioner was to make the inquiries required by the Registrar and to report the results to the Registrar.

Subsection (3) is amended to provide that the Commissioner can ask the Commissioner for Police to make inquiries. Previously the subsection provided that the request received from the Registrar could be sent to the Commissioner for Police, however, it now provides that the Commissioner can ask the Commissioner for Police to make inquiries.

Subsection (4) provides that the Commissioner, rather than the Registrar as was previously stated in the subsection, is to publish a notice of the application made under section 9, in a local newspaper.

186. Section 11 amended

Subsection (1) provides that a person may lodge with the Commissioner an objection to the granting of a licence. The subsection previously provided that the Commissioner with the consent of the Minister, or another person, could lodge objections with the Commercial Tribunal.

Subsection (2) specifies what must be in the objection. The subsection is amended to delete a reference to the Commercial Tribunal and make it clear that objections are made to the Commissioner for Fair Trading.

187. Section 12 amended

Subsection (1) provides that unless subsections (2) or (4) require it to be refused the Commissioner shall grant an application for a licence as soon as practicable after the expiration of the period for objection.

Subsection (2) lists of the reasons why a person may be refused a licence. Reasons include the fact that the person is an undischarged bankrupt or not a fit and proper person to be the holder of a licence. The subsection is amended by inserting a reference to the “Commissioner” in place of a reference to the “Tribunal”.

Subsection (3) substitutes “Commissioner” for “Tribunal”. The subsection sets out matters which may be considered in considering whether or not a person is a fit and proper person for the purposes of subsection (2).

Subsection (4) sets out the matters to be taken into account when considering an application for a licence made by a body corporate. The subsection is amended by deleting a reference to the “Tribunal” and inserting the word “Commissioner” in two places.

Subsection (5) provides an application for licence is not be refused on certain specified grounds unless the person has been informed and afforded an opportunity to be heard and make submissions on the matter.

Subsection (6) provides that the Commissioner is, as soon as possible after deciding to refused a licence, to notify the applicant and informed the applicant that they have the right to apply to the state administrative Tribunal for a review of the refusal.

Subsection (7) provides that if a licence is granted the Commissioner is to notify any person who lodged an objection to the granting of the application of the right to apply to the State Administrative Tribunal for a review of that decision.

Subsection (8) provides that when an application for a licence is granted the applicant is deemed to be the holder of the licence and the Commissioner is to notify the person of the granting of the application and the right to apply to the State Administrative Tribunal for a review of any conditions or restrictions imposed.

Subsection (9) provides that the Commissioner may refrain from granting a licence if the applicant, or the directors and offices of a body corporate, have not attended and satisfied the Commissioner as to any matters the Commissioner thinks appropriate.

189. Section 13 amended

Subsection (1) provides that conditions or restrictions may be imposed on a licence. The word "Commissioner" is inserted in place of "Tribunal".

Subsection (3) provides that that the Commissioner is not to impose conditions or restrictions on a licence unless the applicant, or the holder of a licence already issued, is given an opportunity to make written submissions with respect to those conditions or restrictions to be imposed or varied.

Subsection (4) is deleted as the Tribunal will be abolished and will no longer hold hearings.

189. Section 14 amended

Subsection (3) allows the Commissioner to amend the name under which a licence is held. The subsection previously referred to the Tribunal.

190. Section 22 amended

Section 22(1) provides that a licensee may surrender their licence. Subsection (2) provides that if it is decided to hold an inquiry in relation to a licence the licence cannot be surrendered until after the inquiry is completed. The subsection effectively prevents a licensee avoiding any penalty by anticipating cancellation of their licence.

Subsection (3) provides that if a licence is surrendered so much of the licence fee as is appropriate is to be refunded. The subsection is amended to replace the word "Tribunal" with the word "Commissioner".

191. Section 23 amended

Subsection (1) provides that a person may lodge a written complaint about a licence if the complaint complies with the subsection (2). The subsection previously provided that the objection was to be made to the Tribunal, however, it is now to be made to the Commissioner.

Subsection (2) provides that a complaint complies with the subsection (1) if it specifies the licensee and the grounds of the complaint and those grounds reasonably give rise to a belief that there is a need to hold an inquiry.

Subsection (3) is deleted as the Tribunal is to be abolished.

Subsection (4) provides that the Commissioner may, on receiving a complaint, or on the Commissioner's own initiative, inquiry into a licence. The Commissioner may, among other things, take into account whether the licensee has failed to comply with the provisions of any Act or conditions or restrictions that have been imposed. Paragraph (i) substitutes "Commissioner" for "Tribunal". Previously the inquiry was arranged by the Chairman and held by the Tribunal.

The existing subsection (5) provides that the Tribunal could dismiss an objection if it was frivolous, vexatious, misconceived or lacking in substance or the grounds had not been made out. The proposed new subsection (5) will provide that the Commissioner may take a matter to the State Administrative Tribunal.

The proposed new subsection (6) will provide that if the Commissioner decides not to make an allegation to the State Administrative Tribunal concerning a licensee the Commissioner is required to notify the person who made the complaint of that decision and the reason for it. The previous subsection (6) sets out some of the functions of the former Tribunal.

Subsection (7) is deleted as the Tribunal is to be abolished.

Subsection (8) provides the penalties which may be imposed on a licensee. The penalties were previously imposed by the Commercial Tribunal, however, they will, in future, be imposed by the State Administrative Tribunal.

Subsections (9) and (10) which set out the penalties that could be imposed are deleted as the relevant matters will be in the State Administrative Tribunal legislation.

Subsection (11) is provides for cancellation of a licence on the disqualification of my licensee. Previously the cancellation was by the Tribunal, however, in future it will be by the Commissioner.

Subsection (12) previously provided that a suspended or cancelled licence was to be returned to the Registrar. It will now be returned to the Commissioner.

Subsection (14) provides that if a person has been convicted of an offence and the offence is, wholly or partly, the subject matter of a proceeding before the State Administrative Tribunal the person is not liable for a further fine in relation to that particular matter.

192. Part II Division 4 heading replaced

The Heading to Division 4 of Part II of the Act is amended to refer to "Review".

193. Section 24 replaced

Section 24 previously provided that a person could appeal a decision of the Commercial Tribunal to the District Court. The section is deleted as the Commercial Tribunal is to be abolished and a new section is inserted providing for review by the State Administrative Tribunal.

The proposed new subsection (1) provides that a person who is aggrieved by a decision may seek a review in the State Administrative Tribunal.

Subsection (2) defines the terms "person aggrieved" and "reviewable decision". A "person aggrieved" is any person who lodged an objection or the holder of the licence to which a reviewable decision relates. A "reviewable decision" is one made under section 12 to grant or refuse licence, section 13 to impose or vary a condition or restriction or 25 (3) to grant or refuse an application to impose a condition.

194. Section 25 amended

Section 25 provides that a legal personal representative of a deceased licensee may apply for authority to carry on the business of the deceased licensee. Subsection (1) previously provided that the application to carry on the business was to be made to the Registrar. The subsection is amended to word provide that the application is now to be made to the Commissioner.

The previous subsection (2) is deleted. The proposed new subsection (2) provides that the Commissioner may make an investigation or undertake an inquiry to deal with an application under subsection (1).

Subsection (3) provides that an application under subsection (1) may be made subject to appropriate terms and conditions.

Subsection (4) is deleted as the Commercial Tribunal is abolished.

195. Section 28 amended

Section 28 provides that the Commissioner may require a credit provider to give undertakings that they will discontinue unjust conduct and rectified the consequences of that unjust conduct. A reference to the "Tribunal" is deleted and a reference to the "State Administrative Tribunal" is inserted in subsection (1).

Subsection (3) provides that if an undertaking is given, and observed, neither the Tribunal nor the Commissioner may make subsequent reference to the relevant allegations.

196. Section 29 amended

Section 29 provides that the Commissioner is to maintain a Register of Undertakings. Subsection (1) is amended to delete a reference to a requirement to lodge a copy of the deed with the Registrar as the position of Registrar is abolished. Subsection (5) is amended to insert a reference to the State Administrative Tribunal in place of the Commercial Tribunal.

197. Section 30 amended

Section 30 provides that the Commissioner can apply to restrain unjust conduct. The section is amended in four places to substitute a reference to the State Administrative Tribunal in place of a reference to the Commercial Tribunal.

198. Section 32 amended

Section 32 provides that the Minister may, by instrument in writing, appoint any person to inquire into matters specified in the instrument. Subsections (1), (4) and (7) are amended to delete references to the Commercial Tribunal which is abolished.

Subsection (8) provides that a person who undertakes an inquiry is entitled to immunity for any act or omission that occurred in good faith and in the performance or discharge of the required duties. A reference to the *Commercial Tribunal Act 1984* (WA) is deleted as the Act is to be repealed.

Subsection (9) is deleted as the Commercial Tribunal is abolished.

199. Section 33 amended

Before commencing an inquiry under section 32, notice is to be given in the *Gazette* or a local newspaper. A reference to the Commercial Tribunal has been deleted and reference to the "person" holding the inquiry is inserted.

200. Section 34 amended

Subsection (1) is amended to delete a reference to the Commercial Tribunal. Reference is now made to the "person conducting" the inquiry.

201. Section 35 amended

Section 35 makes provision for the process to be undertaken at an inquiry. The section previously provided for the inquiry to be undertaken by the commercial Tribunal. Subsections (2) to (5) are amended where appropriate to delete references to the Tribunal which is to be abolished. The words "person conducting the inquiry" are inserted in its place.

202. Section 36 amended

Section 36 provides that in an inquiry summonses may be issued, oaths administered and evidence taken on oath. Subsection (1) is amended to provide that where the powers were previously administered by the Commercial Tribunal they will now be administered by the person conducting the inquiry. Subsection (3) is also amended to provide a similar result.

203. Section 39 amended

Section 39 provides that person's may be required to give information or answer questions in relation to the subject matter of the inquiry. Subsections (1) to (5) are amended to provide that where the information was previously obtained by the Commercial Tribunal they will now be administered by the person conducting the inquiry. Subsection (8) is amended to delete a reference to the Tribunal.

204. Section 40 repealed

Section 40 is deleted as the Commercial Tribunal is abolished.

205. Section 43 amended

Section 43 provides that the Minister or the Commissioner can intervene in any case in the public interest. A reference to the State Administrative Tribunal in subsection (1) is included in place of a reference to the Commercial Tribunal.

Subsection (2) is amended to delete references to objections lodged under sections 11 or 23.

206. Section 44 amended

Section 44 refers to applications made by credit providers under section 86 of the *Credit Act 1984* (WA) or section 105 of the Consumer Credit (Western Australia) Code. Where applications were previously made to the Tribunal or the Chairman of the Tribunal they are now be made to the State Administrative Tribunal or the President of the Tribunal.

207. Section 56 amended

Section 56 provides that person's who have obtained information shall not, either directly or indirectly, except in legal proceedings or in the exercises or performance of their powers and duties divulge that information to another person. Subsection (1) is amended to provide that the Registrar or a member of the former Commercial Tribunal is required to maintain secrecy. Subsection (2) is amended to delete a reference to the *Commercial Tribunal Act 1984* which is repealed and insert a reference to the *State Administrative Tribunal Act 2003*.

208. Section 57 amended

Section 57 is a general provision allowing authorities to extend the time available to complete a function. The section is amended to delete references to the Commercial Tribunal and the Registrar and insert references to the State Administrative Tribunal.

209. Section 60 amended

A new subsection (2) is inserted in section 60 to provide that the annual report of the Commissioner responsible for this act shall include details of the matters listed.

210. Schedule 1 repealed

Schedule 1 contains transitional provisions related to the enactment of the Act in 1985. These transitional provisions are no longer necessary and are therefore being repealed.

211. Various references to “Tribunal” amended

A range of references in the Act to “Tribunal ” are amended to instead refer to “Commissioner” or “State Administrative Tribunal” instead.

212. Various references to “Registrar” amended

A range of references in the Act to “Registrar” are amended to instead refer to “Commissioner” instead.

Division 33 — *Cremation Act 1929*

213. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Cremation Act 1929*.

214. Section 8 amended

Section 8 of the *Cremation Act 1929* deals with applications for permits for the cremation of a dead human body. Subsection 8(6) enables an applicant to appeal to the Executive Director against a decision of a medical referee to refuse to issue a permit.

The State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Executive Director under section 8. Therefore, section 8(6) is to be amended to enable applicants to apply to the State Administrative Tribunal for a review of a medical referee's decision to refuse to issue a permit.

Division 34 — *Dangerous Goods Safety Act 2002*

215. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Dangerous Goods Safety Act 2002*.

216. Section 67 amended

Section 67 of the *Dangerous Goods Safety Bill 2002* concerns the requirements of a person who is seeking a review of a decision made by the Chief Dangerous Goods Officer. The title has been amended to better reflect the nature of the administrative action that results.

Subsection 67(2) of the *Dangerous Goods Safety Bill 2002* contains a number of references to the Local Court as the place of making application to review a decision of the Chief Officer. As the State Administrative Tribunal is to assume jurisdiction over reviews against decisions, subsection 67(2) is to be amended to remove all references to the Local Court, and substitute the Tribunal as the relevant jurisdiction.

217. Schedule 1 amended

Schedule 1 of the *Dangerous Goods Safety Bill 2002* outlines the purposes for, and the matters about, which the Governor may make regulations with regard to the administrative functions of the Chief Officer. Schedule 1 Clause 8(10) is to be amended to add the State Administrative Tribunal as having the jurisdiction over the review of decisions.

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

218. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Dangerous Goods (Transport) Act 1998*.

219. Section 4 amended

This Section provides for reviews to be made to the Local Court. The State Administrative Tribunal is to assume the review jurisdiction under this Act.

220. Section 8 amended

Subsection 8 (2) (v) this subsection provides for regulations to be made concerning the review of decisions under the Act. As the State Administrative Tribunal is to assume the review jurisdiction this section is no longer relevant and is therefore being repealed.

Division 36 — *Debt Collectors Licensing Act 1964*

221. *Debt Collectors Licensing Act 1964* amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Debt Collectors Licensing Act 1964*.

222. Section 3 amended

Section 3 is amended to define "Commissioner" and delete the definition of "Court". The word "Commissioner" is defined to have the meaning given to it in section 4 (1) of the *Consumer Affairs Act 1971*.

223. Section 8 amended

Section 8 previously provided that a person seeking a debt collectors licence was required to make the necessary application to the Local Court. Subsection (3) is amended to delete the reference to the Court and include a reference to the Commissioner.

Subsection (4) provides for notification of application or renewal of a debt collectors licence to the police. Previously the clerk of the Local Court notified the officer in charge of the police station nearest to the Court. The subsection is amended to provide about the Commissioner is to notify the Commissioner of Police who is to make the necessary inquiries and report in writing to the Commissioner.

Subsection (5) provides that the Commissioner of police may object to the granting of a licence. Paragraph (a) provides about the Commissioner of police is to provide the grounds for his objection. Paragraph (b) makes it clear that this objection may be used as one of the grounds pursuant to which the Commissioner may refuse the grant or renewal of licence. Paragraph (c) provides that the Commissioner is to notify the applicant of any objection and provide the applicant the opportunity to make submissions in support of the application.

Subsection (6) provides that the Commissioner, in deciding an application for the grant or renewal of a licence may consider evidence as to the character of suitability of the applicant and take into account the report of the Commissioner of Police.

Subsections (7), (8) and (9) providing for the hearing of an application for a licence by the Court are deleted.

Subsection (10) is amended to make reference to the Commissioner rather than to the Court regarding character references.

224. Section 9 amended

An application for a grant or renewal of a debt collectors licence is refused unless the applicant is of good fame and character, a fit and proper person to be a licensee and over 21 years of age. Subsection (1) previously provided that the Court was to hear and decide applications. The subsection is amended to provide that the Commissioner is to decide applications.

Subsection (3) which provided the Court with power to adjourn a hearing is deleted.

Subsection (4) provides that if the Commissioner grants a licence the prescribed fee is payable to the Commissioner.

Subsection (5) provides that the Commissioner may issue a duplicate licence if the original is lost or destroyed.

225. Section 10 amended

Section 10 provides for the process to be followed when a licence is to be cancelled.

The proposed subsection (1aa) provides that a person may make a complaint to the Commissioner in writing about the holding of a licence by a specified licensee. Proposed new subsection (1ab) provides that the complaint must specify the licensee and the grounds of the complaint in detail.

Subsection (1) previously provided about a licensee subject to a complaint could be summoned by the Commissioner of Police to appear before a Court. The subsection is amended to provide that on receiving a complaint or on the Commissioner's own initiative, the Commissioner is to investigate any complaints.

Proposed new subsection (1ba) will provide that the Commissioner may take a matter to the State Administrative Tribunal. The proposed new subsection (1bb) will provide that if the Commissioner decides not to make an allegation to the State Administrative Tribunal concerning a licensee the Commissioner is required to notify the person who made the complaint of that decision and the reason for it.

Subsection (2) is amended to provide the State Administrative Tribunal with power to order the cancellation of a debt collectors licence, either permanently or for such period as is considered appropriate. The subsection previously provided about the Court could carry out these functions.

Subsection (3) which provided for the delivery up to the Clerk of the Court of a licence is deleted.

Subsection (4) provides that the State administrative Tribunal is to notify the results of any order to the Commissioner of police. Notification was previously made by the Court.

226. Section 11 replaced

Subsection (1) provides that if the Commissioner refuses to grant an application for a debt collectors licence the applicant may seek review before the State Administrative Tribunal. The subsection previously provided for review by the Supreme Court.

Subsection (2) provides that the Commissioner of Police can object to the granting of application and apply to the State Administrative Tribunal for a review of any decision. The former subsections (2) and (3) which previously provided the powers of the Supreme Court in any decision are deleted.

227. Section 12 amended

Section 12 previously provided that the Clerk of Courts was to keep a register of all licences, renewals and cancellations. Subsection (1) is amended to provide that the Commissioner must keep the register. Subsection (2) provides for inspection of the register by the public at the office of the Commissioner.

228. Section 12A inserted

Proposed new section 12A provides that the annual report of the Commissioner is to include detail in relation to matters considered by the Commissioner in relation to this Act.

229. Section 15 amended

Subsection (4) provides that a debt collector is to notify the appropriate authorities of the main of the account they maintain and details of the bank. The subsection is amended to provide that notification is to be made to the Commissioner rather than the Clerk of the Court.

230. Section 20 amended

Subsection (1) is amended to provide about the Commissioner may only grant the application for, or renewal of, a licence if the necessary fidelity bond or approved security has been lodged with him and is in force.

231. Section 21 amended

Section 21 provides that the insurance company that gave the fidelity bond may cancel the by notice in writing. Reference to the clerk of the Court is deleted and reference to the Commissioner is inserted pursuant to a amendments to some flaws (1).

Subsection (2) is amended to delete a reference to the Clerk of the Court and insert a reference to the Commissioner.

Division 37 — *Dental Act 1939*

232. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Dental Act 1939*.

233. Section 14C amended

Section 14C of the *Dental Act 1939* outlines the annual reporting requirements. It is proposed to amend section 14C by inserting a new subsection (1a), which outlines additional matters that are required to be reported on. The proposed subsection 16C(1a) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board.

234. Section 15 amended

Section 15 of the *Dental Act 1939* outlines the Board may, with the approval of the Governor, make rules. It is proposed that the Board will simply make rules in relation to proscribing the professional and ethical standards to be maintained during the practice of dentistry and of dental specialties and for regulating the manner of making to the Board any charge or complaint against or concerning any registered person. The current power of the Board to inquire into disciplinary matters and fixing penalties in relation to such is proposed to be vested in the State Administrative Tribunal. Subsection 15(1h) of the Act is to be amended to delete references to the Board holding an inquiry into a complaint and; therefore subsection 15(1ha) is no longer relevant and is therefore being repealed.

235. Section 18 amended

Section 18 of the *Dental Act 1939* outlines the information required for the Register. Subsection 18(1) provides that the Registrar shall enter in the Register particulars of the person, together with particulars of any restriction or limitation on the practice of dentistry imposed by the board. As the State Administrative Tribunal will deal with matters relating to disciplinary actions, it is therefore proposed that subsection 18(1) be amended to insert the State Administrative Tribunal in relation to imposing restrictions or limitations.

236. Section 23 amended

Section 23 of the *Dental Act 1939* deals with matters in relation to the withdrawal of a person's name from the Register. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to a Board in relation to withdrawal of a name for the Register, subsection 23(1) is proposed to be amended to instead make reference to the State Administrative Tribunal.

237. Part IV inserted

Section 29A of the *Dental Act 1939* is a new section which provides that the Board may appoint a person to investigate any matter relevant to the performance of the Board's functions under the Act and report to the Board. The Board is to issue each investigator it appoints a certificate of appointment, which is evidence in any court of the appointment to which the certificate purports to relate.

Section 29B of the *Dental Act 1939* is a new section which provides that an investigator must within such period as the Board requires prepare a report on the investigation and immediately after preparing the report, provide the Board with a copy of the report. The new section outlines the investigator must return the certificate of appointment at the time the Board is provided with a copy of the report.

Section 29C of the *Dental Act 1939* is a new section which outlines the powers of an investigator for the purposes of an investigation.

Section 29D of the *Dental Act 1939* is a new section which provides that 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 purposes of an investigation, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises. The new subsection 29D(2) outlines the requirements for an application for a warrant. The new subsection 29D(3) outlines that a magistrate to whom an application is made must refuse it if the application does not comply with the requirements or when required by the magistrate, the investigator does not give to the magistrate more information about the application. The new subsection 29D(4) provides that information in an application must be verified before the magistrate on oath or affirmation or by affidavit.

Section 29E of the *Dental Act 1939* is a new section which outlines the requirements for the issue of a warrant by a magistrate. The new 29E(2) outlines a warrant under subsection 29E(1) authorises the investigator to enter and inspect the premises, to require a person on the premises to answer the questions or produce documents or other things concerning the investigation, and to inspect document and other things. The new subsection 29E(3) outlines the purpose and the name of the person to whom the warrant is issued, and a description of the premises that may be entered.

Section 29F of the *Dental Act 1939* is a new section which outlines the execution of a warrant. The new subsection 29F(1) provides that the person executing a warrant must produce it for inspection if asked by the occupier or a person in charge of the premises. The new subsection 29F(2) provides that a warrant ceases to have effect at the end of period of one month after its issue, if it is withdrawn by the magistrate who issued it, or when it is executed, whichever occurs first.

238. Section 30 amended

Section 30 of the *Dental Act 1939* outlines the disciplinary powers of the Board. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, subsections 30(1), 30(1a), 30(1b), 30(2), and 30(3) are proposed to be amended to make reference to the State Administrative Tribunal rather than the Board. It is proposed that subsection 30(3a) be amended to delete the terms “amend those particulars accordingly” in relation to particulars are entered in the Register. It is proposed that subsection 30(3e) be amended to insert that the Tribunal may, if the person is a dentist, order that person to be suspended. It is proposed that subsection 30(3f) be amended to insert that the Tribunal may, if the person is a dental therapist, dental hygienist or school dental therapist, order that person to be suspended. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, subsections 30(4) and 30(5) are no longer relevant and is therefore being repealed.

239. Section 30A amended

Section 30A of the *Dental Act 1939* outlines that in relation to breach of undertaking, the Board may impose on the person a penalty under section 30 of the Act. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters previously where referred to the Board. Therefore, section 30A of the Act is to be amended to provide that the Board may refer matters relating to Breach of undertaking to the State Administrative Tribunal.

240. Section 30B repealed

Section 30B of the *Dental Act 1939* provides that the Board may make an inquiry. The State Administrative Tribunal will now assume jurisdiction over holding such inquiry matters previously where referred to the Board. Therefore, section 30B of the Act is no longer relevant and is therefore being repealed.

241. Section 31 amended

Section 31 of the *Dental Act 1939* outlines matters relating to the restoration of the name of a person struck off the Register. The State Administrative Tribunal will now assume jurisdiction over the re-entry of the name of a person to the Register previously where referred to the Board. It is therefore proposed that a new subsection 31(1aa) be included to outline that the Board cannot grant an application under subsection 31(1) unless it has applied for, and obtained, the approval of the State Administrative Tribunal.

Subsection 31(1a) of the *Dental Act 1939* is proposed to be amended that the Board shall refuse to grant the application to re-enter the name of a dental therapist, dental hygienist or school dental therapists in the Register if it is not satisfied that the person has relevant current knowledge and skills at a level approved by the Board.

Subsection 31(2) of the *Dental Act 1939* is proposed to be amended to cross reference the new subsection 31(1aa) of the Act in relation to refusing or granting any application for the re-entry of the name of a person in the Register.

242. Section 33 replaced

Section 33 of the *Dental Act 1939* concerns appeals to the Supreme Court against decisions of the Board to refusing to register any person or to re-enter in the Register the name of a person whose name has previously been withdrawn from or struck off the register. As the State Administrative Tribunal is to assume jurisdiction over matters that previously where referred to the Supreme Court, subsection 33(1) of the Act is to be amended to reference the State Administrative Tribunal rather than the Supreme Court. Subsections 33(2) and 33(3) are no longer relevant and are therefore being repealed. Matters in relation to appeals against decisions of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

243. Section 45 amended

Subsection 45(1a) of the *Dental Act 1939* deals with matters in relation to the Board requiring attendance of a registered person at any proceedings held under section 30B of the Act. Section 30B is proposed to be repealed, therefore subsection 45(1a) is no longer relevant and is therefore being repealed.

244. Section 48 amended

Subsection 48(e) of the *Dental Act 1939* deals with matters relating to a person who makes any false statement upon any inquiry or examination. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters in relation to inquiries, it is proposed to amend subsection 48(e) to delete a reference to an “inquiry”.

245. Section 63 repealed

Section 63 of the *Dental Act 1939* provides that all fines and penalties imposed for offences against this Act are to be paid to the Board. Section 43 of the *State Administrative Tribunal Act 2003* provides that fines previously payable to the Board will now be payable to the State Administrative Tribunal, according to the rules made under section 43 of the *State Administrative Tribunal Act 2003*. Therefore, section 63 of the *Dental Act 1939* is no longer relevant and is therefore being repealed.

Division 38 — *Dental Prosthetists Act 1985*

246. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Dental Prosthetists Act 1985*.

247. Section 12 amended

Section 12 of the *Dental Prosthetists Act 1985* outlines the functions and powers of the Committee. It is proposed that subsection (4a) which outlines the Committee may, by a summons in the prescribed form for the purposes of an inquiry concerning a dental prosthetist is no longer relevant and is therefore proposed to be repealed.

248. Sections 19A to 19F inserted

Section 19A of the *Dental Prosthetists Act 1985* is a new section which provides that the Commissioner may appoint a person to investigate a complaint in relation to a dental prosthetist or any other matter relevant to the Commissioner's functions. The Commissioner is to issue each investigator he or she appoints a certificate of appointment, which is evidence in any court of the appointment to which the certificate purports to relate.

Section 19B of the *Dental Prosthetists Act 1985* is a new section which provides that an investigator must within such period as the Commissioner requires prepare a report on the investigation and make recommendations, and immediately after preparing the report, provide the Commissioner with a copy of the report. The new section outlines the investigator must return the certificate of appointment at the time the Commissioner is provided with a copy of the report.

Section 19C of the *Dental Prosthetists Act 1985* is a new section which outlines the powers of an investigator for the purposes of an investigation.

Section 19D of the *Dental Prosthetists Act 1985* is a new section which provides that 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. The new subsection 19D(2) outlines the requirements for an application for a warrant. The new subsection 19D(3) outlines that a magistrate to whom an application is made must refuse it if the application does not comply with the requirements or when required by the magistrate, the investigator does not give to the magistrate more information about the application. The new subsection 19D(4) provides that information in an application must be verified before the magistrate on oath or affirmation or by affidavit.

Section 19E of the *Dental Prosthetists Act 1985* is a new section which outlines the requirements for the issue of a warrant by a magistrate. The new subsection 19E(2) outlines a warrant under subsection 19E(1) authorises the investigator to enter and inspect the premises, to require a person on the premises to answer the questions or produce documents or other things concerning the investigation, and to inspect document and other things. The new subsection 19E(3) outlines the purpose and the name of the person to whom the warrant is issued, and a description of the premises that may be entered.

Section 19F of the *Dental Prosthetists Act 1985* is a new section which outlines the execution of a warrant. The new subsection 19F(1) provides that the person executing a warrant must produce it for inspection if asked by the occupier or a person in charge of the premises. The new subsection 19F(2) provides that a warrant ceases to have effect at the end of period of one month after its issue, if it is withdrawn by the magistrate who issued it, or when it is executed, whichever occurs first.

249. Section 20 amended

Section 20 of the *Dental Prosthetists Act 1985* deals with matters concerning the revocation of licence and the cancellation of endorsement. As it is proposed that State Administrative Tribunal will now assume responsibility for disciplinary proceedings presently conducted by the Commissioner, subsection 20(1) of the Act is to be amended to reference the State Administrative Tribunal rather than the Commissioner. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Commissioner, it is proposed to insert a new subsection 20(4) which provides that the Commissioner must apply and obtain approval from the State Administration Tribunal for the restoration of licence.

250. Section 21 amended

Section 21 of the *Dental Prosthetists Act 1985* deals with matters concerning the suspension of licence or endorsement. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Commissioner, section 21 is to be amended to instead make reference to the State Administrative Tribunal.

251. Section 22 replaced

Section 22 of the *Dental Prosthetists Act 1985* concerns appeals to the Local Court against decisions of the Commissioner. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Local Court, subsection 22(1) of the Act is to be amended to reference the State Administrative Tribunal rather than the Local Court. Subsections 22(3) and 22(4) are no longer relevant and are therefore being repealed. Matters in relation appeals against decisions of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

252. Section 30A inserted

Section 30A of the *Dental Prosthetists Act 1985* is a new section that outlines the annual reporting requirements in relation to the Commissioner's functions. It is proposed to insert four new subsections (1a), (1b), (1c), and (1d) which outline matters required to be reported on. The proposed new subsection 30A(1a) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board.

Division 39 — *Dog Act 1976*

253. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Dog Act 1967*.

254. Section 7 amended

Subsection (3) (aa) - As the right of review for the refusal or cancellation of registration is to be assumed by the State Administrative Tribunal the subsection had been amended to delete the words bringing and appeal and substituting them with making and application to reflect these matters are now to be made to a Tribunal and not a court.

255. Section 14 amended

The reference to “court” in subsection 14(2) is deleted as it is no longer relevant in relation to the registration of dogs.

256. Section 16A amended

Section 16A - provides that a person aggrieved by the decision of a local government concerning the ownership of a dog as recorded in a register may appeal the decision to the Local Court. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously appealed to the Local Court Section 16A is amended to instead make reference to the State Administrative Tribunal.

257. Section 17 amended

Subsection 17 (1) provides for applicants or registered owners to appeal to the Local Court against a decision of a local government to refuse to effect or renew the registration of a dog. As the State Administrative Tribunal is to assume jurisdiction over these matters section 17 (1) is to be amended to make reference to persons now being able to apply to the State Demonstrative Tribunal for a review.

Subsection 17 (2) lists the outcomes that may derive from an appeal to the Local Court concerning the registration of a Dog. As the State Administrative Tribunal is to assume jurisdiction over these matters the *State Administrative Tribunal Bill 2003* makes provision for outcomes from determinations of that Tribunal.

Subsection 17 (3) Concerns where the Local Court affirms the decision of the local government. As the State Administrative Tribunal is to assume jurisdiction over *Dog Act* appeals the section is amended so that reference to the Local Court and Court is deleted and replaced by the State Administrative Tribunal. The words ‘on an appeal’ are also deleted.

Subsection 17 (4) Concerns the local government applying to a Justice where an appeal under subsection (1) is not made within the prescribed time. As the State Administrative Tribunal is to assume jurisdiction over *Dog Act* appeals the section is amended reflect terminology appropriate to the making of an application within the time fixed. The reference to the Local Court and Court is deleted and replaced by the State Administrative Tribunal. The words “on an appeal” are also deleted, as are the words appealed against which are substituted by “applied for a review”.

Subsection 17 (5) is similarly amended to subsection 17 (4) with “appeal” being replaced with “application”, “Local Court” with “State Administrative Tribunal” and “appealed” with “applied for a review”.

258. Section 26 amended

Subsection 26 (5) (b) Provides for appeals to be made in writing to the Minister, who may after an inquiry give directions to the local government. As the State Administrative Tribunal is to assume jurisdiction over *Dog Act* appeals, the section is amended so that persons may apply to the State Administrative Tribunal for a review of a decision.

Subsection 26 (6) Provides for appeals to be lodged with the Minister not later than 28 days after the notice of a decision is served. The section is amended so that an application cannot be made later than the expiry of a period of 28 days after notice of the decision is served.

259. Section 27 amended

Subsection 27 (6) concerns the notice of a cancellation of a license to be served on the licensee specifying the period at the end of which the license is cancelled.

Subsection 27 (7) (b) provides that where the local government refuses the grant of a license or notice of the cancellation of a license is given the applicant or licensee may appeal to the Local Court and stipulates the determinations that may result. As the State Administrative Tribunal is to assume jurisdiction over these matters the *State Administrative Tribunal Bill 2003* makes provision for outcomes from determinations of that Tribunal.

260. Section 29 amended

Section 29(3)(b) is amended to correct a cross-referencing error.

261. Section 33E amended

Section 33E provides that the owner of a dog declared a dangerous dog has the right to object or appeal. In keeping with the terminology used for matters being dealt with by the State Administrative Tribunal, the words “of objection and appeal” have been deleted and provision made for an owner “to object and apply for a review”.

262. Section 33F amended

Section 33F contains a number of references to appeals to the Local Court. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously appealed to the Local Court Section 33F is amended to instead make reference to the State Administrative Tribunal.

Reference in the section to an appeal has similarly been amended to application for review. Matters relating to the operation of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

263. Section 33G amended

Section 33G contains a number of references to appeals to the Local Court. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously appealed to the Local Court Section 33G is amended to instead make reference to the State Administrative Tribunal.

264. Section 33H amended

Section 33H contains a references to appeals to the Local Court. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously appealed to the Local Court Section 33H is amended to instead make reference to the State Administrative Tribunal.

265. Section 33I amended

Section 33I Provides for the jurisdiction, the proceedings and outcomes related to appeals to the Local Court. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously appealed to the Local Court, Section 33I is amended to instead make reference to the State Administrative Tribunal. Subsections 33I (2) (a), (b) (i) (ii) (iv) 33I(3) and 33I(4) are to be repealed as matters relating to the operation of the State Administrative Tribunal are contained in the State Administrative Tribunal Bill 2003.

266. Section 33J amended

Section 33J As the State Administrative Tribunal is to assume jurisdiction over matters that were previously appealed to the Local Court, Section 33J is amended to instead make reference to the State Administrative Tribunal.

267. Section 33L amended

Section 33L As the State Administrative Tribunal is to assume jurisdiction over matters that were previously appealed to the Local Court, Section 33L is amended to instead make reference to the State Administrative Tribunal.

268. Section 36 amended

Section 36 As the State Administrative Tribunal is to assume jurisdiction over matters that were previously appealed to the Local Court, Section 33J is amended to instead make reference to the State Administrative Tribunal.

269. Section 40 amended

Section 40 provides for the various types of orders that may be made by a court in relation to any application made for an order for the destruction of a dog or where in proceedings the destruction of a dog may be ordered. The Section is amended to also make provision for the State Administrative Tribunal to make such orders.

270. Various references to “appeal” amended

A range of references in the Act to “appeal” are amended to instead refer to “application” instead.

Division 40 — *East Perth Redevelopment Act 1991*

271. East Perth Redevelopment Act 1991 amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *East Perth Redevelopment Act 1991*.

272. Section 45 replaced

Section 45 of the *East Perth Redevelopment Act 1991* provides that a person can lodge an appeal against a decision made by the East Perth Redevelopment Authority. Such appeals are heard by the Town Planning Appeal Tribunal under Part V Town Planning and Development Act 1928.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Town Planning Appeal Tribunal, under amendments to the *Town Planning and Development Act 1928*. As a consequence, section 45 of the *East Perth Redevelopment Act 1991* is to be amended to enable aggrieved persons to be able to seek a review of the Authority’s decisions through the State Administrative Tribunal.

273. Section 47 amended

Section 47 of the *East Perth Redevelopment Act 1991* deals with the powers of the East Perth Redevelopment Authority to issue notices or give directions in relation to developments. Under subsection 47(2), the person who has been served with a notice or given directions, can appeal to the Town Planning Appeal Tribunal.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Town Planning Appeal Tribunal under section 47(2) of the *East Perth Redevelopment Act 1991*. Therefore, section 47(2) of the Act is to be amended to enable these persons to be able to seek a review of the Authority’s notice or directions through the State Administrative Tribunal. Other amendments to section 47 are proposed as a consequence of the amendment to subsection 47(2).

Division 41 — *Electricity Act 1945*

274. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Electricity Act 1945*.

275. Section 32 amended

Subsection 32(3f) of the *Electricity Act 1945* provides regulations may establish systems of inspection, inquiry, and supervision, and provide for the hearing of disciplinary proceedings and the imposition of disciplinary penalties, and for appeals, to the Minister or a Local Courts. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, references to the Minister and the Local Court in subsection 32(3f) will be repealed.

Subsection 32(3faa) of the *Electricity Act 1945* is a new subsection that provides regulations may 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 licence, permit or authorisation, that may be taken by the State Administrative Tribunal in dealing with an allegation.

276. Section 33 inserted

Section 33 of the *Electricity Act 1945* is a new section that outlines the annual reporting requirements under the *Financial Administration and Audit Act 1985* of the department of the Public Service. It is proposed that the new section 33 include five new subsections (1a), (1b), (1c), (1d), and (1e) which outline matters required to be reported on. The proposed new subsection 33(1a) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board.

Division 42 — *Employment Agents Act 1976*

277. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Employment Agents Act 1976*.

278. Section 4 amended

The definitions of “authorised person”, “inspector” and “licensing officer” are deleted as they are no longer relevant. The definition of “Commissioner” is amended to include a reference to other persons authorised to assist the Commissioner referred to in section 23 of the *Consumer Affairs Act 1971* (WA). Such persons include inspectors and licensing officers.

279. Section 10A amended

A new subsection (2) is inserted in section 10A to provide that the annual report of the Commissioner responsible for this act shall include details of the matters listed.

280. Section 11 repealed

The section is deleted as the term “licensing officer” is deleted from the definitions in section 3. Licensing officers are now referred to in the *Consumer Affairs Act 1971* (WA).

281. Sections 11B to 11D repealed

Section 11B is deleted as the term “inspector” is deleted from the definitions in section 3. Inspectors are now referred to in the *Consumer Affairs Act 1971* (WA).

Sections 11C and 11D relating to certificates of identity of inspectors and the Commissioners powers over them are deleted.

282. Section 11E amended

Section 11E provides that either the Commissioner or any person appointed to assist him may institute proceedings for offences against the *Employment Agents Act 1976* (WA). The section previously provided that an inspector or licensing officer, subject to the direction of the Commissioner, could institute proceedings.

283. Section 19 amended

Section 19 provides that licences can be granted to a natural person on behalf of a body corporate. The application must provide details of the body corporate. Paragraphs (1)(d)(i) and (ii) relating to hearings are deleted as these matters are dealt with in the State Administrative Tribunal legislation. The words “hear and” are consequently deleted from subsection (2). Subsections (1) and (2) are also amended to substitute “Commissioner” for “licensing officer” in the two places in the subsections where the words appear.

284. Section 20 amended

Section 20 provides that the Commissioner of Police or any other person can object to the granting of a licence under the *Employment Agents Act 1976* (WA). Subsection (1) is amended to provide that objections should be sent to the Commissioner rather than the licensing officer. Subsection (3) providing that any person who makes an objection is a party to any proceedings is deleted as the matter is to be dealt with in the State Administrative Tribunal legislation.

285. Section 22 amended

Section 22 provides the process to be followed by the Commissioner in deciding whether to grant or renew a licence or to grant a licence subject to conditions, limitations or restrictions. Subsection (1) provides, in general, for the granting or renewal of a licence or for the granting of a conditional licence if no objection to the issue of the licence is received.

Subsection (2) is to be inserted to make it clear that the Commissioner can grant a restricted licence where there is an application for a grant or renewal of a general licence.

Proposed subsection (3) (previously subsection (2)) provides that the Commissioner (previously the licensing officer) is to give written notice to the applicant and to any person who objected to the granting or renewal of a licence of his decision to grant or renew the licence. The written notice must also inform the applicant or the objector of the right to apply to the State Administrative Tribunal for a review of the decision.

Proposed new subsection (4) provides that the applicant or any person aggrieved by the grant or renewal of a licence may apply to the State Administrative Tribunal for a review of the decision. The present subclauses (3), (4) and (5) which provided the process to be followed in determining an objection are deleted as these matters are now to be undertaken by the State Administrative Tribunal.

286. Sections 23 and 24 repealed

Sections 23 and 24 providing jurisdiction to determine objections to the Court of Petty Sessions and how hearing were to be conducted are deleted as these matters are now provided for in the State Administrative Tribunal legislation.

287. Section 25 amended

Section 25(1) provides that the Commissioner may apply to the State Administrative Tribunal for disciplinary action to be taken against a licensee alleging that the person, firm or body corporate is guilty of improper conduct in carrying out his business or has committed an offence against the *Employment Agents Act 1976* (WA). Subsection (2) is amended to delete redundant words.

Subsection (3) is amended to provide that the State Administrative Tribunal may make such order as it considers appropriate including cancellation or disqualification of licence if the allegation made under subsection (1) is sustained.

Subsection (4) is amended to provide that the State Administrative Tribunal may order that a licence is to be delivered up to the Commissioner. The subsection previously provided that the court could order that the licence be delivered up to the clerk of the court.

Subsection (6) provides that if the State Administrative Tribunal disqualifies a person, firm or body corporate from holding a licence they are not eligible for a licence for the period of the disqualification. The subsection previously referred to the court rather than the State Administrative Tribunal.

288. Section 28 amended

Section 28 provides that the provisions of the *Justices Act 1902* (WA) are to apply to proceedings under the *Employment Agents Act 1976* (WA). The section is amended to exclude proceedings before the State Administrative Tribunal as the provisions of the State Administrative Tribunal legislation will apply.

289. Section 30 amended

Section 30 provides for the imposition of penalties for breaches of the *Employment Agents Act 1976* (WA). Subsection (4) makes it clear that it is a defence if the holder of a licence can demonstrate that the relevant act or omission occurred without knowledge and all due diligence was used to prevent such an act or omission.

290. Section 31 amended

Section 31 provides that certain matters such as the appointment of the inspector and official signatures can be accepted in evidence without further proof. The matters listed in section 31 are essentially *prima facie* valid. It is open to the defence to admit evidence to prove the contrary. Subsections (a), (b) and (c) are amended to make reference to the Commissioner and departmental officers rather than the licensing officer as that term is deleted.

291. Section 46 amended

Section 46 provides that the records of an employment agent are to be available for inspection for the purposes of carrying out an investigation under the *Employment Agents Act 1976* (WA). Subsection (1) previously provided that an inspector, the Commissioner or a person duly authorised by the Commissioner, could inspect the records. The reference to the inspector is deleted as the term is no longer used and the reference to a person duly authorised is deleted as it is redundant.

Previous subclauses (2) to (5), inclusive are deleted as they are no longer applicable. Paragraphs (b), (c) and (d) of subsection (6) are also deleted as these matters are now provided in other legislation.

292. Section 47 amended

Section 47 lists the offences under the *Employment Agents Act 1976* (WA) which includes assaulting or obstructing an officer, failing, without lawful excuse, to answer questions or provide information, threatening or abusive behaviour and impersonating an officer. The offences were previously in relation to inspectors appointed under the *Employment Agents Act 1976* (WA). The section is amended to substitute “the Commissioner” for “the inspector” in the twelve places in the section where the words appear. The effect will be that, in future, the relevant offences will be against the Commissioner and officers appointed by him rather than an inspector.

Subclause (2) defining the word “inspector” is also deleted as it is no longer relevant.

293. Section 48 amended

Section 48 provides that person's who have obtained information shall not, either directly or indirectly, except in legal proceedings or in the exercises or performance of their powers and duties divulge that information to another person. Subsection (1) is amended to substitute “the Commissioner” for “an inspector” to ensure that the Commissioner is required to maintain secrecy.

294. Section 49 amended

Section 49 provides no liability is attached to any person who exercises any function under the *Employment Agents Act 1976* (WA) in good faith and in the exercise of powers under that Act. The terms “licensing officer” and “inspector” are deleted as they are no longer relevant.

295. Section 52 amended

Section 52 provides for the making of regulations under the *Employment Agents Act 1976* (WA). Paragraph (2)(c) provides that fees may be prescribed in relation to matters under that Act. The paragraph is amended to include words to make it clear that fees in relation to proceedings before the State Administrative Tribunal are prescribed under the State Administrative Tribunal legislation.

296. Various references to “licensing officer” amended

A range of references in the Act to “licensing officer” are amended to instead refer to “Commissioner” instead.

Division 43 — *Energy Coordination Act 1994*

297. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Energy Coordination Act 1994*.

298. Section 11ZH amended

This section currently outlines the mechanism by which a person adversely affected by a licensing decision of the Coordinator of Energy may apply to the Western Australian Gas Review Board (the Board) established by the *Gas Pipelines Access (Western Australia) Act 1998* for a review of the Coordinator’s decision.

It is proposed to confer jurisdiction for a review of the Coordinator’s decision from the Board to SAT. Therefore, amendment is proposed to subsection 11ZH(2) to delete the words “apply to the Board for a review” and insert instead the words “apply to the State Administrative Tribunal for a review”. As a consequence of this amendment conferring jurisdiction, several other amendments are proposed to section 11ZH. These amendments include deleting the existing:

- subsection 11ZH(1) which provides a definition of “Board”; and
- subsections 11ZH(3) to 11ZH(13) which provide for the mechanism through which applications to the Board for a review are currently dealt with,

and inserting instead new subsections 11ZH(3) TO 11ZH(9) to provide for the mechanism by which applications to SAT for a review of the Coordinator’s decision are proposed to be dealt with, including special provisions requiring disclosure by members of SAT of any potential conflict of interest.

299. Section 22 amended

This section currently provides that where the Coordinator of Energy pursuant to s21 of the *Energy Coordination Act 1994* (the Act) makes a request for the provision of prescribed information from an occupier of premises or a person about energy held or required by that occupier of premises or person, then that person or occupier may object to supplying this information to the Minister on the grounds that the information would result in disclosure of a business trade secret.

The existing subsection 22(3) provides the Minister power to exempt the objector from the obligation to comply with the request for prescribed information either in whole or part.

The existing subsection 22(4) provides if the Minister refuses to exempt the objector or grants only a partial exemption, then the objector may, within 21 days of receiving notice of the Minister's decision, appeal to a judge of the District Court sitting in chambers.

The existing subsection 22(5) provides the Judge may make such order, including as to costs, as the Judge thinks fit and this decision is final.

It is proposed to confer jurisdiction for the right to object to a request for information made under section 21 of the Act from the Minister to SAT. Therefore amendment is proposed to subsections:

- 22(1) to include the words “may apply to the State Administrative Tribunal for a review of the request on that ground”; and
- 22(3) to delete the words “Minister may by notice in writing” and insert the words “Tribunal may”.

It is also proposed to delete the existing subsection 22(2) referencing the Minister and the existing subsections 22(4) and 22(5) referencing the right to appeal a decision of the Minister to a Judge of the District Court. The right to appeal a decision of SAT is now contained in s104 of the *State Administrative Tribunal Bill 2003*.

Division 44 — *Equal Opportunity Act 1984*

308. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Equal Opportunity Act 1984*.

309. Section 4 amended

The existing definition of “inquiry” is to be amended to delete “held under” and insert instead “referred to in” meaning referred to in section 107 of the *Equal Opportunity Act 1984* as jurisdiction is to be conferred on the State Administrative Tribunal (SAT) but still exercised through s107 of the *Equal Opportunity Act 1984*.

The existing definitions of “member” and “registrar” are to be deleted as jurisdiction is to be conferred on SAT and the provisions of Part 6 of the State Administrative Tribunal Bill 2003 define in detail who will be members of the SAT and members of the staff of SAT and no provision is made for a position called registrar.

The existing definition of “Tribunal” is to be amended by inserting “State Administrative Tribunal under the *State Administrative Tribunal Act 2003*” and deleting “Equal Opportunity Tribunal established by section 96” of the *Equal Opportunity Act 1984*.

310. Section 67 amended

It is proposed to retain this section but to make a minor amendment to subsection 67(1)(d) to insert the word “commenced” to make clear that the prohibitions imposed by this section will continue to apply after jurisdiction is conferred on SAT.

311. Section 83 amended

The existing subsection 83(2) provides a person may lodge a complaint in writing with the Commissioner or the registrar regarding a refusal, neglect or failure by another person to obey or comply with an order or interim order of the Equal Opportunity Tribunal.

It is proposed to amend this subsection by deleting the reference to “or the registrar” as no provision is made in SAT legislation for a position called registrar.

312. Section 93A amended

Subsection 93A(1) currently provides the Commissioner for Equal Opportunity with the power to assist a complainant (who has previously received assistance under s93(2) with proceedings before the Equal Opportunity Tribunal) make or defend an appeal under to the Supreme Court against the decision of the Equal Opportunity Tribunal by the provision of legal representation or granting financial assistance.

It is proposed to amend this subsection to delete the words “under section 134(1)” as the right to appeal to the Supreme Court is proposed to be provided for by Part 5 of the *State Administrative Tribunal Bill 2003*. In addition, it is proposed to insert the words “against a decision of the Tribunal” to make explicit the conferral of jurisdiction to SAT and that Tribunal as defined in s4 of the *Equal Opportunity Act 1984* is now proposed to mean the State Administrative Tribunal under the *SAT Bill 2003*.

313. Part VIII and Part VIII Division 1 headings replaced

The Headings to Part VIII and Division 1 of Part VIII are amended to refer to the State Administrative Tribunal.

314. Section 96 replaced

It is proposed to insert a new section 96 in Part VIII of the *Equal Opportunity Act 1984* to provide that when the State Administrative Tribunal is exercising its jurisdiction under the *Equal Opportunity Act 1984* its presiding member has to be either a:

- judicial member which is defined in s3 of the *State Administrative Tribunal Bill 2003* as the President (Judge of the Supreme Court) or Deputy President (Judge of the District Court); or a
- senior member as defined in s115(4) meaning a qualified legal practitioner with not less than 8 years legal experience,

and therefore this new section provides that when SAT is exercising its powers through the jurisdiction conferred under the *Equal Opportunity Act 1984* the proceedings will always be presided over by a senior judicial person with substantial legal experience.

315. Sections 97 to 104 repealed

It is proposed to repeal subsection 96(1) which establishes the Equal Opportunity Tribunal under Part VIII of the *Equal Opportunity Act 1984* and for the State Administrative Tribunal to assume responsibility of this original decision making function. Therefore, as a consequence it is also proposed to repeal sections:

- 97 Term of office of members;
- 98 Remuneration;
- 99 Vacation of office;
- 100 Removal from office;
- 100A Deputy presidents;
- 101 Acting President;
- 102 Deputy members;
- 103 Member not subject to *Public Sector Management Act 1994*;
- 104 Validity of acts of Tribunal;

316. Part VIII Division 2 heading amended

The Headings to Part VIII Division 2 is amended to delete reference to the Equal Opportunity Tribunal.

317. Sections 108 to 112 repealed

The existing procedural functions outlined in section 108 and section 109 to 112 of the *Equal Opportunity Act 1984* are to be repealed as the original decision making function of the Equal Opportunity Tribunal is proposed to be conferred on SAT and the generic provisions of Part 4 of the *State Administrative Tribunal Bill 2003* titled “Tribunal’s procedures” adequately cover these existing procedures.

318. Sections 118 to 121 repealed

The existing subsection 118 presently provides that the Equal Opportunity Tribunal may endeavour to resolve by conciliation or by amicable settlement between the parties of a complaint the subject of an inquiry.

It is proposed to repeal subsection 118 as the alternative dispute resolution mechanisms provided in s54 “Mediation” and s56 “Settlement” of the *State Administrative Tribunal Bill 2003* adequately provide for this form of dispute resolution.

This section currently provides the parties (or the representatives of the parties) may file a written consent with the Equal Opportunity Tribunal requesting the President of the Tribunal to formalise in an order the terms of that written consent. Subsection 118A(2) outlines the registrar’s role in this process in bringing relevant documents before the President of the Equal Opportunity Tribunal. Subsection 118A(3) provides an order made by the President under subsection 118A(2) shall be of the same force and validity as if it had been made after a hearing of the Equal Opportunity Tribunal.

It is proposed to repeal this section, as the alternative dispute resolution procedures provided in the *State Administrative Tribunal Bill 2003* adequately provide for pre-hearing settlements and, in addition, no position of registrar is provided for in the *State Administrative Tribunal Bill 2003*.

The existing section 119 deals with receiving evidence by the Equal Opportunity Tribunal and what can be received in as evidence relevant to a current inquiry.

It is proposed to repeal section 119 of the *Equal Opportunity Act 1984* as these provisions will now be covered by subsection 32(3) to (5) of the *State Administrative Tribunal Bill 2003*.

Section 120 currently provides that the Equal Opportunity Tribunal shall not be bound by rules of evidence, shall act according to equity, good conscience and the substantial merits of the case and may give directions about procedure designed to reduce costs and delay.

It is proposed to repeal section 120 of the *Equal Opportunity Act 1984* as the existing provision in:

- subsection 120(a) relating to not being bound by rules of evidence will now be covered by subsection 32(2)(a) of the *State Administrative Tribunal Bill 2003*;
- subsection 120(b) relating to acting in accordance with equity, good conscience and the substantial merits of the case will now be covered by subsection 32(2)(b) of the *State Administrative Tribunal Bill 2003*; and
- subsection 120(c) relating to directions about reducing costs and delay will now be covered by section 34 of the *State Administrative Tribunal Bill 2003*.

The existing subsection 121(1) currently provides that a hearing of the Equal Opportunity Tribunal shall be held in public, unless under subsection 121(2) the tribunal decides of its own motion, or upon application by one of the parties, that it is more appropriate to hold the inquiry in private.

It is proposed to repeal section 121 of the *Equal Opportunity Act 1984* as this provision will now be adequately covered by subsection 61(1) to (2) of the *State Administrative Tribunal Bill 2003*.

319. Section 122 amended

The existing subsection 122(1) provides that the Equal Opportunity Tribunal may direct that any evidence given before it, the contents of any document produced to it or any information that might enable a person appearing before it to be identified, shall not be published or shall only be published in a certain manner and to certain persons. It is proposed to retain subsection 122(1) in its present form. However, a minor amendment is proposed to subsection 122(2) to provide that nothing done under subsection 122(1) shall detract from the State Administrative Tribunal's powers proposed to be exercised under subsections 61(1) to 61(2) of the *State Administrative Tribunal Bill 2003*.

320. Sections 124 and 125 repealed

This section currently provides that the President of the Equal Opportunity Tribunal, the Tribunal itself and members of the Tribunal when conducting an inquiry shall have equivalent powers, authorities, protections and immunities as a Chairman of the Commission or commissioner appointed under the *Royal Commissions Act 1968* in respect to the summoning of witnesses and calling of evidence etc...

It is proposed to repeal this section entirely upon jurisdiction being conferred on SAT, as the provisions of Part 4 Division 3 of the *State Administrative Tribunal Bill 2003* adequately cover these procedural matters.

The existing subsection 125(1) provides if the Equal Opportunity Tribunal is satisfied, at any stage of an inquiry, that a complaint is frivolous, vexatious, misconceived or lacking in substance it may dismiss the complaint. Subsection 125(2) provides where the tribunal dismisses a complaint under subsection 125(1), it may order the complainant to pay the costs of the inquiry.

It is proposed to confer the original decision making function of the Equal Opportunity Tribunal on SAT and, as a consequence, subsection 125 of the *Equal Opportunity Act 1984* is proposed to be repealed. The provisions contained in this repealed section, will now be adequately covered by section 47 “Unjustified proceedings” and section 87 “Costs of proceeding” of the *State Administrative Tribunal Bill 2003*.

321. Section 126 amended

An interim order is an order that preserves the status quo and rights between the parties to a complaint while the complaint is being investigated by the Commissioner for Equal Opportunity.

The existing section 126 provides, that an interim order may be made during the sitting of the Equal Opportunity Tribunal or by the President alone, where the President of the Equal Opportunity Commission considers this the most expedient option.

As mentioned, it is proposed to confer the original decision making function of the Equal Opportunity Tribunal on SAT. As a consequence of this, it is proposed to amend section 126 of the *Equal Opportunity Act 1984* to delete the reference to “President alone...” as the presiding member of the tribunal (which it is proposed will now be the State Administrative Tribunal) will, according to s96(1) of the *Equal Opportunity Act 1984* be either a judicial member (President or Deputy President) or a senior member (qualified lawyer of not less than 8 years experience) and therefore there is no need to expressly mention “President alone...” as the SAT when exercising jurisdiction under this Act will always be constituted by a legally qualified member.

322. Sections 128 to 134 repealed

The existing subsection 128(1) provides each party to an inquiry shall pay their own costs. Subsection 128(2) gives the Equal Opportunity Tribunal the flexibility to make such other order as to costs and security for costs as it thinks fit.

It is proposed to confer the original decision making function of the Equal Opportunity Tribunal on SAT. As a consequence of this conferral, it is proposed to repeal the existing section 128 of the *Equal Opportunity Act 1984* as the provisions of s86 of the *State Administrative Tribunal Bill 2003* titled “Costs of parties” now adequately deal with this procedural matter.

The existing s129 provides any amount ordered to be paid by the Equal Opportunity Tribunal may be registered and recovered as a judgment debt in a court of competent jurisdiction.

It is proposed to confer the original decision making function of the Equal Opportunity Tribunal on SAT. As a consequence of this conferral, it is proposed to repeal the existing section 129 of the *Equal Opportunity Act 1984* as the provisions of s84 of the *State Administrative Tribunal Bill 2003* titled “Enforcement of monetary order” now adequately deal with this procedural matter.

The existing s130 provides a person who refuses or fails to comply with an order of the Equal Opportunity Tribunal commits an offence the penalty for which is \$1000 in the case of a natural person and \$5000 in case of a body corporate.

It is proposed to confer the original decision making function of the Equal Opportunity Tribunal on SAT. As a consequence of this conferral, it is proposed to repeal the existing section 130 of the *Equal Opportunity Act 1984* as the provisions of s94(1) of the *State Administrative Tribunal Bill 2003* titled “Failing to comply with decision” now deal with this procedural matter and under which the penalty for non-compliance has been increased to \$10,000.00.

The existing subsection 131(1) provides that where the Equal Opportunity Tribunal does not state its reasons for any decision or order made, then a party to the inquiry may, by notice in writing served on the tribunal within 7 days after the date of the decision or order, require the tribunal to state its reasons. Subsection 131(2) provides the tribunal shall state its reasons for the decision or order within 14 days after the service of the notice in subsection 131(1).

It is proposed to repeal s131 of the *Equal Opportunity Act 1984* as s78 of the *State Administrative Tribunal Bill 2003* titled “Written reasons may be requested” now adequately deals with this procedural matter. The relevant provisions of the SAT legislation increase the number of days that a party has to request reasons from the SAT from 7 to 28 days and increases the number of days the SAT has to provide its reasons from 14 to 90 days.

The existing section 132 currently provides every document requiring authentication by the Equal Opportunity Tribunal, may be sufficiently authenticated if signed by the President of the tribunal.

It is proposed to repeal s132 of the *Equal Opportunity Act 1984* as the provisions of s150 of the *State Administrative Tribunal Bill 2003* titled “Official seal” now adequately deal with this procedural matter.

The existing section 133 currently provides that judicial notice shall be taken of the signature of the President or Registrar of the Equal Opportunity Tribunal when appearing on a document issued by the tribunal.

It is proposed to repeal s133 of the *Equal Opportunity Act 1984* as the provisions of s151 of the *State Administrative Tribunal Bill 2003* titled “Judicial notice” now adequately deal with this procedural matter.

The current appeals mechanism to the Supreme Court from decisions of the Equal Opportunity Tribunal made under sections 125, 126, 127 and 128(2) of the *Equal Opportunity Act 1984* and detailed in this section is proposed to be repealed and replaced by the appeal mechanism provided in Part 5 of the *State Administrative Tribunal Bill 2003*.

323. Section 135 amended

It is proposed to retain subsections 135(1) to 135(3).

Subsection 135(1) provides the Equal Opportunity Tribunal may upon application by a person, make an order granting that person an exemption from specified prohibitions on discrimination contained in the *Equal Opportunity Act 1984* and therefore making it lawful for these people to discriminate against another person on the grounds of either their sex, marital status, gender, sexual orientation, race, religious convictions or age according to the terms of the exemption.

Subsection 135(2) provides the Equal Opportunity Tribunal may upon application grant a further exemption.

Subsection 135(3) provides notice of any such application for an exemption is to be published in a newspaper advertisement.

However, it is proposed to repeal subsection 135(4) which outlines the right of an interested person to an application for an exemption under this section, to be joined as a party to an inquiry into that application. Such an interested person has the right to give evidence, cross-examine witnesses and make submissions to the Equal Opportunity Tribunal. Upon the conferral of jurisdiction to SAT, the rights of such interested persons will be comprehensively covered by the provisions of Part 4 of the *State Administrative Tribunal Bill 2003*.

It is also proposed to amend subsection 135(5) to delete consequential references to previous sections which are proposed to be repealed upon conferral of jurisdiction to SAT, while retaining the power for SAT (formerly exercised by the Equal Opportunity Tribunal) to make arrangements with the Commissioner for Equal Opportunity for an officer of the Commissioner to assist SAT in the performance of an inquiry under this section.

Subsection 135(6) is to be retained.

324. Section 136 amended

It is proposed to retain subsection 136(1) which currently provides that the Equal Opportunity Tribunal, no later than one month after it makes a decision under s135, shall cause a notice to be published in the *Government Gazette* of that decision.

However, it is proposed to repeal subsection 136(2) which provides for service of such a notice on each person who appeared as a party to the inquiry under s135 as, upon jurisdiction being conferred on SAT, these service requirements will be adequately covered by Part 4 Division 4 of the *State Administrative Tribunal Bill 2003*. It is also proposed to make a minor consequential amendment to subsection 136(3) as a result of the repeal of the existing subsection 136(2).

325. Section 147 amended

The existing subsection 147(1) currently provides where the Director of Equal Opportunity in Public Employment is dissatisfied with the preparation or implementation of an Equal Employment Opportunity Management Plan by a public authority or the omission by a public authority to prepare and implement such a management plan, then the Director may refer the matter to the Equal Opportunity Tribunal.

In general, it is proposed to confer the original decision making jurisdiction of the Equal Opportunity Tribunal to SAT and for all proceedings previously dealt with by the Equal Opportunity Tribunal to now be dealt with by SAT. However, in this case, it is proposed to delegate to the Director of Equal Opportunity in Public Employment the power to hold an investigation into a matter arising under subsection 147(1). In order to effect this amendment, it is proposed to delete the words in subsection 147(1) “refer the matter to the Tribunal” and insert instead “hold an investigation into the matter” and, as a consequence, insert a new subsection 147(2).

326. Section 148 repealed

As discussed in s147 and as a direct consequence of this amendment, it is proposed to repeal s148.

327. Section 149 amended

The existing section 149 contains the current mechanism where the Director of Equal Opportunity in Public Employment if dissatisfied under subsection 147(1) may refer the matter to the Equal Opportunity Tribunal. Once a matter is before the Tribunal, this section provides that neither the Director nor the public authority is entitled to be represented by counsel or a solicitor during the holding of the proceeding.

It is proposed to amend this section to provide for the proposed mechanism where the Director will hear and determine matters under subsection 147(1) instead of referring these matters to SAT to determine. However, it is not proposed to allow a public authority appearing before the Director to be entitled to be represented by counsel or a solicitor.

328. Section 150 amended

The existing section 150 outlines the current powers used by the Equal Opportunity Tribunal when conducting an investigation under subsection 147(1). These powers include requiring the Director or a public authority to answer questions, provide information and produce documents.

As discussed, it is proposed to delegate the function of determining matters arising under subsection 147(1) to the Director of Equal Opportunity in Public Employment. Therefore, section 150 is amended to delete “Tribunal” and insert instead “Director” in the relevant places and to delete references to the Director as a party to proceedings, as it is now proposed the Director will hear and determine proceedings arising under subsection 147(1).

329. Section 152 amended

The existing section 152 currently provides for the Equal Opportunity Tribunal:

- a) to make recommendations to the Director or to the public authority; and/or
- b) to furnish a report to the Minister in relation to the matter investigated.

It is proposed to retain these two options, but as the functions of the Equal Opportunity Tribunal are proposed to be delegated to the Director of Equal Opportunity in Public Employment, section 152 is to be amended in appropriate places to reflect this delegation. For example, “to the Director or” in option (a) is deleted.

330. Section 153 amended

Minor amendment is proposed to this section, deleting the reference to “Tribunal” and inserting instead “Director” to enable a Minister on receipt of a report from the Director under subsection 152(b) to, by notice in writing, direct a public authority to amend its management plan.

331. Section 154 amended

It is proposed to amend section 154 to provide that a contravention of the *Equal Opportunity Act 1984* shall attract no criminal or civil sanction, except to the extent provided by the *Equal Opportunity Act 1984* or the *State Administrative Tribunal Act 2003*.

332. Section 155 amended

It is proposed to retain this section to prohibit a person willfully obstructing, hindering or resisting the Commissioner or Director, or an officer of the Commissioner or Director, in the exercise of their functions under the *Equal Opportunity Act 1984*. The current maximum penalty for breach of this section is also to be retained, being a \$1000 in the case of a natural person and \$5000 in the case of a body corporate.

However, consistent with amendments conferring jurisdiction for the original decision making functions of the Equal Opportunity Tribunal to SAT, it is proposed to delete the words “a member of the Tribunal, the registrar” as prohibiting a member of SAT from performing their functions is adequately covered by s98 of the *State Administrative Tribunal Bill 2003* and the SAT legislation does not provide for a position of registrar.

333. Section 165 amended

The existing subsection 165(1) deals with confidentiality provisions binding a person who makes a complaint to the Commissioner of Equal Opportunity under s83 of the *Equal Opportunity Act 1984*. Subsection 165(2)(a) provides a general exception from these confidentiality restrictions to the Commissioner, a member of staff assisting the Commissioner, a member of the Tribunal or a person acting under the direction or authority of the Tribunal when these officers are performing a duty or exercising a function or power under the *Equal Opportunity Act 1984*.

Consistent with consequential amendments proposed due to the conferral of jurisdiction of the original decision making function of the Equal Opportunity Tribunal to SAT, it is proposed to amend subsection 165(2)(a) to include the words “or the *State Administrative Tribunal Act 2003*...or that Act” so that the protection to members of the Tribunal or a person acting under the direction or authority of the Tribunal is read as referring to officers under the SAT legislation.

334. Section 166 amended

It is proposed to retain the protection provided in s166 so that it continues to apply to the Commissioner of Equal Opportunity or a person acting under the direction or authority of the Commissioner. However, it is proposed to delete references in s166 to “the Tribunal...a member of the Tribunal” as protection from civil liability for Tribunal members or a member of staff of the Tribunal performing the functions of their office in good faith, will now be provided by s161 of the *State Administrative Tribunal Bill 2003*.

335. Section 167 amended

It is proposed to retain the prohibition on disclosure of private information contained in subsection 167(1) preventing a Commissioner or former Commissioner, or a member of the staff assisting the Commissioner (or former member of staff) from divulging information, either directly or indirectly, about any complaint or hearing to a third party unless it is necessary for the performance of their public duty or in the exercise of their public functions and powers under the *Equal Opportunity Act 1984*. However, it is proposed to delete references to “the Tribunal...a member of the Tribunal” as the Secrecy provisions of the *State Administrative Tribunal Bill 2003* now adequately cover these classes of persons.

It is proposed to retain the existing protection of private information contained in subsection 167(2) which provides the Commissioner or a member of the staff assisting the Commissioner will not be required to divulge or communicate to a court any private information about a person acquired in the course of carrying out their public duties or functions under the *Equal Opportunity Act 1984* except where it is necessary to do so. It is proposed to extend this protection to include the *State Administrative Tribunal Act 2003* by adding these words to the end of subsection 167(2). However, it is necessary to delete references in this subsection to “member of the Tribunal...or a member of the staff assisting the Tribunal...the Tribunal” as the Secrecy provisions of the *State Administrative Tribunal Act 2003* now adequately cover these classes of persons.

It is also proposed to insert a new subsection 167(2a) as a safeguard to make it clear that the general non-disclosure protections contained in subsection 167(2) applicable to the Commissioner or Commissioner’s staff also apply to a former member, a former member of the staff assisting, or former person authorised to perform or exercise any function of the tribunal that was known as the Equal Opportunity Tribunal, except, of course, where it is necessary to assist in court proceedings.

336. Section 169 amended

It is proposed to delete the regulation making power contained in s169(2)(d) of the *Equal Opportunity Act 1984* which provides for regulations to be made with respect to “the procedure of the Tribunal at any inquiry”. Consistent with changes conferring jurisdiction, Tribunal is proposed to be defined in subsection 4 to mean the State Administrative Tribunal under the *State Administrative Tribunal Act 2003*. Therefore any regulations governing the procedure of the State Administrative Tribunal will be made pursuant to s165 of the *State Administrative Tribunal Act 2003*.

Division 45 — *Explosives and Dangerous Goods Act 1961*

329. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Explosives and Dangerous Goods Act 1961*.

330. Section 52 amended

Section 52 of the *Explosives and Dangerous Goods Act 1961* provides that a person who is aggrieved by a decision made by the Chief Inspector can lodge an appeal against this decision. Such appeals are dealt with in the Local Court.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Local Court under section 52 of the *Explosives and Dangerous Goods Act 1961*. Therefore, section 52(1) of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal. Subsections 52(2) of the *Explosives and Dangerous Goods Act 1961* is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Division 46 — *Fair Trading Act 1987*

331. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Fair Trading Act 1987*.

332. Section 5 amended

Section 5 is amended to delete the definition of “Commercial Tribunal” as the *Commercial Tribunal Act 1984* (WA) under which the Tribunal was created is repealed.

333. Section 45 amended

Section 45 provides that the Commissioner is to maintain a Register of Undertakings. Subsection (1) is amended to delete a reference to a requirement to lodge a copy of the deed with the Registrar as the position of Registrar is abolished. Subsection (5) is amended to insert a reference to the State Administrative Tribunal in place of the Commercial Tribunal.

334. Section 46 amended

Section 46 previously provided that the Commercial Tribunal could seek undertakings and prohibit conduct of persons under the *Fair Trading Act 1987* (WA). Subsection (1) vesting section 46 jurisdiction on the Commercial Tribunal is repealed as that Tribunal is abolished.

Subsections (2) to (8), inclusive, are amended to substitute the “State Administrative Tribunal” for the “Commercial Tribunal” in ten places where those words occur

Subsections (9) and (10) providing that the Chairman of the Commercial Tribunal had the same powers as a Judge of the Supreme Court in punishing a person for disobedience of section 46 are repealed as the Commercial Tribunal is abolished.

335. Various references to “Commercial Tribunal” amended

A range of references in the Act to the “Commercial Tribunal” are amended to instead refer to the “State Administrative Tribunal”.

Division 47 — *Finance Brokers Control Act 1975*

336. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Finance Brokers Control Act 1975*.

337. Section 4 amended

The definition of “District Court” is deleted as appeals in relation to matters under the *Finance Brokers Control Act 1975* (WA) will, in future, be taken to the State Administrative Tribunal. The definition of “proceedings” is also deleted as the term is no longer relevant.

338. Heading to Part II Division 3 replaced

The Heading to Part II Division 3 is amended to refer to decisions of the Board.

339. Sections 19 to 22 repealed

Sections 19 to 22, inclusive, providing the process for proceedings before the Finance Brokers Supervisory Board and enforcement of orders are deleted as these matters will, in future, be conducted before the State Administrative Tribunal pursuant to the State Administrative Tribunal legislation.

340. Section 23 replaced

Section 23 previously provided that a person could appeal a decision of the Commercial Tribunal to the District Court. The section is amended as decisions of the Finance Brokers Supervisory Board are, in future, to be taken to the State Administrative Tribunal rather than the District Court.

The proposed new subsection (1) provides that a person who is aggrieved by a decision may seek a review in the State Administrative Tribunal.

Proposed new subsection (2) defines the terms "person aggrieved" and "reviewable decision". A "person aggrieved" is any person who lodged an objection or the holder of the licence to which a reviewable decision relates. A "reviewable decision" is one made under Part III of the *Finance Brokers Control Act 1975* (WA) (other than a determination of the form in which an application or objection is to be made) or a decision under Part IV Division 2. The previous subsections (2) and (3) provided the time limit for an appeal to the District Court and the power of the Court to decide the appeal.

341. Section 24 amended

Subsection (5) providing that an applicant for a finance brokers licence is a party to proceedings before the Finance Brokers Supervisory Board is deleted.

342. Section 25 amended

Subsection (4) providing that a person who makes an objection to the grant of a licence is a party to proceedings before the Finance Brokers Supervisory Board while they maintain the objection is deleted.

343. Sections 30 amended

Section 30 provides that a licence continues until cancelled or it ceases and that the licensee is to carry on business under the name in the licence.

A new subsection (5) is inserted to clarify that if a person surrenders a licence they may still be investigated as if they continued to hold the licence. The subsection ensures that a person cannot surrender a licence to avoid any penalty for contravention of the *Finance Brokers Control Act 1975 (WA)*.

344. Section 32 amended

Section 32 provides that a person may apply for renewal of a licence within 28 days of the expiry of the previous licence.

Subsection (5) providing that an applicant for a renewal of a finance brokers licence is a party to proceedings before the Finance Brokers Supervisory Board is deleted

345. Section 33 amended

Section 33 provides that the Registrar may object to the renewal of a finance brokers licence. Subsection (2) providing that the Registrar is a party to proceedings before the Finance Brokers Supervisory Board, while the objection is maintained, is deleted

346. Section 34 amended

Section 34 provides that a holder of a licence under the *Finance Brokers Control Act 1975 (WA)* is to comply with the finance brokers code of conduct. Subsection (4) providing that a person could appeal a decision of the Finance Brokers Supervisory Board to the District Court is deleted.

347. Sections 34A and 34B inserted

Proposed new section 34A provides for the granting of a licence under the *Finance Brokers Control Act 1975 (WA)* if the application for a licence is not opposed. Proposed subsection (1) provides that the Finance Brokers Supervisory Board or the Registrar may grant or renew a licence or business certificate. Proposed subsection (2) provides for the delivery by the Board or the Registrar of the licence to the applicant. Proposed subsection (3) provides that sections 27, 28 and 29 of the *Finance Brokers Control Act 1975 (WA)* apply to the Registrar in the granting or renewal of a licence.

348. Section 35 amended

Section 35 provides that the Finance Brokers Supervisory Board may obtain a bond before the grant or renewal of a business certificate. Subsection (5) providing for assignment of the bond with approval is amended. The subsection previously referred to the District Court, however, a reference to the State Administrative Tribunal is inserted in its place. Subsection (6) referring to the District Court is deleted.

349. Section 56 repealed

Section 56 providing for determination of decisions of the Finance Brokers Supervisory Board by the District Court is deleted as such references will, in future, be to the State Administrative Tribunal.

350. Section 82 replaced

Section 82 is amended to provide the Finance Brokers Supervisory Board may allege to the State Administrative Tribunal that there is a cause for disciplinary proceedings to be taken against a finance broker. Subsections (2) to (5), inclusive, are deleted as the relevant matters are provided for in the State Administrative Tribunal legislation.

351. Section 83 amended

Section 83 provides that if the Board instigates a matter before the State Administrative Tribunal the State Administrative Tribunal may reprimand or caution the broker imposes a fine up to \$1,000 or suspend or cancel the licence. Previously possible action under the *Finance Brokers Control Act 1975 (WA)* was taken by the Board.

Subsection (3) providing that any suspension or cancellation was to take effect immediately notwithstanding any appeal to the District Court is deleted as such matters are no longer taken to that Court but will be subject to the State Administrative Tribunal legislation.

352. Section 86 amended

A new subsection (2) is inserted in section 86 to provide that the annual report of the Finance Brokers Supervisory Board shall include details of the matters listed.

353. Section 95 amended

Section 95 is the regulation making power of the Act. Section 95 is amended to delete capacity to make regulations for enforcement of judgements and orders of the Board. The Board will no longer be able to make such orders or judgments as matters are now dealt with by the State Administrative Tribunal. Section 95 is also amended to ensure that regulations for fees cannot be made under the Act in relation to matters commenced in the State Administrative Tribunal. The *State Administrative Tribunal Bill 2003* has provisions dealing with fees for proceedings before the Tribunal.

354. Various references to “District Court” amended

A range of references in the Act to the “District Court” are amended to instead refer to the “State Administrative Tribunal”.

Division 48 — *Fire and Emergency Services Authority of Western Australia Act 1998*

355. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Fire and Emergency Services Authority of Western Australia Act 1998*.

356. Section 36ZA amended

Section 36ZA concerns jurisdictions competent of entertaining proceedings for the recovery of a levy not being affected by a question raised on the title of land the subject to proceedings. As the State Administrative Tribunal is assuming the jurisdiction to deal with appeals under *Fire and Emergency Services Authority of Western Australian Act 1998*, Section 36ZA is amended by deleting the word “appeal” and replacing it with the word “review” to reflect the transfer of jurisdiction to the Tribunal.

357. Part 6A Division 8 heading amended

The heading is amended by deleting “appeals” and replacing it with “review” to reflect that the State Administrative Tribunal has assumed the jurisdiction of the Land Valuation Tribunal - later referred to in Section 36ZG as the tribunal to which the Minister is to refer an objection from a determination of land use.

358. Section 36ZF amended

Section 36ZF provides that a person dissatisfied with the determination of the Minister under section 36ZE to serve on the Minister notice requiring the Minister to treat the objection as an appeal to the Land Valuation Tribunal. As the State Administrative Tribunal assumes the jurisdiction of the Land Valuation Tribunal, Section 36ZF is amended to provide that a person dissatisfied with a determination of a Minister under section 36ZE may apply to the State Administrative Tribunal for a Review

359. Section 36ZG repealed

Subsection 36ZG (1) concerns the referral of an objection to the Land Valuation Tribunal as an appeal. As the State Administrative Tribunal is to assume the jurisdiction of the Land Valuation Tribunal Section 36ZG (1) is no longer relevant and is therefore being repealed.

Subsection 36ZG (2) provides a definition for the Land Valuation Tribunal. As the State Administrative Tribunal is to assume the jurisdiction of the Land Valuation Tribunal Section 36ZG (2) is no longer relevant and is therefore being repealed.

360. Section 36ZH amended

Subsection 36ZH (1) (a) and (b) - concerns the liability to pay a levy pending a determination of an objection or appeal. As the ability to apply directly to the State Administrative Tribunal for a review of determinations under section 36G(5) the term “or appeal” has been deleted.

Subsection 36ZH (2) concerns an objection referred to in Section 36ZH (1) resulting in an amendment of the valuation of land. As the ability to apply directly to the State Administrative Tribunal for a review of determinations under section 36G(5), the term “or appeal” has been deleted and replaced by “or a review by the State Administrative Tribunal”.

Division 49 — *Fire Brigades Act 1942*

361. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Fire Brigades Act 1942*.

362. Section 25A amended

Subsection 25(4)(a) provides that a person aggrieved by a direction of the Fire and Emergency Services Authority of Western Australia concerning the installation of appliances may appeal to a Supreme Court Judge or a court of petty sessions within 21 days of receipt of the direction. As the State Administrative Tribunal is to assume jurisdiction over matters previously appealed under Section 25 the section is amended by providing that the aggrieved person may apply to the State Administrative Tribunal for a review of the direction.

Subsection 25(4)(b) Concerns the decisions that a Judge of the Supreme Court or stipendiary magistrate may make on the hearing of an appeal. As the State Administrative Tribunal is to assume jurisdiction under Sections 25(4)(a), Section 25(4)(b) are repealed. Matters relating to determinations able to be made by the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Subsection 25(4)(c) provides that a court of petty sessions hearing an appeal under subsection 25(4)(a) shall consist of a stipendiary magistrate. As the State Administrative Tribunal is to assume jurisdiction under Section 25(4)(a), Subsection 25(4)(c) is repealed. Provisions relating to the constitution of the State Administrative Tribunal to hear reviews are contained in the *State Administrative Tribunal Bill 2003*.

Subsection 25(4)(d) provides that costs of a hearing shall be at the discretion of the Court. As the State Administrative Tribunal is to assume jurisdiction under Subsection 25(4)(a), Subsection 25(4)(d) is repealed. Provisions relating to costs for matters determined by the State Administrative Tribunal to be contained in the *State Administrative Tribunal Bill 2003*.

363. Section 33 amended

Subsection 33(e)(ii) - provides that the owner or occupier of premises aggrieved by a direction or order contained in a requisition issued under Subsection 33(e)(i) by the Director or any officer authorised by the Authority may within 7 days of receipt of the requisition appeal to a magistrate sitting as a court of petty sessions. As the State Administrative Tribunal is to assume jurisdiction over Subsection 33(e)(ii) the Section is amended to read that aggrieved persons may apply to the State Administrative Tribunal for a review of the requisition. The subsection is further amended to reflect that no proceedings are to be instituted against an aggrieved person pending the application or 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 to confer jurisdiction on the State Administrative Tribunal are being made to the *Firearms Act 1973*.

365. Section 22 amended

Section 22 of the *Firearms Act 1973* provides that a person who is aggrieved by a decision made by the Commissioner of Police can lodge an appeal against this decision. Such appeals are dealt with by either a magistrate or by a Firearms Appeals Tribunal established under the Act.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to a magistrate or a Firearms Appeals Tribunal under section 22 of the *Firearms Act 1973*. Therefore, section 22(2) of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal. Other amendments to section 22 are proposed as a consequence of the amendment to subsection 22(2).

366. Section 34 amended

Section 34 of the *Firearms Act 1973* enables the Governor in Executive Council to make regulations necessary for the Act. Under subsection 34(2)(c) regulations can be made concerning the manner and conduct of appeals under the Act.

With the State Administrative Tribunal assuming jurisdiction over matters that previously were referred to a magistrate or a Firearms Appeals Tribunals under section 22 of the Act, the regulation making power under section 34(2)(c) of the Act is no longer relevant and is therefore being repealed.

367. Schedule 3 repealed

Schedule 3 of the *Firearms Act 1973* deals with the constitution, powers and proceedings of Firearms Appeals Tribunals established under the Act. With the State Administrative Tribunal assuming jurisdiction over matters that previously were referred to Firearms Appeals Tribunals under section 22 of the Act, Schedule 3 of the Act is no longer relevant and is therefore being repealed.

Division 51 — *First Home Owner Grant Act 2000*

368. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *First Home Owner Grant Act 2000*.

369. Section 3 amended

A definition of application is inserted in the Act for clarification purposes.

370. Part 2 Division 6 heading amended

The heading to Part 2 Division 6 is amended to refer to review rather than appeal.

371. Part 2 Division 6 Subdivision 3 heading amended

The heading to Part 2 Division 6 Subdivision 3 is amended to refer to review rather than appeal.

372. Section 31 amended

Section 31 of the *First Home Owner Grant Act 2000* provides that a person who is aggrieved by a decision made by the Commissioner of State Revenue can lodge an appeal against this decision. Such appeals are dealt with in the Local Court.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Local Court under section 31 of the *First Home Owner Grant Act 2000*. Therefore, section 31(1) of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal. Other amendments to section 31 are proposed as a consequence of the amendment to subsection 31(1).

373. Section 32 amended

Section 32 of the *First Home Owner Grant Act 2000* deals with the hearing and determination of appeals currently conducted in the Local Court under section 31 of the Act. With the State Administrative Tribunal assuming jurisdiction over matters that previously were referred to the Local Court under section 31 of the Act, subsection 32(1)-(3) of the Act are to be repealed. The provisions under subsection 32(4) dealing with orders of the Local Court and their affect on the rate of interest payable, are to be amended to reference the making of orders by the State Administrative Tribunal.

374. Part 2 Division 6 Subdivision 4 heading deleted

The heading to Part 2 Division 6 Subdivision 4 is to be deleted as the only section in this Subdivisions, section 33, is proposed to be repealed.

375. Section 33 repealed

Section 33 of the *First Home Owner Grant Act 2000* enables to Commissioner of State Revenue to still act upon decisions he has made, pending the outcome of an appeal to the Local Court. Section 33 of the Act is to be repealed as the *State Administrative Tribunal Act 2003* contains provisions dealing with the effect of an original decision, pending its determination by the State Administrative Tribunal [see cl.25 *State Administrative Tribunal Bill 2003*].

Division 52 — *Fish Resources Management Act 1994*

376. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Fish Resources Management Act 1994*.

377. Section 4 amended

The definition of tribunal is repealed, as it is proposed to confer jurisdiction for objections determined by a tribunal established by the Minister under subsection 152 to the State Administrative Tribunal (SAT).

378. Part 14 and Part 14 Division 1 headings replaced

The headings to Part 14 and Part 14 Division 1 are amended to refer to review of decisions.

379. Section 146 amended

Authorisation is defined in section 4 to mean a licence or permit.

In this section, “affected person” in relation to s147 of the *Fish Resources Management Act 1994* means a person who makes application to the Executive Director of the Department of Fisheries for a licence or permit and whose application is subsequently refused, or a person who already holds a licence or permit and who lodges an application with the Executive Director and the Executive Director decides to:

- Vary any conditions or add new conditions to an existing authorization;
- Cancel, suspend or refuse to renew an existing authorization;
- Refuse to vary an existing authorization after a person has applied for the variation; or
- Refuse to transfer an authorization, or to transfer part of an entitlement under an authorization, after a person has applied for a transfer.

In this section, “affected person” in relation to s148 of the Act, means a person who holds a fish processor’s licence or an aquaculture licence and whose interests are likely to be significantly effected by the Executive Director of the Department of Fisheries’ decision under subsections 148(1)(a) to (c) to either grant another fish processor’s or aquaculture licence or to vary or to transfer an existing licence.

It is proposed to confer jurisdiction for an “affected person’s” right of objection from the tribunal established by the Minister under s152 to SAT. As a consequence of this conferral of jurisdiction actually effected in s149, it is proposed to change all references to “proposal” in this section and insert instead “decision”.

380. Section 147 amended

Section 147 provides the Executive Director of the Department of Fisheries must give notice in writing to each person of their proposed decision giving an affected person the opportunity to object to the proposal. Subsection 147(2) provides the notice must give details of the proposed decision and reasons for it and allow 21 days for objections to be made pursuant to s149 of the Act.

It is proposed to confer jurisdiction from the Executive Director of the Department of Fisheries to the Executive Director of SAT for notification of persons of SAT’s decision. Therefore, amendment is proposed to ss147(g) to change the wording from a right for an affected person to make an objection to a right to make application for a review of the decision. A similar wording change is also proposed for ss147(2).

381. Section 148 amended

Section 148 currently provides before the Executive Director of the Department of Fisheries grants, varies or transfers a fish processor's licence or an aquaculture licence, the Executive Director of the Department of Fisheries must cause notice of the proposal to be published in a newspaper or a fishing magazine circulated generally within the State and allow affected persons the opportunity to object to the proposal. Subsection 148(2) provides such a notice must give details of the proposal and state that within 21 days of the notice being published an affected person may object to the proposal under s149 of the Act.

It is proposed to confer jurisdiction from the Executive Director of the Department of Fisheries to the Executive Director of SAT for notification of persons of SAT's decision. Therefore, amendment is proposed to ss148(e) to change the wording from a right for an affected person to make an objection to a right to make application for a review of the decision. A similar wording change is also proposed for ss148(2).

382. Section 149 amended

Subsection 149(1) currently provides an affected person may within 21 days after being given notice of a proposal under ss147(1) or ss148(1) object to the proposal. This section provides an objection is made by giving to the Executive Director of the Department of Fisheries notice in writing setting out the grounds of the objection. Subsection 149(4) requires the Executive Director of the Department of Fisheries to refer any objection to the Minister.

It is proposed to confer jurisdiction for these objections from the tribunal established by the Minister under s152 to SAT. Therefore, it is proposed to amend ss149(1) to insert "apply to the State Administrative Tribunal for a review of a decision referred to in ss147(1) or ss148(1)". It is also proposed to amend ss149(3) deleting references to the current objections mechanism and inserting instead appropriate references to the State Administrative Tribunal. As a consequence, ss149(2) and ss149(4) will be repealed.

383. Section 150 amended

The existing subsection 150 provides if a person applies for a renewal of an authorisation and the Executive Director of the Department of Fisheries proposes not to renew the authorization and the affected person has objected to this proposal in accordance with s149 of the Act, then the authorization continues in force until the objection is dealt with.

It is proposed to confer jurisdiction to SAT for determination of such objections and therefore it is proposed to amend s150 to reflect this by deleting the reference to "objected to the proposal in accordance with..." and replacing it with "applied under s149 for a review of the decision...of the Executive Director of SAT".

384. Section 151 and 152 replaced

The existing subsection 151 provides that where the Executive Director of the Department of Fisheries does not receive any objections under s149 within the time allowed for the making of such an objection, then the Executive Director may give effect to the proposal. Subsection 151(2) provides this decision is final. Subsection 151(3) provides notice must be given by the Executive Director to each person. Subsection 151(4) provides notice of the decision under s148(1) must be published in the same manner as notice of the proposal.

It is proposed to confer this obligation to notify persons under this subsection from the Executive Director of the Department of Fisheries to the Executive Director of SAT. Therefore, it is proposed to repeal subsections 151(1) and 151(2) and amend 151(3) and 151(4) to provide for the new mechanism.

The existing subsection 152 provides that the Minister upon receipt of an objection is to establish a tribunal to hear and determine the matter. Subsection 152(3) provides a decision of the tribunal is final and must be given effect to by the Executive Director of Fisheries.

It is proposed to confer jurisdiction for these objections from the tribunal established by the Minister under this subsection to SAT. Therefore, the existing subsections 152(1) to 152(3) are repealed. Subsection 152(4) and a52(5) are amended to provide the State Administrative Tribunal with the powers that previously were exercised by the tribunal established by the Minister.

385. Section 153 to 162 repealed

Sections:

- 153 Hearings;
- 154 Proceedings at hearing;
- 155 Case stated;
- 156 Costs;
- 157 Tribunal may dismiss frivolous or vexatious objections;
- 158 Powers of tribunal;
- 159 Offences;
- 160 Remuneration of tribunal members;
- 161 Staff of tribunals; and
- 162 Regulations relating to tribunals,

are to be repealed as the generic provisions contained in the *State Administrative Tribunal Bill 2003* for hearing and determining appeals, provision of tribunal member's and other administrative arrangements cover these areas.

386. Section 238 amended

The existing subsection 238 provides for retention of the Fisheries Research and Development Fund kept at Treasury pursuant to s9 of the *Financial Administration and Audit Act 1985* and administered by the Minister. The Trust Fund is credited with fees and charges paid for licences and permits and aquaculture leases etc... and may be used by the Minister to meet expenses related to research, exploration and development, to defray costs of administration and management of commercial fisheries and other purposes.

As part of the conferral of jurisdiction to SAT, it is proposed to retain this Trust Fund to deposit fees and charges paid under s238 of the Act. However, it is proposed to amend subsection 238(4)(a)(v) to include fees and charges paid under Part 14 of the Act, except fees and charges paid for the making of an application to the State Administrative Tribunal for a review. As a consequence of the conferral of jurisdiction, it is also proposed to amend subsection 238(4)(d).

387. Section 244 amended

The existing subsection 244 provides a protection for offices of the Crown from prosecution for errors or omissions made in good faith during the performance of their public functions or powers.

It is proposed to repeal subsection 244 (1)(g) regarding protection from liability for a member of a tribunal as protection will now be provided by subsection 160(1) of the *State Administrative Tribunal Act 2003*.

388. Section 250 amended

The existing confidentiality provisions provide that it is an offence to directly or indirectly divulge confidential information obtained in the course of performing one's duties as a public officer. Exceptions to this rule are provided in subsections 250(3) and 250(4).

As a consequence of conferring jurisdiction to SAT, it is proposed to amend subsection 250(3)(b) to extend the exception to include divulging of information under "the *State Administrative Tribunal Act 2003*".

389. Section 255 amended

The existing subsection 255 provides that the Minister for Forestry and Fisheries may issue a notice prohibiting a person from activity likely to pollute an aquatic environment. A person who contravenes such a notice is liable to a fine of \$25,000 and in the case of a body corporate \$50,000.00. Currently, subsection 255(5) provides a person aggrieved by a notice may appeal to the Minister for the Environment.

It is proposed to confer jurisdiction for this right of appeal from the Minister for the Environment to the State Administrative Tribunal. Therefore, this conferral is effected by amending subsection 255(5) by deleting references to "appeal...Minister for Environment" and inserting instead "apply to the State Administrative Tribunal for a review of". As a consequence of this conferral, it is proposed to repeal the existing subsections 255(6) to 255(8).

390. Section 258 amended

This section contains a regulation making power for miscellaneous matters (other than licensing and general matters). Subsection 258(zc) currently provides regulations may prescribe fees and charges payable in respect of applications made under the Act.

Consistent with the amendment proposed to s238 above, it is proposed to amend the regulation making power contained subsection 258(zc), so it specifically excludes the power to make regulations covering fees and charges incurred in making applications to the State Administrative Tribunal for a review.

Division 53 — *Fisheries Adjustment Schemes Act 1987*

391. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Fisheries Adjustment Schemes Act 1987*.

392. Section 3 amended

Currently, this section of the Act specifies definitions of “member” and “Tribunal” in relation to the Fisheries Adjustment Compensation Tribunal. As it is proposed to repeal subsection Part 4, 14(O) which establishes the Fisheries Adjustment Compensation Tribunal, and for the State Administrative Tribunal to assume responsibility of this original decision making function, it is consequently proposed that the definitions of “member” and “Tribunal” are repealed.

393. Section 14J amended

This section of the Act currently specifies that an affected person or the Minister may apply to the Tribunal to determine the amount of compensation payable to the person if an agreement relating to the amount of compensation payable to the person has not been entered into and that an application to the Tribunal may be made at any time after the expiration of the period specified in that subsection. As discussed in Part 4, Division 2, the State Administrative Tribunal is proposed to assume responsibility of the original decision making function of the Tribunal. Consequently, it is proposed that the “Tribunal” in subsection 14(J) parts 1 and 2 is replaced with “State Administrative Tribunal”.

394. Section 14L amended

This section of the Act currently specifies that an affected person may apply to the Tribunal to review the amount of compensation payable to the person if the person is aggrieved by the amount of compensation determined by the Minister, and that an application to the Tribunal under must be made within 28 days after notice is given. As discussed in Part 4, Division 2, the State Administrative Tribunal is proposed to assume responsibility of the original decision making function of the Tribunal. Accordingly, it is proposed that 14 (L) 1 is modified such that affected parties apply to SAT rather than the Tribunal. Further, it is proposed that 14 (L) 2, regarding the length of time in which an application to the Tribunal must be made, is repealed.

395. Section 14M amended

The Act currently specifies that the Minister may enter into an agreement with an affected person as to the amount of compensation payable to the person notwithstanding that proceedings have been instituted before the Tribunal. As with Division 14 (L) it is proposed that “Tribunal” be replaced with “State Administrative Tribunal” in subsection 14 (M).

396. Section 14N amended

This section of the Act currently specifies that if the Minister and an affected person have entered into an agreement as to the amount of compensation payable to the person, and the person has not applied to Tribunal for a review of that amount, or the Tribunal has determined the amount of compensation payable to an affected person, the Minister is to pay the amount of compensation to the person and is to reduce the person’s entitlement or, to cancel the person’s authorisation in accordance with the scheme. Again, as discussed in Part 4, Division 2, the State Administrative Tribunal is proposed to assume responsibility of the original decision making function of the Tribunal. It is therefore proposed that, to reflect this amendment, “Tribunal” is replaced with “State Administrative Tribunal” in this section.

397. Part 4 Division 2 repealed

It is proposed to repeal section 14(O) which establishes the Fisheries Adjustment Compensation Tribunal under Part 4 of the *Fisheries Adjustment Schemes Act 1987* and for the State Administrative Tribunal to assume responsibility of this original decision making function. Therefore, as a consequence it is also proposed to repeal sections:

- 14P. Term of office of members
- 14Q. Acting members
- 14R. Remuneration of members
- 14S. Jurisdiction of Tribunal
- 14T. Proceedings of Tribunal
- 14U. Parties to proceedings
- 14V. Case stated
- 14W. Costs
- 14X. Powers of Tribunal
- 14Y. Offences
- 14Z. Decision of Tribunal final
- 14ZA. Protection of members
- 14ZB. Staff of Tribunal
- 14ZC. Regulations relating to Tribunal

398. Section 15B amended

This section of the Act currently specifies the functions of the Minister with reference to delegation. As the functions specified include those proposed to be repealed, as discussed in Part 4, Division 2, it is proposed that references to these functions are removed accordingly.

Division 54 — *Fishing and Related Industries Compensation (Marine Reserves) Act 1997*

399. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Fishing and Related Industries Compensation (Marine Reserves) Act 1997*.

400. Section 3 amended

The definition of tribunal is to be repealed, as it is proposed to confer jurisdiction for applications determined by a tribunal under subsection 8 to the State Administrative Tribunal.

401. Section 8 amended

The existing section 8 specifies that the Minister is to advise the person in writing as to whether or not the Minister considers that the person is entitled to compensation under this Act. The section specifies that if a person receives advice from the Minister that the Minister does not consider that the person is entitled to compensation under this Act; or does not receive advice from the Minister within the period specified, the person may apply to the Tribunal to determine whether or not the person is entitled to compensation under this Act and, if so, the amount of the compensation payable to the person.

It is proposed to confer jurisdiction for these applications for determination from the tribunal under section 8 to the State Administrative Tribunal. Therefore, the existing subsection 2(a) is repealed. Subsections 8(1) and (3) are amended to provide the State Administrative Tribunal with the powers that previously were exercised by the tribunal established by the Minister.

402. Section 9 amended

The existing section 9 specifies that if the Minister advises that the person is entitled to compensation under the Act, the Minister is to conduct negotiations with the person with a view to settling the amount of compensation payable to the person. It is proposed that, as discussed in section 8 and as a direct consequence of this amendment, subsection 9(1) is modified such that the Minister, or the State Administrative Tribunal, can determine that a person is entitled to such compensation.

403. Section 10 amended

Section 10 currently provides that, in the event that an agreement relating to the amount of compensation payable to the person has not been entered into, an affected person or the Minister may apply to the Tribunal. It is proposed that, as discussed in section 3 and as a direct consequence of this amendment, subsection 10(1) is modified such that in this event an affected person or the Minister applies to the State Administrative Tribunal. Consequently subsection 10(2) is modified such that “Tribunal” is replaced with “State Administrative Tribunal”. Further, section 10, as with section 9, does not reflect that the State Administrative Tribunal may determine a person’s entitlement to compensation. As discussed in section 9 it is proposed that the Minister or the State Administrative Tribunal may determine entitlements, and subsection 10(1) is modified accordingly.

404. Section 11 amended

Section 11 currently specifies that the Minister may enter into an agreement with an affected person as to the amount of compensation payable to the person, even though proceedings have been instituted before the Tribunal. As discussed in subsection 10, proceedings will now have been instituted before the State Administrative Tribunal rather than the Tribunal. Therefore it is proposed that “Tribunal” in section 11 is replaced with “State Administrative Tribunal”.

405. Section 12 amended

In subsection 12(1)(b) the reference to “Tribunal” is amended to instead refer to “State Administrative Tribunal”.

Division 55 — *Gas Standards Act 1972*

406. *Gas Standards Act 1972* amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Gas Standards Act 1972*.

407. Section 13A amended

Subsection 13A(3) of the *Gas Standards Act 1972* provides regulations made under the Act may make provisions relating to gasfitting works and workers. Subsection 13A(3d) is proposed to be amended to delete reference to regulations that may make provisions in relation to the disciplinary matters. Subsection 13A(3e) is proposed to be amended to delete references to the delegation of powers in the name of the Director in relation to disciplinary matters. Subsection 13A(3f) is proposed to be amended to delete references to hearing of inquiries and disciplinary matters. These amendments are consequences of the State Administrative Tribunal assuming jurisdiction over disciplinary matters.

Subsection 13A(11) of the *Gas Standards Act 1972* is proposed to be amended so as to provide that the Director may allege to the State Administrative Tribunal that there is proper cause for disciplinary action. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, references to the Director holding an inquiry in relation to disqualification or suspension of certificate of competency in subsection 13A(11) will be repealed.

Subsection 13A(12) of the *Gas Standards Act 1972* deals with matters where a Director calls for any person to return his certificate, permit or authorisation. It is proposed that subsection 13A(12) will now deal with matters for the purposes of investigating or dealing with a person referred to subsection 13A(11), subsections 13A(12a) and 13A(12b) is no longer relevant and therefore being repealed. Subsection 13A(12c) is proposed to be amended to delete references to an inquiry when a summons in the prescribed form will require attendance before the Director of the holder. It is proposed the subsection 13A(12c) is to be amended to delete references to the requirement a person to show cause and is therefore being repealed. Subsection 13A(12c) is proposed to be amended to delete reference to a person appearing before the Director to give evidence instead to make reference to attending before the State Administrative Tribunal Director to give evidence. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is therefore proposed that subsection 13A(12c) is to be amended to instead make reference to State Administrative Tribunal.

Subsection 13A(14) of the *Gas Standards Act 1972* is proposed to be amended to delete references to a witness attending an inquiry, instead to make reference to a witness attending proceedings before the Director.

Subsection 13A(15) of the *Gas Standards Act 1972* is proposed to be amended to delete references to an inquiry, instead to make reference to proceedings before the Director. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is therefore proposed that subsection 13A(15) is to be amended to delete references to the Judge, instead to make references to State Administrative Tribunal.

Subsection 13A(16) of the *Gas Standards Act 1972* deals with matters as the result of an inquiry. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is therefore proposed that subsection 13A(16) is to be amended to delete references to an inquiry, instead to make reference to State Administrative Tribunal to deal with matters of an allegation against a person.

Subsection 13A(17) of the *Gas Standards Act 1972* deals with matters in terms of costs and expenses of or incidental to the proceedings. This subsection contains a cross reference to subsection 13A(16) relating to penalties. As the State Administrative Tribunal will now assume jurisdiction over matters of an allegation against a person, it is therefore proposed that subsection 13A(17) to be amended to insert a cross reference to subsection 13A(11) that deals with disciplinary matters.

Subsection 13A(19) of the *Gas Standards Act 1972* is proposed to be amended to outline the Director may, by notice in writing, revoke an order for suspension made by the Director.

408. Section 13B amended

Section 13B of the *Gas Standards Act 1972* outlines that where a person who is aggrieved may appeal to the Minister against decisions relating to a certificate of competency, permit or authorisation. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Minister, it is therefore proposed that subsection 13B of the Act is to be amended to reference the State Administrative Tribunal rather than the Minister. Subsections 13B(2), 13B(3), 13B(4), 13B(5), 13B(6), 13B(7) and 13B(8) are no longer relevant and are therefore being repealed. Matters in relation appeals against decisions of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*. Definitions of ‘aggrieved person’ and ‘reviewable decision’ are proposed to be inserted for ease of understanding.

409. Section 13C replaced by sections 13C and 13CA

Section 13C of the *Gas Standards Act 1972* outlines, the appointment, requirements and power of an arbitrator by the Minister. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Minister, it is therefore proposed that subsection 13C of the Act is to be amended to delete references to the Minister. Subsections 13C(1), 13C(2), 13C(3), and 13C(4) are no longer relevant and are therefore being repealed. Therefore, it is proposed that subsection 13C of the Act is to be amended to delete references to arbitrator, instead to reference to surrender of licence.

Division 56 — *Gender Reassignment Act 2000*

401. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Gender Reassignment Act 2000*.

411. Section 17 amended

Section 17 of the *Gender Reassignment Act 2000* provides that a person cannot give a recognition certificate to the Registrar of Births Deaths and Marriages if an appeal has been lodged. The provisions of the Act dealing with appeals [section 21] are being amended to instead refer to applications for review to the State Administrative Tribunal. Therefore, section 17(2) of the *Gender Reassignment Act 2000* is being amended as a consequence of the amendments to section 21 of the Act.

412. Section 21 amended

Section 21 of the *Gender Reassignment Act 2000* provides that a person who is aggrieved by a decision made by the Gender Reassignment Board can lodge an appeal against this decision. Such appeals are dealt with in the Supreme Court.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Supreme Court under section 21 of the *Gender Reassignment Act 2000*. Therefore, section 21(1) of the Act is to be amended to enable an aggrieved person to be able to seek a review of decisions through the State Administrative Tribunal. Other amendments to section 21 are proposed as a consequence of the amendment to subsection 21(1).

Division 57 — Guardianship and Administration Act 1990
Subdivision 1 — Amendments to the Act

413. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Guardianship and Administration Act 1990*.

414. Long title amended

The long title of the *Guardianship and Administration Act 1990* is amended to reference the conferral of jurisdiction on the State Administrative Tribunal.

415. Section 3 amended

The existing definition of “application” is to be amended by deleting “Board” and inserting “State Administrative Tribunal” as applications are now to be made to the State Administrative Tribunal.

The existing definitions of “approved” and “Board” are to be deleted as jurisdiction will be conferred on the State Administrative Tribunal.

The existing definition of “Deputy President” is to be amended to mean a Deputy President of the State Administrative Tribunal.

The existing definition of “Determination” is to be amended by deleting “Board” and inserting “State Administrative Tribunal” so that a determination relates to the State Administrative Tribunal. The interpretation of “determination” provided by (i) and (j) to mean a decision under section 15A and 17C respectively, are to be deleted as both section 15A and 17C are to be repealed.

The definition of “date of the determination” is to be deleted as clause 4(2) of Part B of Schedule 1 has been repealed.

The existing definition of “executive officer” is to be amended to provide the meaning given to that term by the *State Administrative Tribunal Bill 2003*.

The definition of “Full Board” is to be deleted as jurisdiction is to be conferred on the State Administrative Tribunal.

A definition of “Full Tribunal” is to be inserted to mean a full tribunal of the State Administrative Tribunal consisting of either the President or the Deputy President and 2 other members.

The existing definition of “member” is to be amended to mean a member of the State Administrative Tribunal.

The existing definition of “President” is to be amended to mean the “President” of the State Administrative Tribunal.

416. Section 4 amended

Section 4 outlines the principles that shall be observed by the Board in the performance of its functions. Section 4 is to be amended by deleting any reference to “Board” and replacing it with the “State Administrative Tribunal” as the State Administrative Tribunal, in dealing with proceedings under the *Guardianship and Administration Act 1990*, is to observe the principles set out in subsection 4(2).

417. Part 3 and Part 3 Division 1 headings replaced

Part 3 of the *Guardianship and Administration Act 1990* establishes the Guardianship and Administration Board. This Part is to be repealed as jurisdiction will be conferred on the State Administrative Tribunal. A new Part 3 – “The State Administrative Tribunal” will be inserted as the State Administrative Tribunal is to assume responsibility of this original decision making function.

418. Section 5 replaced

A new section 5 is to be inserted to provide that for the purposes of exercising jurisdiction conferred by or under the *Guardianship and Administration Act 1990*, the State Administrative Tribunal must always be constituted by either one or 3 members.

419. Sections 6 to 12 repealed

Sections 6, 6A, 6B, 7, 8, 9, 10, 11 and 12 which deal with the constitution etc of the Guardianship and Administration Board are repealed. The State Administrative Tribunal is assuming jurisdiction over matters previously dealt with by the Board. Matters related to the constitution etc of the Tribunal are covered in the *State Administrative Tribunal Bill 2003*.

420. Part 3 Division 2 heading deleted

The heading to Part 3 Division 2 is deleted as a consequence of the State Administrative Tribunal assuming jurisdiction over matters previously dealt with by the Board.

421. Section 13 amended

Section 13 outlines the functions of the Guardianship and Administration Board. Section 13 is to be amended to provide for the jurisdiction of the State Administrative Tribunal under the *Guardianship and Administration Act 1990*. Under the amended section 13, the State Administrative Tribunal will have jurisdiction to perform a variety of functions. However, section 13(f) will only provide the State Administrative Tribunal with certain jurisdiction in relation to powers of attorney that operate after the donor has ceased to have legal capacity. In addition, under section 13(g) the State Administrative Tribunal will have any other jurisdiction vested in it by the *Guardianship and Administration Act 1990* or any other Act in relation to matters of guardianship and administration.

422. Sections 14, to 15A repealed

Section 14A is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 15 is to be repealed as the powers available to the State Administrative Tribunal and the procedures concerning evidence are contained in the *State Administrative Tribunal Bill 2003*.

Section 15A is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

423. Section 16 amended

Section 16 deals with the costs of proceedings. Subsections 16(2) and (4) are to be amended by deleting Board and replacing it with State Administrative Tribunal. Subsections 16(3) and (5) are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*. A new subsection 16(6) is to be inserted to provide that nothing in section 16 limits any other power of the State Administrative Tribunal under the *State Administrative Tribunal Bill 2003*.

424. Section 17 amended

Section 17 is to be amended by deleting any reference to “Board” and replacing it with the “State Administrative Tribunal”. A new subsection 17(2) is to be inserted to provide that the provisions of Part B of Schedule 1 operate in addition to the provisions of the *State Administrative Tribunal Act 2003*.

425. Section 17A amended

Section 17A is to be amended by deleting any references to the “Board” and replacing it with the “State Administrative Tribunal.”

426. Section 17B amended

Section 17B states that the Executive Officer shall provide notice of a hearing in writing to the people listed in subsections 17B(1)(a)-(g), at least 7 days before the day on which a review commenced under Division 2A is to be heard. Subsection 17B(2) is to be amended to include references to the relevant sections of the *State Administrative Tribunal Bill 2003*. Also, subsection 17B(2)(ii), which provides that a notice given to an applicant or the represented person is to include a summary of the authority conferred on the Board by section 17C, is to be repealed, consistent with the repealing of section 17C. Furthermore, section 17B is to be amended by deleting the reference to the “Board” and replacing it with the “State Administrative Tribunal”.

427. Sections 17C and 17D repealed

Section 17C is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 17D is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

428. Section 19 amended

Section 19 is to be amended by deleting any reference to “Board” and replacing it with the “State Administrative Tribunal”.

429. Section 33 amended

The reference to the Board is to be deleted.

430. Part 3 Division 4 repealed

Division 4 is to be repealed as the powers available to the State Administrative Tribunal are contained in *State Administrative Tribunal Bill 2003*.

431. Section 40 amended

Section 40 is to be amended by deleting the reference to “Board” and replacing it with the “State Administrative Tribunal”. In addition, subsection 40(2) will be repealed as the powers available to Section 19 is to be amended by deleting any reference to “Board” and replacing it with the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

432. Section 41 amended

Subsection 41(2) will be amended to include references to the relevant sections of the *State Administrative Tribunal Bill 2003*. Also, any reference to the Board in section 41 is to be deleted and replaced with the State Administrative Tribunal.

433. Section 42 repealed

Section 42 provides that a person who has made an application under section 20 may, at any time prior to the determination of the application by the Board, withdraw the application. Section 42 is to be repealed as section 39 has been repealed.

434. Section 55 amended

Section 55 is to be amended by deleting the reference to Board and replacing it with the Public Advocate.

435. Section 56A amended

Section 56A is amended to delete reference to section 6B as this section is to be repealed. The correct reference is now to section 5 of the Act.

436. Section 59 amended

Section 59 is to be amended by deleting the reference to Board and replacing it with the State Administrative Tribunal. Subsection 59(2) is to be repealed.

437. Section 60 amended

Subsection 60(2) is to be amended to include references to the relevant sections of the *State Administrative Tribunal Bill 2003*. Also, any reference to the Board in section 60 is to be deleted and replaced with the State Administrative Tribunal.

438. Section 61 repealed

Section 61 is to be repealed as the powers of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

439. Section 80 amended

Section 80 is to be amended by deleting any reference to “Board” and replacing it with the “Public Trustee”. Subsection 80(1) currently provides that an administrator shall submit accounts to the Public Trustee as required by, or prescribed by the rules made by the Board. Since jurisdiction is to be conferred on the State Administrative Tribunal, subsection 80(1) is to be amended to provide an administrator shall submit accounts to the Public Trustee as required by, or prescribed by the regulations.

440. Section 82 amended

Section 82 is to be amended by deleting any reference to the “Supreme Court” and replacing it with “State Administrative Tribunal”.

441. Section 85 amended

Section 85 is to be amended by deleting the reference to “Board” and replacing it with “State Administrative Tribunal”. Subsection 85(3)(a) and (b) are to be repealed and a new subsection 85(4) inserted to provide that the Public Advocate shall ensure that an application for review is made as soon as practicable after the date of death when a joint guardian or administrator dies or an alternate guardian becomes the guardian under section 55 on the death of the original guardian.

442. Section 86 amended

The Board currently may of its own motion or on the application of a represented person or a guardian or an administrator, or a person to whom leave has been granted under section 87, review a guardianship order or an administration order. Section 86 is to be amended so that the Public Advocate may also make an application for review of a guardianship order or an administration order. Therefore, section 86 is to provide the State Administrative Tribunal may at any time on the application of the Public Advocate, a represented person or a guardian or an administrator, or a person to whom leave has been granted under section 87, review a guardianship order or an administration order.

443. Section 87 amended

Section 87 is to be amended by deleting any references to “Board” and replacing them with “State Administrative Tribunal”. Subsections 87(2) and (3) are to be repealed.

444. Section 88 amended

Section 88 is to be amended to provide that an application for review, if made by a person to whom leave has been granted under section 87, shall be made in accordance with the leave.

445. Section 89 amended

Subsection 89(2)(i) is to be amended to include references to the relevant sections of the *State Administrative Tribunal Bill 2003*. Also, any reference to the Board in section 89 is to be deleted and replaced with the State Administrative Tribunal.

446. Section 90 amended

The reference to the Board in section 90 is to be deleted and replaced with the State Administrative Tribunal. In addition, a new subsection 90(2) is to be inserted to provide that a review under Part 7 is in the State Administrative Tribunal’s original jurisdiction.

447. Section 97 amended

Section 95 is to be amended by deleting any references to the “Board” and replacing them with the “State Administrative Tribunal”. Also, the reference to section 40 in subsection 97(1)(a) is to be deleted. Instead, section 97(1)(a) is to provide that the functions of the Public Advocate are to make applications under this Act, rather than just section 40.

448. Section 104A amended

Section 104A is amended to delete reference to section 42 of the Act as section 42 is proposed to be repealed.

449. Section 106 amended

Section 106 is amended to delete reference to section 42 of the Act as section 42 is proposed to be repealed.

450. Section 108 amended

Section 108(1)(b) is to be amended by deleting reference to the “board” and replacing it with the “State Administrative Tribunal”.

451. Section 111 amended

Section 111 is to be amended by deleting any references to the “Board” and replacing them with the “State Administrative Tribunal”. In addition, a reference to the Public Advocate is to be inserted into subsection 111(5).

452. Section 112 amended

Section 112 is to be amended by deleting any references to the “Board” and replacing them with the “State Administrative Tribunal”.

453. Section 113 amended

Section 113 provides that no person performing any function under the *Guardianship and Administration Act 1990*, shall divulge any person information obtained in the course of duty relating to a represent person or person in respect of whom an application is made, other than information they are authorised or required to divulge. A new subsection 113(3) is to be inserted to provide that the provisions of section 113 are in addition to, and do no derogate from, the provisions of the *State Administrative Tribunal Act 2003* relating to the disclosure of information and documents. One of the provisions of the *State Administrative Act 2003* that relates to the disclosure of information is section 154 – Secrecy.

454. Section 114 amended

Section 112 is to be amended by deleting any references to the “Board” and replacing them with the “State Administrative Tribunal”. Subsections 114(2) and (3) are to be repealed as similar provisions are provided for in the *State Administrative Tribunal Bill 2003*.

455. Section 116 repealed

Section 116 is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

456. Section 117 repealed

Subsection 117(3)(b) is to amended to include references to the relevant sections of the *State Administrative Tribunal Bill 2003*. Also, any reference to the Board in section 117 is to be deleted and replaced with the State Administrative Tribunal.

457. Section 120 amended

Section 120 provides that the Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act. Subsection 120(2) is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

458. Sections 121 to 123 repealed

Section 121 is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 122 is to be repealed, consisted with the repealing of Part 3 which established the Guardianship and Administration Board. Instead, jurisdiction has been conferred on the State Administrative Tribunal.

459. Schedule 1 amended

Sections 1-10 of Part B of Schedule 1 are to be repealed as similar provisions are provided for in the *State Administrative Tribunal Bill 2003*.

Section 11 of Part B of Schedule 1 currently provides for open hearings. This section is to be amended to provide that the State Administrative Tribunal may determine when proceedings under this Act are to be closed to the Public. Furthermore, any references to the “Board” are to be deleted and replaced with the “State Administrative Tribunal”.

Section 12 of Part B of Schedule 1 is to be amended by deleting any reference to the “Board” and replacing it with the “State Administrative Tribunal”.

Section 13 of Part B of Schedule 1 is to be amended by deleting any reference to the “Board” and replacing it with the “State Administrative Tribunal”. In addition, subsection 13(3) is to be repealed as similar provisions are contained in the *State Administrative Tribunal Bill 2003*.

460. Schedule 3 amended

Schedule 3 is amended to delete reference to the “Guardianship and Administration Board” and replace it with “State Administrative Tribunal”.

461. Various references to “Board” amended

A range of references in the Act to the “Board” are amended to instead refer to the “State Administrative Tribunal”.

Subdivision 2 — Amendments needed because Act amended

462. Disability Services Act 1993 amended

Section 52(1)(c) of the *Disability Services Act 1993* is amended to delete reference to the “Guardianship and Administration Board” and replace it with “State Administrative Tribunal”.

463. Electoral Act 1907 amended

Section 51AA(1) of the *Electoral Act 1907* is amended to delete reference to the “Guardianship and Administration Board” and replace it with “State Administrative Tribunal”.

464. *Industrial Relations Act 1979* amended

Sections 97WR, 97WT, 97WU, 97WZ, 97XI, 97XK, 97XL, 97XN of the *Industrial Relations Act 1979* are amended to delete references to the “Guardianship and Administration Board” and “Board” and replace them with either “Public Advocate” or “State Administrative Tribunal”.

Division 58 — *Hairdressers Registration Act 1946*

465. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Hairdressers Registration Act 1946*.

466. Section 7 amended

Section 7 of the *Hairdressers Registration Act 1946* outlines the power and duties of the Board. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters previously where referred to the Board. Therefore, subsections 7(b) and 7(c) are no longer relevant and are therefore being repealed.

467. Section 14C amended

Section 14C of the *Hairdressers Registration Act 1946* outlines the annual reporting requirements in relation to the Board. It is proposed to amend section 14C by inserting five new subsections (1ba), (1bb), (1bc), (1bd), and (1be) which outline additional matters required to be reported on. The proposed subsection 14C(1ba) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board.

468. Section 16 amended

Section 16 of the *Hairdressers Registration Act 1946* provides that the Board may cancel the registration of a hairdresser. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters previously where referred to the Board. Therefore, it is proposed that section 16 of the Act be amended to insert subsection 16(1a) that provides that the Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action.

It is proposed that subsection 16(1) of the *Hairdressers Registration Act 1946* be amended to delete references to the Board. Subsection 16(1aa) of the *Hairdressers Registration Act 1946* is a new section that provides that the State Administrative Tribunal, if satisfied that proper cause exists for disciplinary action, the State Administrative Tribunal may cancel or suspend the hairdresser’s registration. It is proposed that subsection 16(2) be amended to delete references to the Board cancelling or suspending a hairdresser’s registration. Subsection 16(3) is a new section that provides that if the State Administrative Tribunal has made an order of cancellation or suspension, then the power of the Board under subsection 12(2) is to be exercised. These amendments are a consequence of the State Administrative Tribunal assuming jurisdiction over matters that previously where referred to the Board.

As the State Administrative Tribunal will now assume jurisdiction over matters that previously where referred to the Board in relation to cancellation or suspension of the hairdressers’

registration, it is therefore proposed that subsection 16(3) of the *Hairdressers Registration Act 1946* is no longer relevant and is therefore being repealed.

Subsection 16(4) of the *Hairdressers Registration Act 1946* provides that upon an order for the suspension or cancellation of the registration of any person being made, the board may advertise such order. The State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Board in relation to the cancellation or suspension of the hairdressers' registration. Therefore, it is proposed that subsection 16(4) of the *Hairdressers Registration Act 1946* be amended to insert references to the State Administrative Tribunal making an order for the suspension or cancellation of a hairdressers' registration.

As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Board in relation to cancellation or suspension of the hairdressers' registration, it is therefore proposed that subsections 16(5) and 16(6) of the *Hairdressers Registration Act 1946* are no longer relevant and are therefore being repealed.

469. Section 16A inserted

Section 16A of the *Hairdressers Registration Act 1946* is a new section that provides that a person who is aggrieved with a decision made by the Board, can appeal to the State Administrative Tribunal against such decisions. Definitions of 'aggrieved person' and 'reviewable decision' are proposed to be inserted for ease of understanding.

470. Section 17 amended

Section 17 of the *Hairdressers Registration Act 1946* provides that for the purposes of conducting any investigation or inquiry, the Board shall have power to compel the attendance of witnesses and may administer oaths and affirmations. It is proposed that section 17 of the Act be amended to cross reference to the proposed new subsection 16(1a) that provides that the Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action. Therefore, it is proposed that section 17 of the Act be amended that provides for the purpose of conducting any investigation or inquiry before making an allegation under subsection 16(1a). It is proposed that the term 'witnesses' under section 17 of the Act is no longer relevant and is therefore being repealed to instead reference to 'persons'.

471. Section 18 amended

Section 18 is amended to delete reference to "by order of the Board" as the Board will no longer have the power to suspend or cancel a registration.

472. Section 18A and 18B inserted

Section 18A of the *Hairdressers Registration Act 1946* is a new section which provides that 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 had not been surrendered.

Section 18B of the *Hairdressers Registration Act 1946* is a new section that deals with matters relating to the suspension of registration by the State Administrative Tribunal. This power conferred on the State Administrative Tribunal is in addition to and not in derogation of the powers conferred on it by the *Hairdressers Registration Act 1946* or by the *State Administrative Tribunal Act 2003*.

473. Section 19 amended

Subsection 19(1) of the *Hairdressers Registration Act 1946* outlines that every person under the Act who fails, neglects or refuses to comply with any lawful order or direction of the Board made pursuant to this Act or any regulation or is guilty of a contravention of any regulations, shall be liable to a penalty of not more than \$20. It is proposed that under subsection 19(1) references to lawful 'order or' direction of the Board is no longer relevant and the term 'order or' is being repealed.

474. Section 20 amended

Section 20 of the *Hairdressers Registration Act 1946* provides that any person authorised by the Board either generally or in any particular case may take any proceedings under the Act. As the State Administrative Tribunal will now hold disciplinary proceedings, it is therefore proposed that section 20 of the *Hairdressers Registration Act 1946* is no longer relevant and is therefore being repealed.

Division 59 — *Health Act 1911*

475. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Health Act 1991*.

476. Section 36 amended

Section 36 of the *Health Act 1911* provides that any person that is aggrieved by an order or decision of a local government in any case in which the local government 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 Court of Petty Sessions.

477. Section 37 repealed

Section 37 of the *Health Act 1911* enables any person aggrieved by an order or decision of a local government from which an appeal does not lie under section 36, may appeal against the order or decision to the Executive Director, Public Health.

Section 37 is to be repealed as any person aggrieved by any order or decision of a local government may now apply to the State Administrative Tribunal for a review of the order or decision under the amended section 36 of the *Health Act 1911*.

478. Section 62 amended

Section 62 of the *Health Act 1911* includes a provision that the local government shall make to every person, or to any other local government aggrieved, compensation for any actionable damage actually sustained by any such person or local government through the exercise of the powers conferred by this Act. However, any dispute as to the right of such a person or local government to receive compensation shall be heard and determined by a compensation court constituted under the provisions of Part 10 of the *Land Administration Act 1997*.

The reference to a compensation court in section 62 of the *Health Act 1911* is to be deleted as the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to a compensation court. Therefore, section 62 is to be amended to provide that the right of a person or local government to receive compensation will be heard and determined under the provisions of Part 10 of the *Land Administration Act 1997*. Specific sections of Part 10 of the *Land Administration Act 1997* have been amended to provide that the State Administrative Tribunal is to deal with compensation claims.

479. Section 63 amended

A reference to 'review' is to be included under section 63 of the *Health Act 1911* as the State Administrative Tribunal will have powers to review decisions or orders. Therefore, section 63(1) is to be amended to provide that no direction or order given or made under this section shall be subject to appeal or review.

480. Section 137 amended

Section 137 of the *Health Act 1911* provides that the local government may serve a notice upon the owner of such a house directing them, within a time limited by such notice, to either amend the building in the specified manner or remove the building. Subsection 137(i) allows any person aggrieved by any notice under this section to appeal against such notice to the Court of Petty Sessions, as provided by section 36 of the *Health Act 1911*.

The State Administrative Tribunal will assume jurisdiction over matters that were previously referred to the Court of Petty Sessions under sections 36 and 137 of the *Health Act 1911*. Therefore, section 137 is to be amended to enable any person aggrieved by any notice under section 137 to apply to the State Administrative Tribunal for a review of the decision.

481. Section 165 amended

Section 165(1) is amended to delete reference to section 37 of the Act which is to be repealed.

482. Section 166 amended

Section 166(1) is amended to delete reference to section 37 of the Act which is to be repealed.

483. Section 187 amended

Section 187 provides that it is unlawful to establish any offensive trade, without the consent, in writing, of the local government or in case of appeal, the consent of the Executive Director, Public Health. Subsection 187(2) enables any person aggrieved by the refusal or the granting of such consent by the local government to appeal to the Executive Director, Public Health, who may affirm or reverse the decision of the local government.

Section 187(2) is to be repealed, consistent with the repealing of section 37 of the *Health Act 1911*. The amended section 36 of the *Health Act 1911* will enable any person aggrieved by any order or decision of a local government to apply to the State Administrative Tribunal for a review of the order or decision, therefore subsection 187(2) is no longer necessary.

484. Section 192 amended

Section 192 of the *Health Act 1911* provides the local government may refuse to register or to renew the registration of any house or premises used for an offensive trade unless constructed and maintained in accordance with its local laws. Subsection 192(2) enables any person aggrieved by the local government's refusal to register or renew the registration or any person aggrieved by such registration or renewal, may appeal to the Executive Director, Public Health. The Executive Director may affirm, vary, or rescind such refusal or registration, or renewal of registration.

Subsection 192(2) is to be amended to provide that without limiting section 36 of the *Health Act 1911*, 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. Section 36 enables aggrieved persons to apply to the State Administrative Tribunal for a review of an order or decision made by a local government. Subsection 192(3) is to be repealed, as the Executive Director, Public Health will no longer be able to make decisions under section 192, consistent with the amendments to subsection 192(2).

485. Section 244 amended

Section 244 of the *Health Act 1911* states that a person aggrieved by a decision of the Executive Director, Public Health to refuse to grant or renew a licence or to suspend or revoke a licence may appeal to a Judge sitting in open court or in chambers, as that Judge may determine.

The State Administrative Tribunal will assume jurisdiction over decisions that were previously referred to a Judge sitting in open court or in chambers under section 244. Therefore, section 244 is to be amended to provide that a person aggrieved by a decision of the Executive Director, Public Health, to refuse to grant or renew a licence or to suspend or revoke a licence, may apply to the State Administrative Tribunal for a review of the decision

486. Section 246Y amended

Section 246Y of the *Health Act 1911* deals with orders that the Executive Director, Public Health, or a local government may serve on food premises, food vehicles and appliances if they are in an unclean or insanitary condition. Subsection 246Y(6) provides that if an environmental health officer refuses to give the proprietor of food premises, food vehicles or appliances a certificate to state that the food premises, food vehicles or appliances have been inspected and have been put into or are in a clean and sanitary condition, then the proprietor may appeal to the Local Court against the refusal.

The State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Local Court under section 246Y(6). Therefore, section 246Y(6) will be amended to provide that a proprietor may apply to the State Administrative Tribunal for a review of a decision to refuse to issue a certificate. Subsections 246Y(7) and (8) are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*. The terminology in subsection 246Y(10) has been amended to reflect the review powers of the State Administrative Tribunal. Accordingly, the reference to ‘appeals made under subsection 6’ has been amended to ‘on a review in proceedings commenced under subsection 6’ consistent with a proprietors ability to apply for a review of a decision to the State Administrative Tribunal under the amended subsection 246Y(6).

487. Section 246ZG amended

Section 246ZG(1) provides that when an article is seized and detained by an environmental health officer under section 246ZB, the person from whom the article was seized may within 5 days after that seizure make an application to the Local Court for an order to release the article seized and detained. Subsection 246ZG(2) states that applicant shall give to the environmental health officer a copy of the application made under subsection 246ZG(1).

The State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Local Court under section 246ZG. Therefore, section 246ZG will be amended to provide that a person may apply to the State Administrative Tribunal for a review of a decision to seize and detain an article. Furthermore, a time limit has been inserted into subsection 246ZG(2). Subsection 246ZG(2) is to be amended so that an applicant under subsection (1) shall within 2 days after making the application, give to the environmental health officer a copy of the application made under that subsection. Subsections 246ZG(3)-(6) are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

488. Section 246ZI amended

The terminology in section 246ZI is to be amended to reflect the review powers of the State Administrative Tribunal. A reference to review has been inserted into subsection 246ZI(1)(a), consistent with a persons ability to apply for a review of a decision to the State Administrative Tribunal under the amended subsection 246ZG.

Division 60 — *Health Services (Conciliation and Review) Act 1995*

489. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Health Services (Conciliation and Review) Act 1995*.

490. Section 10 amended

Section 10(1)(a)-(g) of the *Health Services (Conciliation and Review) Act 1995* outlines the functions of the Director. Furthermore, subsection 10(2) states the Director may do all things that are necessary or convenient to be done for the performance of the Director's functions. Subsection 10(3) also provides that the Director may with the approval of a registration board appear in any proceeding before that's board and cross examine or call and examine witnesses and make submissions without limiting the operation of subsection 10(2).

Subsection 10(3) will be amended to include a reference to both the registration board and the State Administrative Tribunal. Therefore, subsection 10(3) will provide that without limiting subsection 10(2), the Director may with the approval of the a registration board or the State Administrative Tribunal, as the case may be, appear at proceedings before that board or the State Administrative Tribunal and call witnesses and otherwise adduce evidence and make submissions.

491. Section 26 amended

According to section 26 of the *Health Services (Conciliation and Review) Act 1995* a complaint may be rejected, if in the Director's opinion it is vexatious, trivial or without substance, if it does not warrant any further action or if it does not comply with the Act. Subsection 26(2) further provides that if an issue raised in a complaint has already been determined by a court, an industrial tribunal or a registration board, the Director must reject the complaint to the extent to which it relates to that issue unless in the Director's opinion it relates to matters that were not determined by the court, industrial tribunal or board.

Since the State Administrative Tribunal will have the power to determine issues raised in complaints, a reference to the State Administrative Tribunal is to be inserted in subsection 26(2). The reference to 'industrial' is to be removed, as 'tribunal' is sufficient to cover both the State Administrative Tribunal and the industrial tribunal.

492. Section 46 amended

Section 46 of the *Health Services (Conciliation and Review) Act 1995* states that the Director must not investigate a complaint which the Director has referred to a registration board under section 31 and 43(3) unless the board asks the Director to continue dealing with the matter, the Minister approves of the Director continuing to deal with the matter, or the Director considers they should for the purpose of exercising the right to be heard conferred by section 54(1).

The reference to section 54(1) is to be removed as section 54(1)(b), which relates to the Director's ability to exercise their powers as described in section 10(3) in an inquiry, is to be repealed. Therefore, section 46(1)(c) is to be amended to provide that the Director must not investigate a complaint which the Director has referred to a registration board under section 31 or 43(3) unless the director considers he or she should do so for the purpose of facilitating the Director's participation in any further proceedings relating to that matter.

493. Section 52 amended

Section 52 of the *Health Services (Conciliation and Review) Act 1995* states the reasons that require the Director to stop dealing with an issue that arises out of a complaint. A new subsection 52(1)(aa) is to be inserted to further provide the Director must stop dealing with an issues that arises out of a complaint if the Director becomes aware that the issue has been determined by a registration board. References to the State Administrative Tribunal are also to be inserted into subsections 52(1)(b) and (c).

494. Section 54 amended

Section 54 is to be amended by deleting subsection 54(1)(b). Therefore, section 54 is to provide that if a complaint is referred to a registration board under section 31 or 43(3), the board must investigate the matter to determine whether or not further action should be taken in accordance with the Act mentioned in Schedule 1 by which the board is established.

495. Section 55 amended

Section 55 of the *Health Services (Conciliation and Review) Act 1995* provides that where the Director refers a compliant to a registration board under section 31 or 43(3) the board must provide the Director with such reports as the Director reasonably requires as to the board's actions in respect of the complaint.

The State Administrative Tribunal with have jurisdiction to deal with issues raised in a complaint. Therefore, a new subsection 55(2) will be inserted to provide that without limiting subsection (1), the registration board must advise the Director if, and as soon as, proceedings relating to an issue raised in the compliant are initiated before the State Administrative Tribunal.

Division 61 — *Heritage of Western Australia Act 1990*

496. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Heritage of Western Australia Act 1990*.

497. Section 3 amended

The definition of "Town Planning Appeal Tribunal" meaning the Appeal Tribunal constituted under Part V of the *Town Planning and Development Act 1928* is to be deleted as jurisdiction for applications previously made to this tribunal is proposed to be conferred on SAT.

498. Section 30 amended

As background, the existing subsection 29(2) provides that (i) an owner of land or occupier of a building on land that is already, or is recommended by the Heritage Council of Western Australia (the Council) should be a registered as a registered place according to Part 5 of the *Heritage of Western Australia Act 1990* (the Act) or (ii) an owner of land or an occupier of a building on land that the Minister directs should be made the subject of a Heritage Agreement may enter into a such an agreement.

The existing subsection 30(1) provides where such an owner of land or occupier of a building on land is willing to enter into a Heritage Agreement but no representative of the Crown is willing and able to enter into such an agreement or negotiations for the agreement have not resolved all matters of concern to the owner/occupier, then this person may apply by notice in writing to the Minister requiring the Minister to refer the matter to the Town Planning Appeal Tribunal for resolution.

The existing subsection 30(2) provides the Minister, before referring the application of the owner/occupier to the Town Planning Appeal Tribunal may require the applicant to confirm he/she will abide by any such Heritage Agreement made and may require security for that undertaking and may require the Council to be satisfied with the agreement.

The existing subsections 30(4)(a) to (h) provides for the current mechanism by which the Town Planning Appeal Tribunal deals with a matter referred by the Minister and makes findings in order to prepare a Heritage Agreement.

The existing subsections 30(5)(a)-(b) provide where the Town Planning Appeal Tribunal makes a determination in the form of a Heritage Agreement it is binding on the Council, the parties, the Treasurer and Minister and any other decision-making authority. Subsection 30(5)(c) provides if the resulting Heritage Agreement is endorsed by the Registrar of the Town Planning Appeal Tribunal as adequately complying with the Act according to the Minister, then this shall be proof of this fact in any legal proceedings.

It is proposed to confer jurisdiction for these applications from the Town Planning Appeal Tribunal to SAT. Accordingly, references throughout section 30 to “Town Planning Appeal” are proposed to be deleted and replaced by “State Administrative” to effect this conferral of jurisdiction. As a consequence, the reference to “Registrar” in subsection 30(5)(c) is to be deleted and replaced by “executive officer of the State Administrative” Tribunal.

499. Section 37 amended

The existing subsection 37(1) deals with an owner/occupier of land that is registered as a registered place or is the subject of a Heritage Agreement or is the subject of an incentive order made by the Governor under s36 of the Act by which the owner/occupier is released from payment of taxes and charges in exchange for preserving the cultural significance of a portion of the land he owns/occupies.

Subsection 37(1) provides that where an incentive order made under s36 is varied or revoked by the Governor, or the land in question ceases to be a registered place or ceases to be subject to a Heritage Agreement as a consequence of an application by the owner, then an Order may be made by the Governor (upon recommendation of the Minister) requiring repayment of accrued taxes and charges from the date the land ceased to be preserved for its cultural heritage. In addition, such an Order by the Governor may also be made if, at a place that is registered as a registered place or land that is subject to a Heritage Agreement any unlawful demolition, alteration or other development occurs resulting in the owner/occupier being convicted of a contravention of this Act or a contravention of the relevant provision of the Heritage Agreement from which contravention the Minister alleges that a person liable to have paid such monies has benefited unjustly. In these cases of unlawful contravention, the Governor may Order the owner/occupier to pay up to 7 years worth of taxes and charges previously waived by an Order under s36.

The existing subsection 37(2) provides that where s37(1) applies, the Minister, before recommending to the Governor the making of any such Order, shall notify in writing the owner/occupier and invite that person to show cause why the provisions of the Order should not have effect. The existing subsection 37(3) provides an owner/occupier aggrieved by a notice issued under subsection 37(2) may, within 30 days of receipt of that notice, require the Minister to refer the matter to the Town Planning Appeal Tribunal and the tribunal may make a determination on the matter. The remaining provisions of subsections 37(4) to 37(8) outline the mechanism and procedure to be followed by the tribunal when determining the matter and making their order.

It is proposed to confer jurisdiction for an appeal against a notice issued by the Minister under subsection 37(2) from the Town Planning Appeal Tribunal to SAT. Therefore, it is proposed to effect this conferral by amending subsection 37(3) by deleting “Town Planning Appeal” Tribunal and inserting instead “State Administrative” Tribunal. As a consequence of this amendment, references to “Tribunal” or “Town Planning Appeal” Tribunal in subsections 37(4) and 37(5) are also proposed to be deleted and replaced by “State Administrative” Tribunal.

500. Section 42 amended

An order under section 38 means an order made by the Minister on the recommendation of the Council and published in the *Government Gazette* that overrides the effect of any other written law, Code of practice, standard or other legislative requirement that may operate to prohibit or impede plans under this Act to conserve or protect registered places that have significance to the cultural heritage of the State.

The existing subsection 42(1) provides that a person aggrieved by an Order made under s38 who desires to question the validity of that Order the person may within one month from the date of publication of the Order in the *Government Gazette*, make application to the Supreme Court to set aside the Order for irregularity. The court may set aside, amend or make such other order as the court thinks fit.

The existing subsection 42(2) provides that the Supreme Court, when considering an application made under subsection 42(1), may consider an aggrieved person has been unreasonably subject to expense or subjected to an unreasonable amount of expense. In these cases, the court may make such an order as it thinks is just in the circumstances.

The existing subsection 42(3) provides where the Supreme Court amends an Order made under s38 of the Act, then s39 applies to that Order as amended. This means the amended Order is required to be tabled before each House of Parliament and treated as though it were a regulation for the purposes of s42 of the *Interpretation Act 1984*.

It is proposed to confer jurisdiction for an application made under s38 from the Supreme Court to SAT. Therefore, it is proposed to effect this conferral by deleting the reference in subsection 42(1) from “Supreme Court...court” to “State Administrative Tribunal” and the reference to “one month from” is changed to “the period of 28 days after”. As a consequence of this amendment, it is proposed to replace all references to “Supreme Court...court” to “State Administrative Tribunal” in subsections 42(2) and 42(3).

501. Section 59 amended

A conservation order is defined in this section as an Order made by the Minister because, in the Minister's opinion, it is necessary or desirable to provide special protection in respect of a place because of its significance to the cultural heritage of the State, regardless of whether or not that place is entered in the Register.

The existing subsection 59(2) provides the Minister may make a conservation order forthwith where the place is likely to be subject to imminent damage. Such a conservation order may be of two types either a (i) Consent Order made with the consent of the owner or (ii) Stop Work Order.

The existing subsection 59(7)(d) provides a Stop Work Order shall cease to have effect on the expiry of 42 days from the making of the Order, except where the Minister makes a referral under s60(1)(b) of the Act seeking a determination by the Town Planning Appeal Tribunal under Part V of the *Town Planning and Development Act 1928*. In this case, under s60(2)(b) the Town Planning Appeal Tribunal may order that such of the terms of the prohibitions contained in the Stop Work Order may continue temporarily or under s60(2)(c) the Tribunal may order that a Stop Work Order continue in force permanently.

The existing subsection 59(10) provides for situations where a Stop Work Order shall not be made, except with the leave of the Town Planning Appeals Tribunal.

The existing subsection 59(19) provides for a right of appeal under s60(1)(a) to a person aggrieved by a decision of the Minister to make a Conservation Order pursuant to s59 of the Act. However, an aggrieved person cannot lodge an appeal to the Town Planning Appeal Tribunal until (i) the time for applying to the Minister for a review of that Conservation Order under subsection 59(16) has expired and (ii) if application is made within time, then the time it takes the Minister pursuant to ss59(17) to review their original decision.

It is proposed to confer jurisdiction from the Town Planning Appeal Tribunal (TPAT) to SAT for:

- matters mentioned in ss59(7)(d) as currently referred to TPAT pursuant to ss60(1)(b) seeking a determination by TPAT to extend the period of operation of a Stop Work Order;
- matters mentioned in ss59(10) for places for which a Stop Work Order cannot be made except with leave of TPAT;
- the right of appeal mentioned in ss59(19) to TPAT under ss60(1)(a) of a decision of a Minister to make a Conservation Order. To effect this conferral, the appropriate amendments are made to these subsections of this section.

502. Section 60 amended

The existing subsection 60(1)(a) currently provides that an appeal by a person aggrieved by a Conservation Order made by the Minister may be referred to the Town Planning Appeal Tribunal (TPAT) under ss60(1)(a) for review and determination. Subsection 60(1)(b) provides for the Minister to refer a Stop Work Order to TPAT seeking to have an extension of time made to the period of the Order's application. The provisions of Part V of the *Town Planning and Development Act 1928* apply to any matter referred to TPAT under this section.

The existing subsection 60(2) provides for the various orders the TPAT has power to make when dealing with an application under ss60(1).

The existing subsection 60(3) provides the original Conservation Order or Stop Work Order continues to have effect until the TPAT determines otherwise.

It is proposed to confer jurisdiction from TPAT to SAT for the determination of matters under ss60(1)(a) and ss60(1)(b) of the Act. Therefore references to “Town Planning Appeal” and “appeal” are deleted and inserted instead is “State Administrative” and “application made”. As a consequence of conferring this jurisdiction, other similar consequential amendments are proposed to be made to ss60(2) and ss60(3) replacing references to “Town Planning Appeal” with “State Administrative”.

503. Section 76 amended

The existing subsection 76(1) deals with requests by an owner of land who claims that because part of his/her land has been compulsorily acquired under this Act to preserve its heritage value, the remaining portion of land has become incapable of reasonably beneficial use or of supporting any reasonable development. In such a case, an owner may by notice in writing request the Council to acquire the remaining portion of land on behalf of the Crown under s74 of the Act. If the Council refuses to purchase the land in question or the owner is not satisfied with the terms of the proposed acquisition, then the owner may request the Minister to refer the matter to TPAT. TPAT may make a determination on the matter using powers contained in s30 (discussed above) and s73 (also discussed above). The subsection also provides that effect shall be given to the determination of TPAT by public advertisement of that determination by the Council with the approval of the Registrar of TPAT as though it were an advertisement of the kind referred to in ss73(1)(a).

It is proposed to confer jurisdiction to SAT for matters presently referred through the Minister to TPAT. Therefore, the reference to “Tribunal” throughout ss76(1) is proposed to be deleted and inserted instead is “State Administrative”. In addition, the reference to “Registrar” of TPAT is proposed to be replaced by “executive officer” of the State Administrative Tribunal.

504. Various references to “Tribunal” amended

A range of references in the Act to the “Tribunal” are amended to instead refer to the “State Administrative Tribunal”.

505. Various references to “Town Planning Appeal Tribunal” amended

A range of references in the Act to the “Town Planning Appeal Tribunal” are amended to instead refer to the “State Administrative Tribunal”.

Division 62 — *Hire-Purchase Act 1959*

506. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Hire-Purchase Act 1959*.

507. Section 3 amended

Sub Section 4f – reference to any order of a Local Court deleted and replaced with reference to the State Administrative Tribunal. Reference to Sub Section 4h deleted and replaced with reference to Sub Section 4g.

Sub Section 4g – reference to a time period for a party to a hire purchase to apply to the Local Court for variation is deleted as the Principal Bill provides and overall scheme for application to State Administrative Tribunal. Reference to the Local Court in this Sub Section is deleted and replaced with State Administrative Tribunal.

Sub Section 4h – deleted as the Local Court under Sub Section 4g will no longer hear applications for variation of hire purchase agreements.

Sub Section 4j – deleted as the Local court under Sub Section 4g will no longer hear applications for variations of hire purchase agreements.

508. Section 12A amended

Sub Section (2) – reference to Local Court deleted and replaced with State Administrative Tribunal, and reference to an “order” against the failure or refusal of the Commissioner is deleted and replaced with a “review” of that failure or refusal.

Sub Section (3) – for consistency with the Principal Bill Sub Section (3) is deleted. The Principal Bill allows an appeal to the Supreme Court on questions of law.

509. Section 36A amended

Sub Section (5) – is amended by deleting reference to the Local Court and replaced with State Administrative Tribunal.

Sub Section (6) – reference to a time period for seeking a decision of the Commissioner to be varied is deleted as the Principal Bill provided an overall scheme for applications to State Administrative Tribunal. Reference in this section to the Local Court is deleted and replaced by reference to State Administrative Tribunal.

Sub Section (7) – deleted as the Local Court, under Sub Section 6 will no longer hear appeals against the Commissioner’s decision.

Sub Section (8) – is deleted as the Local Court under Sub Section 6 will no longer hear appeals against the Commissioner’s decision.

Division 63 — *Hope Valley-Wattleup Redevelopment Act 2000*

510. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Hope Valley-Wattleup Redevelopment Act 2000*.

511. Section 29 amended

Section 29(1) of the *Hope Valley–Wattleup Redevelopment Act 2000* (the Act) currently provides that an applicant may appeal against a decision made by the Western Australian Planning Commission (the Commission) under s28 of the Act to the Town Planning Appeal Tribunal in accordance with Part V of the *Town Planning and Development Act 1928*. Subsection 29(2) provides the tribunal may allow or reject the appeal. If the tribunal rejects the appeal, it may reject it in whole or in part. If the tribunal allows the appeal, it may or may not impose conditions.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were appealable to the Town Planning Appeal Tribunal, under amendments to the *Town Planning and Development Act 1928*. As a consequence, section 29 (1) of the Act is to be amended to enable an applicant to apply to SAT for a review of a decision of the Western Australian Planning Commission.

512. Section 31 amended

Section 31 of the Act deals with the powers of the Commission to issue notices with directions in relation to unlawful developments.

Under subsection 31(1)(b), the Commission may order a person who has completed an unlawful development to remove it, pull it down, take it up or alter it by issuing a notice in writing to that person. Subsection 31(2) currently provides a person on whom such a notice is served may appeal to the Town Planning Appeal Tribunal under Part V of the *Town Planning and Development Act 1928*. Subsection 31(3) provides a notice containing such a direction is suspended pending determination of the appeal by the tribunal. Subsection 31(4) provides should the tribunal confirm or vary the original direction in the notice, the tribunal by written notice to the person, may direct the person to comply with the tribunal's decision. Subsection 31(6) provides that if a person fails to comply with a written notice issued by the Commission and does not make an appeal under subsection 31(2) within time and subject to the determination of any such appeal should it have been made in time, then the Commission may itself remove, pull down, take up or alter the unlawful development and may recover from the person in default the costs incurred in so doing.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Town Planning Appeal Tribunal under section 31(2) of the Act. Therefore, section 31(2) of the Act is to be amended to enable these persons to be able to apply to SAT for a review, in accordance with Part V of the *Town Planning and Development Act 1928* of the Commission's decision to issue the original notice. Other amendments to section 31 are proposed as a consequence of the amendment to subsection 31(2).

Division 64 — *Hospitals and Health Services Act 1927*
Subdivision 1 — Amendments to the Act

513. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Hospitals and Health Services Act 1927*.

514. Section 26H amended

Subsection 26H(1) currently provides a person who licence to run a private hospital is cancelled or whose licence is not renewed pursuant to s26F or whose endorsement contained in their licence under the *Mental Health Act 1996* to treat patients with a mental illness is cancelled pursuant to s26DA, then that person or body corporate may appeal to the Local Court.

Subsection 26H(2) currently provides such an appeal must be lodged with the clerk of the Local Court within 30 days of the date of the Commissioner of Health's decision and an appeal does not operate as a stay (i.e. a suspension) of the effect of the Commissioner's original decision.

Subsection 26H(3) currently provides where the Commissioner has made a decision under s26F to cancel or not to renew a licence, and the licence holder in question makes an appeal against this decision under subsection 26H(1) to the Local Court, then the Commissioner may, pending the determination of the appeal by the Local Court, permit a person or body corporate to continue running that private hospital subject to any terms and conditions imposed by the Commissioner.

It is proposed to confer jurisdiction on SAT to review the decisions of the Commissioner. Therefore, as a consequence, it is proposed to amend subsection 26H(1) to delete the reference to "appeal" and replace it with "apply" and to delete the reference to "Local Court" and replace it with "State Administrative Tribunal for a review of". Other consequential amendments to s26H(2) and s26H(3) are also proposed as a result of the amendment to s26H(1) to confer jurisdiction to SAT.

Subdivision 2 — Amendment needed because Act amended

515. Acts Amendment (Hospitals) Act 1985 amended

Section 31 of the *Acts Amendment (Hospitals) Act 1985* contains transitional provisions related to the enactment of the Act in 1985. These transitional provisions are no longer necessary and are therefore being repealed.

Division 65 — *Housing Societies Act 1976*

516. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Housing Societies Act 1976*.

517. Section 87 amended

The Registrar is defined in s6 of the *Housing Societies Act 1976* (the Act) as the Chief Executive Officer of the Department of Housing and Works.

Subsection 87(1) currently provides a society or person aggrieved by a decision made by the Registrar under the Act may request the Registrar to review his/her decision. The Registrar shall afford the aggrieved party an opportunity to appear before him, make submissions and give evidence in relation to the matter.

Subsection 87(2) currently provides the Registrar may confirm, reverse or vary his original decision. If, after this review is complete, the society or person is still aggrieved they may appeal to the District Court of Western Australia, which may confirm, reverse or vary the decision made by the Registrar.

It is proposed to confer jurisdiction on SAT to review a Registrar's decision under subsection 87(2). As a consequence, it is proposed to amend subsection 87(2) to delete the references to "appeal" and "The District Court of Western Australia" and insert instead "apply" and "the State Administrative Tribunal for a review of" to effect this conferral of jurisdiction to SAT

Division 66 — *Human Reproductive Technology Act 1991*

518. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Human Reproductive Technology Act 1991*.

519. Section 3 amended

The definition of "licensing authority" is to be repealed, as it is proposed to confer jurisdiction to the State Administrative Tribunal.

520. Section 14 amended

Section 14 outlines the functions of the Western Australian Reproductive Technology Council. Subsection 14(1)(b)(ii) is to be amended so that one of the functions of the Council is to advise the Commissioner of Health as to the administration and enforcement of this Act and particularly on disciplinary matters. Therefore, it will not be necessary for the Council to have regard to any findings made by, or report received from, a committee of inquiry appointed under section 38 when advising the Commissioner of Health as the relevant provisions of section 38 providing for an inquiry are to be repealed. In addition, the reference to section 38 in subsection 14(3) is to be repealed.

521. Section 19 amended

Section 19 provides that the Council shall have regard to certain principles set out in the Act. Subsection 19(2)(b)(ii) is to be amended by deleting the reference to a "licensing authority" and replacing it with both the "Commissioner of Health" and the "State Administrative Tribunal".

522. Section 29 amended

Section 29 is to be amended by deleting the reference to a "licensing authority" and replacing it with the "Commissioner of Health".

523. Section 32 amended

Section 32 is to be amended by deleting the reference to a "licensing authority" and replacing it with the "Commissioner of Health".

524. Section 33 amended

Section 33(2)(h) is to be amended by deleting the reference to a “licensing authority” and replacing it with the “Commissioner of Health”.

525. Section 36 amended

Section 36 provides that the Commissioner of Health may suspend the operation of any licence or exemption, on application made by the licensee. Subsection 36(2)(a) is to be repealed and the terminology in subsection (2)(b) is to be amended to provide a licensee may apply for a review of the decision under section 42. In addition, new subsections (2a), (2b) and (2c) are to be inserted into section 36. These subsections deal with the Commissioner of Health’s ability to suspend by notice the operation of a licence or exemption by reason of public health, where in the opinion of the Commissioner of Health imminent risk of serious harm to a person may occur. A notice under subsection (2a) must also state the Commissioner will refer the matter to the State Administrative Tribunal within 14 days of giving notice. Subsection (2c) enables the Commissioner, by giving notice, to revoke or vary a notice made under subsection (2a) at any time before referring the matter to the State Administrative Tribunal under section 36. The terminology of subsection 36(3) is to be amended, consistent with the other amendments to section 36.

526. Section 36A inserted

Section 36A is a new section which has been inserted into the *Human Reproductive Technology Act 1991*. This section provides that within 14 days of giving 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

Subsections 37(1)(a) and (b) are to be repealed and a new subsection 37(1a) inserted into this Act. Subsection 37(1a) requires the Commissioner of Health to seek the advice of the Council before making a summary determination under subsection (1). The terminology in subsection (3)(b) is to be amended so that “committee of inquiry” is replaced with the “State Administrative Tribunal”.

528. Section 38 replaced

Section 38 is to be amended so that the Commissioner of Health no longer has to appoint a committee of inquiry to consider submissions or hear evidence or make findings and submit recommendations to the Council in relation to any disciplinary action. Instead the commissioner may make an allegation to the State Administrative Tribunal under the amended subsection 38(1). Furthermore, two new subsections, (1a) and (1b), are to be inserted into section 38. These subsections ensure that the Commissioner advises the Council if he or she makes an allegation or proposes to make an allegation to the State Administrative Tribunal. Subsections 38(2)-(9) are to be repealed as the State Administrative Tribunal will assume jurisdiction over matters that were previously referred to a committee of inquiry. In addition, the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

529. Section 39 amended

Section 39(1) provides that a penalty under section 40 may be imposed by the Commissioner of Health at discretion without further inquiry, but on the basis of and in accordance with the advice of the Council, where the Council has considered the report of a committee of inquiry appointed under section 38 and in accordance with any Order of the Supreme Court, where an appeal has been heard under section 42.

The State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to a committee of inquiry and the Supreme Court under sections 38 and 42. Therefore, subsection 39(1)(a) and (b) are to be repealed as the relevant provisions in both sections 38 and 42 have been repealed. In addition, a reference to the State Administrative Tribunal is to be inserted into subsection 39(2)(n). Consequently, subsection 39(2)(n) is to be amended to provide that it may be a cause for disciplinary action if an order made under section 40 in respect of a determination previously made under section 37 or by the State Administrative Tribunal in proceedings commenced under section 38 has been contravened.

530. Section 40 amended

Section 40 outlines the penalties that the Commissioner of Health may impose in relation to disciplinary action. Subsection 40(1) is to be amended so that the Commissioner of Health may, in relation to any disciplinary action in respect of which a determination has been made under section 37, by Order, impose any one or more of the penalties stated in subsection (1)(a)-(f). The penalties stated in subsection (1)(g)-(m) are to be repealed. Furthermore, a new subsection (1a) is also to be inserted into section 40. This will give the State Administrative Tribunal the power to impose any one or more of the penalties listed in subsections (1a)(a)-(m) if a proceeding is commenced by a referral under section 36A or an allegation under section 38(1).

A new subsection (2a) is also to be inserted into section 40. Subsection (2a) is to provide that 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 the licensee, may be imposed on or in relation to any person who occupies a position of authority in that company or any related body corporate, subject to subsection (3). Finally, any reference to “licensing authority” in section 40 is to be deleted and replaced with the “Commissioner of Health”.

531. Heading to Part 4 Division 4 amended

The existing Division 4 currently provides for the powers of the Supreme Court. Since the State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Supreme Court, Division 4 is to be amended to provide the powers of the State Administrative Tribunal.

532. Section 42 amended

Subsection 42(3) currently provides that an appeal lies to a Judge of the Supreme Court. However, the State Administrative Tribunal will assume jurisdiction over matters that were previously referred to a Judge of the Supreme Court. Therefore, subsection 42(3) is to be amended to provide that an applicant or licensee may apply to the State Administrative Tribunal for review of a decision of the kind to which subsection (1) refers to which effect is given. In addition, a new subsection (3a) is to provide that any person liable to a penalty or to be adversely affected by a penalty, may apply to the State Administrative Tribunal for review of any decision made by the Commissioner of Health by way of a summary determination in respect of a disciplinary matter. Subsections (3)(ii)-(7) are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Bill 2003*.

533. Section 43 amended

Section 43 is to be amended by deleting the reference to the “Supreme Court” and replacing it with the “State Administrative Tribunal”.

534. Section 49 amended

Section 49(4)(a)(ii) is to be amended by deleting the reference to a “licensing authority” and replacing it with the “Commissioner of Health”.

535. Section 54 amended

Section 54(3)(a)(i) is to be amended by deleting the reference to a “licensing authority” and replacing it with the “Commissioner of Health”. Reference to revocation is also removed.

536. Section 57 amended

Various reference in section 57 to a “licensing authority” are replaced with “Commissioner of Health”.

537. Various references to “licensing authority” amended

Various reference in the Act to a “licensing authority” are replaced with “Commissioner of Health”.

Division 67 — *Jetties Act 1926*

538. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Jetties Act 1926*.

539. Section 7 amended

Subsection 7(1) currently provides the Minister may grant a licence to any person to construct, use or maintain a jetty. Subsection 7(2) currently provides that the Minister may delegate this licensing power to the Chief Executive Officer of the Department of Planning and Infrastructure.

It is proposed to amend subsection 7(1) to give general power to the CEO (instead of the Minister) to grant a licence to any person to construct, use or maintain a jetty. It is further proposed to amend subsection 7(2) to allow the CEO to delegate this power to an officer of the Department for Planning and Infrastructure.

540. Section 7A amended

Subsection 7A(1) currently provides a person whose application for a licence under s7 has been:

- refused by the CEO; or
- granted by the CEO with terms or conditions which are unacceptable to the applicant,

then the applicant may, within 30 days of receiving such notice from the CEO, appeal by written notice to the Minister for Planning and Infrastructure.

Subsection 7A(2) currently provides the Minister has the power to determine an appeal made under subsection 7A(1) either by upholding it, varying it or reversing the original decision of the CEO.

It is proposed to confer jurisdiction to SAT for appeals previously made to the Minister under this section. As a consequence, subsection 7A(1) is amended by deleting "...appeal by notice in writing...to the Minister" and replacing this reference with "apply to the State Administrative Tribunal for a review of the decision". As a consequence of this amendment conferring jurisdiction to SAT, subsection 7A(2) will be deleted.

Division 68 — *Land Administration Act 1997*
Subdivision 1 — Amendments to the Act

541. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Land Administration Act 1997*.

542. Section 125 amended

References to "review" are inserted in to section 125 of the *Land Administration Act 1997* as a consequence of the ability for person to be able to seek a review through the Sate Administrative Tribunal under the proposed amendments to the Act.

543. Section 126 amended

References to "review" are inserted in to section 126 of the *Land Administration Act 1997* as a consequence of the ability for person to be able to seek a review through the Sate Administrative Tribunal under the proposed amendments to the Act.

544. Section 151 amended

Definitions are to be inserted in relation to a “judicial member” or “senior member” of the State Administrative Tribunal. These definitions are relevant to the constitution of the Tribunal when dealing with matters previously dealt with by a Compensation Court under Parts 9 and 10 of the *Land Administration Act 1997*. The definition of “judicial” member is also relevant for the purposes of the proposed amendment to section 214 of the Act.

545. Section 207 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence of the amendment to section 210 of the Act, section 207 requires amendment to refer to the State Administrative Tribunal.

546. Section 210 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 210 of the Act are replaced within relevant references to the State Administrative Tribunal.

547. Section 214 amended

Section 214 of the *Land Administration Act 1997* enables a Judge of the Supreme Court to grant an extension of time for a claimant to provide an acquiring authority with details of their claim. It is proposed that such matters instead be determined by a judicial member of the State Administrative Tribunal. Section 214 is therefore amended to enable this to occur.

548. Section 218 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, section 218 of the Act is amended to reference that compensation matters can also be dealt with by the State Administrative Tribunal.

549. Section 222 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 222 of the Act are replaced within relevant references to the State Administrative Tribunal.

550. Section 224 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 224 of the Act are replaced within relevant references to the State Administrative Tribunal.

551. Section 225 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 225 of the Act are replaced within relevant references to the State Administrative Tribunal.

552. Sections 226 and 227 replaced

Section 226 of the *Land Administration Act 1997* establishes a Compensation Court which deals with various compensation claims under the Act. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court. Therefore, section 226 of the Act is to be amended to refer to the constitution of the State Administrative Tribunal when dealing with compensation claims under the *Land Administration Act 1997*.

A new section 227 is proposed to be inserted in to the *Land Administration Act 1997*. The new section 227 deals with the constitution of the State Administrative Tribunal to be able to include assessors who have been appointed by a claimant or an acquiring authority. The President of the State Administrative Tribunal can appoint these people as part of the Tribunal for the purposes of the *Land Administration Act 1997* even though the person is not a member of the Tribunal under the *State Administrative Tribunal Act 2003*. For the purposes of their appointment under the *Land Administration Act 1997*, such persons are deemed to be an ordinary member of the State Administrative Tribunal under the *State Administrative Tribunal Act 2003*.

Section 227 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 227 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

553. Section 228 repealed

Section 228 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 228 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

554. Section 229 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 229 of the Act are replaced within relevant references to the State Administrative Tribunal.

555. Section 230 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 230 of the Act are replaced within relevant references to the State Administrative Tribunal.

556. Section 231 replaced

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 231 of the Act are replaced within relevant references to the State Administrative Tribunal.

557. Sections 232 to 240 repealed

Section 232 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 232 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 233 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 233 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 234 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 234 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 235 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 235 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 236 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 236 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 237 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 237 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 238 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 238 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 239 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 239 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 240 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 240 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

558. Section 241 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 241 of the Act are replaced within relevant references to the State Administrative Tribunal.

559. Section 243 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 243 of the Act are replaced within relevant references to the State Administrative Tribunal.

560. Section 244 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 244 of the Act are replaced within relevant references to the State Administrative Tribunal.

561. Sections 245 to 247 repealed

Section 245 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 245 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 246 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 246 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 247 of the *Land Administration Act 1997* concerns procedural matters relating to the operation of the Compensation Court under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court, section 247 of the Act is no longer relevant and is therefore being repealed. Procedural matters in relation to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

562. Section 249 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 249 of the Act are replaced within relevant references to the State Administrative Tribunal.

563. Section 256 amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Compensation Court under the *Land Administration Act 1997*. As a consequence, references to the Compensation Court in section 256 of the Act are replaced within relevant references to the State Administrative Tribunal.

564. Various references to “appeal” amended

A range of references to appeal are amended to also reference capacity for review.

565. Various references to “a Compensation Court” amended

A range of references to “a Compensation Court” are amended to instead refer to “State Administrative Tribunal”.

566. Various references to “Compensation Court” amended

A range of references to “Compensation Court” are amended to instead refer to “State Administrative Tribunal”.

Subdivision 2 — Amendment needed because Act amended

567. Mining Act 1978 amended

References to a Compensation Court in section 21(4) of the Mining Act are amended to instead refer to State Administrative Tribunal.

568. Water Agencies (Powers) Act 1984 amended

Section 62(2) of the *Water Agencies (Powers) Act 1984* provides that disputes can be referred to a Compensation Court under the *Land Administration Act 1997*. The State Administrative Tribunal is now assuming jurisdiction over matters that previously were dealt with by a Compensation Court under Part 10 of the *Land Administration Act 1997*.

Division 69 — Land Drainage Act 1925

569. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Land Drainage Act 1925*.

570. Section 85 amended

Subsection 85(6) of the *Land Drainage Act 1925* provides that any person may object to any rating record as altered or amended, or against any entry added to the rating records, or appeal against any disallowance by the Corporation of an objection. The State Administrative Tribunal is to assume jurisdiction over disallowances by the Corporation of objections provided in Division four of this Part of the Act. Therefore, section 85(6) of the Act is to reference the capacity to seek a review of decisions through the State Administrative Tribunal.

571. Heading to Part VII Division 4 amended

The heading to Part VII Division 4 is amended to delete reference to appeal and replace it with review.

572. Section 98 amended

Section 98(6) is amended to delete reference to appeal and replace it with review.

573. Section 99 amended

Subsections 99(1) and 99(2) of the *Land Drainage Act 1925* provides that any person who is dissatisfied with a decision of the Corporation on an objection may within 42 days after service of the notice of the decision serve on the Corporation a notice requiring the Corporation to treat the objection as an appeal against the entry and refer the appeal to a Land Valuation Tribunal. The State Administrative Tribunal is to assume jurisdiction over appeals against the Corporation on an objection. Therefore, section 99 of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal.

574. Section 99A amended

Section 99(A) of the Land Drainage Act 1925 provides that any person who is dissatisfied with a decision of the Corporation to refuse to extend the time for service of an objection or treat the objection as an appeal against an entry may serve on the Corporation a notice requiring it to refer the decision to a Land Valuation Tribunal as an appeal. The State Administrative Tribunal is to assume jurisdiction over appeals against the Corporation to the Land Valuation Tribunal. Therefore, section 99A of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal.

575. Sections 99AA and 99AB inserted

Section 99AA of the *Land Drainage Act 1925* is a new section which provides that upon a review under section 99 or 99A, the State Administrative Tribunal may consider grounds in addition to those stated in the notice of objection and reasons in addition to those for the Corporation's decision. Parties are to be given reasonable time to consider and respond to new grounds or reasons.

Section 99AB of the *Land Drainage Act 1925* is a new section which provides that the State Administrative Tribunal is to provide written reasons for an order, give a copy to each party and publish the reasons, where it considers the order is of general interest or significance. This obligation is in addition to any obligation under the *State Administrative Tribunal Act 2003*.

576. Section 99B amended

Section 99B of the *Land Drainage Act 1925* provides that there shall be no objection or appeal of valuations of rateable land appearing in rating records except in accordance with the *Valuation of Land Act 1978*. The State Administrative Tribunal is to assume jurisdiction over appeals of valuations of rateable land appearing in rating records. Therefore, section 99B of the Act is to be amended to limit reviews of valuations through the State Administrative Tribunal in accordance with the *Valuation of Land Act 1978*.

577. Section 99C amended

Section 99C of the Land Drainage Act 1925 provides that an objection or appeal does not affect the liability to pay rates, depending the determination of the objection or appeal. Section 99C of the Act is to be amended to remove any reference to an appeal.

578. Section 99D amended

Section 99D of the Land Drainage Act 1925 provides that the Corporation shall amend rating records and an assessment in consequence of an allowance of on objection or appeal under this Act. The State Administrative Tribunal is to assume jurisdiction over appeals of valuations of rateable land appearing in rating records. Therefore, section 99D of the Act is to be amended so that rating records and assessments must be amended in consequence of an allowance of an objection by a review by the State Administrative Tribunal.

579. Section 108 amended

Section 108(2) of the *Land Drainage Act 1925* provides that, in proceedings to recover or consequent on the recovering of due rates, the party sued shall not raise a defence regarding a matter which might have been raised on an objection. A defence that the party was not the owner of the land rated shall not be raised by any party who has already unsuccessfully raised it on objection or where an appeal is brought against disallowance of an objection. The State Administrative Tribunal is to assume jurisdiction over appeals against the Corporation to the Land Valuation Tribunal. As a consequence, references to appeals in section 108(2) of the Act are replaced by references to the State Administrative Tribunal.

Division 70 — *Land Tax Assessment Act 2002*

580. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Land Tax Assessment Act 2002*.

581. Section 41 amended

Subsection 41(1) currently provides that a person may apply to the Commissioner of State Revenue for a land tax assessment in relation to newly subdivided land. The Commissioner can grant an extension of time for such applications. Subsection 41(4) currently provides the Commissioner's decision is *non reviewable*.

A *non reviewable* decision is defined in subsection 34(4) of the *Taxation Administration Act 2003* as a decision that can only be reconsidered by making application to the Small Claims Tribunal within 60 days of receiving notice. A Magistrate of the tribunal may then reconsider the *non reviewable* decision.

It is proposed to confer jurisdiction to the State Administrative Tribunal for decisions currently reviewed by the Small Claims Tribunal. The conferral is actually effected through a proposed amendment to subsection 34(4) of the *Taxation Administration Act 2003*. However, to enable the conferral of jurisdiction to take place, it is proposed to amend subsection 41(4) to delete the reference to “non reviewable” and change this to “directly reviewable”.

Division 71 — *Land Valuers Licensing Act 1978*

582. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Land Valuers Licensing Act 1978*.

583. Section 4 amended

Section 4 of the *Land Valuers Licensing Act 1978* outlines the interpretation of terms used in the Act. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters previously where referred to the District Court. Therefore, reference to the District Court in section 4 of the Act is no longer relevant and is therefore being repealed.

584. Part II Division 1 heading replaced

The Heading to Part II Division 1 is amended to refer to the Board.

585. Part II Division 2 replaced

Section 12 of the *Land Valuers Licensing Act 1978* deals with matters relating to proceedings before the Board. As the State Administrative Tribunal will now hold disciplinary proceedings, it is therefore proposed that section 12 of the *Land Valuers Licensing Act 1978* is no longer relevant and is therefore being repealed.

New Section 12 of the *Land Valuers Licensing Act 1978* deals with matters in relation to the Board's powers of investigation. Subsection 12(2) of the Act is a new subsection that outlines 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. Subsection 12(3) outlines the powers of an investigator who is appointed by the Board during the conduct of an investigation under the Act.

Subsection 12(4) of the *Land Valuers Licensing Act 1978* a new subsection that outlines the obligations of a person who is the subject of an investigation, which includes providing oral and written information that is requested by the investigator. Subsection 12(5) of the Act is a new subsection to prescribe the appropriate procedure where documents are required and requested as part of an investigation under subsection 12(3b) of the Act

Subsection 12(8) of the *Land Valuers Licensing Act 1978* is a new subsection that provides that the investigator must apply to a magistrate for a warrant to be issued before entering premises as part of an investigation. The new subsection 12(8a) is to outline the requirements for an application for a warrant. The new subsection 12(8b) is to provide that the warrant must be displayed to a person allowing the entry of an investigator into the premises.

Section 13 of the *Land Valuers Licensing Act 1978* deals with matters relating to the powers of the Board in relation to disciplinary matters. The State Administrative Tribunal will now assume jurisdiction over disciplinary powers that previously were referred to Board. Therefore, it is proposed that section 13 is no longer relevant and is being repealed.

New section 13 of the *Land Valuers Licensing Act 1978* stipulates that information submitted by a person to an investigator will not be admissible against them in any proceedings other than the investigation for which the information is required.

Section 14 of the *Land Valuers Licensing Act 1978* deals with matters relating to fines or costs. The State Administrative Tribunal will now assume jurisdiction over matters in relation to orders for fines or costs previously where referred to the Board. Therefore, it is proposed that section 14 of the Act is no longer relevant and is being repealed.

New section 14 of the *Land Valuers Licensing Act 1978* outlines the penalty for non-compliance with an authorised request for information in an investigation. New subsection 14(2) of the Act outlines a number of grounds under which a person may defend their right to withhold information. These circumstances include the person not being properly informed of their legal requirement to provide information, not being given enough time to fulfil the requirement, and the investigator not showing reasonable grounds to believe that the information would assist the investigation.

Section 15 of the *Land Valuers Licensing Act 1978* provides that the Board may, and, on request by any party to the proceedings, shall, give to the parties reasons for its decision. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is therefore proposed that section 15 of the Act is no longer relevant and is being repealed.

Section 15 of the *Land Valuers Licensing Act 1978* is a new section which states that it is an offence to prevent an investigator from exercising their powers under section 12 of the Act, and lists a penalty for obstruction as \$2000.

Section 16 of the *Land Valuers Licensing Act 1978* provides that a person who is aggrieved with a decision made by the Board can appeal to the District Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously were referred to the District Court under the Act. Therefore, section 16 of the Act is to be recast to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. Definitions of ‘aggrieved person’ and ‘reviewable decision’ are proposed to be inserted for ease of understanding.

586. Section 17 amended

Subsection 17(4) of the *Land Valuers Licensing Act 1978* outlines that an applicant is a party to proceedings before the Board on his application. As the State Administrative Tribunal will now hold disciplinary proceedings, references to other proceedings are no longer relevant. Therefore, subsection 17(4) of the *Land Valuers Licensing Act 1978* is no longer relevant and is therefore being repealed.

587. Section 18 amended

Subsection 18(4) of the *Land Valuers Licensing Act 1978* outlines that a person who makes an objection to the grant of a licence is a party to the proceedings on the application for the grant. As the State Administrative Tribunal will now hold disciplinary proceedings, references to other proceedings are no longer relevant. Therefore, subsection 18(4) of *Land Valuers Licensing Act 1978* is no longer relevant and is therefore being repealed.

588. Section 19 amended

Subsection 19(1a) of the *Land Valuers Licensing Act 1978* outlines that the Board may grant a licence to any person who applies for a licence within 2 years after the coming into operation of this Act and has had, in the opinion of the Board, not less than 5 years' satisfactory practical experience in the valuation of land within the period of 10 years immediately preceding the date of his application. Subsection 19(1a) is a provision when the Act came into effect in 1978 for people to apply for a licence within 2 years. The provisions in subsection 19(1a), 19(2), 19(3) and 19(4) cease to apply in 1980, two years after the coming into operation of this Act, and it is therefore no longer necessary and is being repealed.

589. Section 19A inserted

Section 19A of the *Land Valuers Licensing Act 1978* is a new section that outlines that 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 and the Registrar shall forthwith deliver the licence to the applicant.

590. Section 20A inserted

Section 20A of the *Land Valuers Licensing Act 1978* is a new section that deals with matters relating to the suspension of licence by the State Administrative Tribunal. This power conferred on the State Administrative Tribunal is in addition to and not in derogation of the powers conferred on it by the *Land Valuers Licensing Act 1978* or by the *State Administrative Tribunal Act 2003*.

591. Section 21 amended

Section 21 of the *Land Valuers Licensing Act 1978* deals with matters relating to the expiry and surrender of licence. It is proposed that the new subsection 21(4) of the Act be included which outlines that 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.

592. Section 27 replaced

Section 27 of the *Land Valuers Licensing Act 1978* provides that the Board may conduct inquiries into the conduct of licensed valuers. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board, it is therefore proposed that subsection 27(1) be amended to instead reference the State Administrative Tribunal. Further, subsections 27(2), 27(3), 27(4) and 27(5) are no longer relevant and are therefore being repealed.

593. Section 28 amended

Section 28 of the *Land Valuers Licensing Act 1978* outlines the powers on inquiry in relation to disciplinary matters. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters previously where referred to the Board, it is therefore proposed that subsection 28(1) be amended to instead reference the State Administrative Tribunal.

Subsection 28(3) of the *Land Valuers Licensing Act 1978* outlines that where the Board suspends or cancels a licence shall take effect immediately, and shall not be deferred by reason of any proposed or pending appeal to the District Court under the Act unless the District Court otherwise orders. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters. Therefore, it is proposed that subsection 28(3) of the *Land Valuers Licensing Act 1978* is no longer relevant and is being repealed.

594. Section 31 amended

Section 31 of the *Land Valuers Licensing Act 1978* outlines the annual reporting requirements in relation to the Board. It is proposed to amend section 31 by inserting a new subsection (1a), which outlines additional matters that are required to be reported on. The proposed subsection 31(1a) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board. Proposed subsection (1a) is consistent with comments at paragraph 55 in Chapter 4 of the Taskforce Report [p.74].

595. Section 36 amended

Section 36 of the *Land Valuers Licensing Act 1978* outlines the Governor may make regulations as are contemplated by this Act or as he considers necessary or expedient for the purposes of this Act. It is proposed that the Governor will simply make regulations for prescribing the procedure of the Board, providing for the advertising of notices of applications for licences, prescribing and providing for the recovery of, any fee for the purposes of this Act, prescribing the particulars to be recorded in the register required to be kept under this Act and prescribing penalties not exceeding \$100 for any breach of the regulations. The current power of the Governor to make regulations to provide for the enforcement of judgments and orders of the Board is proposed to be vested in the State Administrative Tribunal. Subsection 36(2b) of the Act is no longer relevant and is therefore being repealed.

Division 72 — *Legal Contribution Trust Act 1967*

596. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Legal Contribution Trust Act 1967*.

597. Section 28 amended

Section 28(2) of the *Legal Contribution Trust Act 1967* provides that a legal practitioner who is aggrieved with a decision made by the Legal Contribution Trust to refuse a claim under subsection 28(1), can apply to the Supreme Court for an order directing the Trust to accept the claim. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Supreme Court under section 28(2) of the Act. Therefore, section 28(2) of the Act is to be amended to enable these aggrieved practitioners to be able to seek a review of the Trust's decision through the State Administrative Tribunal.

Division 73 — *Legal Practice Act 2002*

598. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Legal Practice Act 2002*.

599. Section 3 amended

The term “Disciplinary Tribunal” is to be removed as the State Administrative Tribunal is to assume authority over the Act.

The term “regulatory authority” is to be amended to remove reference to the Disciplinary Tribunal, and add reference to the State Administrative Tribunal

600. Section 17 amended

Section 17 of the *Legal Practice Bill 2002* contains the annual reporting requirements in relation to the Legal Practice Board. It is proposed to add subsection 17(1a), which will outline additional matters to be reported on. The proposed subsection (1a) will outline the requirement of the Board to report on matters that have been referred to the State Administrative Tribunal under the Bill, including matters that are still pending, and to report on general administrative issues in relation to the operations of the Board.

Subsection 17(1b) of the *Legal Practice Bill 2002* is to provide that the executive officer of the State Administrative Tribunal and the Law Complaints Officer are obliged to contribute relevant information to the annual report.

601. Section 38 amended

Section 38 of the *Legal Practice Bill 2002* outlines the circumstances under which the Board must refuse to issue a practice certificate. Subsections 38(2) and 38(2)(c) are to be amended to remove reference to section 191 of this Bill. Section 191 Refers to costs ordered by the Disciplinary Tribunal. As the State Administrative Tribunal is to assume jurisdiction over costs and expenses, section 191 of this Bill is being repealed. Subsection 38(2)(c) is to be amended to add reference to the new relevant legislation, which is sections 86 and 87 of the *State Administrative Tribunal Act 2003*.

602. Section 39 amended

Section 39 of the *Legal Practice Bill 2002* provides definitions and circumstances under which a holder of a practice certificate may be found to be an insolvent practitioner. Subsection 39(1)(c) is to be amended to reflect that a practitioner may be deemed “unfit” if he or she has contravened an order made by a regulatory authority in proceedings under this Bill, which is to now include the State Administrative Tribunal.

Subsection 39(4) of the *Legal Practice Bill 2002* refers to orders made by the Disciplinary Tribunal. As the State Administrative Tribunal is to assume jurisdiction, subsection 39(4) is irrelevant and is therefore being repealed.

603. Section 40 amended

Subsection 40(4) refers to orders made by the Disciplinary Tribunal or a Judge of the Supreme Court. As the State Administrative Tribunal is assuming jurisdiction over matters previously dealt with by the Disciplinary Tribunal or the Supreme Court, subsection 40(4) is to be repealed.

604. Section 63 amended

Section 63 of the *Legal Practice Bill 2002* make provisions for incorporated legal practices to be subject to the same rules and requirements regarding trust accounts as other legal practitioners in relation to legal services. Subsection 63(3) is to be amended to reflect that any regulatory authority under the Bill, including the State Administrative Tribunal, may exercise its disciplinary authority with respect to any breaches of these requirements, without limiting any other powers of the regulatory authorities.

605. Section 71 amended

Section 71 of the *Legal Practice Bill 2002* explains the process for the disclosure of information concerning incorporated legal practices that have been acquired in connection with the exercise of functions under this Bill. Subsection 71(1) is to be amended to replace reference to the Disciplinary Tribunal with reference to the President of the State Administrative Tribunal or a member of its staff, which is to assume jurisdiction over such matters.

606. Section 85 amended

Section 85 of the *Legal Practice Bill 2002* make provisions for multi-disciplinary partnerships that include legal practitioners to be subject to the same rules and requirements regarding trust accounts as other legal practitioners in relation to legal services. Subsection 85(3) is to be amended to reflect that any regulatory authority under the Bill, including the State Administrative Tribunal, may exercise its disciplinary authority with respect to any breaches of these requirements, without limiting any other powers of the regulatory authorities.

607. Section 132 amended

Section 132 of the *Legal Practice Bill 2002* applies to circumstances under which a legal practitioner may be prohibited from employing a specified person in connection to their practice who is not a legal practitioner. Subsections 132(2), 132(2)(a), 132(2)(b) and 132(3) are to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction in the determination of applications for the prohibition of employment by the Board.

608. Section 149 amended

Section 149 of the *Legal Practice Bill 2002* outlines provisions in the event the Board has reasonable grounds to believe there is a deficiency in any process associated with the maintenance of a trust account by a legal practitioner. Subsections 149(1), 149(2) and 149(3) are to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction in the hearing and determination of such matters.

609. Section 156 amended

Section 156 of the *Legal Practice Bill 2002* explains the responsibilities of the State Administrative Tribunal, and the resulting actions that may be ordered following an application by the Board made under section 155 of the Bill. Subsections 156(1), 156(1)(b), 156(1)(e), 156(3) and 156(4) are to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction in the hearing and determination of such matters. This was previously the jurisdiction of a Supreme Court Judge.

610. Section 164 amended

Section 164 of the *Legal Practice Bill 2002* outlines the roles and responsibilities of the Complaints Committee in the general supervision of the conduct of legal practitioners. Subsection 164(1)(f) is to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction over the hearing of disciplinary proceedings that are instituted by the Complaints Committee against a legal practitioner.

611. Part 12 Division 2 Subdivision 2 repealed

Subdivision 2 of the *Legal Practice Bill 2002* outlines the establishment, composition and administrative functions of the Disciplinary Tribunal. As the Disciplinary Tribunal is to be subsumed by the State Administrative Tribunal, subdivision 2 is irrelevant and is therefore being repealed.

612. Section 176 amended

The reference to Tribunal in subsection 176(3) is amended to refer to State Administrative Tribunal.

613. Section 180 amended

Section 180 of the *Legal Practice Bill 2002* provides for the referral of any matter by the Complaints Committee. The title of the section, and subsection 180(1) are to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction over such matters.

Subsection 180(3) of the *Legal Practice Bill 2002* states the requirement that referrals are made in accordance with prescribed rules. As the State Administrative Tribunal is to assume jurisdiction over these matters, subsection 180(3) is no longer relevant and is therefore being repealed.

614. Section 181 amended

Section 181 of the *Legal Practice Bill 2002* details the requirements of the Complaints Committee in the event they determine no action is necessary with regard to a complaint. Subsection 181(1) is to be amended to reflect the jurisdiction of the State Administrative Tribunal.

Subsections 181(2), 181(3) and 181(4) of the *Legal Practice Bill 2002* outline potential courses of action where a person is aggrieved by the Committees decision to take no action, involving application to the Disciplinary Tribunal. As the Disciplinary Tribunal is to be subsumed by the State Administrative Tribunal, subsections 181(2), 181(3) and 181(4) are irrelevant and are therefore being repealed.

615. Part 12 Division 5 heading amended

Division 5 of the *Legal Practice Bill 2002* describes the functions of the State Administrative Tribunal, including the authority to make findings and order disciplinary action in relation to unsatisfactory conduct by a legal practitioner or a foreign lawyer, when a matter has been referred by the Complaints Committee. The wording of the title is to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction.

616. Sections 183 and 184 repealed

Section 183 of the *Legal Practice Bill 2002* relates to the timeliness with which matters are dealt with. As the section relates specifically to the Disciplinary Tribunal, which is to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 184 of the *Legal Practice Bill 2002* describes the procedures involved in conducting a hearing in the Disciplinary Tribunal. As the Disciplinary Tribunal is to be subsumed by the State Administrative Tribunal, section 184 is irrelevant and is therefore being repealed.

617. Sections 191 to 193 repealed

Section 191 of the *Legal Practice Bill 2002* provides that the Disciplinary Tribunal may order a legal practitioner who is a party to proceedings before the Tribunal pay the relevant costs and expenses. The *State Administrative Bill 2003* has provisions in relation to costs of proceedings, which include costs of, incidental to, a proceeding of the Tribunal, other than costs of a party, under section 87 of the *State Administration Bill 2003*. Therefore, section 191 of the *Legal Practice Bill 2002* is no longer relevant and is being repealed.

Section 192 of the *Legal Practice Bill 2002* provides that an order made by the Disciplinary Tribunal may be enforced in the same manner as an order of the Supreme Court. The *State Administrative Bill 2003* has provisions in relation to enforcement of a decision by the State Administrative Tribunal under section 85 of the *State Administration Bill 2003*. Therefore, section 192 of the *Legal Practice Bill 2002* is no longer relevant and is being repealed.

Section 193 of the *Legal Practice Bill 2002* deals with matter relating to the contempt of the Tribunal. The *State Administrative Bill 2003* has provisions in relation to contempt of Tribunal under section 99 of the *State Administration Bill 2002*, which provides that if the President is satisfied that an act or omission of a person would constitute a contempt of the Court if a proceeding of the Tribunal were civil proceedings in the Supreme Court, the President may report that act or omission to the Supreme Court and the Court has jurisdiction to deal with the matter as if it were a contempt of the Court. Therefore, section 193 of the *Legal Practice Bill 2002* is no longer relevant and is being repealed.

618. Part 12 Division 6 heading amended

The reference to “Disciplinary Tribunal” in the heading to Part 12 Division 6 is amended to instead refer to “State Administrative Tribunal”.

619. Section 196 amended

Section 196 of the *Legal Practice Bill 2002* deals with matters relating to the representation of a complainant, a person making a complaint on the authority or on behalf of the complainant or any legal practitioner. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal. Therefore, it is proposed that section 196 of the Act be amended to delete references to the Disciplinary Tribunal to instead reference the State Administrative Tribunal.

Subsection 196(1) of the *Legal Practice Bill 2002* contains a reference to subject to the approval of the relevant chairperson. It is proposed that the term ‘relevant’ is no longer necessary and is therefore being repealed.

620. Section 197 amended

Section 197 of the *Legal Practice Bill 2002* deals with matters relating to hearings or inquiries that are generally not to be public. It is proposed that subsection 197(1) be amended to outline that an inquiry or hearing before the Complaints Committee must not be held in public.

Subsection 197(2) of the *Legal Practice Bill 2002* provides that the Complaints Committee, or the Disciplinary Tribunal in a particular case may determine that the whole or part of proceedings before it under this Part to be conducted in public or who may be present before it at any stage of the proceedings. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal. Therefore, it is proposed that the reference to the Disciplinary Tribunal in subsection 197(3) of the Act is no longer relevant and is being repealed.

Subsections 197(5) and 197(6) of the *Legal Practice Bill 2002* are no longer relevant and are therefore being repealed. These amendments are consequences of the State Administrative Tribunal assuming jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal.

621. Section 198 amended

Section 198 of the *Legal Practice Bill 2002* outlines the powers of disciplinary bodies such as the Committee, the Disciplinary Tribunal or a member of the Tribunal. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal. Therefore, it is proposed that the references to the Disciplinary Tribunal in section 198 of the Act are no longer relevant and are being repealed.

622. Section 199 amended

Section 199 of the *Legal Practice Bill 2002* deals with matters relating to the possession of records and other things. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal. Therefore, it is proposed that the references to the Disciplinary Tribunal in section 199 of the Act are no longer relevant and are being repealed.

623. Section 201 amended

Section 201 of the *Legal Practice Bill 2002* deals with matters in relation to claims of privilege. It is proposed that the subsection 201(1) of the *Legal Practice Bill 2002* be amended so that if there is an inquiry or proceedings under this Part of the Act, a person properly claims privilege in respect of any information to be disclosed to the Complaints Committee. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal, it is proposed that the references to the Disciplinary Tribunal in section 201(1) of the Act is no longer relevant and is being repealed.

624. Section 202 amended

Section 202 of the *Legal Practice Bill 2002* provides that appeals be made to the Full Court of the Supreme Court. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously were referred to the Supreme Court under section 177 of the Act. Therefore, section 202 of the Act is to be amended to enable a person aggrieved by a finding or order made by the Complaints Committee under section 177 of the Act may apply to the State Administrative Tribunal for a review of the finding or order.

625. Section 205 amended

Section 205 of the *Legal Practice Bill 2002* provides that a person in relation to any investigation, inquiry or hearing under Part 12 of the Act the same protection and immunity as a member of or an officer of the Supreme Court, or a witness or a party before the Supreme Court, would have in respect of a function or concern of a like nature related to the jurisdiction of the Supreme Court. It is proposed that section 205 of the *Legal Practice Bill 2002* be amended to outline that any investigations, inquiries or hearings are to be held before the Complaints Committee.

626. Section 248 amended

Section 248 of the *Legal Practice Bill 2002* deals with matters relating to evidentiary material. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal. Therefore, it is proposed that the references to the Disciplinary Tribunal in section 248 of the Act are no longer relevant and are being repealed.

627. Section 249 amended

Section 249 of the *Legal Practice Bill 2002* provides that all courts and person acting judicially must take judicial notice of the seal of the Disciplinary Tribunal and the signature of the chairperson, the deputy chairperson and other members of the Board, the Complaints Committee and members of the Disciplinary Tribunal, and the Law Complaints Officer. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal. Therefore, it is proposed that the references to the Disciplinary Tribunal in section 249 of the Act are no longer relevant and are being repealed.

628. Section 250 amended

Section 250 of the *Legal Practice Bill 2002* deals with matters in relation to the contempt of the Supreme Court. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Disciplinary Tribunal. Therefore, it is proposed that the references to the Disciplinary Tribunal in section 199 of the Act are no longer relevant and are being repealed.

629. Section 250A inserted

Section 250A of the *Legal Practice Bill 2002* is a new section that outlines the constitution of the State Administrative Tribunal under this Act.

630. Section 251 amended

Section 251 of the *Legal Practice Bill 2002* deals with matters relating to the laying of documents before House of Parliament that is not sitting. It is proposed that subsection 251 be amended to delete the cross reference to subsection 174(2) of the Act, which is proposed to be repealed.

631. Section 252 amended

Section 252 of the *Legal Practice Bill 2002* provides that the Board may make rules for a number of matters such as for the function of the Board, the professional standards for legal practitioners, the management of trust moneys and the operation of trust accounts etc. It is proposed that the Board may make rules for matters relevant to the functions of the Complaints Committee but not subject to the concurrence of the chairperson of the Disciplinary Tribunal, to the convening and functions of the Disciplinary Tribunal. Therefore, it is proposed that subsection 252(1u) of the Act be amended to delete references the Disciplinary Tribunal.

Subsection 252(2) of the *Legal Practice Bill 2002* provides that the Board may prescribe a scale of fees to be charged for or in respect of proceedings under this Act. The *State Administrative Bill 2003* has provisions in relation to costs of proceedings, which include costs of, incidental to, a proceeding of the Tribunal, other than costs of a party, under section 87 of the *State Administration Bill 2003*. Therefore, it is proposed that subsection 252(2) of the *Legal Practice Bill 2002* be amended to provide that the Board may prescribe a scale of fees to be charged for or in respect of proceedings under this Act other than proceeding before the State Administrative Tribunal.

632. Schedule 2 amended

Schedule 2 Clause 1 of the *Legal Practice Bill 2002* provides the term of appointment who is a representative of the community. It is proposed that Schedule 2 Clause 1(2) of the Act be amended to delete the cross reference to subsection 169(1d), which is proposed to be repealed.

Schedule 2 Clause 3 of the *Legal Practice Bill 2002* deals with matters relating to deputies of representative of the community. The *State Administrative Tribunal Bill 2003* contains generic provisions under Part 6 of the Act, which now cater for the constitution of the State Administrative Tribunal when dealing with disciplinary matters. Therefore, it is proposed that Schedule Clause 3(3) of the *Legal Practice Bill 2002* is no longer relevant and is being repealed.

633. Schedule 3 repealed

Schedule 3 of the *Legal Practice Bill 2002* outlines the provisions to the constitution and procedure of the Disciplinary Tribunal. The *State Administrative Tribunal Bill 2003* contains generic provisions under Part 6 of the Act, which now cater for the constitution of the State Administrative Tribunal when dealing with disciplinary matters. It is proposed that Schedule 3 of the *Legal Practice Bill 2002* is no longer relevant and is therefore being repealed.

634. Various references to “appeal to the Supreme Court” amended

A range of references to an “appeal to the Supreme Court” are amended to instead refer to an application to the State Administrative Tribunal for a review of a decision.

635. Various references to “Disciplinary Tribunal” amended

A range of references to “Disciplinary Tribunal” are amended to instead refer to “State Administrative Tribunal”.

636. Various references to “Supreme Court” amended

A range of references to “Supreme Court” are amended to instead refer to “State Administrative Tribunal”.

637. Various references to “the Court” amended

A range of references to “the Court” are amended to instead refer to “the Tribunal”.

638. Various references to “Judge” amended

A range of references to “a Judge” are amended to instead refer to “State Administrative Tribunal”. A range of references to “the Judge” are amended to instead refer to “the Tribunal”.

639. Various references to “Disciplinary” deleted

A range of references to “Disciplinary” are to be deleted. As a consequence, these sections will now simply reference Tribunal.

Division 74 — *Legal Practitioners Act 1893*

640. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Legal Practitioners Act 1893*.

641. Section 3 amended

The references to the Disciplinary Tribunal are to be deleted from section 3 of the *Legal Practitioners Act 1893*, as the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal.

642. Section 6 amended

Section 6(1) of the *Legal Practitioners Act 1893* enables the Legal Practice Board to make rules covering matters that the Board considers are necessary. Subsection 6(1)(gc) is to be amended to delete reference to the ability of the Board to make rules in relation to the Disciplinary Tribunal. This amendment is as a consequence of the State Administrative Tribunal assuming jurisdiction over matters that previously were referred to the Disciplinary Tribunal.

Subsection 6(2) of the *Legal Practitioners Act 1893* is amended so as to provide that the rule making power of the Legal Practice Board does not apply in relation to proceedings conducted before the State Administrative Tribunal under the Act. Matters concerning rules of the State Administrative Tribunal are provided for under the *State Administrative Tribunal Bill 2003*.

Subsection 6(7) of the *Legal Practitioners Act 1893* provides that a practitioner who is dissatisfied with a decision made by the Legal Practice Board under section 6(6) to refuse to issue a practice certificate, can appeal to the Supreme Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Supreme Court under section 6(7) of the Act. Therefore, section 6(7) of the Act is to be amended to enable these practitioners to be able to seek a review of these decisions through the State Administrative Tribunal.

643. Section 7C amended

Section 7C of the *Legal Practitioners Act 1893* contains the annual reporting requirements in relation to the Legal Practice Board. It is proposed to amend section 7C by inserting two new subsections (1a) and (1b) which outline additional matters required to be reported on. The proposed subsection (1a) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board. Proposed subsection (1a) is consistent with comments at paragraph 55 in Chapter 4 of the Taskforce Report [p.74]. The proposed subsection (1b) requires the executive officer of the State Administrative Tribunal and the Law Complaints Officer to provide the Board with any information it needs to meet its annual reporting requirements.

644. Section 14C amended

Section 14C(2) of the *Legal Practitioners Act 1893* provides that an articulated clerk who is dissatisfied with a decision made by the Legal Practice Board under section 14C(1) to cancel their articles, can appeal to the Full Court of the Supreme Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Full Court of the Supreme Court under section 14C(2) of the Act. Therefore, section 14C(2) of the Act is to be amended to enable an articulated clerk to be able to seek a review of these decisions through the State Administrative Tribunal.

645. Section 25 amended

Section 25 of the *Legal Practitioners Act 1893* deals with the function of the Legal Practitioners Complaints Committee. Subsection 25(f) enables the Committee to institute disciplinary proceedings before the Disciplinary Tribunal or in the Supreme Court. It is proposed that all disciplinary proceedings under the Act will now be dealt with by the State Administrative Tribunal. Therefore, section 25(f) of the *Legal Practitioners Act 1893* is to be amended to refer to the conduct of disciplinary proceedings in the State Administrative Tribunal.

Subsection 25(4) *Legal Practitioners Act 1893* deals with community representatives on the Legal Practitioners Complaints Committee. This subsection contains a cross reference to section 38E of the Act which relates to the constitution of the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, subsection 25(4) is to be amended to delete the cross reference to section 38E of the Act.

646. Section 28A amended

Section 28A deals with the powers of the Legal Practitioners Complaints Committee to deal with disciplinary matters summarily without referring the matter to the Disciplinary Tribunal. Subsection 28A(5) provides that a practitioner who is dissatisfied with a finding or order made by the Complaints Committee under section 28A, can appeal to a judge of the Supreme Court against such matters. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Supreme Court under section 28A(5) of the Act. Therefore, section 28(5) of the Act is to be amended to enable a practitioner to be able to seek a review of these decisions through the State Administrative Tribunal.

647. Section 28B amended

Section 28B deals with the powers and effect of settlements negotiated by the Legal Practitioners Complaints Committee. Subsection 28B(2) contains a number of references to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, subsection 28B(2) is to be amended to instead make reference to the State Administrative Tribunal.

648. Section 28C amended

Section 28C deals with the referral of disciplinary matter by the Legal Practitioners Complaints Committee to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, subsection 28C is to be amended to instead make reference to the State Administrative Tribunal. Subsections 28C(3)-(4) are to be repealed as the powers of the State Administrative Tribunal in relation to these matters are contained in the *State Administrative Tribunal Bill 2003*.

649. Sections 28D, 28E and 29 repealed

Section 28D concerns the operation of the Disciplinary Tribunal under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 28D of the Act is no longer relevant and is therefore being repealed. Matters in relation operation of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 28E concerns the operation of the Disciplinary Tribunal under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 28E of the Act is no longer relevant and is therefore being repealed. Matters in relation operation of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Section 29 concerns the operation of the Disciplinary Tribunal under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 29 of the Act is no longer relevant and is therefore being repealed. Matters in relation operation of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

650. Section 29A amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal under the Act. As a consequence, references to the Disciplinary Tribunal in section 29A of the Act are replaced within relevant references to the State Administrative Tribunal. Subsections 29A(4)-(7) are to be repealed as the powers of the State Administrative Tribunal in relation to these matters are contained in the *State Administrative Tribunal Bill 2003*.

651. Section 29B repealed

Section 29B concerns appeals to the Full Court of the Supreme Court against decisions of the Disciplinary Tribunal. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 29B of the Act is no longer relevant and is therefore being repealed. Matters in relation appeals against decisions of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

652. Section 30 amended

In subsection 30(1), the reference to section 29B of the Act is deleted as section 29B is proposed to be repealed.

653. Section 31 repealed

Section 31 concerns the powers of the Disciplinary Tribunal to order a complainant to pay costs. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 31 of the Act is no longer relevant and is therefore being repealed. Matters in relation awarding of costs by the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

654. Section 31AA amended

Section 31AA contains a number of references to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 31AA is to be amended to instead make reference to the State Administrative Tribunal.

655. Section 31B amended

Section 31B contains a number of references to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 31B is to be amended to instead make reference to the State Administrative Tribunal.

656. Section 31C amended

Section 31C contains a number of references to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 31C is to be amended to instead make reference to the State Administrative Tribunal. Section 31C is to be repealed as the powers of the State Administrative Tribunal in relation to these matters are contained in the *State Administrative Tribunal Bill 2003*.

657. Section 31D amended

Section 31D contains a number of references to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 31D is to be amended to instead make reference to the State Administrative Tribunal.

658. Section 31E amended

Section 31E contains a number of references to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, section 31E is to be amended to instead make reference to the State Administrative Tribunal.

659. Section 31F amended

Section 31F provides that the Complaints Committee can apply to the Supreme Court for an order to suspend a practitioner, or to restrict their practice, in certain cases. It is proposed that the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Supreme Court under section 31F of the Act. Therefore, section 31F is to be amended to instead require the Complaints Committee to apply to the State Administrative Tribunal. Furthermore, as the State Administrative Tribunal will also be assuming jurisdiction over matters that previously were referred to the Disciplinary Tribunal, references to the Disciplinary Tribunal instead make reference to the State Administrative Tribunal.

660. Section 31G amended

Section 31G contains a requirement on the chairman of the Disciplinary Tribunal to make an annual report to the Attorney General. As the Disciplinary Tribunal will cease to exist, as the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, subsection 31G(1)(b) is to be repealed. The annual reporting requirements in relation to matters heard by the State Administrative Tribunal, are now provided for under section 7C of the Act, and generally under the *State Administrative Tribunal Bill 2003*.

661. Section 58B amended

Section 58B enables a Judge of the Supreme Court to make certain order in relation to the management of bank accounts by practitioners. These matters are initiated on the application of the Legal Practice Board. It is proposed that the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to a Judge of the Supreme Court under section 58B of the Act. Therefore, section 58B is to be amended to instead require the Board to apply to the State Administrative Tribunal.

662. Section 58I amended

Section 58I enables a Judge of the Supreme Court to make certain orders where it is believed that a practitioner is incapable of properly conducting their practice. It is proposed that the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to a Judge of the Supreme Court under section 58I of the Act. Therefore, section 58I is to be amended to instead require the Board to apply to the State Administrative Tribunal.

663. Section 58W amended

Section 58W enables the Legal Costs Committee to determine the remuneration of practitioners in respect of proceedings in various courts. With the enactment of the State Administrative Tribunal, subsection 58W(1)(b) is to be amended to enable the Legal Costs Committee to also determine the remuneration of practitioners in proceedings before SAT.

664. Section 81 amended

Section 81 provides that a person who contravenes the Act or orders of various bodies, including the Disciplinary Tribunal, is guilty of contempt of the Supreme Court. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, the reference to the Disciplinary Tribunal is to be removed. The *State Administrative Tribunal Bill 2003* contains provisions for dealing with persons who contravene orders of the State Administrative Tribunal.

665. Section 83 amended

Section 83 provides that a person who is aggrieved with a decision made by the Legal Practice Board to refuse the issue or renewal of a practice certificate, can appeal to the Full Court of the Supreme Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Full Court of the Supreme Court under section 83 of the Act. Therefore, section 83 of the Act is to be amended to enable an articulated clerk to be able to seek a review of these decisions through the State Administrative Tribunal.

666. Section 83A inserted

The new section 83A outlines how the State Administrative Tribunal is to be constituted when dealing with matters referred to it under the *Legal Practitioners Act 1893*. The President or a Deputy President will always be part of the State Administrative Tribunal when dealing with matters under the *Legal Practitioners Act 1893*.

667. Schedule 2 amended

Schedule 2 Part C contains a number of references to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, Schedule 2 Part C is to be amended to delete references to the Disciplinary Tribunal.

Schedule 2 Part D contains a number of references to the Disciplinary Tribunal. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Disciplinary Tribunal, Schedule 2 Part D is to be amended to delete references to the Disciplinary Tribunal.

668. Various references to “Disciplinary Tribunal” amended

A range of references to “Disciplinary Tribunal” are amended to instead refer to “State Administrative Tribunal”.

669. Various references to “a Judge” amended

A range of references to “a Judge” are amended to instead refer to “State Administrative Tribunal”.

670. Various references to “the Judge” amended

A range of references to “the Judge” are amended to instead refer to “the Tribunal”.

Division 75 — *Licensed Surveyors Act 1909*

671. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Licensed Surveyors Act 1909*.

672. Section 8 replaced by sections 8, 8A, 8B and 8C inserted

Section 8 of the *Licensed Surveyors Act 1909* deals with matters in relation to the Board requiring attendance of a licensed person at an inquiry held under section 8 of the Act. The State Administrative Tribunal will now assume jurisdiction over disciplinary inquiries in relation to attendance before the Board, upon oath, affirmation, or otherwise. Therefore, it is proposed that subsection 8(1) is no longer relevant and is being repealed.

Subsection 8(2) of the *Licensed Surveyors Act 1909* provides that every summons issued by the Board requiring the attendance of any person or the production of any documents shall have the same effect as a subpoena issued by the Supreme Court in a civil action; and the obedience thereto or non-observance thereof may be enforced and punished by a Judge of the Supreme Court. The State Administrative Tribunal will now assume jurisdiction over matters in relation to the enforcement of summons and other disciplinary matters previously where referred to the Supreme Court. Therefore, it is proposed that subsection 8(2) is no longer relevant and is being repealed.

Section 8 of the *Licensed Surveyors Act 1909* is a new section that deals with matters relating to the Board’s powers of investigation. Subsection 8(2) of the Act is a new subsection that outlines 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. Subsection 8(3) outlines the powers of an investigator who is appointed by the Board during the conduct of an investigation under the Act.

Subsection 8(4) of the *Licensed Surveyors Act 1909* a new subsection that outlines the obligations of a person who is the subject of an investigation, which includes providing oral and written information that is requested by the investigator. Subsection 8(5) of the Act is a new subsection to prescribe the appropriate procedure where documents are required and requested as part of an investigation under subsection 8(3b) of the Act

Subsection 8(8) of the *Licensed Surveyors Act 1909* is a new subsection that provides that the investigator must apply to a magistrate for a warrant to be issued before entering premises as part of an investigation. The new subsection 8(8a) is to outline the requirements for an application for a warrant. The new subsection 8(8b) is to provide that the warrant must be displayed to a person allowing the entry of an investigator into the premises.

Section 8A of the *Licensed Surveyors Act 1909* is a new section which stipulates that information submitted by a person to an investigator will not be admissible against them in any proceedings other than the investigation for which the information is required.

Section 8B of the *Licensed Surveyors Act 1909* is a new section that outlines the penalty for non-compliance with an authorised request for information in an investigation. New subsection 8B(2) of the Act outlines a number of grounds under which a person may defend their right to withhold information. These circumstances include the person not being properly informed of their legal requirement to provide information, not being given enough time to fulfil the requirement, and the investigator not showing reasonable grounds to believe that the information would assist the investigation.

Section 8C of the *Licensed Surveyors Act 1909* is a new section which states that it is an offence to prevent an investigator from exercising their powers under section 12 of the Act, and lists a penalty for obstruction as \$2000.

673. Section 20A amended

Section 20A of the *Licensed Surveyors Act 1909* deals with matters relating to the cancellation of licence or practising certificate at request of licensed surveyor. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters previously where referred to the Board in relation to the Board holding an inquiry where there is a charge against a surveyor, under section 22 of the Act. Therefore, it is proposed that subsection 20A(1) of the Act's cross-reference to section 22 is no longer relevant and is being repealed.

Subsection 20A(5) of the *Licensed Surveyors Act 1909* is a new subsection, which outlines that 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.

674. Section 20B inserted

Section 20B of the *Licensed Surveyors Act 1909* is a new section that outlines the Board may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in subsection 21(1), against a licensed surveyor.

675. Section 21 amended

Section 21 of the *Licensed Surveyors Act 1909* outlines the powers of the Board to deal with misconduct. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is proposed that the section title reference to the power of the Board to deal with misconduct in section 21 be deleted to instead reference to disciplinary proceedings. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters in relation to the Board holding an inquiry, it is therefore proposed that subsection 21(1) of the Act be amended to outline the circumstances for proper cause for disciplinary action in respect of a licensed surveyor.

Subsection 21(1aa) of the *Licensed Surveyors Act 1909* deals with matters relating to the orders the Board may make after finding a licensed surveyor guilty of misconduct. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board. Therefore, it is proposed that subsection 21(1aa) be amended to instead reference the State Administrative Tribunal in relation to making orders if the State Administrative Tribunal is satisfied that proper cause exists for disciplinary action.

Subsection 21(1i) of the *Licensed Surveyors Act 1909* provides that fines not exceeding \$1 000 are payable to the Board. Section 43 of the *State Administrative Tribunal Act 2003* provides that fines previously payable to the Board will now be payable to the State Administrative Tribunal, according to the rules made under section 43 of the *State Administrative Tribunal Act 2003*. Therefore, it is proposed that section 21(1i) of the *Licensed Surveyors Act 1909* is to be amended to delete references to fines payable to the Board.

It is proposed that subsection 21(1a)(a) of the Act be amended to reference the State Administrative Tribunal instead of the Board in relation to the State Administrative Tribunal specifying a reasonable period for the order that the person concerned correct any error within that reasonable period.

The State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Local Court. Therefore, it is proposed that subsections 21(1b), 21(1c) and 21(2) are no longer relevant and are being repealed.

Subsection 21(6) of the *Licensed Surveyors Act 1909* outlines the powers of the Board in relation to termination of suspension of licence and the issue of a fresh or renewal licence if it has been cancelled. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is therefore proposed that subsection 21(6) be amended to provide the powers of the State Administrative Tribunal may, on the application of the Board or a person, terminate a suspension of licence and issue a fresh or renewal licence if it has been cancelled.

676. Section 21AA inserted

Section 21AA of the *Licensed Surveyors Act 1909* is a new section that deals with matters relating to the suspension of licence by the State Administrative Tribunal. This power conferred on the State Administrative Tribunal is in addition to and not in derogation of the powers conferred on it by the *Licensed Surveyors Act 1909* or by the *State Administrative Tribunal Act 2003*.

677. Section 22 replaced

Section 22 of the *Licensed Surveyors Act 1909* deals with matters in relation to a charge against a surveyor and provides that the Board may hold an inquiry, if the Board deem it necessary. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters previously where referred to the Board in relation to the Board holding an inquiry where there is a charge against a surveyor. Therefore, it is proposed that section 22 of the Act be amended to delete references to any matters relating to the inquiries held by the Board. Further to the amendments, subsection 22(2), 22(3), 22(4), and 22(5) are no longer and are therefore being repealed.

678. Section 22A replaced

Section 22A of the *Licensed Surveyors Act 1909* provides that a person who is aggrieved with a decision made by the Board can appeal to the District Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously where referred to the District Court under the Act. Therefore, section 22A of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. Further, references to the District Court in subsections 22A(2), 22A(3), 22A(4), and 22A(5) are no longer relevant and are therefore being repealed. Definitions of ‘aggrieved person’ and ‘reviewable decision’ are proposed to be inserted for ease of understanding.

679. Section 25C amended

Section 25C of the *Licensed Surveyors Act 1909* outlines the annual reporting requirements in relation to the Board. It is proposed to amend section 25C by inserting a new subsection (1a), which outlines additional matters that are required to be reported on. The proposed subsection 25C(1a) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board.

680. Section 26 amended

Section 26 of the *Licensed Surveyors Act 1909* outlines the Board may, with the approval of the Governor, make regulations as are contemplated by this Act or as he considers necessary or expedient for the purposes of this Act. It is proposed that the Board will simply make regulations for prescribing all matters that are required or permitted by the *Licensed Surveyors Act 1909* to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act, except in circumstances relating to regulating the conduct of proceedings in connection with charges of misconduct against licensed surveyors and other persons. The current power of the Board to make regulations regulating the conduct of proceedings in connection with charges of misconduct against licensed surveyors and other persons is proposed to be vested in the State Administrative Tribunal. Subsection 26(11) of the Act is no longer relevant and is therefore being repealed.

Division 76 — *Litter Act 1979*

681. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Litter Act 1979*.

682. Section 25 amended

Section 25(6) of the *Litter Act 1979* provides that a person who is dissatisfied with a notice served by a public authority under subsection 25(2) of the Act, can lodge an appeal against the notice with the relevant Minister. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Minister under section 25(6) of the Act. Therefore, section 25(6) of the Act is to be amended to enable an aggrieved person to be able to seek a review of the notice through the State Administrative Tribunal. Other amendments to section 25 are proposed as a consequence of the amendment to subsection 25(6).

Division 77 — *Local Government (Miscellaneous Provisions) Act 1960*

683. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Local Government (Miscellaneous Provisions) Act 1960*.

684. Section 295 amended

Subsection 295(3)(d) of the *Local Government (Miscellaneous Provisions) Act 1960* provides that where a person is aggrieved by a requirement of local government, such as amending the drawing or specification or assigning a name to the street, he may within 30 days appeal in writing to the Minister for Local government. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, section 295(3)(d) of the Act is to be amended to remove reference to appeals to the Minister and provide for the persons to apply to the State Administrative Tribunal for a review.

Subsection 295(3)(e) provides that the Minister may dismiss or uphold the appeal subject to the requirement being modified in such a matter as he thinks fit, and the decision of the Minister is final and is not subject to appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, section 295(3)(e) is repealed.

Subsection 295(4)(d) provides that where a person has not caused all of those streets to be constructed or drained but has caused one or more of them to be so constructed, and there is access from the latter, the person may appeal to the Minister for Local Government against the refusal of a local government to grant consent to dispose of one or more lots. The Minister may consent to the disposal of the lots, and the decision is final. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, section 295(4)(d) is amended to remove reference to appeal to the Minister and how the appeal is determined, and provide for the persons to apply to the State Administrative Tribunal for a review.

Subsection 295(4a) provides that a person to whom the land is disposed of and any person who subsequently acquires the land under subsection 4(b) (which provides for the situation where after obtaining approval for proposals for a subdivision, the owner did not caused those streets to be constructed or drained, he may with the consent of the governor dispose of the land in one piece), is subject to the provisions of that subsection as though he was the owner and has the same right of appeal conferred by that subsection. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Subsection 295(4a) is to be amended to remove reference to appeal and provide for a right conferred by subsection (4)(d) to apply for a review.

685. Section 374 amended

Subsection 374(2)(a) of the *Local Government (Miscellaneous Provisions) Act 1960* provides that a person who is dissatisfied with the refusal of the local government to approve the plan and specifications, may appeal in writing to the Minister who may uphold, reverse or vary the decision, and may make such orders as he thinks fit. The order of the Minister is final and not subject to appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 374(2) is amended to remove the right of appeal to the Minister and the powers of the Minister, and provide for the persons to apply to the State Administrative Tribunal for a review.

Subsection 374(2)(b) provides that for the purposes of exercising his powers under (a), the Minister may order that the provisions of a local law made by local government does not apply in that particular case or shall apply as modified by the order in that particular case. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 374(2)(b) is amended to remove reference to the Minister exercising his powers and provide for the State Administrative Tribunal to give effect to an order.

686. Section 374A amended

Subsection 374(A)(3) of the *Local Government (Miscellaneous Provisions) Act 1960* provides that except where the condition was by reason of section 78(4) of the *Heritage of Western Australia Act 1990*, any person who is dissatisfied with the conditions included by a local government in a licence issued under this section may apply to the Minister who may confirm or vary the decision, and the order of the Minister is final and not subject to appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 374(A)(3) is amended to remove reference to the Minister and his powers, and provide for the persons to apply to the State Administrative Tribunal for a review.

687. Section 399 amended

Subsection 399(4) of the *Local Government (Miscellaneous Provisions) Act 1960* provides that the local government may by a written licence permit the erection of a building with restrictions or for a specified time, and give consent to the erection of the building if the external walls of the building are to be constructed wholly of wood, or partly of wood and partly of fire resistant materials if the building will be in conformity with the general standard of design of buildings in the locality.

Subsection 399(5) provides that a person who is dissatisfied with the refusal of the local government to give a licence or consent under subsection (4), the person may appeal from the refusal to the Minister who may uphold, reverse or vary the decision. The decision of the Minister is not subject to appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 399(5) is amended to remove reference to the Minister and his powers, and provide for the persons to apply to the State Administrative Tribunal for a review.

688. Section 401 amended

Subsection 401(1) of the *Local Government (Miscellaneous Provisions) Act 1960* provides that the local government may give the builder or owner a written notice where the building is unsafe, prejudicial to the public interest, not in compliance with the plans and specifications, or where work has been carried out without permission, and require him to pull down or alter the building. The builder or owner is required to comply with the requisition, unless he has a right of appeal and the referees or Minister quash the requisition on appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 401(1) is amended to remove reference to the Minister and enable the person to apply to the State Administrative Tribunal for a review of the requisition.

Subsection 401(3) provides that where a person is given notice under this section to pull down or alter a building which is not in compliance with the plans and specifications, or where work has been carried out without permission, he may within 35 days appeal to the Minister. The Minister's decision is not subject to an appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 401(3) is amended to remove reference to the Minister and provide for the persons to apply to the State Administrative Tribunal for a review of the requisition.

Subsection 401(7) provides that a builder or owner who does not within 35 days, unless the requisition is the subject of an appeal, or if the appeal is dismissed, within 14 days of the dismissal, comply with the requisition, a court of petty sessions may, unless the requisition is the subject of an appeal, order the person to comply with the requisition within a specified time and award costs. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 401(7) is amended to remove reference to appeals and make reference to an application for review.

689. Section 401A amended

Subsection 401A(1) of the *Local Government (Miscellaneous Provisions) Act 1960* provides that where unlawful work is being carried out on a building, the local government may serve a written notice on the builder to stop all work being carried out in contravention of the Act. Subsection 401A(4) provides that a notice remains in force until it is withdrawn by further notice by the local government or is set aside by the Minister on appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 401A(4) is amended to remove reference to appeals to the Minister and make reference to applications for review by the State Administrative Tribunal.

Subsection 401A(6) provides that a person who is aggrieved by a notice under this section may appeal to the Minister, and the Minister may confirm, set aside or vary the notice as he thinks fit. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 401A(6) is amended to remove reference to appeals to the Minister and his powers, and provide that the person may apply to the State Administrative Tribunal for a review.

690. Section 409A amended

Subsection 409A of the *Local Government (Miscellaneous Provisions) Act 1960* provides that where the erection of a building has been commenced but not completed within the time specified by local laws if any, the local government may serve notice on the owner of the building to require him to show cause within 60 days why the building should not be abolished. Where the owner fails to satisfy the local government there are good and sufficient reason for the failure to have the building completed, it may serve an order requiring the owner to have the building demolished. Where the owner fails to comply, the local government may demolish the building and recover the costs. Subsection 409A(3) provides that an owner served with an order to have the building demolished may within 15 days, setting out the grounds, appeal to the Minister. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 401A(3) is amended to remove reference to appeals to the Minister and provide for the person to apply to the State Administrative Tribunal for a review.

Subsection 409A(4) provides that the Minister shall consider the appeal and sets out his powers. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 401A(4) is repealed.

691. Section 413 amended

Subsection 413(2) of the *Local Government (Miscellaneous Provisions) Act 1960* provides that a person served with a requisition to install or erect a fire escape may within 35 days appeal to the Minister who may confirm or disallow the requisition. The decision of the Minister is not subject to appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 413(2) is amended to remove reference to appeals to the Minister and his powers, and provide for the person to apply to the State Administrative Tribunal for a review.

Subsection 413(2) provides that if a person served with a requisition does not appeal to the Minister or the Minister confirms the requisition, the person shall have 12 months to install the fire escapes. The State Administrative Tribunal is to assume jurisdiction over appeals to the Minister. Therefore, subsection 413(2) is amended to remove reference to appeals and the Minister, and make reference to reviews and the State Administrative Tribunal.

Division 78 — *Local Government Act 1995*

692. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Local Government Act 1995*.

693. Section 2.27 amended

Subsection 2.27(6) of the *Local Government Act 1995* provides that, unless within 28 days from the date of service of the CEO's notice, a member of a council satisfies the CEO that the member is not disqualified to retain membership of the council or advises that the member accepts that he or she is disqualified, the CEO is apply to a court of summary jurisdiction asking for a declaration as to whether or not the member is disqualified. Under subsection 2.27(6) a person other than the CEO may also apply to a court of summary jurisdiction for a declaration. The State Administrative Tribunal is to assume jurisdiction over whether or not a member of a council is disqualified. Therefore, section 2.27 of the Act is to be amended to remove reference to a court of summary jurisdiction to enable the CEO or other persons to apply to the State Administrative Tribunal.

694. Section 2.32 amended

Section 2.32 of the *Local Government Act 1995* provides the circumstances where an extraordinary vacancies occurs, including where a member of a council advises or accepts that he or she is disqualified, or is declared to be disqualified by a court of summary jurisdiction. The State Administrative Tribunal is to assume jurisdiction over whether or not a member of a council is disqualified. Therefore, section 2.32 of the Act is to be amended to remove reference to a court of summary jurisdiction and replace it with the State Administrative Tribunal.

695. Section 3.25 amended

Section 3.25 of the *Local Government Act 1995* provides that a local government may give a person who is the owner or occupier of land a written notice requiring the person to do something specified in the notice. A person given a notice may appeal against it. The State Administrative Tribunal is to assume jurisdiction over such appeals. Therefore, section 3.25 of the Act is to be amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal.

696. Section 6.1 amended

Section 6.1 of the *Local Government Act 1995* defines certain terms used in this Part which relates to Financial Management, including Land Valuation Tribunal. The State Administrative Tribunal is to assume jurisdiction over such matters which were dealt with by the Land Valuation Tribunal. Therefore, section 6.1 of the Act is to be amended to remove the Land Valuation Tribunal from the defined terms in the interpretation section for the Part.

697. Section 6.3 amended

Section 6.3 of the *Local Government Act 1995* provides that a local government is required to prepare and adopt a budget with such modifications as are necessary to meet the case, including where required to do so in consequence of the quashing of a general evaluation or a rate or service charge by a court or by a Land Valuation Tribunal. The State Administrative Tribunal is to assume jurisdiction over such matters which were dealt with by the Land Valuation Tribunal. Therefore, in section 6.3 of the Act reference to a Land Valuation Tribunal is removed and replaced with a reference to the State Administrative Tribunal.

698. Section 6.32 amended

Subsection 6.32(3) of the *Local Government Act 1995* provides that a local government may at any time after the imposition of rates in a financial year, in an emergency, impose a supplementary general rate or specified rate for the unexpired portion of the current financial year, and is to after a Land Valuation Tribunal has quashed a general valuation rate or service charge, impose a new general rate, specified area rate or service charge. Subsection 6.32(4) provides that where a Land Valuation Tribunal has quashed a general valuation, it does not render invalid a rate imposed on the basis of the quashed evaluation in respect of any financial year prior to the legal proceedings. The State Administrative Tribunal is to assume jurisdiction over such matters which were dealt with by the Land Valuation Tribunal. Therefore, in subsections 6.32(3) and 6.32(4) of the Act references to a Land Valuation Tribunal are removed and are replaced with references to the State Administrative Tribunal.

699. Section 6.58 amended

Section 6.58 of the *Local Government Act 1995* provides that if a person sued or proceeded against proves that a notice required to be given has not been given, the claim of the local government does not on that account fail, but such objections that would have been competent on an appeal may be raised as a defence, unless they have already been raised by the person on an appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, in section 6.58 of the Act references to an appeal are removed and are replaced with references to an application for a review.

700. Section 6.59 amended

Section 6.59 of the *Local Government Act 1995* provides that a competent jurisdiction to recover rates or service charges, or consequent on the recovery of rates or service charges, or an appeal in relation to rates or service charges is not affected on the ground that a question of title to land is raised in proceedings but an order or judgment in the proceedings or appeal is not evidence of title. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, in section 6.59 of the Act reference is made to an application for a review, and the word “matter” is used to replace “proceedings or appeal”.

701. Heading to Part 6 Division 6 Subdivision 7 amended

The heading to Part 6 Division 6 Subdivision 7 is amended to delete reference to “Appeals” and replacing it with “Review”.

702. Section 6.77 amended

Section 6.77 of the *Local Government Act 1995* provides that a person who is dissatisfied with a decision of a local government on an objection, within 42 days, or further period that the local government allows, after service of the notice of the decision, give the local government a notice requiring that it treat the objection as an appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, section 6.77 of the Act is amended to enable these aggrieved persons to be able to seek a review of decisions through the State Administrative Tribunal, and to give the State Administrative Tribunal, rather than the local government, discretion regarding the granting extra time.

703. Section 6.78 amended

Section 6.78 of the *Local Government Act 1995* provides that a person who is dissatisfied with a decision of the local government to refuse to extend time for making an objection or for service of a notice requiring it to treat an objection as an appeal, may give the local government a notice requiring it to refer the decision to the Land Valuation Tribunal as an appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, section 6.78 of the Act is amended to enable these aggrieved persons to be able to seek a review through the State Administrative Tribunal where the person is dissatisfied with a decision of the local government to refuse to extend time for making an objection.

704. Section 6.79 replaced by sections 6.79 and 6.79B

Section 6.78 of the *Local Government Act 1995* provides that on receipt of a notice under section 6.77 or 6.78, the local government is required to refer the decision to the Land Valuation Tribunal as an appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, section 6.79 of the Act is repealed and replaced with provisions which provide that upon a review under section 6.77 or 6.78, the State Administrative Tribunal may consider grounds in addition to those stated in the notice of objection and reasons in addition to those for the local government's decision. Parties are to be given reasonable time to consider and respond to new grounds or reasons that the State Administrative Tribunal proposes to consider.

A new section 6.79B of the *Local Government Act 1995* provides that the State Administrative Tribunal is to provide written reasons for an order, give a copy to each party and publish the reasons, where it considers the order is of general interest or significance.

705. Section 6.80 amended

Section 6.80 of the *Local Government Act 1995* provides that there shall be no objection or appeal of valuations of rateable land appearing in rating records except in accordance with the *Valuation of Land Act 1978*. The State Administrative Tribunal is to assume jurisdiction over appeals of valuations of rateable land appearing in rating records. Therefore, section 6.80 of the Act is to be amended to limit reviews of valuations through the State Administrative Tribunal in accordance with the *Valuation of Land Act 1978*.

706. Section 6.81 amended

Section 6.81 of the *Local Government Act 1995* provides that an objection or appeal does not affect the liability to pay rates, pending the determination of the objection or appeal. Section 6.81 of the Act is to be amended to remove any reference to an appeal.

707. Section 6.82 amended

Subsection 6.82(1) of the *Local Government Act 1995* provides that where there is a question as to whether a rate or service charge was imposed in accordance with this Act, the local government or a person may appeal to the Land Valuation Tribunal to have the question resolved. Subsection 6.82(3) provides that the Land Valuation Tribunal may make an order quashing a rate or service charge improperly imposed. The State Administrative Tribunal is to assume jurisdiction over appeals in relation to rate or service charges. Therefore, section 6.82 of the Act is to be amended to enable the local government or persons to be able to seek a review of whether a rate or service charge was properly imposed through the State Administrative Tribunal, and for the State Administrative Tribunal to quash a rate or service charge improperly imposed.

708. Section 7.13 amended

Section 7.13 of the *Local Government Act 1995* provides that regulations may be made as to audits, including in relation to approved auditors for appeals to the local court against decisions to withdraw approval and the procedures relating to such appeals. The State Administrative Tribunal is to assume jurisdiction over such appeals. Therefore, section 7.13 of the Act is to be amended to remove reference to appeals to local government and make reference to applications to State Administrative Tribunal for the review of decisions.

709. Heading to Part 9 Division 1 amended

The heading to Part 9 Division 1 is amended to delete reference to “appeals” and replacing it with “review”.

710. Section 9.4 amended

Section 9.4 of the *Local Government Act 1995* provides that an affected person is to be advised of any unfavourable decision, the reasons for the decision and the person’s rights to object to and appeal against the decision. The State Administrative Tribunal is to assume jurisdiction over such appeals. Therefore, section 9.4 of the Act is to be amended to remove reference to an appeal and provide for a review through the State Administrative Tribunal.

711. Section 9.5 amended

Section 9.5 of the *Local Government Act 1995* provides that a person may object to a decision if the person has not lodged an appeal against the decision. The State Administrative Tribunal is to assume jurisdiction over such appeals. Therefore, section 9.5 of the Act is to be amended to remove reference to an appeal and make reference to a review through the State Administrative Tribunal.

712. Section 9.7 amended

Section 9.7 of the *Local Government Act 1995* provides the grounds for an appeal and how an appeal is made. The State Administrative Tribunal is to assume jurisdiction over such appeals. Therefore, section 9.7 of the Act is to be amended to remove reference to an appeal and make provision for persons to apply to the State Administrative Tribunal for a review.

713. Section 9.8 repealed

Section 9.8 of the *Local Government Act 1995* provides that an appeal against a decision that adversely affects the business or livelihood can be dealt with by the Local Court or Minister, and the process for dealing with an appeal. The State Administrative Tribunal is to assume jurisdiction over such appeals. Therefore, section 9.8 of the Act is repealed.

714. Section 9.9 amended

Section 9.9 of the *Local Government Act 1995* provides that if an objection or appeal has been lodged against a decision, the effect of the decision is suspended until the person or court has decided how to dispose of it. The State Administrative Tribunal is to assume jurisdiction over such appeals. Therefore, in section 9.8 of the Act reference to “appeal” and “court” has been deleted, and replaced with application for a review and tribunal, respectively.

715. Section 9.29 amended

Section 9.29(1) is amended to make reference to the State Administrative Tribunal in the definition of “proceedings”.

716. Schedule 9.1 amended

Schedule 9.1 Section 12(3) of the *Local Government Act 1995* provides that regulations are to provide for a person who is forbidden to clear land to have a right of appeal against the notice. The State Administrative Tribunal is to assume jurisdiction over such appeals. Therefore, section Schedule 9.1 Section 12(3) of the Act is to be amended to delete reference to a right of appeal and provide that they are an affected person for the purposes of Part 9 Division 1 and that Part 9 Division 1 applies to the notice. Part 9 Division 1 provides for objections and reviews, as amended.

Division 79 — *Maritime Archaeology Act 1973*

717. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Maritime Archaeology Act 1973*.

718. Section 18 amended

Subsection 18 (6) Provides that a person aggrieved by a decision or who has not been notified of a decision concerning a claim for reward to make application to a Judge in chambers for an order requiring the Trustees to pay a just amount. The section is amended by deleting the provision for the application to be made to a judge in chambers and providing instead for the application to be made to the State Administrative Tribunal.

Subsection 18 (6a) is inserted and stipulates that the President of the State Administrative Tribunal will ensure that the Tribunal is constituted by or includes a judicial member when dealing with an application under subsection (6).

Subsection 18 (6b) this new section directs that subsection (6a) does not apply to directions or procedural hearings, compulsory conferences or the appointment of a tribunal member as a mediator.

Subsection 18 (7) is amended by deleting provision for a “Judge” affording the Trustee the opportunity to be heard by replacing it with “Tribunal”.

Subsection 18 (9) Provides that if a Judge is satisfied that a person is entitled to a reward he may award the claimant such amount as he thinks fit. As the As the State Administrative Tribunal is assuming this jurisdiction this section is amended by deleting reference to “Judge” and replacing with “Tribunal”.

Subsection 18 (10) As the State Administrative Tribunal is assuming this jurisdiction this section is amended by deleting reference to “Judge” and replacing it with “Tribunal”.

Subsection 18 (11) Provides that a Judge may make and order for costs and expenses of and incidental to a claim. As the State Administrative Tribunal is assuming this jurisdiction subsection 18 (11) is repealed. Provision for costs relating to matters determined by the State Administrative Tribunal are contained within the *State Administrative Tribunal Bill 2003*.

Division 80 — *Marketing of Eggs Act 1945*

719. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Marketing of Eggs Act 1945*.

722. Section 32 amended

Section 32 is amended to delete the reference to the location of the local local and instead refer to the State Administrative Tribunal.

721. Section 32H replaced

Section 37 of the *Marketing of Eggs Act 1945* provides that where a person who has applied for a license considers the Board failed to comply with the directions given to the Board by the minister under section 32D(2), they may appeal to the Minister against the Board’s refusal to grant a licence or the number of fowls endorsed on a license already granted by the Board.

The State Administrative Tribunal will assume the jurisdiction of appeals that were previously referred to the Minister. Section 32H(1) will be amended to enable a person to apply to the State Administrative Tribunal for a review of a decision. Section 32H(2) will be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

722. Section 32J amended

Section 32J of the *Marketing of Eggs Act 1945* deals with when the Board may cancel or vary a license or supplementary license. Section 32J also provides that a person, whose license or supplementary license has been cancelled or varied by the Board, may appeal to the Minister against the decision.

Section 32J will be amended so that a person who currently appeals against a decision of the Board to the Minister, will be able to apply to the State Administrative Tribunal for a review of the decision to cancel or vary a license or supplementary license.

Division 81 — *Marketing of Potatoes Act 1946*

723. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Marketing of Potatoes Act 1946*.

724. Section 19A replaced

Section 19A of the *Marketing of Potatoes Act 1946* provides that a person who is aggrieved by a decision made by the Corporation, may appeal to the Minister.

The State Administrative Tribunal is to assume jurisdiction over decisions that were previously referred to the Minister. Therefore, section 19A is to be amended to enable aggrieved persons to apply to the State Administrative Tribunal for a review of a decision made by the Corporation. Subsections 19A(2)-(5) are to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

725. Section 28 amended

Section 28 is amended as a consequence of amendments to section 19A of the Act which deals with review of decisions by the State Administrative Tribunal.

726. Section 31 amended

Section 31 of the *Marketing of Potatoes Act 1946* deals with when the Corporation may withhold payment in relation to any potatoes. When a dispute is involved, payment shall not be made until the claims of the parties have been determined by a Magistrate.

The terminology in section 31 is to be amended to reflect the State Administrative Tribunal's power to make determinations. Therefore, references to a 'Magistrate' will be amended to the 'State Administrative Tribunal'.

Division 82 — *Medical Act 1894*

727. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Medical Act 1894*.

728. Section 6 amended

Section 6(1)(d) – reference “to conduct of proceedings” deleted as the Board will no longer conduct proceedings.

Section 6(2) – use of rules of the Board to provide for the imposition of fines and penalties deleted.

Section 6(3) – deleted as the Board will not be able to fine for neglect or breaches of the Act.

729. Section 8 amended

Section (8)(1) – a signature of the Board for the purposes and action it wishes to take to sue a person is to be accepted by State Administrative Tribunal in addition to Courts.

730. Section 9 amended

Section 9(3) – deleted as it relates to inquiries held by the Board. State Administrative Tribunal will take over the role of dealing with allegations of neglect or breach.

731. Section 10 amended

Section 10(6) – reference to this section amended to read reference to Section 10(5).

732. Sections 12C to 12H inserted

New Clause 12C added to provide authority to the Board to appoint an investigator.

Clause 12C(1) – power for Board to appoint a person to investigate a matter on its behalf.

Clause 12C(2) – provides for a certificate of authentication for investigator.

Clause 12C(3) – the certificate under 12C(2) can be used as evidence of appointment.

Clause 12D(1)(a) – procedures required for preparation of report and recommendations to the Board.

Clause 12D(1)(b) – must provide Board with copy of report.

Clause 12D(2) – upon completion of report investigator must return certificate (issued under 12C(2)) to the Board.

Clause 12E(1)(a-e) – generic powers provided to the investigator. Consistent with other disciplinary provisions.

Clause 12E(2) – procedural detail re production of documents for investigator.

Clause 12E(3) – procedural detail re requirement to answer questions and provide information.

Clause 12E(4) – procedural detail – investigator must inform person they must answer questions or provide information.

Clause 12E(5) – procedural detail – investigator must produce certificate when asked to do so.

Clause 12F(1) – with approval of Board investigator can apply to a magistrate for a warrant to enter premises.

Clause 12F(2)(a-d) – procedural detail re warrant obtained under Clause 12F(1).

Clause 12F(3) – powers of magistrate when considering application for warrant under Clause 12F(1).

Clause 12F(4) – procedural detail – oath or affidavit required for application for warrant.

Clause 12G(1) – empowers Magistrate to issue a warrant.

Clause 12G(2) – what the warrant issued under Clause 12G(1) authorizes the investigator to do.

Clause 12G(3) + (4) - procedural detail re warrants.

Clause 12H(1) and (2) – procedural detail regarding production of warrant and limits on its effective use.

733. Section 13 amended

Title amended to “ Referral to State Administrative Tribunal”.

Section 13(1) – reference to Board holding an inquiry changed to Board alleging to the State Administrative Tribunal that disciplinary action should be taken against a medical practitioner. Consistent with overall approach to disciplinary matters.

Section 13(2) – same as above

Section 13(3) – describes the actions State Administrative Tribunal can take when dealing with an allegation against a medical practitioner made by the Board.

Subsections (a – d) – wording changed to reflect powers of State Administrative Tribunal in regard with these subsections.

New Clause 12(3a) – new clause which describes actions State Administrative Tribunal can take on dealing with an allegation under Section 13(1)(e).

New Clause 12(3b) – new clause which describes actions State Administrative Tribunal can take on dealing with an allegation under Section 13(2).

Section 13(4) – amends provision for the medical practitioner to provide undertakings from Board to State Administrative Tribunal.

Sections 13(5), (6), (6a), (6b), (6c), (6d), (6e) deleted consistent with State Administrative Tribunal’s role in dealing with allegations of a disciplinary nature.

Section 13(6f) – amends provisions to enable State Administrative Tribunal, on recommendation by the Board, to require a medical practitioner to undergo a medical examination.

Section 13(6g) – deleted consistent with State Administrative Tribunal taking over jurisdiction for dealing with disciplinary matters.

Section 13(6h) – words “Board” replaced with Tribunal.

Section 13(6i) – only State Administrative Tribunal will deal with disciplinary proceedings and hence order costs pursuant to the Principal Bill.

Section 13(8)(a) – reference to appeal to a Judge of the Supreme Court deleted and replaced by application to State Administrative Tribunal for review.

Section 13(8)(b + c) – procedural sections deleted consistent with above.

Section 9(b) – reference to a new Clause (9ba) inserted.

Section (9b) – powers of the Board to extend period of suspension not to exceed 30 days beyond expiry date of original order.

New Clause (9ba) – added – an order under Section (9b) is to be referred to as an interim order and the Board in so issuing must refer the matter to State Administrative Tribunal within 14 days.

Section (9ba) – confirms that State Administrative Tribunal has power to extend the suspension for a period not exceeding 12 months.

New Clause (9bb) – inserted to allow persons affected by an interim suspension order to seek a review by State Administrative Tribunal.

Section (9d) – wording changes to reflect role of State Administrative Tribunal.

734. Section 16A amended

Section 16A(4)(c) - adds an order of State Administrative Tribunal as a matter the Board needs to consider when registering a medical practitioner.

735. Section 17 amended

Section 17(5) – words “or inquiry” removed for consistency.

736. Section 21CA amended

Section 21CA(8) – reference to an appeal to the District Court deleted and replaced with application to State Administrative Tribunal for review.

737. Section 21CD amended

Section 21CD(1) – powers to suspend or cancel a certificate of approval granted under Section 21CA transferred from Board to State Administrative Tribunal.

Section 21CD(2) – reference to Board replaced by Tribunal.

Section 21CD(3) – deleted for consistency with changes to Section 21CD(1).

738. Section 21G amended

A new Clause 21G(1a) inserted to require the Board to report on the number of investigations it has undertaken, the number of matters brought before State Administrative Tribunal and other administrative matters.

739. Section 22 amended

Section 22(2) – deleted as all monetary penalties imposed by State Administrative Tribunal in a disciplinary proceeding are to be paid to CRF.

Section 22(3) – reference to fines and penalties deleted to be consistent with above.

Division 83 — *Mental Health Act 1996*

740. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Mental Health Act 1996*.

741. Section 3 amended

Definitions of Board, President, Mental Health Review Board and Registrar deleted.

Definitions of executive officer, and President (as meaning President of State Administrative Tribunal) added.

Definitions of legal practitioner and legally qualified member amended for consistency.

742. Section 7 amended

Section 7(j) – amended to reflect that State Administrative Tribunal will take over the functions of the Mental Health Review Board.

743. Section 10 amended

Two new Clauses 10 (c)(ca) and (cb) have been added to ensure firstly that particulars of all involuntary patients are recorded and that reviews required to be carried out under the Act are brought before State Administrative Tribunal at an appropriate time.

Section 10(d) – amended to transfer a reporting function from the Mental Health Review Board to the Commissioner.

744. Part 2 Division 5 repealed

Sections 22, 23, 24 and 25 which deal with the Registrar of the Mental Health Review Board are to be repealed as the Board will cease to exist.

745. Section 76 amended

Section 76(6) – a copy of a request for a second opinion to be provided to the Chief Psychiatrist (instead of the Mental Health Review Board) prior to the next time the State Administrative Tribunal carries out a review of the case under Division 2 part 6 of the Act.

746. Section 101 amended

Section 101(1) - State Administrative Tribunal substituted for Mental Health Review Board.

747. Section 102 amended

Section 102 - State Administrative Tribunal substituted for Mental Health Review Board.

748. Section 103 amended

Section 103 – Board replaced with State Administrative Tribunal.

749. Section 106 amended

Section 106(1) – reference to the Board in terms of not approving a recommendation for electroconvulsive therapy changed to review by State Administrative Tribunal of the decision to withhold approval.

Section 106(2) – reference to the Board is replaced with Tribunal.

750. Section 112 amended

Section 112(2)(b) – reference to the Mental Health Review Board replaced by State Administrative Tribunal in relation to review of an opinion obtained under Section 111.

Section 112(3) – details what State Administrative Tribunal can do when a matter is referred per Section 112(2)(b).

751. Section 115 amended

Section 115(b) – reference to a report being sent to the Mental Health Review Board replaced with State Administrative Tribunal.

752. Section 120 amended

Section 120(d) – report made of a person kept in seclusion is to be made to the Chief Psychiatrist instead of the Mental Health Review Board.

753. Section 124 amended

Section 124 – reference to a report to be provided to the Mental Health Review Board changed to Chief Psychiatrist.

754. Heading to Part 6 amended

Title of heading changed to “State Administrative Tribunal”.

755. Heading to Part 6 Division 1 amended

The heading to Part 6 Division 1 Subdivision 7 is amended to refer to constitution and proceedings in the context of the State Administrative Tribunal delete reference to “Appeals” and replacing it with “Review”.

756. Part 6 Division 1 Subdivision 1 repealed

Section 125, 126, 127 and 128 deleted as Board is to be replaced by State Administrative Tribunal.

757. Heading to Part 6 Division 1 Subdivision 2 repealed

Heading to Subdivisioisn 2 of Part 6 Division 1 is no longer necesary as Subdivisions 1 has been repelaed.

758. Section 129 amended

Section 129(1) – defines State Administrative Tribunal when dealing with matters under this Act.

Section 129(2) – defines that the Tribunal must comprise 3 members when dealing with matters under this Act.

Section 129(3) + (4) – deleted as they are covered in the Principal Bill.

Section 129 (5) – defines who is to comprise the Tribunal. Minor wording changes consistent with Principal Bill.

759. Section 130 amended

Section 130(1) – defines role of State Administrative Tribunal in these matters.

Section 130(2) – defines that State Administrative Tribunal when dealing with these matters should comprise 5 members. Section 130(3) – deleted as it is covered in Principal Bill. Section 130(4) – defines who is to comprise the 5 members for dealing with psychosurgical matters.

760. Section 131 repealed

Section 131 deleted as this provision are covered in *State Administrative Tribunal Bill 2003*.

761. Heading to Part 6 Division 1 Subdivision 3 repealed

Heading dleted as the sections in this Subdivision are to be repelaed.

762. Sections 132, 133 and 134 repealed

Section 132, 133 and 134 – deleted as these are covered in *State Administrative Tribunal Bill 2003*.

763. Section 135 amended

Section 135 – relates Schedule 2 to proceedings before State Administrative Tribunal rather than the Mental Health Review Board.

764. Section 136 repealed

Section 136 – deleted as these processes are covered in the *State Administrative Tribunal Bill 2003*.

765. Section 137 amended

Section 137 – reference to the Board in this general provision is changed to the State Administrative Tribunal.

766. Section 138 amended

Section 138(1) – The applicant for a review of an order to detain a person as an involuntary patient in an authorized hospital or of a community treatment order is transferred from the Board to the Chief Psychiatrist. The Chief Psychiatrist is to apply to the State Administrative Tribunal for a review of whether the order should continue to have effect.

Section 138(2) – qualifies the application made under S138(1) so that it is made in sufficient time for the review as soon as practicable after the initial order was made but it should not be made more than 8 weeks after the initial order was made.

767. Section 139 amended

Section 139(1) – in respect to a review under Section 138 the Chief Psychiatrist is to apply to State Administrative Tribunal a further review regarding the continued operation of the order.

Section 139(2) – qualifies that the application for this review must be made in sufficient time for the review to be carried out but should not be made after 6 months has elapsed since the time the previous review (under Section 138) was completed.

768. Section 141 amended

Section 141(1) – if State Administrative Tribunal has made a determination within 28 days of when the reviews referred to in Sections 138 and 139 were due to be completed State Administrative Tribunal may extend the time by which the review should be carried out under these sections for a further 28 days from the date of the determination.

769. Section 142 amended

Sections 142(1)(2) and (3) – Board replaced by State Administrative Tribunal.

770. Section 143 amended

Section 143 – defines what State Administrative Tribunal can do prior to its final determination of an application for review.

771. Section 144 repealed

This clause is deleted consistent with transfer of Board functions to State Administrative Tribunal.

772. Section 145 amended

Section 145(1) – essentially confers appropriate jurisdiction on the State Administrative Tribunal (as constituted by the Principal Bill).

Section 145(2) – defines the powers State Administrative Tribunal can exercise in relation to the jurisdiction conferred upon it through Section 145(1).

773. Section 146 replaced

Section 146(1) – provides for State Administrative Tribunal to enquire into any complaint concerning any failure to recognise the rights given by this Act to an involuntary patient.

Sections 146(1)(b), (2) and (3) deleted as reference to the Board no longer applicable.

774. Sections 147 and 148 repealed

Section 147 and 148 deleted – provision for the Minister to enquire removed and placed with State Administrative Tribunal per Section 146(1).

775. Heading to Part 6 Division 3 amended

Title amended to “Appeal from State Administrative Tribunal”

776. Section 149 amended

Section 149(1) deleted consistent with transfer of Boards functions.

Section 149(2) – provides an avenue of Appeal in respect of any decision or order of State Administrative Tribunal.

Section 149(3) – deleted – generic provisions for appeals from State Administrative Tribunal decisions are contained in Principal Bill.

777. Section 150 amended

Section 150 – amended to make reference to appeals against decision of State Administrative Tribunal rather than Board.

778. Section 151 amended

Section 151 amended to describe an application for leave to appeal be made within one month of the decision, consistent with Principal Bill. Also provides for the Supreme Court to extend this time under in certain circumstances.

779. Section 152 amended

Section 152 reference to the Board replaced with reference to State Administrative Tribunal.

780. Section 153 amended

Section 153 reference to the Board replaced with reference to State Administrative Tribunal.

781. Sections 154 and 155 repealed

Sections 154 and 155 deleted because Supreme Court's powers to deal with application or appeals, with now be assumed by the State Administrative Tribunal.

782. Section 170 amended

Section 170(2) reference to Mental Health Review Board replaced by reference to State Administrative Tribunal.

Section 170(3) reference to the Board replaced by State Administrative Tribunal.

Section 170(4) deleted as Board's functions are to be transferred.

783. Section 171 amended

Section 171 – reference to Board replaced by reference to State Administrative Tribunal.

784. Section 203 amended

Sections 203(1) & (2) – reference to Mental Health Review Board and the Board replaced with State Administrative Tribunal.

Sections 203(3) – deleted as functions of Board are to be transferred.

Section 203(4) – function of Registrar of Board replaced with executive officer of State Administrative Tribunal with regard reporting to the Electoral Commissioner in relation to Section 51AA of the Electoral Act 1907.

785. Section 213 amended

Section 213(2) – reference to the Board deleted as Board’s functions are to be transferred.

786. Section 215 amended

Sections 1(a) + (b) – reference to the Board deleted as Board’s functions are to be transferred.

787. Schedule 1 repealed

Whole schedule deleted as functions of Board to be transferred to State Administrative Tribunal.

788. Schedule 2 amended

Title of Schedule changed to “Provisions concerning proceedings before State Administrative Tribunal”.

Division 84 — *Metropolitan Region Town Planning Scheme Act 1959*

789. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Metropolitan Region Town Planning Scheme Act 1959*.

790. Section 32A amended

Subsection 32A(2) of the *Metropolitan Region Town Planning Scheme Act 1959* provides that the Scheme shall not be amended under section 33 or 33A contrary to or in consistent with any order made under section 59 of the *Heritage of Western Australia Act 1990*, except as may be ordered on appeal or referral to the Town Planning Appeal Tribunal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Town Planning Appeal Tribunal. Therefore, subsection 32A(2)) of the Act is to be amended to remove reference to appeals to the Town Planning Appeal Tribunal and provide for applications to the State Administrative Tribunal.

791. Section 35F amended

Subsection 35F(1) of the *Metropolitan Region Town Planning Scheme Act 1959* provides that an applicant, whose application for approval of development in planning control areas under 35E has been approved subject to conditions which are unacceptable to him or refused, may with some exceptions appeal against the approval or refusal under Part V of the Town Planning Act (*Town Planning and Development Act 1928*). The State Administrative Tribunal is to assume jurisdiction over appeals to the Town Planning Appeal Tribunal. Therefore, subsection 35F(1) of the Act is to be amended to remove reference to appeal under Part V of the Town Planning Act and provide for persons to apply to the State Administrative Tribunal for a review.

Subsection 35F(2) provides that an appeal under subsection 1 in relation to a condition imposed in consequence of advice furnished by the Heritage Council or by the operation of the *Heritage of Western Australia Act 1990* shall be referred to the Heritage Council for advice and section 56(2) of the Town Planning Act applies. The State Administrative Tribunal is to assume jurisdiction over appeals to the Town Planning Appeal Tribunal. Therefore, subsection 35F(2) of the Act is to be amended to remove reference to an appeal and provide for an application for review. Subsection 35F(2) is also amended to correct an incorrect reference to the Town Planning Act.

792. Section 36 amended

Subsection 36(2b) of the *Metropolitan Region Town Planning Scheme Act 1959* provides that the value of the land, where the Western Australian Planning Commission and the owner are unable to agree on the price, shall be the value on the date that the Commission elects to acquire the land. The value shall be determined by arbitration in accordance with the *Commercial Arbitration Act 1985* or on the application of the owner of the land by the local court, or by the Supreme Court if the value claimed by the owner is greater than \$1,000, or by some other method agreed upon by the Commission and the owner. The State Administrative Tribunal is to assume jurisdiction from the courts over such matters. Therefore, subsection 36(2b) of the Act is to be amended to remove references to determination by the local and Supreme Court and provide for a determination by the State Administrative Tribunal.

793. Section 43 amended

Subsection 43(1) of the *Metropolitan Region Town Planning Scheme Act 1959* provides that the Commission, or a local government exercising the powers of the Commission, may direct the owner of land situated in the metropolitan region to remove, pull down, alter etc. any building or work, or cease any development in contravention of the scheme.

Subsection 43(2) provides that the Commission may direct the owner of land situated in a planning control area to cease any development carried out in contravention of section 35D.

Subsection 43(3) of the *Metropolitan Region Town Planning Scheme Act 1959* provides that an owner on whom a notice is served under subsection (1) or (2) may appeal under Part V of the Town Planning Act against any direction. The State Administrative Tribunal is to assume jurisdiction over appeals to the Town Planning Appeal Tribunal. Therefore, subsection 43(3) of the Act is to be amended to remove reference to appeal under Part V of the Town Planning Act and provide for persons to apply to the State Administrative Tribunal for a review in accordance with Part V of the Town Planning Act.

Subsection 43(3a) provides that where the Town Planning Appeal Tribunal confirms or varies the direction, it may direct that the owner complies with the directions within a period of not less than 40 days. The State Administrative Tribunal is to assume jurisdiction over appeals to the Town Planning Appeal Tribunal. Therefore, subsection 43(3a) of the Act is to be amended to remove reference to the Town Planning Appeal Tribunal and replace it with reference to the State Administrative Tribunal.

Subsection 43(4) provides that where the direction appeal against is confirmed or varied, the owner shall comply with the outcome of the appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Town Planning Appeal Tribunal. Therefore, subsection 43(4) of the Act is repealed.

Subsection 43(5) provides that where a notice is served under subsection 1, and the owner fails to carry out the directions within the time specified or appeals against the directions, or the appeal is confirmed or varied, and the owner fails to carry out the direction as confirmed or varied, the Commission or local government may remove, pull down, take up or alter the building, work or development, and may recover the cost incurred. Therefore, subsection 43(5) of the Act is to be amended to remove reference to appeal to the Town Planning Appeal Tribunal and provide for application for review by the State Administrative Tribunal.

Division 85 — *Metropolitan Water Authority Act 1982*

794. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Metropolitan Water Authority Act 1982*.

795. Section 4 amended

Subsection 4(2) of the *Metropolitan Water Authority Act 1982* defines Land Valuation Tribunal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, reference to the Land Valuation Tribunal in subsection 4(2)) of the Act is deleted.

796. Heading to Part IV amended

The heading to Part IV is amended to delete reference to “appeals” and instead refer to “review”

797. Section 43 amended

Subsection 43(1) of the *Metropolitan Water Authority Act 1982* provides that there shall be no objection or appeal in respect of valuations for the purposes of a charge in relation to water services made under the *Water Agencies (Powers) Act 1984* or the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* otherwise than in accordance with the *Valuation of Land Act 1978*. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(1) is to be amended to remove reference to appeal and make reference to review.

Subsection 43(2a) provides that notwithstanding that a charge under the *Water Agencies(Powers) Act 1984* is only in part based on a valuation of land, the owner or occupier may object as though it was an objection to an assessment under the *Valuation of Land Act 1978*, except as otherwise provided under this section. Any appeal to the Land Valuation Tribunal shall relate only relate to such part of the assessment as is based on the valuation of the land. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(2a) is to be amended to remove reference to appeal to the Land Valuation Tribunal and make reference to State Administrative Tribunal for a review.

Subsection 43(9) provides that where the Corporation decides to disallow an objection, it shall advise the person of the time within which, and the manner in which, an appeal against the decision may be made. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(9) is to be amended to remove reference to an appeal and make reference to a review.

Subsection 43(10) provides that a person who is dissatisfied with a decision of the Corporation may within 42 days serve on the Corporation a notice requiring it to treat the objection as an appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(10) is to be amended to remove reference to the Corporation treat the objection as an appeal and provide for the Corporation to refer the assessment to the State Administrative Tribunal for a review.

Subsection 43(11) provides that the Corporation shall promptly refer the objection to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978*. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(11) is to be amended to remove reference to “refer the objection to a Land Valuation Tribunal”, and provide for the Corporation to refer the assessment to the State Administrative Tribunal for a review.

A new subsection 43(11a) is inserted into the Act which prescribes the process that the Commission is to adopt to effect a reference to the State Administrative Tribunal, and the documents which need to be forwarded.

Subsection 43(12) provides that a person, who is dissatisfied with a decision of the Corporation to refuse to extend the time for service of an objection or for service of a notice requiring the Corporation to treat an objection as an appeal, may serve on the Corporation a notice requiring it to refer the decision to the Land Valuation Tribunal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(12) is to be amended to remove references to “treat the objection as an appeal” and “a Land Valuation Tribunal”, and provide for the Corporation to refer the decision “to refuse to extend time to the State Administrative Tribunal for a review”.

Subsection 43(13) provides that on receipt of a notice under subsection (12), the Corporation shall promptly refer the decision to a Land Valuation Tribunal as an appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(13) is to be amended to remove references to “Land Valuation Tribunal” and “appeal” and provide for referrals to the State Administrative Tribunal for a review.

A new subsection 43(13a) is inserted into the Act which prescribes the process that the Commission is to adopt to effect a reference to the State Administrative Tribunal, and the documents which need to be forwarded in relation to a refusal to extend time.

Subsection 43(14) provides that the making of an objection or appeal does not affect the liability of a person to pay the charges concerned pending determination of the objection or appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(13) is to be amended to remove references to “an appeal”.

Subsection 43(15) provides that the Corporation shall make any amendments of an entry in the records which may be necessary in consequence of the allowance of an objection or appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(13) is to be amended to remove the reference to “an appeal” and make reference to review by the State Administrative Tribunal.

Subsection 43(16) provides that the Corporation shall issue a notice of an amended assessment in consequence of the allowance of an objection or appeal. The State Administrative Tribunal is to assume jurisdiction over appeals to the Land Valuation Tribunal. Therefore, subsection 43(16) is to be amended to simplify the subsection and remove the reference to “an appeal” and make reference to subsection 15.

798. Sections 44 and 45 inserted

Section 44 of the *Metropolitan Water Authority Act 1982* is a new section which provides that upon a review under section 43(11) or (13), the State Administrative Tribunal may consider grounds in addition to those stated in the notice of objection and reasons in addition to those for the Corporation’s decision. Parties are to be given reasonable time to consider and respond to new grounds or reasons.

Section 45 of the *Metropolitan Water Authority Act 1982* is a new section which provides that the State Administrative Tribunal is to provide written reasons for an order, give a copy to each party and publish the reasons, where it considers the order is of general interest or significance. This obligation is in addition to any provision under the *State Administrative Tribunal Act 2003*.

Division 86 — *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*

799. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

800. Section 57D amended

Subsection 57D(1) of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* provides that any person may appeal to a Local Court against a refusal by the Water and Rivers Commission to grant him a dispensation from observance from any by-law; or the terms of conditions to which any dispensation granted by the Commission is subject; or the cancellation or alteration of such dispensation or the cancellation or alteration of such terms and conditions. The State Administrative Tribunal is to assume jurisdiction over appeals to the Local Court in relation to decisions by the Water and Rivers Commission. Therefore, subsection 43(1) is to be amended to remove reference to appeal to a Local Court, and provide for the person to apply to the State Administrative Tribunal for a review.

Subsections 57D(2) to (5) provide for the making of an appeal, the powers of the Local Court in relation to an appeal, the payment of costs, and that the decision of the local court on any appeal is final. The State Administrative Tribunal is to assume jurisdiction over appeals to the Local Court in relation to decisions by the Water and Rivers Commission. Therefore, subsections 57D(2) to (5) are repealed.

801. Section 57G amended

Subsection 57G(7) of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* provides that a person who is aggrieved by the decision of the Commission under 57G, 57H or 57I may appeal against the decision, and the provisions of 57I shall apply to the appeal. Subsections 57G, 57H or 57I relate to the issuing of licences, conditions of licences and the maintenance of wells by licence-holders, respectively. The State Administrative Tribunal is to assume jurisdiction over appeals to the Local Court in relation to decisions by the Water and Rivers Commission. Therefore, subsection 57G(7) is to be amended to remove reference to appeal and section 57D, and provide for the person to apply to the State Administrative Tribunal for a review.

802. Section 152 amended

Subsection 152(2) of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* provides that any determination by the owner of any land as to the liability to pay water charges, or to refund water charges or contribute to water charges to the Water Corporation, as between himself and any occupier or between occupiers shall be apportioned upon an equitable basis. Any person aggrieved by the determination within a period of three years following the coming into operation of the *Metropolitan Water Supply, Sewerage, and Drainage Amendment Act 1982* may refer the determination to the Corporation for review. The part of the subsection relating to the referral of determination to the Corporation is now redundant due to the three-year period having elapsed, and is to be repealed.

Division 87 — *Midland Redevelopment Act 1999*

803. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Midland Redevelopment Act 1999*.

804. Section 52 amended

Section 52(1) of the *Midland Redevelopment Act 1999* (the Act) currently provides that an applicant may appeal against a decision made by the Midland Redevelopment Authority under section 50 of this Act to the Town Planning Appeal Tribunal in accordance with Part V of the *Town Planning and Development Act 1928*. Subsection 50(2) provides the tribunal may allow or reject the appeal, and if allowed, conditions may or may not be imposed.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Town Planning Appeal Tribunal, under amendments to the *Town Planning and Development Act 1928*. As a consequence, section 52 (1) of the Act is to be amended to enable an applicant to apply to the State Administrative Tribunal for a review of a decision of the Midland Redevelopment Authority. Subsection 52(2) is to be repealed as the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

805. Section 54 amended

Section 54 of the Act deals with the powers of the Midland Redevelopment Authority (the Authority) to issue notices or give directions in relation to unlawful developments. Under subsection 54(1)(b), the Authority can order a person who has completed an unlawful development to remove it, pull it down, take it up or alter it by issuing a notice in writing to that person. Subsection 54(2) provides a person on whom such a notice is served may currently appeal that decision to the Town Planning Appeals Tribunal under Part V of the *Town Planning and Development Act 1928*. Subsection 54(3) provides such a notice is suspended pending determination of the appeal by the Tribunal. Subsection 54(4) provides that should the tribunal confirm or vary the direction in the notice, the person has to comply with this decision.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Town Planning Appeal Tribunal under section 54 of the *Midland Redevelopment Act 1999*. Therefore, section 54(2) of the Act is to be amended to enable these persons to be able to seek a review of the Authority's notice or directions through the State Administrative Tribunal. The references to the Town Planning Appeals Tribunal in section 54(4) will also be amended to the State Administrative Tribunal. Other amendments to section 52 are proposed as a consequence of the amendment to subsection 54(2).

Division 88 — *Motor Vehicle Dealers Act 1973*

806. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Motor Vehicle Dealers Act 1973*.

807. Section 6 amended

This section provides protection from liability for the Commissioner and others who exercise authority under this Act. However, this recognises that there are certain obligations under the *Consumer Affairs Act 1971* in relation to this provision. Section 6(1) has been amended to remove the references to section 19 to 23A and 24 of the *Consumer Affairs Act 1971* as they are no longer relevant, but has retained the reference to section 25 of that Act.

Section 6(2) has been deleted. It had authorised the Minister and the head of the Department of Consumer and Employment Protection to appoint “authorised” officers within the context of the *Motor Vehicle Dealers Act 1973*.

808. Sections 13A to 13D inserted

Section 13A is a new section that replaces the former section 14. It sets out the powers that the Motor Vehicle Dealers Licensing Board can exercise in considering and making decisions regarding applications for licences and other matters under this Act.

Section 13A specifies the reasons why the Board can initiate an enquiry. These are in relation to: an application or other matter before the Board (subsection 13A(1)(a)); suspected non-compliance with the Act (subsection 13A(1)(b)); other possible cause for disciplinary action (subsection 13A(1)(c)); and potential offences against the Act (subsection 13A(1)(d)).

Section 13A(2) empowers the Board to assign the function of investigator to a person for the purpose of that person conducting an enquiry and making a subsequent report to the Board.

Section 13A(3) sets out the powers that an investigator can exercise in the course of an investigation in order to obtain and examine information. These powers are: to require a person to provide information and answer questions (subsection 13A(3)(a)(i) and (ii)); to require a person to provide documents to the investigator (subsection 13A(3)(b)); to enter and search premises and inspect documents found on the premises (subsection 13A(3)(c)); and, copy documents or entries in documents (subsection 13A(3)(d)).

Section 13A(4) sets out the process to be followed if and when an investigator requires a person to produce a document or answer questions as provided for under subsection 13A(1)(a). A person can be notified of the requirement in writing or orally (subsection 13A(4)(a)), and they are to be given a timeframe in which to comply with the requirement (subsection 13A(4)(b)). The notice of requirement can also stipulate a place and means for the information or answer (subsection 13A(4)(c)(i), (ii) and (iii)). Under subsection 13A(4)(c)(iv), the investigator can also require that the information or answer be provided on oath or affirmation or by statutory declaration. The investigator is authorised to administer an oath or affirmation and to act as commissioner for declarations.

Section 13A(5) sets out the process to be followed if and when an investigator requires a person to provide a document to the investigator. The notice to the person: is to be in writing (subsection 13A(5)(a)); is to provide a timeframe for the production of the document (subsection 13A(5)(b)); and, can specify the time place and means for producing the document (subsection 13A(5)(c)(i) and (ii)).

Section 13A(6) applies when the investigator orally gives notice to a person to provide information or answer a question. Under this circumstance, the investigator is obliged to inform the person that the requirement is being made under the *Motor Vehicle Dealers Act 1973*.

Whilst a requirement to provide information or answer a question can be conveyed in written or oral form, a requirement to produce a document can only be made in written form. Section 13A(7) stipulates that when written notice is used to convey a requirement to provide information, answer a question or produce a document, that this notice is to state that the requirement is being made under the *Motor Vehicle Dealers Act 1973*.

In the course of an investigation, an investigator may be required to enter premises. In this instance, the investigator is required, under Section 13A(8) to obtain a search warrant from a Justice of the Peace or a magistrate. Under subsection 13A(8)(a), the a Justice of the Peace or magistrate must, before issuing a search warrant, be satisfied that a warrant is appropriate. . Under section 13A(8)(b) an investigator is obliged to show her or his certificate of appointment to a person who is being investigated if that person so requests.

Material gained during the course of an investigation or material that is sought by an investigator could have the potential to incriminate the person who is providing the material, and this may act as a disincentive for a person to comply with the requirement to provide the material. Section 13B states that the possibility of self-incrimination is insufficient grounds to refuse to comply with a requirement to provide information, answer a question or produce a document. However, it goes on to state that any such material provided during the course of an investigation is not to be admissible in evidence in any other proceedings.

Inquiries under this Act are very important in the context of consumer protection and maintaining public confidence in the motor vehicle dealing industry. To this end, Section 13C(1) makes it an offence, attracting a penalty of \$2,000, to not comply with a requirement to provide information, an answer or a document as notified by an investigator. Non-compliance can be in the form of failing to meet a specified time limit or giving false information or answers.

In the interests of natural justice, the following circumstances can constitute a defence against an accusation of non-compliance under section 13C(1): the investigator gave notice orally but did not say that the requirement was issued under the *Motor Vehicle Dealers Act 1973* (subsection 13C(2)(a)); that a written notification of requirement issued by the investigator did not say that the requirement was issued under this Act (subsection 13C(2)(b)); that the timeframe was unreasonable (subsection a3C(2)(c)); or that the investigator did not have sufficient grounds for believing that the sought after material was relevant to the inquiry (subsection 13C(2)(d)).

A with section 13C, section 13D recognises the importance of investigations under the Act and the need to protect the powers of the investigator. Section 13D stipulates that any obstruction or attempted obstruction of an investigator attracts a penalty of \$2,000.

809. Section 14 repealed

This section has been deleted. It had dealt with the procedural aspects of the Motor Vehicle Dealers Licensing Board in exercising investigative and inquisitorial functions in relation to matters before it. It has been replaced with section 13A.

810. Section 18 amended

This section has been amended to reflect the fact that the Board will no longer be able to make orders pursuant to disciplinary matters. The new procedure will be that the Board will make an allegation to the State Administrative Tribunal which, if it upholds the allegation, can make appropriate orders.

Section 18 does not deal with disciplinary matters as such but deals with the Board's capacity to refuse an application for a new or renewed licence. An application can be refused if the Board considers that there are sufficient grounds to make an allegation to the State Administrative Tribunal with respect to the applicant(s). Section 18 has been amended through the insertion of the words "in the opinion of the Board" and the replacement of "order" with "allegation". These amendments reflect that, in the case of disciplinary matters, the Board now has an advisory rather than decision making power. However, it must be noted that in the context of considering applications for licences, the Board can make a decision, but that the standard it is to apply in coming to a decision is framed as being equivalent to the standard it would apply if it were considering referring a matter to the State Administrative Tribunal for determination in a disciplinary matter.

Subsection 18(1a)(a) has been deleted. It had referred to the Board conducting an inquiry, but the Board no longer has this function and, as such, this provision is now redundant.

Section 18(1b) enabled the Board to renew an application for a licence pending the outcome of an inquiry if there was insufficient time before the expiry date of the current licence in which to hold and conclude an inquiry. This section has been deleted.

811. Section 18A amended

Section 18A(6) states that the Board's power to attach conditions on a motor vehicle dealer's licence are in addition to its powers in section 20A(5). Section 20A(5) has been amended so that it now invests powers in the State Administrative Tribunal and not the Motor Vehicle Dealers Licensing Board. This means that section 18A(6) is now redundant and it has been deleted.

812. Section 19A amended

Section 19A(3) acts as a protection against a person surrendering her or his licence so as to avoid investigation under the *Motor Vehicle Dealers Act 1973*. Under this section, a person can still be investigated for matters which allegedly occurred prior to the surrender of her or his licence.

813. Section 20 amended

This section has been amended in a number of places to remove the Board's powers to make orders in relation to disciplinary and licensing matters, and instead to make provision for the Board's new role to make allegations to the State Administrative Tribunal regarding non-compliance with this Act and to issue notices under this Act in respect of licensing matters.

Section 20(1) has been amended to say that the Board may make allegations of breaches of this Act, whereas it previously had the authority to make a determination and any pursuant orders.

Subsection 20(1)(a) has a minor grammatical amendment changing the term "to have" to "has" as does subsection 20(1)(b). This latter subsection has also been amended to remove the reference to the Board holding an opinion as to a person's unfitness to hold a licence. Whilst the Board can make an allegation, it cannot form an opinion as to the appropriateness of a licensee's conduct, that is now in the province of the State Administrative Tribunal. The Board's actions in this regard are now limited to making an allegation to the State Administrative Tribunal.

Section 20(2) authorises the Motor Vehicle Dealers Licensing Board's to act if it has sufficient reason to believe that the holder of a licence has insufficient material financial assets to operate, or, in the case of a dealer or car market operator, has ceased to operate the business. Previously, the Board had the authority to make an order disqualifying such a person's licence if the Board had found that either of these conditions existed. The Board will no longer be making orders or determinations, thus Section 20(2) has been amended to replace the previous authority with the authority to issue a written notice to the licence holder if it is the Board's opinion that either of these two circumstances applies.

Section 20(3) had previously given the Board the authority to make an order to revoke a licence applying to premises under this Act. As with section 20(2), this section has been amended to replace the authority to make an order with the authority to issue a written notice to revoke such a licence if the Board considers that the Act is not being properly complied with in relation to the premises in question.

Sections 20(4) and 20(5) have likewise been amended to replace references to the Board making an order to one of the Board giving notice. There is an additional minor amendment to section 20(4) with the replacement of the word "application" with "initiative" in the context of the Board itself instigating action in the form of a notice. Section 20(5) has also been amended through the deletion of subsection 20(5)(a) which had empowered the Board to conduct an enquiry but as the Board no longer has this power, this subsection has now become redundant.

814. Section 20A amended

The State Administrative Tribunal has taken over from the Motor Vehicle Dealers Licensing Board the responsibility for making orders under the *Motor Vehicle Dealers Act 1973*. Section 20A has been amended to reflect this, in particular in section 20A(1) which authorises the Board to make allegation to the State Administrative Tribunal and authorising the Tribunal to make an order if the allegation is substantiated.

Section 20A(4) deals with penalties that may be included in an order. The reference to the Board in this context has been deleted as the Board is no longer empowered to make such orders.

Section 20A(7) has also replaced a reference to the Board making orders with a reference to the State Administrative Tribunal making orders.

815. Section 20C replaced

This previous section 20C has been deleted and replaced with a new section 20C. The previous section 20C had dealt with the procedures entailed in persons paying penalties including those involving the Board. These are now redundant in this Act as such procedures will now come under those for the State Administrative Tribunal itself.

Section 20C(1) empowers the State Administrative Tribunal to suspend the license of a licence holder who fails to make a payment in compliance with an order. The suspension can last until the payment is made or until some other event as determined by the State Administrative Tribunal.

The State Administrative Tribunal has other similar powers to make orders in both the *Motor Vehicle Dealers Act 1973* and the *State Administrative Tribunal Act 2003*. Section 20C(2) makes it clear that its powers to make orders under section 20C are in addition to and not instead of, its other related legislative powers in these two Acts.

816. Section 20D amended

Section 20D(1) has been deleted. It had provided a penalty for a person disqualified from being associated with a corporation that holds a licence under this Act who continues their association with the corporation. Section 20D(2) which penalises the corporation in these circumstances remains.

817. Section 22 replaced

Section 22 of the *Motor Vehicle Dealers Act 1973* provides that a person who is aggrieved with a decision made by the Board can appeal to the Local Court against such decisions. The State Administrative Tribunal will now assume jurisdiction over appeal matters that previously were referred to the Local Court under the Act. Therefore, section 22 of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. Further, references to the Local Court in subsections 22(1a), 22(1b), 22(2), 22(3), 22(4), 22(5), and 22(6) are no longer relevant and are therefore being repealed. Definitions of ‘aggrieved person’ and ‘reviewable decision’ are proposed to be inserted for ease of understanding.

818. Section 22A amended

Subsection 22A(1) of the *Motor Vehicle Dealers Act 1973* provides that a person who has been issued with a licence or certificate of registration and who has been refused an application for a renewal or has been disqualified from holding that licence or registration, shall return the licence or certificate of registration as soon as notified by the Board unless the Local Court otherwise order pursuant to section 22 of the Act. The State Administrative Tribunal will now assume jurisdiction over appeal matters that previously were referred to the Local Court under the Act and over disciplinary matters. Therefore, it is proposed that subsection 22A(1) of the *Motor Vehicle Dealers Act 1973* be amended to delete references to the Board, and delete references to the Local Court to instead reference the State Administrative Tribunal.

819. Section 32O amended

Section 32O of the *Motor Vehicle Dealers Act 1973* provides that an order under section 32K, 32L or 32M must be served and complied with. The *State Administrative Tribunal Bill 2003* has provisions for the enforcement of the decisions and orders made by the State Administrative Tribunal under section 94(1) of the *State Administrative Tribunal Bill 2003*. Therefore, it is proposed that the provisions in subsections 32O(4), 32O(5) and 32O(6) for enforcements of orders under section 32K, 32L or 32M of the *Motor Vehicle Dealers Act 1973* are no longer relevant and are being repealed.

820. Section 37B amended

Section 37B of the *Motor Vehicle Dealers Act 1973* deals with matters relating to the effect of determination by the Commissioner. Subsection 37B(2) of the Act provides that any person aggrieved by the determination or order of the Commissioner may appeal to the Local Court. The State Administrative Tribunal will now assume jurisdiction over appeal matters that previously were referred to the Local Court under the Act. Therefore, it is proposed that subsection 37B(2) of the Act be amended to instead reference the State Administrative Tribunal in relation to a review of a determination or order of the Commissioner.

821. Section 38 amended

Section 38 of the *Motor Vehicle Dealers Act 1973* deals with matters relating to the reference of a dispute to the court. Subsection 38(2) contains a cross reference to subsection 37B(2) which provides that a person may apply to the State Administrative Tribunal to seek a review of a determination or order of the Commissioner. As subsection 38(2) contains references to an appeal in subsection 37B(2), which is now amended, it is therefore proposed that subsection 38(2) be amended to delete references to subsection 37B(2) and appeal to the Local Court.

822. Section 51 amended

Section 51 of the *Motor Vehicle Dealers Act 1973* outlines the annual reporting requirements in relation to the Board. It is proposed to amend section 51 by inserting a new subsection 51(2), which outlines additional matters that are required to be reported on. The proposed subsection 51(2) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board.

823. Various references to “District Court” amended

A range of references to “District Court” are amended to instead refer to “State Administrative Tribunal.”

Division 89 — *Motor Vehicle Drivers Instructors Act 1963*

824. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Motor Vehicle Drivers Instructors Act 1963*.

825. Section 10 amended

Section 10 of the *Motor Vehicles Drivers Instructors Act 1963* provides that a person who has applied for a licence or to whom the licence was issued may appeal to the Court of Petty Sessions against a decision of the Director General.

The State Administrative Tribunal is to assume jurisdiction over decisions that were previously referred to the Court of Petty Sessions. Accordingly, section 10(2)(a) is to be amended to enable an applicant or person to whom a licence was issued to apply to the State Administrative Tribunal for a review of the decision of the Director General. Subsections 10(2)(b) and 10(3)-(5) will be repealed as how to apply for a review and the powers available to the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Division 90 — *Nurses Act 1992*

826. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Nurses Act 1992*.

827. Section 4 amended

Reference to “formal inquiry” deleted.

828. Section 20 amended

Clause 30(7) – new clause added to require any committee to report on the number of investigations it has undertaken, the number of matters brought before State Administrative Tribunal and other administrative matters.

829. Section 37 amended

Word “inquiry” deleted and replaced with “proceedings”.

830. Section 43 amended

New Clause 43(2a) inserted to provide State Administrative Tribunal with the overall power, exercised by the Board, to restore a person to the Register.

831. Section 44 amended

New Clause 44(3) – inserted to provide State Administrative Tribunal with the overall power, exercised by the Board, to revoke a suspension.

832. Section 54 amended

Section 54(1)(b) – words “pecuniary penalties” deleted with reference to Section taken under Section 69, because monetary penalties imposed by State Administrative Tribunal for disciplinary proceedings will be paid to CRF.

833. Section 57 amended

A new Clause 57(1a) inserted to require the Board to report on the number of investigations it has undertaken, the number of matters brought before State Administrative Tribunal and other administrative matters.

834. Section 59 amended

Word “inquiry” deleted and replaced by reference to “proceeding “ or the appointment by the Board of an investigator pursuant to Section 60(1).

835. Sections 59A to 59C inserted

New Clause 59A – Interim orders of Board inserted.

Provides contemporaneous jurisdiction for the Board to deal with more than one related matter and provides same for complaints made under the Health Services (Conciliation and Review) Act 1995.

Clause 59B(1) – gives the Board authority to order a person who poses a risk of harm to another or who is in contravention of this Act to order they cease practising, to comply with conditions or suspend the person from practicing for a period of not more than 30 days.

Clause 59B(2) – specifies the procedures the Board must follow when making an order under Clause 59B(1).

Clause 59B(3) – provides that the Board can vary or revoke the order made under Clause 59B(1).

Clause 59B(4) – provides for a person affected by an order made under Clause 59B(1) to seek a review of that order by State Administrative Tribunal.

Clause 59C(1) – provides that the Board if it does not revoke the order pursuant to Clause 59B(3) must make an allegation to the State Administrative Tribunal.

Clause 59C(2) – provides that State Administrative Tribunal when receiving an allegation under Clause 59C(1) can make, affirm or revoke or vary the order made by the Board under Clause 59B(1).

836. Section 60 amended

Section 60(a)(d) – deleted as it references “inquiry”.

837. Section 63 amended

Section 63(1)(b) – deleted and replaced with allegation to State Administrative Tribunal for consistency.

Section 63(2) – reference to formal inquiry deleted and replaced with allegation to State Administrative Tribunal.

838. Section 64 amended

Title changed to Powers where allegation not made to State Administrative Tribunal.

Section 64(2)(g) – deleted and replaced with new Clause 64(2)(g) providing for an allegation to be made to State Administrative Tribunal.

Section 64(3) – word “does” replaced by “do”.

839. Sections 65 to 68 repealed

Whole Section deleted consistent with the Board’s ability to make allegation against a person to State Administrative Tribunal.

Sections 66,67 and 68 – deleted consistent with above.

840. Section 69 amended

Title of Section changed to “Disciplinary powers of State Administrative Tribunal”.

Section 69 – amended to describe what State Administrative Tribunal can do when in receipt of an allegation against a person by the Board.

Section 69(d) – reference to the Board deleted. Fines will be paid to State Administrative Tribunal and CRF.

Clause 69(f) – inserted to provide State Administrative Tribunal with the power to penalise the person I more than one of the options listed in Section 69(a to e).

841. Section 70 amended

Section 70(1) – deleted as it references “inquiry”.

Section 70(2) – provides that a Committee, the Board or State Administrative Tribunal when declining to action against a person may officially exonerate them.

Section 70(3) – provides for a Committee to recommend to the Board that the Board make an allegation to State Administrative Tribunal where a person has failed to comply with undertakings or conditions.

Section 70(4) – deleted consistent with Sections 70(1),(2) and (3).

842. Section 71 amended

Section 71(2) is being repealed as a consequence of the removal of provisions in the Act dealing with formal inquiries into disciplinary matters.

843. Section 73 amended

Section 73(1) – where a Committee exercises its power under Section 64 it can order the payment of costs arising from the investigation.

Section 73(4) – removes monetary penalty.

844. Section 74 amended

Section 74(1) – adds State Administrative Tribunal to bodies able to make orders that can be enforced in other states.

845. Section 76 amended

For consistency word “inquiry” replaced by “proceeding”.

846. Section 77 amended

Section 77(2)(a) – reference to Section 69 deleted.

847. Section 78 replaced

Section 78(1) – amends the process for an aggrieved person to lodge an appeal consistent with State Administrative Tribunal Principal Bill.

Section 78 (2), (3), (4), (5), (6), (7), (8), (9), + (10) – deleted as they detail procedures for appeals/ review which are covered in Principal Bill.

848. Section 82 amended

Section 82(2)(f) – word “and inquiries” deleted.

Division 91 — *Occupational Therapists Registration Act 1980*

849. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Occupational Therapists Registration Act 1980*.

850. Section 9 amended

Section 9 of the *Occupational Therapists Registration Act 1980* enables the Occupational Therapists Registration Board to make rules covering matters that the Board considers are necessary, subject to the Governor’s approval. Subsection 9(1)(e) is to be amended to add reference to the ability of the Board to make rules in relation to other matters under the Act, other than those related to commencing a proceeding before the State Administrative Tribunal.

Subsection 9(1)(g) of the *Occupational Therapists Registration Act 1980* is to be amended to delete the reference to a charge against an occupational therapist, instead referring only to 'complaints'. It is also to remove the reference to the ability of the Board to regulate the manner in which it makes an inquiry, as the State Administrative Tribunal is to assume jurisdiction over complaints against registered occupational therapists that were previously referred to the Board.

851. Section 15 amended

Section 15 of the *Occupational Therapists Registration Act 1980* explains the Occupational Therapists Registration Board's authority to grant registration subject to certain conditions, and to change conditions following consultation with the certificate holder, as it sees fit. Subsection 15(1aa) is to be added so as to provide that this power does not apply to vary a condition that gives effect to an order of the State Administrative Tribunal, without the approval of the State Administrative Tribunal.

852. Section 17 amended

Section 17 of the *Occupational Therapists Registration Act 1980* provides for the voluntary resignation of registered occupational therapists. A registered person cannot request that their name be removed from the register if they are the subject of an investigation by the Occupational Therapists Registration Board. Subsection 17(1) is to be amended to add a condition that a registered person must also not be the subject of proceedings in the State Administrative Tribunal.

853. Section 21 amended

Section 21 of the *Occupational Therapists Registration Act 1980* explains the circumstances under which a person whose name has been struck off the Register may apply to the Occupational Therapists Registration Board to have their name restored to the Register. Subsection 21(1) is to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction over orders to strike a person from the register, that previously were referred to the Occupational Therapists Registration Board.

Subsection 21(1aa) of the *Occupational Therapists Registration Act 1980* is to provide a necessity for the Occupational Therapists Registration Board to seek and obtain approval through an application to the State Administrative Tribunal before an application is granted to restore a persons name to the Register that has previously been struck off.

854. Section 23 amended

Section 23 of the *Occupational Therapists Registration Act 1980* concerns the conditions of suspension when a person's name has been struck off the Register. Subsection 23(4) is to be added to reflect that the Board cannot revoke a suspension that was imposed under the jurisdiction of the State Administrative Tribunal without its permission, as the State Administrative Tribunal is to assume jurisdiction over disciplinary matters.

855. Section 27A amended

Section 27A of the *Occupational Therapists Registration Act 1980* contains the annual reporting requirements in relation to the Occupational Therapists Registration Board. It is proposed to add subsection 27A(1a), which will outline additional matters to be reported on. The proposed subsection (1a) will outline the requirement of the Board to report on matters that have been referred to the State Administrative Tribunal under the Act, including matters that are still pending, and to report on general administrative issues in relation to the operations of the Board.

856. Part IVA inserted

Section 27A of the *Occupational Therapists Registration Act 1980* contains the annual reporting requirements in relation to the Occupational Therapists Registration Board. It is proposed to add subsection 27A(1a), which will outline additional matters to be reported on. The proposed subsection (1a) will outline the requirement of the Board to report on matters that have been referred to the State Administrative Tribunal under the Act, including matters that are still pending, and to report on general administrative issues in relation to the operations of the Board.

Section 27B of the *Occupational Therapists Registration Act 1980* is a new section which will provide that the Board may appoint a person to investigate any matter relevant to the performance of the Board's functions under the Act and report to the Board. The board is to issue each investigator it appoints a certificate of appointment, which is evidence in any court of the appointment to which the certificate purports to relate.

Section 27C of the *Occupational Therapists Registration Act 1980* is a new section which will provide that an investigator must within such period as the board requires, prepare a report on the investigation and immediately after preparing the report, provide the Board with a copy of the report. The new section also outlines that the investigator must return the certificate of appointment at the time the Board is provided with a copy of the report.

Section 27D of the *Occupational Therapists Registration Act 1980* outlines the various powers of an investigator for the purpose of an investigation, following appointment by the Occupational Therapists Registration Board.

Section 27E of the *Occupational Therapists Registration Act 1980* is a new section which provides that 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, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises. The new subsection 27E(2) is to outline the requirements for an application for a warrant. The new subsection 27E(3) is to outline that a magistrate to whom an application is made must refuse it if the application does not comply with the requirements or, when required by the magistrate, the investigator does not give the magistrate more information about the application. The new subsection 27E(4) is to provide that information in an application must be verified before the magistrate on oath or affirmation, or by affidavit.

Section 27F of the *Occupational Therapists Registration Act 1980* is a new section which outlines requirements for the issue of a warrant by a magistrate. The new subsection 27F(2) is to provide that a warrant under subsection 27F(1) will authorise the investigator to enter and inspect the premises, to require a person on the premises to answer the questions or produce documents or other things concerning the investigation, and to inspect the requested document(s) and other things. The new subsection 27F(3) will outline that a warrant must state the name of the person to whom the warrant is issued and a description of the premises that may be entered.

Section 27G of the *Occupational Therapists Registration Act 1980* is a new section which outlines the execution of a warrant. The new subsection 27G(1) is to provide that the person executing a warrant must produce it for inspection if asked by the occupier or a person in charge of the premises. The new subsection 27G(2) is to provide that a warrant ceases to have effect at the end of a period of one month after its issue, if it is withdrawn by the magistrate who issued it, or when it is executed, whichever occurs first.

857. Section 28 amended

Section 28 of the *Occupational Therapists Registration Act 1980* refers to the disciplinary powers of the Occupational Therapists Registration Board. As the State Administrative Tribunal is to assume jurisdiction in disciplinary matters that were previously dealt with by an inquiry of the Board, it is proposed that the text throughout section 28 referring to Board inquiries be removed. Subsection 28(1) is to prescribe that the Board must refer grounds for an order that a person be struck off the register to the State Administrative Tribunal, under its authority. Subsection 28(2) confers all powers previously held by the Board to the State Administrative Tribunal, where an assessment is to be made whether to strike a person off the register.

Subsection 28(3) of the *Occupational Therapists Registration Act 1980* is to be amended to describe the powers of the Board in the event that it considers that the nature of a matter does not warrant a referral to the State Administrative Tribunal. It proposes that the Board be able to seek explanation from the person concerned and, upon not being satisfied at that explanation, choose to issue an alternative disciplinary action rather than apply to the State Administrative Tribunal for the person to be struck from the register.

Subsection 28(5) of the *Occupational Therapists Registration Act 1980* is to be amended to specify that any court of competent jurisdiction may recover costs associated with orders made directly by the Board.

858. Section 28A inserted

Section 28A of the *Occupational Therapists Registration Act 1980* is a new section that is to prescribe the actions available to the State Administrative Tribunal if an occupational therapist fails to make a payment with respect to an order made by the State Administrative Tribunal. Subsection 28A(1) is to give the State Administrative Tribunal the authority to suspend a person from the practice of occupational therapy until payment is made, or for a period of time it sees fit.

Subsection 28A(2) is a new section that is to highlight the powers outlined in subsection 28A(1) are in addition to the powers conferred on the Tribunal in other Acts.

859. Section 29 amended

Section 29 of the *Occupational Therapists Registration Act 1980* relates to a breach of an undertaking committed by a person who is the subject of an undertaking to the Board under section 28 of the Act. Subsection 29(1) is to be amended to reflect that the Board is entitled to make an allegation to the State Administrative Tribunal, detailing the circumstances leading to the breach, to be dealt with under the Tribunal's authority.

As subsections 29(1)(a), 29(1)(b) and 29(2) of the *Occupational Therapists Registration Act 1980* relate to jurisdictions over which the State Administrative Tribunal now has authority, rather than the Board, they are no longer relevant and therefore being repealed.

860. Section 31 repealed

Section 31 of the *Occupational Therapists Registration Act 1980* concerns the Board's authority to hold inquiries into the conduct of a person registered under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were the subject of an inquiry by the Board, section 31 of the Act is no longer relevant and is therefore being repealed.

861. Section 32 amended

Section 32 of the *Occupational Therapists Registration Act 1980* outlines the requirements of the Occupational Therapists Registration Board to record and communicate all relevant decisions to a person the subject of such decisions. Subsection 32(a) is to reflect that the Board will exercise powers under section 28(3), rather than as previously under section 31, which is being repealed.

862. Section 33 replaced

Section 33 of the *Occupational Therapists Registration Act 1980* concerns the requirements of a person who is seeking a review of a decision made by the Board. The title has been amended to better reflect the nature of the administrative action that results. Subsection 33(1) of the Act proposed that all grievances are to be resolved through an application by the aggrieved person to the State Administrative Tribunal, requesting a review of the Board's decision.

Subsections 33(2), 33(3) and 33(4) refer to appeals made through the Local Court. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Local Court, these subsections are no longer relevant and are therefore being repealed.

863. Section 34 amended

Section 34 of the *Occupational Therapists Registration Act 1980* refers to the authority of the Board to make similar orders to those that have been made by like authorities in other States against a person. The wording of subsection 34(1) is to be amended to include the State Administrative Tribunal as also having that authority.

864. Section 38 amended

Section 38 of the *Occupational Therapists Registration Act 1980* details the penalties associated with the false representation of a registered person under the Act. Subsection 38(d) is to be amended to remove the reference to inquiries by the Board, as this function of the Board is being repealed.

Division 92 — *Optical Dispensers Act 1966*

865. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Optical Dispensers Act 1966*.

866. Section 3 amended

Section 3 of the *Optical Dispensers Act 1966* outlines the interpretation of the terms used in the Act. It is proposed to amend the section by inserting an interpretation of the “chief executive officer”, which means the chief executive officer under the *Public Sector Management Act 1994* of the department principally assisting the Minister with the administration of the Act.

867. Section 5 amended

Section 5 of the *Optical Dispensers Act 1966* deals with matters relating to the issuing of licences to Optical Dispensers. Pursuant to section 3 of the Act, the term “permanent head” is no longer relevant; therefore it is proposed that subsections 5(1), 5(2) and 5(4) are to be amended to instead make reference to the “chief executive officer”. Subsection 5(3) of the *Optical Dispensers Act 1966* is no longer relevant and is therefore being repealed.

Subsection 5(4) of the *Optical Dispensers Act 1966* outlines that a person who is aggrieved with a decision made by the permanent head to refuse the issue of a license, can appeal to the Minister against such decisions. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Minister under subsection 5(4) of the Act. Therefore, subsection 5(4) of the Act is to be amended to enable a person to be able to seek a review of these decisions through the State Administrative Tribunal.

868. Section 6 amended

Section 6 of the *Optical Dispensers Act 1966* deals with matters relating to the dispensing of haptic lenses. Pursuant to section 3 of the Act, the term “permanent head” is no longer relevant; therefore it is proposed that subsection 6(1) is to be amended to instead make reference to the “chief executive officer”.

869. Sections 6A to 6F inserted

Section 6A of the *Optical Dispensers Act 1966* is a new section which provides that the chief executive officer may appoint a person employed in the chief executive officer’s department to investigate any matter relevant to the performance of the chief executive officer’s functions under the Act and report to the chief executive officer. The chief executive officer is to issue each investigator it appoints a certificate of appointment, which is evidence in any court of the appointment to which the certificate purports to relate.

Section 6B of the *Optical Dispensers Act 1966* is a new section which provides that an investigator must within such period as the chief executive officer requires prepare a report on the investigation and immediately after preparing the report, provide the chief executive officer with a copy of the report. The new section outlines the investigator must return the certificate of appointment at the time the chief executive officer is provided with a copy of the report.

Section 6C of the *Optical Dispensers Act 1966* is a new section which outlines the powers of an investigator for the purposes of an investigation.

Section 6D of the *Optical Dispensers Act 1966* is a new section which provides that 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, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises. The new subsection 6D(2) outlines the requirements for an application for a warrant. The new subsection 6D(3) outlines that a magistrate to whom an application is made must refuse it if the application does not comply with the requirements or when required by the magistrate, the investigator does not give to the magistrate more information about the application. The new subsection 6D(4) provides that information in an application must be verified before the magistrate on oath or affirmation or by affidavit.

Section 6E of the *Optical Dispensers Act 1966* is a new section which outlines the requirements for the issue of a warrant by a magistrate. The new subsection 21E(2) outlines a warrant under subsection 6E(1) authorises the investigator to enter and inspect the premises, to require a person on the premises to answer the questions or produce documents or other things concerning the investigation, and to inspect document and other things. The new subsection 6E(3) outlines the purpose and the name of the person to whom the warrant is issued, and a description of the premises that may be entered.

Section 6F of the *Optical Dispensers Act 1966* is a new section which outlines the execution of a warrant. The new subsection 6F(1) provides that the person executing a warrant must produce it for inspection if asked by the occupier or a person in charge of the premises. The new subsection 6F(2) provides that a warrant ceases to have effect at the end of period of one month after its issue, if it is withdrawn by the magistrate who issued it, or when it is executed, whichever occurs first.

870. Section 7 amended

Section 7 of the *Optical Dispensers Act 1966* deals with matters concerning the revocation of licences. Pursuant to section 3 of the Act, the term “permanent head” is no longer relevant; therefore it is proposed that subsections 7(1) and 7(3) are to be amended to instead make reference to the “chief executive officer”. As it is proposed that State Administrative Tribunal will now assume responsibility for disciplinary proceedings presently conducted by the Governor, subsection 7(1) of the Act is to be amended to instead reference the State Administrative Tribunal. Further, subsection 7(2) is no longer relevant and is therefore being repealed. Subsection 7(4) is a new subsection that outlines that the chief executive officer cannot grant an application under subsection 7(1) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

871. Section 8 amended

Section 8 of the *Optical Dispensers Act 1966* deals with matters relating to the record of licences. Pursuant to section 3 of the Act, the term “permanent head” is no longer relevant; therefore it is proposed that subsection 8(1) is to be amended to instead make reference to the “chief executive officer”. As subsection 7(2) is proposed to be repealed, subsection 8(1) is proposed to be amended to instead cross reference to subsection 7(1).

872. Section 10 amended

Section 10 of the *Optical Dispensers Act 1966* deals with matters relating to false statements. Pursuant to section 3 of the Act, the term “permanent head” is no longer relevant; therefore it is proposed that subsections 10(1) and 10(2) are to be amended to instead make reference to the “chief executive officer”.

873. Section 11 amended

Section 11 of the *Optical Dispensers Act 1966* deals with matters relating to evidence as a certificate in writing under the hand of the permanent head. Pursuant to section 3 of the Act, the term “permanent head” is no longer relevant; therefore it is proposed that section 11 is to be amended to instead make reference to the “chief executive officer”.

874. Section 11A inserted

Section 11A of the *Optical Dispensers Act 1966* outlines the annual reporting requirements under the *Financial Administration and Audit Act 1985*. It is proposed that the new section 11A include five new subsections (1a), (1b), (1c), (1d), and (1e) which outline matters required to be reported on. The proposed new subsection 11A(1a) requires the chief executive officer to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the chief executive officer.

Division 93 — *Optometrists Act 1940*

875. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Optometrists Act 1940*.

876. Section 17 amended

Section 17 of the *Optometrists Act 1940* enables the Optometrists Registration Board to make rules covering matters that the Board considers are necessary, subject to the Governor’s approval. Subsection 17(1)(i) contains a reference to inquiries by the Board into complaints against registered optometrists. As the State Administrative Tribunal is to assume jurisdiction over such matters, this subsection is no longer relevant and is therefore being repealed.

Subsections 17(1)(l) and 17(1)(o) of the *Optometrists Act 1940* outline the Boards authority to make rules regarding disciplinary actions against registered optometrists. As the State Administrative Tribunal is to assume jurisdiction over complaints against registered optometrists that were previously referred to the Board, these subsections are no longer relevant and are therefore being repealed.

877. Section 21 amended

Section 17 of the *Optometrists Act 1940* provides for the voluntary resignation of registered optometrists. A registered person cannot request that their name be removed from the register if they are the subject of an investigation by the Optometrists Registration Board. Subsection 21(1) is to be amended to add a condition that a registered person must also not be the subject of proceedings in the State Administrative Tribunal.

878. Sections 25A to 25F inserted

Section 25A of the *Optometrists Act 1940* is a new section which will provide that the Board may appoint a person to investigate any matter relevant to the performance of the Board's functions under the Act and report to the Board. The board is to issue each investigator it appoints a certificate of appointment, which is evidence in any court of the appointment to which the certificate purports to relate.

Section 25B of the *Optometrists Act 1940* is a new section which will provide that an investigator must within such period as the board requires, prepare a report on the investigation and immediately after preparing the report, provide the Board with a copy of the report. The new section also outlines that the investigator must return the certificate of appointment at the time the Board is provided with a copy of the report.

Section 25C of the *Optometrists Act 1940* outlines the various powers of an investigator for the purpose of an investigation, following appointment by the Optometrists Registration Board.

Section 25D of the *Optometrists Act 1940* is a new section which provides that 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, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises. The new subsection 25D(2) is to outline the requirements for an application for a warrant. The new subsection 25D(3) is to outline that a magistrate to whom an application is made must refuse it if the application does not comply with the requirements or, when required by the magistrate, the investigator does not give the magistrate more information about the application. The new subsection 25D(4) is to provide that information in an application must be verified before the magistrate on oath or affirmation, or by affidavit.

Section 25E of the *Optometrists Act 1940* is a new section which outlines requirements for the issue of a warrant by a magistrate. The new subsection 25E(2) is to provide that a warrant under subsection 25E(1) will authorise the investigator to enter and inspect the premises, to require a person on the premises to answer the questions or produce documents or other things concerning the investigation, and to inspect the requested document(s) and other things. The new subsection 25E(3) will outline that a warrant must state the name of the person to whom the warrant is issued and a description of the premises that may be entered.

Section 25F of the *Optometrists Act 1940* is a new section which outlines the execution of a warrant. The new subsection 25F(1) is to provide that the person executing a warrant must produce it for inspection if asked by the occupier or a person in charge of the premises. The new subsection 25F(2) is to provide that a warrant ceases to have effect at the end of a period of one month after its issue, if it is withdrawn by the magistrate who issued it, or when it is executed, whichever occurs first.

879. Section 26 amended

Section 26 of the *Optometrists Act 1940* refers to the disciplinary powers of the Optometrists Registration Board. As the State Administrative Tribunal is to assume jurisdiction in disciplinary matters that were previously dealt with by an inquiry of the Board, it is proposed that the text throughout section 26 referring to Board inquiries be replaced with reference to referral from the Board to the State Administrative Tribunal. Subsection 26(1) is to prescribe that the Board must refer grounds for an order that a person be struck off the register to the State Administrative Tribunal, under its authority. Subsection 26(2) is to be amended to reflect that the State Administrative Tribunal now has jurisdiction over the suspension of registered optometrists.

Subsection 26(4), 26(5), 26(6) and 26(7) of the *Optometrists Act 1940* outline the powers of the Board during the conduct of an inquiry as to whether a person should be struck off the register. As the State Administrative Tribunal is to assume jurisdiction over such matters, these subsections are irrelevant and are therefore being repealed.

880. Section 27 repealed

Section 27 of the *Optometrists Act 1940* outline the functions and powers of the Board during the conduct of an inquiry as to whether a person should be struck off the register. As the State Administrative Tribunal is to assume jurisdiction over such matters, this section is irrelevant and is therefore being repealed.

881. Section 28 amended

Section 28 of the *Optometrists Act 1940* explains the circumstances under which a person whose name has been struck off the Register may apply to the Optometrists Registration Board to have their name restored to the Register. Subsection 28(1) is to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction over orders to strike a person from the register, that previously were referred to the Optometrists Registration Board.

Subsection 28(2) of the *Optometrists Act 1940* is to provide a necessity for the Optometrists Registration Board to seek and obtain approval through an application to the State Administrative Tribunal before an application is granted to restore a persons name to the Register that has previously been struck off.

Subsection 28(3) of the *Optometrists Act 1940* refers to the Boards authority to annul a suspension of its own accord. As the Boards authority in these matters is to be subsumed by the State Administrative Tribunal, the subsection is irrelevant and is therefore being repealed.

882. Section 29 amended

Section 29 of the *Optometrists Act 1940* describes the removal of entitlements from a person whose name has been struck off the Register. The terminology is to be amended to reflect that the State Administrative Tribunal is to assume authority over these processes.

883. Section 30 amended

Section 30 of the *Optometrists Act 1940* describes the requirement of a person whose name has been struck off the Register to hand in their certificate to the Board. Subsection 30(1) is to be amended to reflect that the State Administrative Tribunal is to assume authority over the order to strike a person off the Register.

884. Section 31 replaced

Section 31 of the *Optometrists Act 1940* concerns the requirements of a person who is seeking a review of a decision made by the Board not to register or re-enter the name of a person on the Register. The title has been amended to better reflect the nature of the administrative action that results. Subsection 31(1) of the Act is to be amended to propose that all grievances are to be resolved through an application by the aggrieved person to the State Administrative Tribunal, requesting a review of the Board's decision.

Subsections 31(2), 31(3) and 31(4) of the *Optometrists Act 1940* refer to appeals made through the Supreme Court. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Supreme Court, these subsections are no longer relevant and are therefore being repealed.

885. Section 42 amended

Section 42 of the *Optometrists Act 1940* details the circumstances under which a person commits an offence, and the penalties associated with those offences under the Act. Subsections 42(2) and 42(3) are to be amended to refer to the State Administrative Tribunal as the appropriate authority in determining suspensions and penalties associated with contraventions of orders described in the Act.

Division 94 — *Osteopaths Act 1997*

886. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Osteopaths Act 1997*.

887. Section 3 amended

Section 3 of the *Osteopaths Act 1997* provides the interpretation of terms used in the Act. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. It is proposed that Section 3 of the Act be amended to delete references to a 'formal inquiry' and is therefore being repealed.

888. Section 10 amended

Section 10 is amended to delete reference to the Board's powers to conduct disciplinary inquiries. These matters are being assumed by the State Administrative Tribunal.

889. Section 11 amended

Section 10 is amended to delete reference to the Board's powers to conduct disciplinary inquiries. These matters are being assumed by the State Administrative Tribunal.

890. Section 15 amended

Section 15 of the *Osteopaths Act 1997* deals with matters relating to meetings and minutes of meetings conducted by the Board. Subsection 15(7) of the Act is no longer relevant and is therefore being repealed. This amendment is a consequence of the State Administrative Tribunal to assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries.

891. Section 20 amended

Section 20 of the *Osteopaths Act 1997* outlines matters relating to the registration of a natural person. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board. Therefore, it is proposed that subsection 20(4) of the Act be amended to insert a reference to the State Administrative Tribunal.

892. Section 28 amended

Section 28 of the *Osteopaths Act 1997* outlines matters in relation to the register. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board. Therefore, it is proposed that subsection 28(2g) be amended to insert a reference to the State Administrative Tribunal in relation to the State Administrative Tribunal making an order made in a proceeding.

893. Section 31 amended

Section 31 of the *Osteopaths Act 1997* provides that an osteopath who is not the subject of disciplinary proceedings under Part 5 may in writing request the registrar to remove the name of that osteopath from the register. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is therefore proposed that subsection 31(1) of the Act be amended to insert a reference to the State Administrative Tribunal.

894. Section 36 amended

Section 36 of the *Osteopaths Act 1997* outlines matters relating to the restoration of the name of a person struck off the register. The State Administrative Tribunal will now assume jurisdiction over the re-entry of the name of a person to the register previously where referred to the Board. It is therefore proposed that a new subsection 36(3a) be included to outline that the Board cannot grant an application under subsection 31(3) unless it has applied for, and obtained, the approval of the State Administrative Tribunal.

895. Section 37 amended

Section 37 of the *Osteopaths Act 1997* provides that the Board may, by notice in writing, revoke a suspension from practice. The Board cannot to any extent revoke a suspension that was imposed to give effect to an order of the State Administrative Tribunal under subsection 70(1)(1) unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so. Therefore, it is proposed that the section 37 of the Act be amended to insert the new subsection 37(3), which outlines the requirement of the Board to apply to the State Administrative Tribunal to revoke a suspension.

896. Section 41 amended

Paragraph (c) in section 41(1) deals with the funds of the Board. It provides that any monetary penalties imposed under the Act are payable to the Board. In future, such monetary penalties will be payable into Consolidated Revenue.

897. Section 44 amended

Section 44 of the *Osteopaths Act 1997* outlines the annual reporting requirements. It is proposed to amend section 44 by inserting a new subsection (1a), which outlines additional matters that are required to be reported on. The proposed subsection 44(1a) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board.

898. Section 48 amended

Section 48 of the *Osteopaths Act 1997* provides that the Board may order the osteopath to submit himself or herself, within the time specified by the Board, to an examination by a medical practitioner nominated by the Board. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. It is proposed that references to a formal inquiry in section 48 of the Act are no longer relevant and are therefore being repealed.

899. Section 49 amended

Section 49 of the *Osteopaths Act 1997* outlines matters in relation to the complaints assessment committee determining the action required in respect of complaint. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. It is proposed that the reference to the Board holding a formal inquiry in section 49 of the Act is no longer relevant. Therefore, it is proposed that subsection 49(3) of the Act be amended to delete references to a formal inquiry to instead reference that the Board make an allegation to the State Administrative Tribunal based on the complaint that gave rise to the undertaking.

900. Section 50 amended

Section 50 of the *Osteopaths Act 1997* outlines matters in relation to investigations and recommendations by the complaints assessment committee in dealing with complaints. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is proposed that the reference to the Board holding a formal inquiry in section 50 of the Act is no longer relevant. Therefore, it is proposed that subsection 49(3) of the Act be amended to delete references to a formal inquiry to instead reference that the Board make an allegation to the State Administrative Tribunal.

901. Section 54 amended

Section 54 of the *Osteopaths Act 1997* deals with matters relating the Board may order to cease the activity of an osteopath or interim restriction on the practice. Subsection 54(2c) of the Act provides that an order made under subsection 54(1) must advise that a formal inquiry in respect of the matter will be commenced within 14 days of the making of the order. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously where referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that subsection 54(2c) be amended to outline 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.

It is proposed that subsection 54(3) be amended to reference the Board may make allegation about the matter under subsection 54(1) of the Act to the State Administrative Tribunal as required by section 55. This amendment is a consequence of the State Administrative Tribunal to assume jurisdiction over disciplinary matters that previously where referred to the Board in relation to the Board holding formal inquiries

902. Section 55 amended

Section 55 of the *Osteopaths Act 1997* refers the formal inquiry with respect to a section 54 order. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously where referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that section 55 be amended to outline 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. Subsection 55(2) of the Act is no longer relevant and is therefore being repealed.

903. Section 63 amended

Section 63 of the *Osteopaths Act 1997* deals with matters in relation to the conciliation process. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously where referred to the Board in relation to the Board. Therefore, it is proposed that subsection 63(4) be amended to delete references to the Board to instead reference the State Administrative Tribunal.

904. Section 64 amended

Section 64 of the *Osteopaths Act 1997* provides that the Board may take action if the conciliation fails. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously where referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that section 64 be amended to delete references to a formal inquiry to instead reference that the Board is to make an allegation under section 70 about the matter to the State Administrative Tribunal.

905. Heading to Part 5 Division 6 replaced

The heading to Part 5 Division 6 is amended to refer to the State Administrative Tribunal.

906. Sections 65 to 69 repealed

The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that section 65 of the *Osteopaths Act 1997* is no longer relevant and is being repealed.

The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that section 66 of the *Osteopaths Act 1997* is no longer relevant and is being repealed.

The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that section 67 of the *Osteopaths Act 1997* is no longer relevant and is being repealed.

The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that section 68 of the *Osteopaths Act 1997* is no longer relevant and is being repealed.

The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that section 69 of the *Osteopaths Act 1997* is no longer relevant and is being repealed.

907. Section 70 amended

Section 70 of the *Osteopaths Act 1997* outlines the disciplinary powers of the Board. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board. It is proposed that section 70 of the Act be amended to instead reference the powers of the State Administrative Tribunal. Therefore, it is proposed that references to the Board in section 70 of the Act be deleted to instead reference the State Administrative Tribunal.

908. Sections 71 to 73 repealed

Section 71 of the *Osteopaths Act 1997* provides that the Board may order a respondent to pay costs and expenses of or arising from the formal inquiry as the Board thinks fit. The *State Administrative Bill 2003* has provisions in relation to costs of proceedings, which include costs of, incidental to, a proceeding of the Tribunal, other than costs of a party, under section 87 of the *State Administration Bill 2003*. Therefore, section 71 of the *Osteopaths Act 1997* is no longer relevant and is being repealed.

Section 72 of the *Osteopaths Act 1997* provides that an order made by the Board may be enforced in by making a further order under section 70 of the Act. The *State Administrative Bill 2003* has provisions in relation to enforcement of a decision by the State Administrative Tribunal under section 85 of the *State Administration Bill 2003*. Therefore, section 72 of the *Osteopaths Act 1997* is no longer relevant and is being repealed.

Section 73 of the *Osteopaths Act 1997* provides that if a respondent to whom a formal inquiry relates so requests, a transcript is to be made of the formal inquiry and of any proceedings of the Board in which it makes an order under section 70 or 71. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. It is proposed that section 73 of the Act is no longer relevant and is therefore being repealed.

909. Section 74 amended

Section 74 of the *Osteopaths Act 1997* outlines matters relating to reciprocal enforcement. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed that section 74 be amended to insert references to the State Administrative Tribunal as well as the Board. It is proposed to delete the reference to an inquiry held by the Board in subsection 74(1b) as it is no longer relevant and is therefore being repealed.

910. Section 80 amended

The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. Therefore, it is proposed to delete the reference to formal inquiries in section 80 of the *Osteopaths Act 1997* is no longer relevant and is being repealed.

911. Section 81 amended

Section 81 of the *Osteopaths Act 1997* outlines matters relating to the failure of attendance, take oath etc. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the failure of attendance and taking oath. Therefore, it is proposed to amend subsection 81(2) of the Act to delete references to section 69, which is proposed to be repealed.

912. Section 83 repealed

Section 83 of the *Osteopaths Act 1997* outlines the penalties for a person who misbehaves during a formal inquiry, wilfully insult the Board or a member of the Board, or wilfully interrupt the proceedings of a formal inquiry. The State Administrative Tribunal to assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. It is proposed that section 83 of the Act is no longer relevant and is therefore being repealed.

913. Section 87 amended

Section 87 of the *Osteopaths Act 1997* provides that a person who, in relation to any investigation, inquiry or hearing under Part 5 has the same protection and immunity as a member or officer of the Supreme Court, or a witness or party before the Supreme Court. The State Administrative Tribunal to assume jurisdiction over disciplinary matters that previously were referred to the Board in relation to the Board holding formal inquiries. It is proposed that references to an inquiry or hearing be deleted in subsection 87(2) of the Act and is therefore being repealed.

914. Section 88 amended

Section 88 of the *Osteopaths Act 1997* outlines matters in relation to decisions that need to be notified to the person to whom the decision relates and the complainant. Subsection 88(2a) provides that decisions to be notified applies to any decision or order made under section 70, 71, 72 or 74. Sections 70, 71 and 72 are proposed to be no longer relevant and therefore it is proposed to delete the cross references to sections 70, 71, and 72 in subsection 88(2a).

Subsection 88(2b) of the *Osteopaths Act 1997* provides that decisions to be notified apply to the refusal of an application to the Board for registration, renewal of registration or restoration to the register. The State Administrative Tribunal to assume jurisdiction over disciplinary matters that previously where referred to the Board including matters relating to the refusal of an application for registration, renewal of registration or restoration to the register. Therefore, it is proposed to amend subsection 88(2b) to provide that decisions to be notified apply to any decision refusing an application to the Board for registration, renewal of registration or restoration to the register.

It is proposed to amend subsection 88(2c) of the *Osteopaths Act 1997* to provide that decisions to be notified apply to any decision to remove a name from the register under section 34. It is proposed to amend subsection 88(2d) of the *Osteopaths Act 1997* to provide that decisions to be notified apply to any decision to impose a restriction or condition under section 21(2), 22(3), 23(3) or 36(5), otherwise than by consent. These amendments are consequences of the State Administrative Tribunal now assuming jurisdiction over disciplinary matters that previously where referred to the Board.

915. Section 89 replaced

Section 89 of the *Osteopaths Act 1997* provides that a person who is aggrieved with a decision or order referred to in section 88(2) may appeal to the Supreme Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously where referred to the Supreme Court under the Act. Therefore, section 20A of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. Subsections 89(2), 89(3), 89(4), 89(5), and 89(6) of the *Osteopaths Act 1997* are no longer relevant and are therefore being repealed.

916. Section 90 amended

Section 90 of the *Osteopaths Act 1997* outlines matters in relation to the publication of proceedings. As the State Administrative Tribunal to assume jurisdiction over disciplinary matters, it is proposed that section 90 of the Act be amended to insert references to the State Administrative Tribunal.

917. Schedule 1 amended

Schedule 1 Clause 5 of the *Osteopaths Act 1997* outlines matters in relation to the general procedure concerning meetings of the Board. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously where referred to the Board in relation to the Board holding formal inquiries. It is proposed that schedule 1 clause 5 of the Act be amended to delete references to a formal inquiry.

Division 95 — *Painters' Registration Act 1961*

918. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Painters' Registration Act 1961*.

919. Section 14B amended

The Painters' Registration Board and State Administrative Tribunal are to assume jurisdiction over matters that were previously dealt with only by the Board under the *Painters' Registration Act 1961*. As a consequence, references in section 16 to penalties which may be imposed under other sections of the Act are replaced within relevant references to the State Administrative Tribunal.

920. Section 16 amended

The State Administrative Tribunal is to assume jurisdiction over disciplinary matters that previously were referred to the Painters' Registration Board under the *Painters' Registration Act 1961*. As a consequence, propose new subsection (1) is inserted to provide that the Board make take disciplinary matters to the State Administrative Tribunal. Proposed subsection (1a) (previously subsection (1)) lists the matters to be considered by the sat in determining whether a registration should be cancelled.

Subsection (2) is amended to provide that the State Administrative Tribunal can cancel or suspend a registration under the *Painters' Registration Act 1961*.

Existing subsection (3) referring to a painter's registration ceasing upon an order being made that it is cancelled, is repealed as the State Administrative Tribunal is to assume jurisdiction over disciplinary matters that previously were referred to the Painters' Registration Board under the *Painters' Registration Act 1961* and it is no longer relevant.

921. Section 16A repealed

The State Administrative Tribunal is to assume jurisdiction over disciplinary matters that previously were referred to the Painters' Registration Board under the *Painters' Registration Act 1961*. It is therefore proposed that section 16A be repealed as it is no longer relevant.

922. Section 16B replaced

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Painters' Registration Board under the *Painters' Registration Act 1961*. As a consequence, references to the re-registration of painters in section 16B are replaced within relevant references to the State Administrative Tribunal and a number of consequential amendments are also made.

923. Section 16E amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to a magistrate under the *Painters' Registration Act 1961*. As a consequence, references to a magistrate in section 16E(1) are replaced within relevant references to the State Administrative Tribunal.

924. Section 16G amended

References to “application” are inserted in to section 16G of the *Painters’ Registration Act 1961* as a consequence of the ability for person to be able to apply for a review through the State Administrative Tribunal under the proposed amendments to the Act.

925. Section 16H amended

References to “application” are inserted in to section 16H of the *Painters’ Registration Act 1961* as a consequence of the ability for person to be able to apply for a review through the State Administrative Tribunal under the proposed amendments to the Act.

926. Section 16I amended

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Painters’ Registration Board under the *Painters’ Registration Act 1961*. As a consequence, references to the Board conducting a formal inquiry in section 16 are removed under the proposed amendments to the Act.

927. Section 18 replaced by sections 18, 18A and 18B

The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Painters’ Registration Board under the *Painters’ Registration Act 1961*. Subsection (1) is amended to provide that an aggrieved person may apply for a review through the State Administrative Tribunal.

Proposed new sub-subsection (2) defines “person aggrieved” and “reviewable decision”. A previous reference to the powers of a magistrate are deleted as they are no longer relevant.

The previous subsections (2), (3) and (4) of the *Painters’ Registration Act 1961* refers to appeals being heard before a magistrate. As the State Administrative Tribunal is to assume jurisdiction over matters previously referred to the Court, it is proposed that subsections (2), (3) and (4) be repealed as they are no longer relevant.

Proposed new section 18A of the *Painters’ Registration Act 1961* provides that a person who has surrendered their registration or certificate may be investigated as if they were still registered or certified under the proposed amendment to the Act. The subsection effectively prevents a licensee avoiding any penalty by anticipating cancellation of their licence.

Proposed new section 18B of the *Painters’ Registration Act 1961* provides that the State Administrative Tribunal may suspend a person’s registration if they have not complied with an order given to them by the State Administrative Tribunal under the proposed amendment to the Act. Any powers of the State Administrative Tribunal arising under the *Security and Related Activities (Control) Act 1996* do not derogate from powers under the State Administrative Tribunal legislation.

928. Section 22 amended

Subsection (4) is inserted to clarify that the “penalties” referred to in section 22 do not include penalties which the State Administrative Tribunal have ordered to be paid.

929. Section 23B amended

Section 23B, subsection 1a of the *Painters' Registration Act 1961* provides that the Board will include in its annual report information pertaining to investigations it has conducted, matters it has referred to the State Administrative Tribunal, trends or issues arising, the estimated workload for the Board in the following year and recommendations for improving the performance of the Board under the proposed amendment to the Act.

Division 96 — Pawnbrokers and Second-hand Dealers Act 1994

930. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Pawnbrokers and Second-hand Dealers Act 1994*.

931. Section 20 amended

Section 20 prescribes the circumstances under which a licensing officer is not to renew a licence.

Sub section 20(c) is amended to insert “commenced” to the circumstances under which a licensing officer is not to renew a licence is that no proceedings commenced under section 30 are pending.

932. Section 22 amended

Section 22 includes the ability for a person to be able to seek a review through the State Administrative Tribunal under the proposed amendments to the Act.

933. Section 27 amended

Section 27 relates to the suspension, revocation and disqualification of licences by the State Administrative Tribunal.

Section 27(1) is amended to include reference to a licensing officer who is a member of the Police Force, allowing that officer to conduct any investigations or inquiries as necessary under sub section (2).

Section 27(1) removes sub sections (a), (b) and (c) as these are now defined in the State Administration Tribunal legislation.

Section 27(2) has been amended to allow an officer to make a complaint to the State Administrative Tribunal in regards to a specified licensee under this section.

Section 27(3) has been deleted and inserted with a new subsection which relates to dealing with an allegation under sub section (2) and the consequences which may apply such as licence suspension, revoking and disqualification.

Section 27(4) has been amended and relates to suspended, revoked or disqualified licences by the State Administrative Tribunal and the deliverance of that licence to a licensing officer.

934. Part 2 Division 3 heading replaced

The heading to Part 2 Division 3 is amended to refer to reviews of licensing decisions.

935. Section 29 repealed

Definition of “Court” has been removed as this does not refer to the State Administrative Tribunal legislation.

936. Section 30 amended

Reference to “review” is inserted into section 30 of the *Pawnbrokers and Second-hand Dealers Act 1994* allowing the ability to seek a review through the State Administrative Tribunal under the proposed amendments to the Act.

Sub sections 30(2), (3), (4) and (5) are no longer relevant and are therefore being repealed.

937. Section 31 repealed

Section 31 has been removed from the Act as this now falls in the jurisdiction of the State Administrative Tribunal legislation.

938. Section 32 amended

References to “executive officer” rather than “clerk of court” are inserted in to section 32 of the *Pawnbrokers and Second-hand Dealers Act 1994*.

939. Section 33 amended

References to “review” are inserted in to section 33 of the *Pawnbrokers and Second-hand Dealers Act 1994* as a consequence of the ability for the State Administrative Tribunal to adjourn hearings under the proposed amendments to the Act.

940. Section 34 amended

Sub section 34(b) is amended to insert “order the imposition of” in relation to licence conditions or restrictions.

941. Section 35 amended

Section 35 removes the terminology of “the suspension or revocation of, or disqualification” when referring to licences and the court forwarding notices to the Commissioner. The relevant matters will be in the State Administrative Tribunal legislation.

942. Section 73 amended

The definition of “Tribunal” under Section 73 of the *Pawnbrokers and Second-hand Dealers Act 1994* is amended to refer to the State Administrative Tribunal legislation.

Sub section 73(6) is removed as this is now covered in the State Administration Tribunal legislation.

943. Section 92 amended

Section 92 of the *Pawnbrokers and Second-hand Dealers Act 1994* inserts a new Sub section 92(2) for the Department’s annual report to include details of things such as number, nature and outcome of investigations, inquiries and matters brought before the State Administrative Tribunal, and the number outstanding. Any trends or special problems, workload of licensing officers the year after that of which the report relates and proposals for improving performance of licensing officers under amendments to this Act.

944. Section 93 amended

Section 93 of the *Pawnbrokers and Second-hand Dealers Act 1994* has been amended to insert “the State Administrative Tribunal” as a substitute to references to the court.

Division 97 — Pay-roll Tax Assessment Act 2002

945. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Pay-roll Tax Assessment Act 2002*.

946. Section 41 amended

Subsection 41(1) currently provides that a charitable body or organization may apply to the Commissioner of State Revenue for an exemption from liability for pay-roll tax. Subsection 41(2) provides the Commissioner may approve such application by giving notice to the charitable body or organization. Subsection 41(3) provides the exemption may be subject to conditions as specified in the notice and subsection 41(4) provides the exemption comes into operation on the day specified in the notice. Importantly, subsection 41(5) currently provides the Commissioner’s decision as to the day on which the exemption comes into operation is *non reviewable*.

A *non reviewable* decision is defined in subsection 34(4) of the *Taxation Administration Act 2003* as a decision that can only be reconsidered by making application to the Small Claims Tribunal within 60 days of receiving notice. A Magistrate of the tribunal may then reconsider the *non reviewable* decision.

It is proposed to confer jurisdiction to SAT for decisions currently reviewed by the Small Claims Tribunal. The conferral is actually effected through a proposed amendment to subsection 34(4) of the *Taxation Administration Act 2003*. However, to enable the conferral of jurisdiction to take place, it is proposed to amend subsection 41(5) to delete the reference to “non reviewable” and change this to “directly reviewable”.

Division 98 — *Pearling Act 1990*

947. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Pearling Act 1990*.

948. Section 23 amended

Section 23(8) – word “appeal” deleted and replaced with “review” consistent with review jurisdiction of the Principal Bill.

949. Section 31 amended

Section 31(1)(b) – reference to failure or withdrawal of an appeal under Part 4 deleted and replaced with a new Clause 31(1)(b) which references a “review” under Part 4.

Clause 31(1)(ba)(i) and (ii) new clause inserted which links the time period for a lease remaining cancelled for 3 months from the time limit for appealing a decision of State Administrative Tribunal in the Principal Bill

950. Part 12 heading amended

The heading to Part 12 is amended to refer to “review” rather than “Appeals.”

951. Section 33 amended

Section 33(1) – procedure for an aggrieved person against a decision of the Executive Director to issue a lease or licence is changed from an appeal to the relevant Minister to a review by State Administrative Tribunal.

Section 33(2) – word “appeal” replaced by “review”.

Section 33(3) – procedure for an aggrieved person pursuant to Section 33(2) is changed from an appeal to relevant Minister to a review by State Administrative Tribunal.

Clause 33(4) – new clause inserted requiring the Executive Director to provide the Pearl Producer’s Association with a copy of any application for review which is now placed with State Administrative Tribunal.

Section 33(4) – whole Section deleted consistent with amendments to Sections 33(1), (2) and (3) and new Clause 33(4).

952. Section 34 amended

Title changed to “Effect of application for review” consistent with the review jurisdiction contained in the Principal Bill.

Reference to the State Administrative Tribunal inserted and reference to an appeal from a decision of the Executive Director changed to a review of the decision of the Executive Director.

953. Schedule 2 amended

Schedule 2 is the regulation making power of the Act. Schedule 2 is amended to ensure that regulations for fees cannot be made under the Act in relation to matters commenced in the State Administrative Tribunal. The *State Administrative Tribunal Bill 2003* has provisions dealing with fees for proceedings before the Tribunal.

Division 99 — *Perth Parking Management Act 1999*

954. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Perth Parking Management Act 1999*.

955. Section 17 amended

Subsection 17(1) currently provides that a person who applies to the Chief Executive Officer of the Department for Planning and Infrastructure (CEO) to obtain a parking bay licence for the Perth Metropolitan area or to vary, renew or transfer an existing parking bay licence and whose application is rejected or approved, but subject to conditions which are unsatisfactory to the applicant, may apply for a review of this decision to the Minister.

Subsection 17(2) also provides a right of review to the Minister upon a CEO's decision to suspend or cancel an existing parking bay licence.

It is proposed to confer jurisdiction of this right of review from the Minister to SAT. As a consequence, the reference to "may apply to the Minister" in subsection 17(1) is replaced by "may apply to the State Administrative Tribunal" and a similar amendment is made to subsection 17(2). Also, as a consequence of these amendments, the existing subsections 17(3) and 17(4) are deleted.

Division 100 — *Petroleum (Submerged Lands) Act 1982*

956. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Petroleum (Submerged Lands) Act 1982*.

957. Section 87 amended

Section 87 (1) – the words "and tribunals" added.

Section 87 (2) – "tribunals" added as a recipient of extracts.

Section 87 (3) – "tribunals" added to courts as a place which can receive a certificate as evidence.

958. Section 88 amended

Sub Section 6(1) – references to the Supreme Court are deleted and replaced by the State Administrative Tribunal. Consistent with the Principal Bill the concept of an “aggrieved person” is introduced.

Sub Section 6(2) – reference to the Supreme Court deleted and replaced with Tribunal.

Sub Section 6(3) – reference to the Supreme Court deleted and replaced with Tribunal

Sub Section 6 (4) - reference to the Supreme Court deleted and replaced with Tribunal

959. Section 92 amended

Sub Section 92(1) – reference to an appeal to the Supreme Court against a determination by the Minister is deleted and replaced by application to the SAT for review.

Subsection 92(2) – deleted for consistency with 92(1).

Division 101 — *Petroleum Act 1967*

960. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Petroleum Act 1967*.

961. Section 12 amended

The reference to Compensation Court are amended to refer to State Administrative Tribunal.

962. Section 81 amended

Section 81 (1) – the words “and tribunals” added.

Section 81 (2) – “tribunals” added as a recipient of extracts.

Section 81 (3) – “tribunals” added to courts as a place which can receive a certificate as evidence.

963. Section 82 amended

Section 82 (1) – reference to the Supreme Court for an application by an aggrieved person is deleted and replaced with State Administrative Tribunal with specific reference to its original jurisdiction as described in the Principal Bill.

Section 82 (2) – words “Supreme Court” replaced by “Tribunal”.

Section 82 (3) – words “Supreme Court” replaced by “Tribunal”.

Section 82 (4) – words “Supreme Court” replaced by “Tribunal”.

964. Section 85 amended

Section 85(2) – reference to an appeal to the Supreme Court deleted and replaced by an application to the State Administrative Tribunal for review.

Section 85(3) – deleted consistent with amendments to Section 85(2) – it describes what the Supreme Court can do and this is now to be replaced by State Administrative Tribunal where provisions in the Principal Bill describe what State Administrative Tribunal can do on review.

Division 102 — *Petroleum Pipelines Act 1969*

965. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Petroleum Pipelines Act 1969*.

966. Section 54 amended

Subsection 54 (1) Provides that on an application of a person aggrieved by an entry in the register the Supreme Court may make an order directing the rectification of the register as it thinks fit. As the State Administrative Tribunal is to assume this jurisdiction the section is amended to provide for persons to apply to the State Administrative Tribunal for such an order.

Subsection 54 (2) this section provides for the Supreme Court to decide any question that is necessary or expedient in rectifying the register. As the State Administrative Tribunal is to assume this jurisdiction reference to the “Supreme Court” is deleted and replaced by “Tribunal”.

Subsection 54 (3) Provides for notice to be given to the Minister who may appear and be heard and who shall appear be directed by the Supreme Court to appear. As the State Administrative Tribunal is assuming this jurisdiction this section is amended by deleting reference to the “Supreme Court” and replacing it with “Tribunal”.

Subsection 54 (4) Provides that an office a copy of the Supreme Court order be served on the Minister, who shall rectify the register accordingly. As the State Administrative Tribunal is assuming this jurisdiction this section is amended by deleting reference to the “Supreme Court” and replacing it with “Tribunal”.

Division 103 — *Petroleum Retailers Rights and Liabilities Act 1982*

967. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Petroleum Retailers Rights and Liabilities Act 1982*.

968. Section 5 amended

A retailer is defined in s3(1) as a person who sells motor fuel by retail at a site.

This section deals with a retailer's right to upgrade, expand and improve the site on which that person sells motor fuel when the retailer in question is not the owner of the site. This section provides the mechanism by which the retailer may obtain the consent/permission of the owner or landlord of the site to improve the site.

Subsection 5(4c)(a) deals with a situation where an owner/landlord either refuses to grant permission to a retailer to improve their site in a certain way or grants that permission to a retailer but with unsatisfactory conditions imposed to which the retailer objects and in response the owner/landlord does not accept that their original decision is unreasonable, then the Commissioner of Fair Trading may make a determination that the owner/landlord's decision was unreasonable. Subsection 5(4c)(a) provides this determination of the Commissioner under either subsections 5(4a) or 5(4b) does not take effect unless the time for an appeal against the Commissioner's determination to the Minister under subsection 5(10) has elapsed without an appeal to the Minister having been made.

Subsection 5(4c)(b) provides that this determination of the Commissioner under either subsections 5(4a) or 5(4b) takes effect where an appeal to the Minister under subsection 5(10) has been made, but that appeal has subsequently been withdrawn or dealt with by the Minister affirming the Commissioner's original determination.

It is proposed to confer jurisdiction for this right of appeal from the Minister to SAT and consequently subsections 5(4c)(a) and 5(4c)(b) are amended to delete the reference to "an appeal against" and replace this with "an application for a review of" and to delete "appeal" and replace this with "application". Also, as a consequence of these amendments, a new subsection 5(4d) is inserted to provide that an application to SAT (instead of the Minister) is not finally disposed of until the time for making an appeal under s104 of the *State Administrative Tribunal Act 1903* has elapsed without an appeal having been made or an appeal having been made has been withdrawn or finally disposed of.

As mentioned, subsection 5(10) currently provides for an appeal to the Minister from a decision of the Commissioner. As mentioned, it is proposed to confer jurisdiction for these appeals to SAT and consequently this subsection is amended by deleting references of "appeal to the Minister...decision of Minister" and inserting instead "apply to the State Administrative Tribunal for a review of the determination".

Division 104 — *Pharmacy Act 1964*

969. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Pharmacy Act 1964*.

970. Section 16C amended

Section 16C of the *Pharmacy Act 1964* outlines the annual reporting requirements. It is proposed to amend section 16C by inserting five new subsections (1a), (1b), (1c), (1d), and (1e) which outline additional matters required to be reported on. The proposed subsection 16C(1a) requires the Council to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Council.

971. Sections 17 and 18 repealed

Section 17 of the *Pharmacy Act 1964* deals with matters in relation to Council may summon a person to give evidence. As the State Administrative Tribunal will now assume jurisdiction over the summons of a person to give evidence, section 17 of the Act is no longer relevant and is therefore being repealed.

Section 18 of the *Pharmacy Act 1964* provides outlines penalties for failure to obey summons, or to be sworn, or for giving false testimony. As the State Administrative Tribunal will now assume jurisdiction over matters relating to penalties for failure to obey summons, or to be sworn, or for giving false testimony, section 18 of the Act is no longer relevant and is therefore being repealed. Matters in relation to penalties for failure to obey summons, or to be sworn, or for giving false testimony of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

972. Section 22 amended

Section 22 of the *Pharmacy Act 1964* deals with matters in relation to the registration of pharmaceutical chemists. Subsection 22(3) deals with matters in relation to a review of the refusal of a registration of a person as a pharmaceutical chemist. As the State Administrative Tribunal will now assume jurisdiction over matters that previously where referred to a Judge of the Supreme Court, subsection 22(3) is proposed to be amended to instead make reference to the State Administrative Tribunal.

973. Section 23 amended

Section 23 of the *Pharmacy Act 1964* deals with matters in relation to the restrictions on the carrying on of a pharmacy. Subsection 23(4) deals with matters in relation to a review of the refusal of a registration of a pharmacy. As the State Administrative Tribunal will now assume jurisdiction over matters that previously where referred to a Judge of the Supreme Court, subsection 23(4) is proposed to be amended to instead make reference to the State Administrative Tribunal.

974. Section 26 amended

Section 26 of the *Pharmacy Act 1964* deals with matters relating to the licence to practise as a pharmaceutical chemist. Subsection 26(3) provides that an applicant for licence whose application is refused may appeal against the decision of the Council to a Judge of the Supreme Court. As the State Administrative Tribunal will now assume jurisdiction over matters that previously where referred to a Judge of the Supreme Court, subsection 26(4) is proposed to be amended to instead make reference to the State Administrative Tribunal.

Subsection 26(5) provides that if a registered pharmaceutical chemist is convicted of an offence is liable, at the discretion of the Council. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is therefore proposed that subsection 26(5) be amended to instead make reference to the State Administrative Tribunal.

975. Section 27 repealed

Section 27 of the *Pharmacy Act 1964* deals with matters in relation to appeals against a decision of the Council to the Judge of the Supreme Court. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to a Judge of the Supreme Court, section 27 of the Act is no longer relevant and is therefore being repealed.

976. Sections 31A to 31F inserted

Section 31A of the *Pharmacy Act 1964* is a new section which provides that the Council may appoint a person to investigate any matter relevant to the performance of the Council's functions under the Act and report to the Council. The Council is to issue each investigator it appoints a certificate of appointment, which is evidence in any court of the appointment to which the certificate purports to relate.

Section 31B of the *Pharmacy Act 1964* is a new section which provides that an investigator must within such period as the Council requires prepare a report on the investigation and immediately after preparing the report, provide the Council with a copy of the report. The new section outlines the investigator must return the certificate of appointment at the time the Council is provided with a copy of the report.

Section 21C of the *Pharmacy Act 1964* is a new section which outlines the powers of an investigator for the purposes of an investigation.

Section 21D of the *Pharmacy Act 1964* is a new section which provides that 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 purposes of an investigation, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises. The new subsection 31D(2) outlines the requirements for an application for a warrant. The new subsection 31D(3) outlines that a magistrate to whom an application is made must refuse it if the application does not comply with the requirements or when required by the magistrate, the investigator does not give to the magistrate more information about the application. The new subsection 31D(4) provides that information in an application must be verified before the magistrate on oath or affirmation or by affidavit.

Section 31E of the *Pharmacy Act 1964* is a new section which outlines the requirements for the issue of a warrant by a magistrate. The new 31E(2) outlines a warrant under subsection 31E(1) authorises the investigator to enter and inspect the premises, to require a person on the premises to answer the questions or produce documents or other things concerning the investigation, and to inspect document and other things. The new subsection 31E(3) outlines the purpose and the name of the person to whom the warrant is issued, and a description of the premises that may be entered.

Section 31F of the *Pharmacy Act 1964* is a new section which outlines the execution of a warrant. The new subsection 31F(1) provides that the person executing a warrant must produce it for inspection if asked by the occupier or a person in charge of the premises. The new subsection 31F(2) provides that a warrant ceases to have effect at the end of period of one month after its issue, if it is withdrawn by the magistrate who issued it, or when it is executed, whichever occurs first.

977. Section 32 replaced

Section 32 of the *Pharmacy Act 1964* outlines provisions relating to the practice of pharmacy in relation to disciplinary matters. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, subsections 32(1), 32(2), 32(3), 32(4), and 32(5) are no longer relevant and are therefore being repealed.

Subsection 32(1) and 32(2) of the *Pharmacy Act 1964* are new subsections that provides that the if the Council has reason to believe that the pharmaceutical chemists, company or friendly society is to be required to show cause. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, therefore subsections 32(6) is proposed to be amended. Subsection 32(2) is proposed to be inserted and subsection 32(3) is proposed to be amended to both make reference to the State Administrative Tribunal, now assuming jurisdiction over disciplinary matters.

Subsection 32(8) of the *Pharmacy Act 1964* outlines matters relating to any determination of the Council in terms of disciplinary matters. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, subsection 32(8) is no longer relevant and is therefore being repealed.

Subsections 32(9), 32(10), 32(10), 32(11) and 32(12) of the *Pharmacy Act 1964* are no longer relevant and are therefore being repealed. These amendments are consequences of the State Administrative Tribunal assuming jurisdiction over disciplinary matters and matters that previously where referred to the Supreme Court.

978. Section 32B replaced

Section 32B of the *Pharmacy Act 1964* provides that a person, company, or friendly society that is aggrieved may appeal against the decision to a Judge of the Supreme Court. The State Administrative Tribunal will now assume jurisdiction over matters that previously where referred to a Judge of the Supreme Court, therefore section 32B of the Act is proposed to be amended to instead make reference to the State Administrative Tribunal.

979. Section 33 amended

Section 33 of the *Pharmacy Act 1964* deals with matters relating to the cancellation of any licence issued to a pharmaceutical chemist. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, therefore section 33 of the Act is proposed to be amended to instead make reference to the State Administrative Tribunal.

980. Section 47 amended

Section 47 is the regulation making power of the Act. Section 47 is amended to change references to sections 40A and 32 of the Act as a consequence of other amendments contained in this Division.

Division 105 — *Physiotherapists Act 1950*

981. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Physiotherapists Act 1950*.

982. Section 7C amended

Section 7C of the *Physiotherapists Act 1950* contains the annual reporting requirements in relation to the Physiotherapists Registration Board. It is proposed to add subsection 7C(1a), which will outline additional matters to be reported on. The proposed subsection 7C(1a) will outline the requirement of the Board to report on matters that have been referred to the State Administrative Tribunal under the Act, including matters that are still pending, and to report on general administrative issues in relation to the operations of the Board.

983. Section 8 amended

Section 8 of the *Physiotherapists Act 1950* enables the Physiotherapists Registration Board to make rules covering matters that the Board considers are necessary, subject to the Governor's approval. Subsection 8(1)(d) is to be amended to remove the reference to the ability of the Board to regulate the manner in which it makes an inquiry, as the State Administrative Tribunal is to assume jurisdiction over complaints against registered occupational therapists that were previously referred to the Board.

984. Sections 10A to 10F inserted

Section 10A of the *Physiotherapists Act 1950* is a new section which will provide that the Board may appoint a person to investigate any matter relevant to the performance of the Board's functions under the Act and report to the Board. The board is to issue each investigator it appoints a certificate of appointment, which is evidence in any court of the appointment to which the certificate purports to relate.

Section 10B of the *Physiotherapists Act 1950* is a new section which will provide that an investigator must within such period as the board requires, prepare a report on the investigation and immediately after preparing the report, provide the Board with a copy of the report. The new section also outlines that the investigator must return the certificate of appointment at the time the Board is provided with a copy of the report.

Section 10C of the *Physiotherapists Act 1950* outlines the various powers of an investigator for the purpose of an investigation, following appointment by the Physiotherapists Registration Board.

Section 10D of the *Physiotherapists Act 1950* is a new section which provides that 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, the investigator may apply to a magistrate for a warrant to be issued in respect of those premises. The new subsection 10D(2) is to outline the requirements for an application for a warrant. The new subsection 10D(3) is to outline that a magistrate to whom an application is made must refuse it if the application does not comply with the requirements or, when required by the magistrate, the investigator does not give the magistrate more information about the application. The new subsection 10D(4) is to provide that information in an application must be verified before the magistrate on oath or affirmation, or by affidavit.

Section 10E of the *Physiotherapists Act 1950* is a new section which outlines requirements for the issue of a warrant by a magistrate. The new subsection 10E(2) is to provide that a warrant under subsection 10E(1) will authorise the investigator to enter and inspect the premises, to require a person on the premises to answer the questions or produce documents or other things concerning the investigation, and to inspect the requested document(s) and other things. The new subsection 10E(3) will outline that a warrant must state the name of the person to whom the warrant is issued and a description of the premises that may be entered.

Section 10F of the *Physiotherapists Act 1950* is a new section which outlines the execution of a warrant. The new subsection 10F(1) is to provide that the person executing a warrant must produce it for inspection if asked by the occupier or a person in charge of the premises. The new subsection 10F(2) is to provide that a warrant ceases to have effect at the end of a period of one month after its issue, if it is withdrawn by the magistrate who issued it, or when it is executed, whichever occurs first.

985. Section 16 amended

Section 16 of the *Physiotherapists Act 1950* outlines the Governor's authority to make regulations that facilitate the operation of the Act. Subsection 16(aa) is to be added to include specific reference to the Governor's authority to regulate procedures for dealing with allegations in respect of disciplinary matters by the Board to the State Administrative Tribunal. It also gives the Governor authority to specify the penalties and range of disciplinary actions that can be imposed by the State Administrative Tribunal.

Division 106 — *Pig Industry Compensation Act 1942*

986. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Pig Industry Compensation Act 1942*.

987. Section 8 amended

This section deals with the value placed on a pig that is destroyed or on the carcass of a pig that has died by the Chief Veterinary Surgeon of the Department of Agriculture (or an approved person) should the pig be destroyed or die because of certain diseases that are prescribed in regulations. In these cases, the pig farmer is entitled to compensation from the Pig Industry Compensation Fund.

Subsection 8(3) currently provides that the owner of any pig who consents to that pig being destroyed because it is suffering from a disease prescribed in regulations or the owner of any pig who has died as a result of a prescribed disease is aggrieved at the value so placed upon such pig of carcass for the purposes of compensation from the Pig Industry Compensation Fund may appeal against the valuation to the Minister.

It is proposed to confer jurisdiction for such appeals from the Minister to SAT and therefore amendment to subsection 8(3) is proposed to delete “appeal against” and replace this with “apply to the State Administrative Tribunal for a review of” and to delete further references to the present appeal system to the Minister enabling the Minister to engage an expert to determine the value of a pig. In regards to the latter amendment, in its stead it is proposed to insert a new section 8(3a) to give SAT the power to order that costs of engaging an expert to determine the value of a pig are to be paid from the Pig Industry Compensation Fund as if it was a claim for compensation made under s13(3) of the *Pig Industry Compensation Act 1942*.

Division 107 — *Plant Diseases Act 1914*

988. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Plant Diseases Act 1914*.

989. Section 18 amended

Subsection 18(1) currently provides that an inspector appointed under the *Plant Diseases Act 1914* may, with the approval of and subject to an appeal to the Minister, serve a notice on the owner or occupier of any orchard requiring them to do anything deemed necessary by the inspector to prevent the spread of any disease, regardless of whether the orchard is actually infected or not.

It is proposed to confer jurisdiction for these appeals from the Minister to SAT and therefore as a consequence the words “and subject to an appeal to” in subsection 18(1) are proposed to be deleted.

In order to effect this conferral of power, it is also proposed to insert a new subsection 18(4) to expressly provide that an owner or occupier on whom an inspector serves a notice under subsection 18(1) may apply to SAT for a review of the inspector’s decision.

990. Section 22 amended

Subsection 22(1) gives power to the Minister acting on advice received from the Director General of Agriculture (DG) to serve a notice on the owner or occupier of an orchard requiring them, within a certain prescribed time, to remove the neglected plants in question. Subsection 22(2) gives the Minister the power to order the immediate destruction of the neglected plants, if the owner/occupier of the orchard fails to comply with the notice within time. Subsection 22(3) provides the DG with the power to order the owner/occupier to meet any or all of the expenses incurred in connection with destruction of the plants.

Subsection 22(5) provides a right of appeal for an owner/occupier who is in receipt of a notice under subsection 22(1) to the Minister to review the order in the notice.

It is proposed to confer jurisdiction for these appeals from the Minister to SAT and accordingly the words in subsection 22(5) “appeal to the Minister in the prescribed manner to review” are deleted and replaced by “apply to the State Administrative Tribunal for a review of”. Other amendments to this section as a consequence of effecting this conferral of jurisdiction include deleting subsection 22(6) and further amendment to subsection 22(7) deleting the reference to Minister and the present appeal process.

Division 108 — *Plant Pests and Diseases (Eradication Funds) Act 1974*

991. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Plant Pests and Diseases (Eradication Funds) Act 1974*.

992. Section 13 amended

Sub Section (6) – reference to an appeal to the Local Court is deleted and replaced by an application to State Administrative Tribunal, for the determination of the value of a crop or bag destroyed pursuant to the Agriculture and Related Resources Protection Act 1976 or the Plant Diseases Act 1914.

Division 109 — *Podiatrists Registration Act 1984*

993. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Podiatrists Registration Act 1984*.

994. Section 8 amended

Section 8(1)(e) – provides a rule making power to set fees in relation to registration and other matters, but specifies that this is not to be the case in relation to fees for commencement of an action in State Administrative Tribunal. This is covered in the Principal Bill.

Section 8(1)(g) removes from this section rules for conducting on inquiry as State Administrative Tribunal will now deal with inquiries.

995. Section 16 amended

Section 16(1) provides for a person to be removed from the Register whose conduct is NOT the subject of an investigation or a disciplinary hearing before State Administrative Tribunal.

996. Section 22 amended

Section 22(3) deleted and replaced by a new clause 22(3) which provides authority for State Administrative Tribunal to lift a suspension order on application of either the board or the person suspended.

997. Section 27A amended

A new clause 27A(1a) has been inserted consistent with the Principal Bill to require the Board to report on the number of investigations it has undertaken, the number of matters brought before State Administrative Tribunal and other administrative matters.

998. Section 28 amended

Section 28(1) – reference to an inquiry is replaced with reference to a proper cause for disciplinary action consistent with the Principal Bill.

Section 28(1)(a) to (e) – minor wording changes to properly describe the circumstances under which the Board may take action pursuant to Section 28(1).

Clause 28(1a) – new clause inserted to define the process the Board takes to have a disciplinary matter dealt with by State Administrative Tribunal.

Clause 28(1b) – gives authority to State Administrative Tribunal to strike a person from the Register if proper cause for disciplinary action is found to exist by State Administrative Tribunal.

Section 28(2) – provides State Administrative Tribunal with penalties other than striking the person from the Register.

999. Section 28A inserted

New Clause 28A(1) inserted which modifies the old Section 28(3) and provides the Board with a range of options for dealing with the person other than by making an allegation and referring the matter to State Administrative Tribunal.

New Clause 28A(2) inserted which modifies the old Section 28(4) to allow the Board in dealing with a person pursuant to the new Clause 28A(1) to impose costs.

Section 28 (5) now becomes Clause 28A(3).

1000. Section 29 replaced

Section 29(1) – provides for the Board to refer a breach of undertaking to State Administrative Tribunal.

New Clause 19(1a) – provides for State Administrative Tribunal when dealing with a breach to impose (without affecting the person's breach status) a penalty which State Administrative Tribunal could have imposed when dealing with the matter in the first place.

Section 29(2) – deleted as a consequence of new clause 29(1a).

Section 30 and Section 31 deleted and replaced with new Clause 31.

1001. Sections 30 repealed

Consistent with the Principal Bill provides the Board with the necessary powers to investigate any matters which it feels it should act upon.

1002. Sections 31 replaced by sections 31 to 31C

Sub Clause 31(2), 31(3) and 31(4) provide for procedures to be followed in investigations pursuant to Clause 31(1).

New Clauses 31A, 31B and 31C provide further procedural requirements to be followed in an investigation – no protection against incrimination, failure on the person to comply with investigation and obstruction of the investigator.

1003. Section 32 amended

Section 32(c) adds reference to new Clause 28A.

1004. Section 33 replaced

Title of section changed from “appeals” to “review” consistent with the Principal Bill.

Section 33(1) – amended to application for review by State Administrative Tribunal and reference to time period for appeal deleted consistent with provisions in the Principal Bill.

Sections 33(2), (3) and (4) – deleted consistent with procedural requirements for review in Principal Bill.

1005. Section 34 amended

Section 24(1) – amended to reference State Administrative Tribunal in terms of enforcement of orders outside of the state.

Section 34(2) – role of the Board removed.

1006. Section 35 amended

Section 35(1) – reference to “inquiry” removed consistent with the Principal Bill and other amendments removing the Board’s inquiry role.

1007. Section 38 amended

Section 38(a) – reference to “inquiry” deleted consistent with the Principal Bill and other amendments removing the Board’s inquiry role.

Division 110 — *Poisons Act 1964*

1008. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Poisons Act 1964*.

1009. Section 29 amended

Section 29 (1) – appeal by a person aggrieved by the decision of the Commissioner may now apply to the State Administrative Tribunal for a review of the refusal or order, whereas previously they may have appealed to a Magistrate sitting in a court of summary jurisdiction.

Section 29 (2) and (3) – deleted as they qualify the order that magistrate can make. This is covered by generic provisions in the Principal Bill.

1010. Section 64 amended

Section 64 (2) (k) – deleted as it prescribed details of appeal procedures and these have been changed to review procedures consistent with the Principal Bill.

Division 111 — *Psychologists Registration Act 1976*

1011. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Psychologists Registration Act 1976*.

1012. Section 3 amended

The meaning of the term “improper conduct in a professional respect” is to be amended to remove reference to the Board as the only authority whose opinion may determine improper conduct on the part of a registered psychologist.

1013. Section 18A amended

Section 18A of the *Psychologists Registration Act 1976* contains the annual reporting requirements in relation to the Psychologists Registration Board. It is proposed to add subsection 18A(1a), which will outline additional matters to be reported on. The proposed subsection 18A(1a) will outline the requirement of the Board to report on matters that have been referred to the State Administrative Tribunal under the Act, including matters that are still pending, and to report on general administrative issues in relation to the operations of the Board.

1014. Section 21 amended

Section 21 of the *Psychologists Registration Act 1976* enables the Psychologists Registration Board to make rules covering matters that the Board considers are necessary, subject to the Governor’s approval. Subsection 21(1)(e) is to be amended to reflect that the Board cannot prescribe fees in relation to the commencement of proceedings in the State Administrative Tribunal.

As the State Administrative Tribunal is to have jurisdiction over the deciding of appeals made in relation to the Act, subsection 21(1)(i) of the *Psychologists Registration Act 1976* is no longer relevant and is therefore being repealed.

1015. Section 29 amended

Section 29 of the *Psychologists Registration Act 1976* provides for the voluntary resignation of registered psychologists. A registered person cannot request that their name be removed from the register if they are the subject of an investigation by the Psychologists Registration Board. Subsection 29(1) is to be amended to add a condition that a registered person must also not be the subject of proceedings in the State Administrative Tribunal.

1016. Section 35 amended

Section 35 of the *Psychologists Registration Act 1976* concerns the conditions of suspension when a person's name has been struck off the Register. Subsection 35(3) is to be amended to reflect that the Board cannot revoke a suspension that was imposed under the jurisdiction of the State Administrative Tribunal, and must make application to the State Administrative Tribunal, which is to assume jurisdiction over disciplinary matters.

1017. Section 39 amended

Section 39 of the *Psychologists Registration Act 1976* refers to the disciplinary powers of the Psychologists Registration Board. As the State Administrative Tribunal is to assume jurisdiction in disciplinary matters that were previously dealt with by an inquiry of the Board, it is proposed that the text throughout section 39 referring to Board inquiries be removed.

Subsection 39(1a) of the *Psychologists Registration Act 1976* is to prescribe that the Board must refer grounds for an order that a person be struck off the register to the State Administrative Tribunal, under its authority. Subsection 39(2) confers all powers previously held by the Board to the State Administrative Tribunal, where an assessment is to be made whether to strike a person off the register.

Subsection 39(1c) of the *Psychologists Registration Act 1976* is to be amended to describe the actions the State Administrative Tribunal may take in the event that it considers that the nature of a matter does not warrant a person being struck off the register. Subsections (2)(a), (2)(b) and 2(c) refer to the same powers in relation to the Board. As the State Administrative Tribunal is to assume jurisdiction over these matters, the subsections are irrelevant and are therefore being repealed.

1018. Section 39A inserted

Section 39A of the *Psychologists Registration Act 1976* is to be amended to describe the powers of the Board in the event that it considers that the nature of a matter does not warrant a referral to the State Administrative Tribunal. Subsection 39A(1) proposes that the Board be able to seek explanation from the person concerned and, upon not being satisfied at that explanation, choose to issue an alternative disciplinary action rather than apply to the State Administrative Tribunal for the person to be struck from the register.

Subsection 39A(3) of the *Psychologists Registration Act 1976* is to be amended to specify that any court of competent jurisdiction may recover costs associated with orders made directly by the Board.

1019. Section 40 replaced

Section 40 of the *Psychologists Registration Act 1976* relates to a breach of an undertaking committed by a person who is the subject of an undertaking to the Board under section 39A of the Act. Subsection 40(1) is to be amended to reflect that the Board is entitled to refer the matter to the State Administrative Tribunal, which may then be assessed in respect of the original circumstances leading to the disciplinary action under the jurisdiction of the State Administrative Tribunal.

As subsections 40(1)(a), 40(1)(b) and 40(2) of the *Psychologists Registration Act 1976* relate to jurisdictions over which the State Administrative Tribunal now has authority, rather than the Board, they are no longer relevant and are therefore being repealed.

1020. Section 41 amended

Section 41 of the *Psychologists Registration Act 1976* validates a finding of fact in any matter as *prima facie* evidence of that fact during a review of proceedings. Subsections 41(1) and 41(2) are to be amended to draw specific reference to proceedings under section 39A, to which this would directly apply.

1021. Section 42 replaced

Section 42 of the *Psychologists Registration Act 1976* concerns the Board's authority to hold inquiries into the conduct of a person registered under the Act. As the State Administrative Tribunal is to assume jurisdiction over matters that previously were the subject of an inquiry by the Board, section 42 of the Act is no longer relevant and is therefore being repealed.

1022. Sections 42A, 42B and 42C inserted

Section 42A of the *Psychologists Registration Act 1976* is a new section which stipulates that information submitted by a person to an investigator will not be admissible against them in any proceedings other than the investigation for which the information is required.

Section 42B of the *Psychologists Registration Act 1976* is a new section that outlines the penalty for non-compliance with an authorised request for information in an investigation. New subsection 42B(2) of the Act outlines a number of grounds under which a person may defend their right to withhold information. These circumstances include the person not being properly informed of their legal requirement to provide information, not being given enough time to fulfil the requirement, and the investigator not showing reasonable grounds to believe that the information would assist the investigation.

Section 42C of the *Psychologists Registration Act 1976* is a new section which states that it is an offence to prevent an investigator from exercising their powers under section 42 of the Act, and lists a penalty for obstruction as \$2000.

1023. Section 43 amended

Section 43 of the *Psychologists Registration Act 1976* outlines the requirements of the Psychologists Registration Board to record and communicate all relevant decisions to a person the subject of such decisions. Subsection 43(c) is to reflect that the Board will specifically exercise powers under section 39A.

1024. Section 44 replaced

Section 44 of the *Psychologists Registration Act 1976* concerns the requirements of a person who is seeking a review of a decision made by the Board. The title has been amended to better reflect the nature of the administrative action that results. Subsection 44(1) of the Act proposed that all grievances are to be resolved through an application by the aggrieved person to the State Administrative Tribunal, requesting a review of the Board's decision.

Subsections 44(2), 44(3) and 44(4) of the *Psychologists Registration Act 1976* refer to appeals made through the Supreme Court. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Supreme Court by the Board, these subsections are no longer relevant and are therefore being repealed.

1025. Section 45 amended

Section 45 of the *Psychologists Registration Act 1976* refers to the authority of the Board to make similar orders to those that have been made by like authorities in other States against a person. The wording of subsection 45(1) is to be amended to include the State Administrative Tribunal as also having that authority.

1026. Section 46 amended

Section 46 of the *Psychologists Registration Act 1976* excludes the Board and other associated authorities from liability in relation to the publication of the actions of the Board. Subsection 46(1) is to be amended to remove reference to Board inquiries, as the State Administrative Tribunal now has jurisdiction over the equivalent function.

Subsection 46(2) of the *Psychologists Registration Act 1976* explains the authority of the Board to share information about a person who has been the subject of disciplinary action with organisations and people having a specific interest in the matter, including other State authorities. Text has been added to reinforce that these provisions apply to proceedings that were commenced under this Act.

1027. Section 47 amended

Section 47 of the *Psychologists Registration Act 1976* outlines provisions for the Board to apply for a Supreme Court injunction to prevent a person from committing an act that is deemed an offence by this Act. As the State Administrative Tribunal is to assume jurisdiction in relation to disciplinary proceedings, the wording has been changed to reflect the right to seek an injunction in accordance with decisions of the Tribunal, rather than the Board, and proceedings that were commenced under the Act.

1028. Section 48 amended

Section 48 of the *Psychologists Registration Act 1976* outlines the requirements and potential penalties regarding the handing back of a practice certificate by a person whose name has been struck off the Register. Subsection 48(1) is to be amended in its wording to specify that the provisions relate to proceedings that were commenced under this Act.

1029. Section 50 amended

Section 50 of the *Psychologists Registration Act 1976* details the penalties associated with the false representation of a registered person under the Act. Subsection 50(d) is to be amended to remove the reference to inquiries by the Board, as this function of the Board is being repealed.

Division 112 — *Public Meetings and Processions Act 1984*
Subdivision 1 — Amendments to the Act

1030. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Public Meetings and Processions Act 1984*.

1031. Section 3 amended

It is proposed to delete the current definitions of “magistrate” and “order” in this section as a consequence of the conferral of jurisdiction for appeals from a magistrate in a court of petty sessions to the State Administrative Tribunal. As a consequence, it is also proposed to insert a definition of tribunal member to have the same meaning as that given in section 3 of the *State Administrative Tribunal Act 2003*.

1032. Section 4 amended

It is proposed as part of this conferral of jurisdiction to SAT to make the Commissioner of Police solely responsible for both issuing permits and the terms contained in those permits and therefore references to “or order” and “or an order made by a magistrate” in this section are proposed to be deleted.

1033. Section 8 amended

This section currently provides the mechanism whereby a person or body who makes written application for the grant of a permit to use a certain street for a public meeting or procession by giving the required notice and is:

- refused that permit by the Commissioner of Police;
- aggrieved by any condition or limitation specified in a permit granted by the Commissioner of Police; or who
- satisfies a magistrate that their application has not been dealt with sufficiently expeditiously or otherwise that there is good cause why the application should be reviewed,

can apply to a magistrate for an order approving the proposal or for an order cancelling or varying any condition or limitation specified in a permit that has been granted. The current mechanism also provides for a magistrate to conduct a hearing, take submissions and make a determination.

It is proposed that jurisdiction for applications to review a decision of the Commissioner of Police when a permit is either refused or granted but subject to conditions that are unsatisfactory to the applicant be conferred on SAT. To achieve this outcome, subsection 8(1)(c) is proposed to be amended to delete “satisfies the magistrate” and inserted instead is “believes that the application has been dealt with unreasonably, as described in subsection (1a)” and further on references to the current mechanism of applying to a magistrate are deleted in full and replaced by “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”. In addition, a new subsection 8(1a) is proposed to be inserted to provide, for the purposes of subsection 8(1), a definition of what is unreasonable. As a consequence of these proposed amendments, subsections 8(2) to 8(7) are deleted entirely.

1034. Section 9 amended

Consistent with the amendment to section 4 the words “or order” and “or the making of the order” are proposed to be deleted to reflect that the Commissioner of Police is proposed to be solely responsible for issuing permits under the Act.

1035. Various references to “or order” deleted

A range of references to “or order” are deleted as these references are no longer relevant.

Subdivision 2 — Amendments needed because Act amended

1036. Police Act 1892 amended

The reference to “or order” in section 52(1)(a) of the *Police Act 1892* is deleted as it is no longer relevant.

Division 113 — *Racing Penalties (Appeals) Act 1990*

Subdivision 1 — Amendments to the Act

1037. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Racing Penalties (Appeals) Act 1990*.

1038. Long title amended

Long title amended to delete reference to the Racing Penalties Appeal Tribunal and to confer on the State Administrative Tribunal jurisdiction in relation to appeals against penalties imposed.

1039. Section 3 amended

Section 3(1) – definitions of bookmaker, Chairperson (of the Racing Penalties Appeal Tribunal), member (of RPAT), owner and Registrar (of RPAT) and the Tribunal itself deleted consistent with the transfer of RPAT’s functions to SAT.

1040. Part 2 heading amended
Title amended to “Appeals and Review”

1041. Part 2 Division 1 repealed
Sections 4, 5, 6, 7, 8 and 9 deleted consistent with the transfer of functions to the State Administrative Tribunal.

1042. Part 2 Division 2 heading deleted
The heading is deleted as a consequence on the various amendments to this Part of the Act.

1043. Sections 10 and 11 repealed
Sections 10 and 11 deal with the jurisdiction and proceedings of the Racing Penalties Appeal Tribunal. These sections are to be repealed as the State Administrative Tribunal is assuming jurisdiction over matters previously dealt with by the Racing Penalties Appeal Tribunal.

1044. Section 12 amended
Section 12(1) – defines the jurisdiction of the State Administrative Tribunal to NOT extending to include reviewing a determination of a steward if it relates to any of the matters described in Subsections (a), (b) or (c).

Section 12(3) – qualifies procedures for appeals under Section 12(1).

1045. Section 13 amended
Sections 13(1) – provides for SAT to deal with applications under Section 12 (with leave of the SAT) and provided it is in the public interest, even though its jurisdiction does not specifically cover it if matters arise from the same incident.

New Clause 13(3) – new clause added which determines who may NOT sit as a member of the State Administrative Tribunal when dealing with matters under this Act. It describes persons as not eligible if they have an interest in racing, an interest in a runner in a race or if they have betted on a race.

Sections 13(3) and (4) – deleted as they reference the Chairperson and the Tribunal.

1046. Section 14 repealed
Section 14 – deleted as it references appeals to the Tribunal.

1047. Section 15 amended
Section 15(1) – word application replaces appeal and review added for consistency.

Section 15(2) - deleted as it references Racing Penalties Appeal Tribunal.

1048. Part 2 Division 3 heading deleted
Division 3 Procedures and powers – deleted

1049. Section 16 repealed
Section 16 – deleted as it references appeals to the Tribunal.

1050. Section 17 replaced
Whole section deleted and a new Clause added which provides powers for the State Administrative Tribunal to order the refund or repayment of any stakes involved in a race which is subject of an appeal.

1051. Sections 18 and 19 repealed
Sections 18 and 19 – deleted.

1052. Sections 20 to 23 repealed
Sections 20, 21 22 and 23 deleted as they reference provisions controlling matters before Racing Penalties Appeal Tribunal.

1053. Section 24 amended
Section 24(1) – whole subsection is deleted and replaced by a new subsection 24(1) - provides for the State Administrative Tribunal to seek funding from monies paid to Racing and Wagering Western Australia by the racing clubs.

Sections 24(2), (3) and (4) – amendments made to provide the procedural basis for which funds provided for under Section 24(1) can be transferred from Racing and Wagering Western Australia to the State Administrative Tribunal.

1054. Sections 25 and 26 repealed
Sections 25 and 26 – deleted as they relate to Racing Penalties Appeal Tribunal and transitional provisions.

1055. Schedule repealed
Schedule – whole Schedule is deleted consistent with transfer of Racing Penalties Appeal Tribunal functions to the State Administrative Tribunal.

Subdivision 2 — Transitional provisions

1056. Transitional provisions in relation to funds

Subclause (1)(a) – defines that the amount of funds to be paid to SAT should be the amount previously determined for the financial year prior to the commencement of SAT less any actual expenditures. Subclause (1)(b) – provides any amount payable to SAT on the commencement of SAT should be paid to SAT

Subclause (2) – provides for the transfer of any amounts in a bank account described in the *Racing Penalties (Appeals) Act 1990* (S 24(8)) to be transferred to SAT and that account closed.

Division 114 — Radiation Safety Act 1975

1057. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Radiation Safety Act 1975*.

1058. Section 12 amended

Section 12 (1) – reference to an appeal to the Supreme Court deleted and replaced with an application to the State Administrative Tribunal for review of the decision to refuse an application for a licence or vary the conditions of a licence.

Section 12 (2), (3) and (4) – deleted as they provide qualifiers as to how the Supreme Court will deal with appeals. This is no longer necessary as the State Administrative Tribunal Principal Bill contains generic provisions for dealing with reviews.

1059. Section 54 amended

Section 54 (3) – reference to the Court of Petty Sessions in an appeal by an aggrieved person is deleted and replaced with application to the State Administrative Tribunal for review of decision.

Section 54 (4) – word “appeal” deleted and replaced with “application for review” consistent with the review jurisdiction described in the Principal Bill.

Division 115 — Rail Safety Act 1998

1060. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Rail Safety Act 1998*.

1061. Section 16 amended

Section 16(c) – reference to appeal replaced with review for consistency with Principal Bill.

1062. Section 17 amended

Section 17(6)(c) – word “appeal” replaced by “review”.

1063. Section 18 amended

Section 18(5)(b) – word “appeal” replaced by “review”.

1064. Section 20 amended

Section 20(1)(e) – reference to an appeal to the District Court deleted and replaced by reference to an application to State Administrative Tribunal for review.

Section 20(2) – word “appeal” deleted and reference to Section (1)(d) for time period for application inserted consistent with generic time periods for applications for review in Principal Bill.

Section 20(3) – reference to appeal to District Court within one month deleted and replaced by reference to State Administrative Tribunal for review. Reference to Section (1)(d) added to define time period.

Section 20(5) – words “District Court” deleted consistent with review to State Administrative Tribunal.

Section 20(6), and (7) – deleted as generic provisions in the Principal Act describe how State Administrative Tribunal can deal with reviews.

1065. Schedule 1 amended

Schedule 1 (28) – the fixing of fees and charges amended to ensure they relate only to fees other than those relating to the State Administrative Tribunal as they will be prescribed in regulations specific to State Administrative Tribunal.

Division 116 — *Real Estate and Business Agents Act 1978*

1066. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Real Estate and Business Agents Act 1978*.

1067. Part II Division 3 heading amended

The heading to Part II Division 3 is amended to refer to review of decisions made by the Board.

1068. Sections 19 to 22 repealed

Section 19 of the *Real Estate and Business Agents Act 1978* outlines the proceedings of the Real Estate and Business Agents Supervisory Board in relation to licence applications, applications for certificates of registration and disciplinary matters. It is proposed that in terms of licence applications and applications for certificates of registration, the Board will simply consider such applications without holding a hearing into such matters. In terms of disciplinary matters, the power of the board to inquire into and determine such matters is proposed to be vested in the State Administrative Tribunal.

As a consequence of the above proposals, the majority of the provisions in section 19 of the Act is no longer relevant and is therefore proposed to be repealed. Subsections 19(9), (9a) and (9b) are retained through proposed new sections 34A and 50A.

Section 20 of the *Real Estate and Business Agents Act 1978* outlines the powers of the Board to obtain evidence when conducting various proceedings under the Act. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, and that the power of the Board to inquire into disciplinary matters be vested in the State Administrative Tribunal, section 20 of the Act is no longer relevant and is therefore proposed to be repealed.

Section 21 of the *Real Estate and Business Agents Act 1978* outlines the powers of the Board to order costs when conducting various proceedings under the Act. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, and that the power of the Board to inquire into disciplinary matters be vested in the State Administrative Tribunal, the majority of the provisions in section 21 of the Act are no longer relevant and section 21 is therefore proposed to be repealed. Subsections 21(2) and (3) are retained through proposed new sections 34B and 50B.

Section 22 of the *Real Estate and Business Agents Act 1978* outlines the Board's capacity to give reasons to a party to proceedings. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, and that the power of the Board to inquire into disciplinary matters be vested in the State Administrative Tribunal, section 22 of the Act is no longer relevant and is therefore proposed to be repealed.

1069. Section 23 replaced

Section 23 of the *Real Estate and Business Agents Act 1978* provides that where the Board makes an order or decision, an aggrieved person can appeal to the District Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously where referred to the District Court under the Act. Therefore, section 23 of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. Definitions of 'aggrieved person' and 'reviewable decision' are proposed to be inserted for ease of understanding.

1070. Section 23C amended

Section 23C of the *Real Estate and Business Agents Act 1978* deals with matters concerning conciliation of disputes. Subsection 23C(3) references proceedings before the Board. As it is proposed that State Administrative Tribunal will now assume responsibility for disciplinary proceedings presently conducted by the Board, subsection 23C(3) of the Act is to be amended to reference the State Administrative Tribunal rather than the Board.

1071. Section 24 amended

Section 24 of the *Real Estate and Business Agents Act 1978* deals with applications to be licenced as a real estate agent. Subsection 24(5) references parties to application proceedings before the Board. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, subsection 24(5) of the Act is no longer relevant and is therefore proposed to be repealed.

1072. Section 25 amended

Section 25 of the *Real Estate and Business Agents Act 1978* deals with objections lodged in relation to applications for licences. Subsection 25(4) references parties to application proceedings before the Board. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, subsection 25(4) of the Act is no longer relevant and is therefore proposed to be repealed.

1073. Section 30 amended

Section 30 of the *Real Estate and Business Agents Act 1978* deals with the effect of a licence that has been granted and in part enables a licence to be surrendered. A new subsection (4) is proposed to be inserted dealing with the surrender of licences in the context of disciplinary action. Proposed new subsection (4) enables a person to be dealt with for a matter that arose before the licence was surrendered and ensures that people don't avoid disciplinary or other actions being taken against them by surrendering their licence.

1074. Section 31 amended

Section 31 of the *Real Estate and Business Agents Act 1978* deals with the grant and renewal of triennial certificates. Subsection (4) provides that if the Board has refused to renew a triennial certificate, the refusal is still in effect notwithstanding any appeal that may have been lodged in the District Court. Subsection 31(4) is to be repealed as the State Administrative Tribunal will now review decisions under section 23. However, clause 25 of the *State Administrative Tribunal Bill 2003* provides that the original decision is still in effect, pending review by the State Administrative Tribunal, unless the Tribunal, on application of a party or on its own initiative, makes an order staying the operation of a decision that is the subject of a proceeding for review.

1075. Section 33 amended

Section 33 of the *Real Estate and Business Agents Act 1978* deals with the renewal of triennial certificates in certain cases. Subsection 33(5) references parties to application proceedings before the Board. As it is proposed that the Board will simply consider licence/renewal applications etc without holding a hearing, subsection 33(5) of the Act is no longer relevant and is therefore proposed to be repealed.

1076. Sections 34A and 34B inserted

The proposed new section 34A picks up the provisions from subsections 19(9), (9a) and (9b) in relation to unopposed applications for licences.

The proposed new section 34B picks up the provisions from subsections 21(2) and (3) in relation to suspension of licence through non-payment or non-compliance with an order of the State Administrative Tribunal.

1077. Section 43 amended

Section 43 of the *Real Estate and Business Agents Act 1978* deals with applications for certificate of registration as a real estate and business sales representative. Subsection 43(4) references parties to application proceedings before the Board. As it is proposed that the Board will simply consider applications etc without holding a hearing, subsection 43(4) of the Act is no longer relevant and is therefore proposed to be repealed.

1078. Section 48 amended

Section 48 of the *Real Estate and Business Agents Act 1978* deals duration and renewal of certificate of registration. Subsection (6) provides that if the Board has refused to renew a sales representative's certificate of registration, the refusal is still in effect notwithstanding any appeal that may have been lodged in the District Court. Subsection 48(6) is to be repealed as the State Administrative Tribunal will now review decisions under section 23. However, clause 25 of the *State Administrative Tribunal Bill 2003* provides that the original decision is still in effect, pending review by the State Administrative Tribunal, unless the Tribunal, on application of a party or on its own initiative, makes an order staying the operation of a decision that is the subject of a proceeding for review.

1079. Section 49 amended

Section 49 of the *Real Estate and Business Agents Act 1978* deals with the late renewal certificates of registration. Subsection 49(7) references parties to application proceedings before the Board. As it is proposed that the Board will simply consider licence/renewal applications etc without holding a hearing, subsection 49(7) of the Act is no longer relevant and is therefore proposed to be repealed.

1080. Sections 50A and 50B inserted

The proposed new section 50A picks up the provisions from subsections 19(9), (9a)) and (9b) in relation to unopposed applications for certificates of registration.

The proposed new section 50B picks up the provisions from subsections 21(2) and (3) in relation to suspension of certificates of registration through non-payment or non-compliance with an order of the State Administrative Tribunal.

1081. Section 53 amended

Section 53 of the *Real Estate and Business Agents Act 1978* deals with the surrender of certificates of registration. A new subsection (2) is proposed to be inserted dealing with the surrender of certificates in the context of disciplinary action. Proposed new subsection (2) enables a person to be dealt with for a matter that arose before the certificate was surrendered and ensures that people don't avoid disciplinary or other actions being taken against them by surrendering their certificate.

1082. Section 76 repealed

Section 76 of the *Real Estate and Business Agents Act 1978* provides that where the Board makes an order or decision under Part VI of the Act, an aggrieved person can appeal to the District Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously were referred to the District Court under the Act. Therefore, section 23 of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. As a consequence of the amendments to section 23 of the Act, section 76 is no longer relevant and is therefore proposed to be repealed.

1083. Section 102 amended

Section 102 of the *Real Estate and Business Agents Act 1978* enables the Board to hold inquiries into disciplinary action against agents and sales representatives. It is proposed that the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were conducted by the Board under the Act. Therefore, section 102 is to be amended to instead require the Board to make an allegation of disciplinary action to the State Administrative Tribunal. The capacity for the State Administrative Tribunal to hold inquiries, summons persons etc in relation to disciplinary matters, is provided for in the *State Administrative Tribunal Bill 2003*.

1084. Section 103 amended

Section 103 of the *Real Estate and Business Agents Act 1978* outlines the grounds for taking disciplinary action against an agent or sales representative, and the powers available to the Board when it is satisfied that a proper cause exists for disciplinary action. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were dealt with by the Board under section 102 of the Act, section 103 is to be amended to instead outline the powers available to the State Administrative Tribunal when dealing with disciplinary matters.

1085. Section 124B amended

Section 124B of the *Real Estate and Business Agents Act 1978* provides to the crediting of moneys to the General Purpose Fund established under section 124A of the Act. Subsection 124B(d) and (e) provide that fines imposed for disciplinary matters form part of the General Purpose Fund. Section 124B is to be amended such that any fines imposed by the State Administrative Tribunal in respect of disciplinary matters, will not be paid into the General Purpose Fund. Any fines imposed by State Administrative Tribunal will be paid into Consolidated Revenue.

1086. Section 135 amended

Section 135 of the *Real Estate and Business Agents Act 1978* contains the annual reporting requirements in relation to the Real Estate and Business Agents Supervisory Board. It is proposed to amend section 135 by inserting a new subsection (2) which outlines additional matters required to be reported on. The proposed subsection (2) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board. Proposed subsection (2) is consistent with comments at paragraph 55 in Chapter 4 of the Taskforce Report [p.74].

1087. Section 139 amended

Section 139 of the *Real Estate and Business Agents Act 1978* deals with the liability of directors and partners of bodies corporate in relation to orders and directions made under the Act. Subsection 139(2) includes a reference to the directions made by the Board. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were dealt with by the Board, subsection 139(2) is to be amended to instead reference the State Administrative Tribunal.

1088. Section 145 amended

Section 145 of the *Real Estate and Business Agents Act 1978* is the regulation making power of the Act. Subsection 145(2)(b) is to be amended to delete reference to the making of regulations for the enforcement of judgment made by the Board. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were dealt with by the Board, subsection 145(2)(b) is to be repealed. The *State Administrative Tribunal Bill 2003* contains provisions dealing with the enforcement of orders made by the State Administrative Tribunal.

Subsection 145(2)(d) is amended so as to provide that the regulation making power does not apply in relation to recovery of fees in relation to proceedings conducted before the State Administrative Tribunal under the Act. Matters concerning fees of the State Administrative Tribunal are provided for under the *State Administrative Tribunal Bill 2003*.

1089. Schedule amended

Clauses 19-24 of the Schedule to the *Real Estate and Business Agents Act 1978* contain transitional provisions that applied immediately following the appointed day under the Act. The appointed day was 1 December 1979. These transitional provisions are no longer relevant and are there proposed to be repealed.

1090. Various references to “Board” amended

A range of references to the “Board” are replaced with “State Administrative Tribunal”.

1091. Various references to “District Court” amended

A range of references to the “District Court” are replaced with “State Administrative Tribunal”.

Division 117 — *Retirement Villages Act 1992*

1092. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Retirement Villages Act 1992*.

1093. Section 3 amended

Section 3 of the *Retirement Villages Act 1992* provides the interpretation of terms used in the Act. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal. It is proposed that Section 3 of the Act be amended to delete references to a ‘referee’, ‘registrar’ and ‘tribunal’ as they are no longer relevant due to the disciplinary provisions provided in the *State Administrative Tribunal Bill 2003* and are therefore being repealed.

1094. Part 4 Division 1 heading replaced

A new heading is inserted in Part 4 Division 1 to replace the current heading.

1095. Sections 23 to 26 repealed

Section 23 of the *Retirement Villages Act 1992* deals with matters relating to the appointment of retirement villages referees in relation to the resolution of disputes. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is proposed that section 23 of the Act is no longer relevant and is therefore being repealed.

Section 24 of the *Retirement Villages Act 1992* provides that a person who is or has been a magistrate or is a practitioner with the meaning of the term in the *Legal Practitioners Act 1893* may be appointed and hold office as a referee. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is proposed that section 24 of the Act is no longer relevant and is therefore being repealed.

Section 25 of the *Retirement Villages Act 1992* outlines the terms and conditions of office of the referee in relation to resolution of disputes. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is proposed that section 25 of the Act is no longer relevant and is therefore being repealed.

Section 26 of the *Retirement Villages Act 1992* concerns matters relating to acting referees. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, it is proposed that section 26 of the Act is no longer relevant and is therefore being repealed.

1096. Part 4 Divisions 2 and 3 repealed

Division 3 of the *Retirement Villages Act 1992* outlines matters in relation to the registry and the registrars and other officers. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that Division 3 of the Act is no longer relevant and is therefore being repealed.

1097. Part 4 Division 4 heading deleted

Division 4 of the *Retirement Villages Act 1992* outlines the procedures for applications for orders to be made to the Tribunal, notice of hearing, election as to the constitution of the Tribunal, and witnesses and inspection of documents. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that Division 4 of the Act is no longer relevant and is therefore being repealed.

1098. Sections 38 to 41 repealed

Division 4 of the *Retirement Villages Act 1992* outlines the procedures for applications for orders to be made to the Tribunal, notice of hearing, election as to the constitution of the Tribunal, and witnesses and inspection of documents. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that Division 4 of the Act is no longer relevant and is therefore being repealed.

1099. Section 42 replaced

Section 42 of the *Retirement Villages Act 1992* outlines the general powers of the Tribunal in relation to proceedings. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 42(b) of the Act be amended to reference the State Administrative Tribunal instead of the Tribunal. Further, subsections 42(a), 42(c), 42(d), 42(d), 42(e), 42(f), 42(g), 42(h), 42(i), 42(j), 42(k) and 42(l) of the Act are no longer relevant and are therefore being repealed.

1100. Section 43 repealed

Section 43 of the *Retirement Villages Act 1992* outlines matters in relation to offences. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 43 of the Act is no longer relevant and is therefore being repealed.

1101. Section 44 amended

Section 44 of the *Retirement Villages Act 1992* outlines matters relating to the extension of time. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 44 of the Act be amended to instead reference the State Administrative Tribunal.

1102. Sections 45 to 47 repealed

Section 45 of the *Retirement Villages Act 1992* provides that in any proceedings the Tribunal shall not be bound by the rules of evidence but may inform itself upon any matter relating to the proceedings in such a manner as the Tribunal thinks fit. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 45 of the Act is no longer relevant and is therefore being repealed.

Section 47 of the *Retirement Villages Act 1992* outlines matters in relation to the presentation of cases to the Tribunal. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 47 of the Act is no longer relevant and is therefore being repealed.

1103. Section 48 amended

Section 48 of the *Retirement Villages Act 1992* provides that the Tribunal may, where it considers it appropriate, bring or cause to be brought to the attention of the Commissioner the conduct of the administering body of a retirement village in a particular matter before the Tribunal. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 48 of the Act be amended to delete references to the Tribunal to instead reference the State Administrative Tribunal.

1104. Sections 49 to 51 repealed

Section 49 of the *Retirement Villages Act 1992* provides that the Tribunal hearing proceedings shall not award costs, unless all parties under section 47(8) were represented by a legal practitioners or the Tribunal is of the opinion that there are special circumstances justifying the award of costs. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 49 of the Act is no longer relevant and is therefore being repealed.

Section 50 of the *Retirement Villages Act 1992* provides that the Tribunal hearing proceedings may reserve any question of law for the decision of the District Court. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 50 of the Act is no longer relevant and is therefore being repealed.

Section 51 of the *Retirement Villages Act 1992* provides that a party to proceedings before the Tribunal may appeal to the District Court against a decision of the Tribunal. As the State Administrative Tribunal will now assume jurisdiction over appeal and review matters that previously were referred to the District Court, it is proposed that section 51 of the Act is no longer relevant and is therefore being repealed.

1105. Part 4 Division 5 heading amended

The heading in Part 4 Division 5 is amended to refer to the State Administrative Tribunal.

1106. Sections 53 and 55 repealed

Section 53 of the *Retirement Villages Act 1992* provides that there are no monetary limits on jurisdiction of the Tribunal. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 53 of the Act is no longer relevant and is therefore being repealed.

Section 55 of the *Retirement Villages Act 1992* provides that the Tribunal has jurisdiction under this Act to determine any application referred under section 77A of the *Strata Titles Act 1985*. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 55 of the Act is no longer relevant and is therefore being repealed.

1107. Section 56 amended

Section 56 of the *Retirement Villages Act 1992* outlines matters in relation to disputes in relation to service contracts. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 56 of the Act be amended to delete references to the tribunal to instead reference the State Administrative Tribunal.

1108. Sections 71 to 73 repealed

Section 71 of the *Retirement Villages Act 1992* provides that upon an application for an order under this Part the Tribunal may make such as an ancillary or incidental order as the Tribunal considers appropriate. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 71 of the Act is no longer relevant and is therefore being repealed.

Section 72 of the *Retirement Villages Act 1992* provides that the Tribunal may enforce an order by the issue of a warrant. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 72 of the Act is no longer relevant and is therefore being repealed.

Section 73 of the *Retirement Villages Act 1992* provides that a party to proceedings before the Tribunal may request in writing from the Tribunal to give reasons for the decision or order. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 73 of the Act is no longer relevant and is therefore being repealed.

1109. Section 74 amended

Section 74 of the *Retirement Villages Act 1992* provides that a no liability attaches to a member of the Tribunal, the Tribunal or a registrar. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 74 of the Act be amended to delete references to the Tribunal and the registrar.

1110. Section 75 amended

Section 75 of the *Retirement Villages Act 1992* outlines the matters in relation to the rescission of contract. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 75 of the Act be amended to delete references to the Tribunal to instead reference the State Administrative Tribunal.

1111. Section 76 repealed

Section 76 of the *Retirement Villages Act 1992* provides that the law with respect to perjury or fabrication of evidence applies to a proceeding before the Tribunal and a proceeding before the Tribunal is a judicial proceeding. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 76 of the Act is no longer relevant and is therefore being repealed.

1112. Section 81 repealed

Section 81 of the *Retirement Villages Act 1992* outlines matters in relation to the evidentiary provisions including evidence such as a document purporting to be a copy of a decision or order of the Tribunal. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that section 81 of the Act is no longer relevant and is therefore being repealed.

1113. Section 82 amended

Section 82 of the *Retirement Villages Act 1992* provides that the Governor may make regulations for the carrying out or giving effect to this Act. Subsection 82(2a) provides that the Governor may make regulations to the constitution of panels under section 28. It is proposed that subsection 82(2a) be deleted as the cross reference to section 28 is proposed to be repealed.

Subsection 82(2d) of the *Retirement Villages Act 1992* provides that the Governor may make regulations for the practice and procedure to be followed in proceedings before the Tribunal under this Act. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Tribunal, it is proposed that subsection 82(2d) of the Act is no longer relevant and is therefore being repealed.

1114. Various references to “Tribunal” amended

A range of references to “Tribunal” are replaced with “State Administrative Tribunal”.

Division 118 — *Rights in Water and Irrigation Act 1914*

1115. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Rights in Water and Irrigation Act 1914*.

1116. Section 26B amended

Section 26B(4)(d) – reference to an appeal under Section 26GI deleted and replaced by application for review.

Section 26B(5)(d) – reference to an appeal under Section 26GI deleted and replaced by application for review.

1117. Part III Division 3B amended

Heading changed to “Review”.

1118. Section 26GG amended

Section 26GG(1) – reference to appeal under Schedule 2 is deleted and replaced with an application to State Administrative Tribunal for review of the decision.

Section 26GG(2) – words “appeal” replaced with “apply for review”.

1119. Section 26GH amended

Section 26GH(1) – reference to an appeal against decision or variation under Section 22, 26G or 26C is deleted and replaced by reference to a review of the decision by State Administrative Tribunal under the same clauses.

Section 26GH(2) – reference to appeal for compensation under Sections 39(5)(b) or 6(b) or (c) of Schedule 1 is deleted and replaced with reference to a review by State Administrative Tribunal under the same clauses.

1120. Section 26GI amended

Section 26GI reference to an appeal under Schedule 2 is deleted and replaced with reference to a review by State Administrative Tribunal.

Section 26GJ – this Section is deleted as Schedule 2 is deleted in its entirety.

1121. Section 26GJ replaced

This review clause is inserted to require State Administrative Tribunal having made an order under Part III of this Act to give notice in writing of the order to a relevant water resources committee (Division 3C). This requirement is in addition to any requirement in the State Administrative Tribunal Principal Bill to provide information about the order made.

1122. Section 26M amended

26M(g) – reference to appeal against decisions deleted and replaced by applications to State Administrative Tribunal for review.

1123. Section 27B amended

Section 27B(h) – reference to appeals against decisions deleted and replaced by applications to State Administrative Tribunal for review.

1124. Section 39E amended

Section 39E(7) – words “appeal against” replaced by “review of” for consistency with Principal Bill.

1125. Section 39F amended

Title and Section deleted and replaced with “Review of entry in rating records”.

Section 39F(1) – this section provides that the Corporation when dealing with a person dissatisfied with a decision of the Corporation, must treat the objection as an appeal. For consistency with State Administrative Tribunal Principal Bill provisions. Amendments require the Corporation to refer the entry to the State Administrative Tribunal for review.

Section 39F(2) – consistent with amendments to Section 39F(1) requires the Corporation to refer the relevant entry promptly to the State Administrative Tribunal for review.

Clause 39F(3) has been added. This describes the procedure for affecting referral to State Administrative Tribunal.

1126. Section 39G amended

Section 39G(1) – deals with the time period allowed for objections. Amends the provision to treat an objection as an appeal to treating it as a relevant entry in the record and providing for a review of the refusal to extend the time in State Administrative Tribunal.

Section 39G(2) – amends the process for referring a matter in Section 39G(1) to State Administrative Tribunal.

Clause 39G(3) – new clause inserted to define the process by which reference to an entry in the records (Section 39G(1)) is made to State Administrative Tribunal.

1127. Sections 39GA and 39GB inserted

Clause 39GA(1) – provides for the grounds upon which State Administrative Tribunal may consider a reference made under the amended Sections 39F and 39G.

Clause 39GA(2) – in the interests of procedural fairness provides for State Administrative Tribunal to ensure that each party has had a reasonable opportunity of properly considering and responding to matters the subject of which State Administrative Tribunal intends to consider in Clause 39GA(1).

Clause 39GB(1) – consistent with generic provisions in the Principal Bill, this new clause provides for State Administrative Tribunal to give written reasons for its order and give copies of these reasons to the parties if State Administrative Tribunal believes they may be of general interest or significance. This orders relate to references made under Sections 39F and 39G.

Clause 39GB(2) – in relation to the Principal Bill the New clause makes it clear that the provision in Clause 39GB(1) is in addition to the generic provisions in the Principal Bill regarding reasons for decisions.

1128. Section 39H amended

Words “or appeal” in title deleted consistent with review jurisdiction of Principal Bill. Similar words “or an appeal” in Section 39H deleted.

1129. Section 39I amended

Words “or review” added to title for consistency with review jurisdiction Principal Bill.

Section 39I(1) – words “or an appeal” deleted and replaced with “review by the State Administrative Tribunal” for consistency.

Section 39I(2) – procedural provisions amended consistent with amendments to Section 39I(1) which is amended to provide reference to a review by State Administrative Tribunal.

1130. Schedule 2 repealed

Whole Schedule is deleted as it contains procedural directions for hearing appeals. These are provided in detail in the State Administrative Tribunal Principal Bill.

Division 119 — *Road Traffic Act 1974*

1131. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Road Traffic Act 1974*.

1132. Section 25 amended

Section 25 of the *Road Traffic Act 1974* provides that where an application for a licence, or transfer of a licence, is refused under Part III of the Act, an aggrieved person can appeal to a court of petty sessions against such decisions. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to a court of petty sessions under section 25 of the Act. Therefore, section 25 of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal.

1133. Section 48 amended

Section 48(4) of the *Road Traffic Act 1974* provides that where the Director General refuses to issue a licence or cancels, suspends or refuses to renew a driver’s licence, an aggrieved person can appeal to a court of petty sessions against such decisions. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to a court of petty sessions under section 48 of the Act. Therefore, section 48(4) of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. Subsections 48(5)-(6) are repealed and subsection 48(8) is amended as a consequence of the amendment to subsection 48(4).

1134. Section 49 amended

Section 49 of the *Road Traffic Act 1974* deals with offences committed by persons who do not hold a valid driver’s licence. As a consequence of the amendments to section 48 of the Act, subsection (2a) is inserted into section 49 of the Act to reference decisions made by the State Administrative Tribunal.

1135. Section 78B amended

Section 78B of the *Road Traffic Act 1974* deals with the representation of persons in certain proceedings under the Act. As a consequence of the amendments to section 48 of the Act, the reference to section 48(6) in section 78B(2) of the Act is repealed.

Division 120 — *Royal Agricultural Society Act 1926*

1136. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Royal Agricultural Society Act 1926*.

1137. Section 2 amended

The reference to the Minister is to be deleted from section 2 of the *Royal Agricultural Society Act 1926*, as the State Administrative Tribunal will now assume jurisdiction over matters that previously were referred to the Minister under section 3(3) of the Act.

1138. Section 3 amended

Section 3(3) of the *Royal Agricultural Society Act 1926* provides that where the Royal Agricultural Society refuses to register a society, club, association or other body of person, an aggrieved party can appeal to the Minister against such decisions. The State Administrative Tribunal is to assume jurisdiction over matters that previously were referred to the Minister under section 3(3) of the Act. Therefore, section 3(3) of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal.

Division 121 — *Security and Related Activities (Control) Act 1996*

1139. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Security and Related Activities (Control) Act 1996*.

1140. Section 48 amended

References to making a review available and applying for a review are inserted into section 48(4) and paragraphs (a) and (b) that section of the *Security and Related Activities (Control) Act 1996* as a consequence of the ability for person to be able to seek a review through the State Administrative Tribunal under the proposed amendments to the Act as referred to in Section 72 of the Act.

1141. Section 55 amended

Section 55 of the *Security and Related Activities (Control) Act 1996* outlines the grounds when an officer has sufficient ground to renew a licence. It is proposed that references to sections 67 and 81 be inserted as a consequence of the ability for person to be able to seek a review through the State Administrative Tribunal under the proposed amendments to the Act.

1142. Part 7 Division 4 heading replaced

The heading is amended to refer to disciplinary proceedings against licensees.

1143. Section 67 amended

Section 67 of the *Security and Related Activities (Control) Act 1996* makes reference to disciplinary proceedings against licensees. The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were dealt with by the licensing officer appointed under the Act. Subsection (1) is amended to provide that the Commissioner may allege to the State Administrative Tribunal that there is a proper cause for disciplinary action.

Proposed new subsection (1a) provides that there is a proper cause under subsection (1) if the person no longer meets the requirements of the Act or has otherwise contravened the Act.

Proposed new subsection (2) provides that the State Administrative Tribunal may revoke, cancel or endorse a licence.

Subsection (3) is amended to provide that if the licensing officer is concerned about public welfare or safety he may revoke the licence and state the grounds to the Commissioner who may refer the matter to the State Administrative Tribunal within 14 days of receipt.

Proposed new subsections (3a) and (3b) provide for the referral of the notice of revocation to the State Administrative Tribunal by the Commissioner.

1144. Section 68 amended

Section 68 provides for the cancellation of endorsements on licences by the licensing officer. It is proposed that subsection 68(2) be inserted to provide for the giving of notice of cancellation and the time limits that apply in such cases. Proposed new subsection (2b) provides for the delivery up to the licensing officer of a cancelled licence under penalty of \$2000. Subsection (3) is amended to include a reference to subsection (3).

1145. Part 7 Division 5 heading replaced

The heading is amended to refer to review of licensing decisions.

1146. Section 71 repealed

Section 71 of the *Security and Related Activities (Control) Act 1996* makes reference to the definition of "Court". The State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were referred to the Court. Therefore, it is proposed that section 71 be repealed since it is no longer relevant.

1147. Section 72 replaced

References to “review” are inserted in to section 72 of the *Security and Related Activities (Control) Act 1996* as a consequence of the ability for person to be able to seek a review through the State Administrative Tribunal under the proposed amendments to the Act.

The State Administrative Tribunal is to assume jurisdiction over matters that previously were considered by the licensing officer under the *Security and Related Activities (Control) Act 1996* as a consequence of an aggrieved person being able to apply for a review through the State Administrative Tribunal under the proposed amendments to the Act.

Subsection (2) inserts definitions of “person aggrieved” and “reviewable decision” into the *Security and Related Activities (Control) Act 1996*.

1148. Sections 73 and 74 replaced

The present sections 73 and 74 and repealed as the practices and procedure on appeal are now dealt with in the State Administrative Tribunal legislation.

The Act provides that a licensee may surrender their licence. Proposed new section 73 provides that a licence cannot be surrendered until after the inquiry is completed. The subsection effectively prevents a licensee avoiding any penalty by anticipating cancellation of their licence.

Proposed new section 74 provides that the State Administrative Tribunal may order the suspension of a licence on such terms as it thinks fit. Any powers of the State Administrative Tribunal arising under the *Security and Related Activities (Control) Act 1996* do not derogate from powers under the State Administrative Tribunal legislation.

1149. Section 81 amended

Section 81 of the *Security and Related Activities (Control) Act 1996* outlines when a licensing officer may revoke a crowd controller’s licence. The State Administrative Tribunal now assumes jurisdiction over disciplinary matters as referred to in section 67, therefore, existing subsection (2) is to be repealed as it is no longer relevant and replaced with a new subsection 2, which describes the powers of the licensing officer.

1150. Section 94 amended

Section 94 of the *Security and Related Activities (Control) Act 1996* provides that the Governor may make regulations that are required or permitted by the Act. The State Administrative Tribunal now assumes jurisdiction over disciplinary matters as referred to in section 67, therefore, subsection 94(b) is amended to provide for regulations showing “proper cause for disciplinary action against a licensee”.

Division 122 — *Settlement Agents Act 1981*

1151. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Settlement Agents Act 1981*.

1152. Section 3 amended

Section 3 of the *Settlement Agents Act 1981* contains a definition of “proceedings. The provisions of the Act dealing with proceedings of the Settlement Agents Supervisory Board [s.19] are being amended such that the licensing functions will be done without the need for proceedings. The current powers of the Board to conduct disciplinary proceedings are proposed to be transferred to the State Administrative Tribunal. Therefore the definition of “proceedings” in section 3 of the Act is no longer relevant and is therefore to be repealed.

1153. Part II Division 3 heading replaced

The heading is amended to refer to review of Board’s decisions.

1154. Sections 19 to 22 repealed

Section 19 of the *Settlement Agents Act 1981* outlines the proceedings of the Settlement Agents Supervisory Board in relation to licence applications, applications for certificates of registration and disciplinary matters. It is proposed that in terms of licence applications and applications for certificates of registration, the Board will simply consider such applications without holding a hearing into such matters. In terms of disciplinary matters, the power of the board to inquire into and determine such matters is proposed to be vested in the State Administrative Tribunal.

As a consequence of the above proposals, section 19 of the Act is no longer relevant and is therefore proposed to be repealed.

Section 20 of the *Settlement Agents Act 1981* outlines the powers of the Board to obtain evidence when conducting various proceedings under the Act. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, and that the power of the Board to inquire into disciplinary matters be vested in the State Administrative Tribunal, section 20 of the Act is no longer relevant and is therefore proposed to be repealed.

Section 21 of the *Settlement Agents Act 1981* outlines the powers of the Board to order costs when conducting various proceedings under the Act. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, and that the power of the Board to inquire into disciplinary matters be vested in the State Administrative Tribunal, the majority of the provisions in section 21 of the Act are no longer relevant and section 21 is therefore proposed to be repealed. Subsections 21(2) and (3) are retained through proposed new section 34B.

Section 22 of the *Settlement Agents Act 1981* outlines the Board’s capacity to give reasons to a party to proceedings. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, and that the power of the Board to inquire into disciplinary matters be vested in the State Administrative Tribunal, section 22 of the Act is no longer relevant and is therefore proposed to be repealed.

1155. Section 23 replaced

Section 23 of the *Settlement Agents Act 1981* provides that where the Board makes an order or decision, an aggrieved person can appeal to the District Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously were referred to the District Court under the Act. Therefore, section 23 of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. Definitions of ‘aggrieved person’ and ‘reviewable decision’ are proposed to be inserted for ease of understanding.

1156. Section 24 amended

Section 24 of the *Settlement Agents Act 1981* deals with applications to be licenced as a settlement agent. Subsection 24(5) references parties to application proceedings before the Board. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, subsection 24(5) of the Act is no longer relevant and is therefore proposed to be repealed.

1157. Section 25 amended

Section 25 of the *Settlement Agents Act 1981* deals with objections lodged in relation to applications for licences. Subsection 25(4) references parties to application proceedings before the Board. As it is proposed that the Board will simply consider licence applications etc without holding a hearing, subsection 25(4) of the Act is no longer relevant and is therefore proposed to be repealed.

1158. Section 30 amended

Section 30 of the *Settlement Agents Act 1981* deals with the effect of a licence that has been granted and in part enables a licence to be surrendered. A new subsection (5) is proposed to be inserted dealing with the surrender of licences in the context of disciplinary action. Proposed new subsection (5) enables a person to be dealt with for a matter that arose before the licence was surrendered and ensures that people don’t avoid disciplinary or other actions being taken against them by surrendering their licence.

1159. Section 33 amended

Section 33 of the *Settlement Agents Act 1981* deals with the renewal of triennial certificates in certain cases. Subsection 33(5) references parties to application proceedings before the Board. As it is proposed that the Board will simply consider licence/renewal applications etc without holding a hearing, subsection 33(5) of the Act is no longer relevant and is therefore proposed to be repealed.

1160. Section 34A and 34B inserted

The proposed new section 34A enables the Board or the Registrar to grant licences without notice to an applicant if there are no objections or no special conditions to be imposed. This new section picks up elements from subsection 19(9) in relation to unopposed applications for licences.

The proposed new section 34B picks up the provisions from subsections 21(2) and (3) in relation to suspension of licence through non-payment or non-compliance with an order of the State Administrative Tribunal.

1161. Section 57 repealed

Section 57 of the *Settlement Agents Act 1981* provides that where the Board makes an order or decision under the Act, an aggrieved person can appeal to the District Court against such decisions. The State Administrative Tribunal is to assume jurisdiction over appeal matters that previously were referred to the District Court under the Act. Therefore, section 23 of the Act is to be amended to enable an aggrieved party to be able to seek a review of these decisions through the State Administrative Tribunal. As a consequence of the amendments to section 23 of the Act, section 57 is no longer relevant and is therefore proposed to be repealed.

1162. Section 83 replaced

Section 83 of the *Settlement Agents Act 1981* enables the Board to hold inquiries into disciplinary action against agents and sales representatives. It is proposed that the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were conducted by the Board under the Act. Therefore, section 83 is to be amended to instead require the Board to make an allegation of disciplinary action to the State Administrative Tribunal. The capacity for the State Administrative Tribunal to hold inquiries, summons persons etc in relation to disciplinary matters, is provided for in the *State Administrative Tribunal Bill 2003*.

1163. Section 84 amended

Section 84 of the *Settlement Agents Act 1981* outlines the grounds for taking disciplinary action against a settlement agent, and the powers available to the Board when it is satisfied that a proper cause exists for disciplinary action. As the State Administrative Tribunal will now assume jurisdiction over matters that previously were dealt with by the Board under section 83 of the Act, section 84 is to be amended to instead outline the powers available to the State Administrative Tribunal when dealing with disciplinary matters.

1164. Section 102B amended

Section 102B of the *Settlement Agents Act 1981* provides to the crediting of moneys to the General Purpose Fund established under section 102A of the Act. Subsection 102B(d) and (e) provide that fines imposed for disciplinary matters form part of the General Purpose Fund. Section 102B is to be amended such that any fines imposed by the State Administrative Tribunal in respect of disciplinary matters, will not be paid into the General Purpose Fund. Any fines imposed by State Administrative Tribunal will be paid into Consolidated Revenue.

1165. Section 112 amended

Section 112 of the *Settlement Agents Act 1981* contains the annual reporting requirements in relation to the Settlement Agents Supervisory Board. It is proposed to amend section 112 by inserting a new subsection (2) which outlines additional matters required to be reported on. The proposed subsection (2) requires the Board to report on matters that have been referred to the State Administrative Tribunal under the Act including matters that are still pending and to report on general administrative issues in relation to the operations of the Board. Proposed subsection (2) is consistent with comments at paragraph 55 in Chapter 4 of the Taskforce Report [p.74].

1166. Section 123 amended

Section 123 of the *Settlement Agents Act 1981* is the regulation making power of the Act. Subsection 123(2)(b) is to be amended to delete reference to the making of regulations for the enforcement of judgments made by the Board. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters that previously were dealt with by the Board, subsection 123(2)(b) is to be repealed. The *State Administrative Tribunal Bill 2003* contains provisions dealing with the enforcement of orders made by the State Administrative Tribunal.

Subsection 123(2)(f) is amended so as to provide that the regulation making power does not apply in relation to recovery of fees in relation to proceedings conducted before the State Administrative Tribunal under the Act. Matters concerning fees of the State Administrative Tribunal are provided for under the *State Administrative Tribunal Bill 2003*.

1167. Various references to “District Court” amended

Various references to “District Court” are amended to instead refer to “State Administrative Tribunal”.

Division 123 — *Soil and Land Conservation Act 1945*

1168. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Soil and Land Conservation Act 1945*.

1169. Section 25B amended

Subsection 25B (4) Provides that the Chief Executive Officer to require soil conservation rates to be reassessed, amended or refunded, in whole or in part, as a consequence of an objection under the *Local Government Act 1995* or *Valuation of Land Act 1978*. The section is amended for that to also occur as a consequence of a review by the State Administrative Tribunal.

1170. Section 33 repealed

This section is to be repealed as a consequence of the State Administrative Tribunal assuming jurisdiction over matters that were previously referred to the Minister under the Act.

1171. Section 34 amended

Subsection 34 (1) Provides that a person may appeal to the Minister within 30 days of the notice being served. The subsection is amended so as to provide for a person to apply to the State Administrative Tribunal for a review of the decision of the Commissioner.

Subsection 34 (2) Concerns what the Minister shall do when an appeal is made. As there is no longer an appeal to the Minister this section is no longer relevant and is therefore repealed.

Subsection 34 (3) Stipulates that the decision of the Minister is final. As there is no longer an appeal to the Minister this section is no longer relevant and is therefore repealed.

Subsection 34 (4) Throughout this section the word “appeal” is replaced by “application for review” or “application”.

1172. Section 34A amended

Subsection 34A (3) (a) The subsection is amended by deleting the words “quashed under section 33” and is replaced with “withdrawn as a result of an application under section 34.

Subsection 34A (3) (b) concerns the discharge of a notice under sections 38 or 39. As section 39 is amended to the extent that the relevant subsection concerning the discharge of a notice is repealed, this subsection is amended by deleting reference to section 39.

1173. Section 39 amended

Subsection 39 (1) Provides that a person may appeal to the Minister against a refusal of the Commissioner to discharge a soil conservation notice. The section is amended to provide for a person to apply to the State Administrative Tribunal for a review of the refusal instead.

Subsection 39 (2) Refers to the consideration the Minister is to give an appeal. As there is no longer an appeal to the Minister the section is redundant and therefore repealed.

Subsection 39 (3) Stipulates the decision of the Minister is final. As there is longer a decision by the Minister, the section is redundant and is therefore repealed.

1174. Section 39A repealed

Section 39A Concerns the Minister referring appeals to a committee for examination and advice. As there are no longer appeals to the Minister. The Section is repealed.

1175. Section 48 amended

Subsection 48 (j) concerns practice and procedure in respect to objections and appeals. The subsection is repealed as these matters will now be subject to review by the State Administrative Tribunal and that Tribunal’s regulations will stipulate the practice and procedures.

Division 124 — *Stamp Act 1921*

1176. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Stamp Act 1921*.

1177. Section 75JA amended

Subsection 75JA(5) the subsection is amended by providing for a decision of the Commissioner under subsection 75JA(3) to be a directly reviewable decision instead of non reviewable decision.

1178. Section 75JB amended

Subsection 75JB(9) the subsection is amended by providing for a decision of the Commissioner under subsection 75JB(7) to be a directly reviewable decision instead of non reviewable decision.

Division 125 — *State Superannuation Act 2000*

1179. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *State Superannuation Act 2000*.

1180. Section 13 amended

Subsection 13(3) provides that a person aggrieved by a decision of the board on review may appeal to a judge. The subsection is amended to provide for a person to apply for a review to the State Administrative Tribunal.

Subsection 13(4) Provides that an appeal or referral under subsection (3) (b) is to be made in accordance with the regulations or the rules of the Supreme Court as the case may be. The subsection is amended so that only a referral is to be made and dealt with in accordance with the regulations.

1181. Section 38 amended

Subsection 39(2)(l) provides that regulations may be made in relation to appeals or reviews of decisions of the Board. The subsection is amended so that regulations can only be made with respect to reviews other than by the State Administrative Tribunal of decisions of the Board.

Division 126 — *Strata Titles Act 1985*

1182. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Strata Titles Act 1985*.

1183. Section 3 amended

The definition of “referee” has been deleted owing to the functions of the referee being subsumed by the State Administrative Tribunal.

1184. Section 3B amended

Subsection 3B (7) (c) in this subsection “under Division 4” has been deleted and replaced by “against the refusal” as those parts of Division 4 concerning to the grounds and process related to appeals have been deleted owing to the appeal provisions contained with the State Administrative Tribunal Bill 2003.

1185. Section 16 amended

Subsections 16 (1), 16 (2), 16 (2) (a), 16 (3) (b), 16 (4), 16 (6) are amended by deleting reference to “a Land Valuation Tribunal”, “the Land Valuation Tribunal”, “Valuation Tribunal” and “Tribunal” and replacing them with State Administrative Tribunal. This reflects that the Land Valuation Tribunal is abolished and its functions subsumed by the State Administrative Tribunal.

Subsection 16 (3) is also amended by subsection 16 (3a) being included to provide that subsection (3) does not limit the State Administrative Tribunal ordering that a person be joined as a party to the proceedings.

1186. Section 21G amended

Subsection 21G (1) (b) provides that a strata company may lodge a copy of a order under section 103C or 103M certified by the referee as being a true copy. The subsection is amended to replace “a referee” with “the executive officer of the State Administrative Tribunal”.

1187. Section 21T amended

Subsection 21T (1) (a) provides that a notice of resolution is to be accompanied by an order under section 103C certified by the referee as being a true copy. The subsection is amended to replace “a referee” with “the executive officer of the State Administrative Tribunal”.

1188. Section 23 amended

Section 23 concerns the lodgement of a certificate of the local government to accompany a strata plan.

Subsection 23 (1) (a) is amended by deleting “by order of the Minister to whom the administration of the Local Government (Miscellaneous Provisions) Act 1960 is for the time being committed by the Governor:”, and including after the words “at first instance” after ...building plans and specifications that have been approved in respect of the building by the local government...”.

Subsection 23 (3) is amended by deleting “or on appeal by order of the relevant Minister” this reflects that such matters will not be dealt with by the Minister.

1189. Section 24 amended

Subsection 24 (7) is amended by adding the letter A after so that the section referred to is section 8A. This has been done just to correct a cross referencing error.

1190. Section 25 amended

Subsection 25 (2) is amended by adding the letter A after so that the section referred to is section 8A. This has been done just to correct a cross referencing error.

1191. Section 25B amended

Subsection 25B(3) is repealed as it refers to the Town Planning Appeal Tribunal which is abolished and its functions subsumed by the State Administrative Tribunal.

Subsection 25B(4)(a) is amended by deleting “certificate under subsection (3);” and inserting “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 Commissioner’s refusal or failure to give an approval referred to in subsection (2);” This reflects that the Town Planning Appeal Tribunal is abolished and its functions subsumed by the State Administrative Tribunal.

1192. Section 26 amended

Subsection 26(1)(l) is amended to read 8A (f) instead of 8(3)(c) to correct a cross-reference error.

Subsection 26(3)(b) is amended to delete reference to an appeal against a refusal and provide for applicants to be informed of the right conferred by the section to apply for a review of the refusal. This reflects that these types of matters are now reviewed by the State Administrative Tribunal instead of an appeal to the Minister.

Subsection 26(4) is amended by deleting reference to an appeal to the Minister and instead applying to the State Administrative Tribunal for a review of a refusal. This conveys that appeals will no longer be dealt with by the Minister but instead, by the State Administrative Tribunal.

Subsection 26(4)(a) is amended by removing reference to subsections (1) (a), (b), (d), (h), (i), and (1)(i) as at the commencement of Subsection 26(1) “application” is defined.

Subsection 26(4)(b) is amended by removing reference to subsections (1)(i) as at the commencement of Subsection 26(1) “application” is defined.

Subsection 26(4)(c) is deleted as the new subsection 26 (6) provides that if a local government fails to notify an approval of an application within 40 days of receiving an application, it is taken to have refused it, in which circumstance an application for review can be made on that basis.

Subsection 26(5) Provides that an applicant may appeal under Part V of the Town Planning Development Act 1928, a refusal of a local government to approve an application under sections (1)(c), (e), (f), (g), (j), (k), (l),(ii),(m), (n) and (o) or the attachment of a condition. The subsection is amended to delete provision for appeals and instead applicants can apply for a review.

Subsection 26(5)(b) is amended by deleting “:-“ and replacing it with a full stop, as the following subsection has been repealed.

Subsection 26(5)(c) is deleted as the new subsection 26 (6) provides that if a local government fails to notify an approval of an application within 40 days of receiving an application, it is taken to have refused it, in which circumstance an application for review can be made on that basis

Subsection 26(6) is inserted and provides that if a local government fails to notify an approval of an application within 40 days of receiving an application, it is taken to have refused it.

Subsection 26(7) Concerns the time periods in which appeals can be commenced. It is amended by replacing “appeal” with “application” and “commenced” with “made” to reflect that matters of this kind are dealt with by way of a review rather than an appeal. The subsection is also amended by deleting at the end “, in such manner and upon payment of such fees as may be prescribed. This amendment reflects that the process (manner of application) and any fees concerned will be covered by the State Administrative Tribunal Bill 2003, Rules and Regulations.

Subsections 26(8), (9), (10), (11) and (12) are repealed as they concern procedural matters related to appeals to the Minister or the Town Planning Appeal Tribunal, whose functions in that regard have been subsumed by the State Administrative Tribunal.

1193. Section 27 amended

Subsection 27(3) provides that subject to this section an applicant may appeal under Part V of the *Town Planning and Development Act 1928*. The subsection is amended to provide for a person to apply to the State Administrative Tribunal for a review in accordance with Part V of the *Town Planning and Development Act 1928*.

Subsection 27(3)(c) is deleted as the new subsection 27 (4) provides that if a local government fails to notify its approval of an application within 40 days of receiving an application, it is taken to have refused it, in which circumstance an application for review can be made on that basis.

Subsection 27(4) is inserted and provides that if a local government fails to notify an approval of an application within 40 days of receiving an application, it is taken to have refused it.

Subsection 27(6) Provides for an appeal to be lodged with the Town Planning appeal Tribunal within 30 days of the expiration of the period of 40 days referred to in subsection (3). The subsection is amended to replace the word “appeal” with “application”, “Town Planning appeal Tribunal” with “State Administrative Tribunal” and “commenced” with “made”. The amendments reflect that these types of matters are now the subject of review to the State Administrative Tribunal. The last part of the section dealing with the manner of an appeal/application and the fees to be paid is deleted owing to those matters being covered by the State Administrative Tribunal Bill, Regulations and Rules.

Subsection 27(7) concerning the manner in which matters are to proceed, orders for costs, the finality of the decision, the issuing of certificates and the registration of a strata plan by the Registrar of Titles. The subsection is repealed as such matters are covered by the *State Administrative Tribunal Bill 2003*.

1194. Section 38 amended

Subsection 38(3) is amended by inserting the word “or” after court and deleting “or a referee” after tribunal. This reflects that the function of the Strata Titles Referee is subsumed by the State Administrative Tribunal.

1195. Section 39 amended

Subsection 39(3) is amended by inserting the word “or” after court and deleting “or a referee” after tribunal. This reflects that the function of the Strata Titles Referee is subsumed by the State Administrative Tribunal.

1196. Section 39A amended

The reference to “The referee is replaced with “The State Administrative Tribunal.

1197. Section 47 amended

The reference to ‘or the referee’ in section 47(2)(d)(ii) is deleted as this is no longer relevant.

1198. Section 62 amended

Subsection 62(2) is amended by deleting the words “appeal against” with “review of” to reflect that any such review to which this section relates is a matter to be dealt with by the State Administrative Tribunal.

1199. Section 64 amended

Subsection 64(1) is amended by deleting the word “appeal” and replacing it with “review” to reflect that matters related to the objection of the valuation of a parcel of land under Part IV of the *Valuation of Land Act 1978* are to be dealt with by the State Administrative Tribunal. Similarly in that same subsection the words “appeal against” are replaced by “seek a review”.

1200. Part VI Division 1 repealed

This division contains provisions relating to the appointment of a Strata Titles Referee, the eligibility of a person to hold office as a referee, the terms and conditions of a referee, acting referees, the powers of delegation by referees and the keeping of a register of all referees. The total division is repealed owing to the functions of the Strata Titles Referee under the Act being subsumed by the State Administrative Tribunal.

1201. Section 77 amended

Section 77 is amended to stipulates the compliance required for the making of an application to the State Administrative Tribunal.

Section 77(a) relating to the manner in which an application is to be made, that is “be made in writing”, is deleted. This is to reflect the future means of making applications including the electronic lodgement of applications.

Section 77(d) relating to applications being “accompanied by a prescribed fee” is repealed as fees will be prescribed in the State Administrative Tribunal fees regulations.

1202. Section 77A repealed

Section 77A concerning applications in relation to retirement villages to the Retirement Villages Tribunal has been repealed. The reason is related to the functions of the Retirement Villages Tribunal being subsumed by the State Administrative Tribunal.

1203. Section 79 amended

Subsection 79(1) which concerns the process a referee is to follow after receiving an application is repealed, owing to the procedures contained in the *State Administrative Tribunal Bill 2003*.

Subsection 79(2) Concerns the obligations of a strata company that is given notice. The subsection is amended by adding after notice “of an application to the State Administrative Tribunal under this Part” and deleting “under subsection (1)(a) or (c). Subsections (1)(a) and (c) were repealed as part of subsection 79(1).

1204. Part VI Division 2A repealed

This whole Division is repealed **as** the requisite matters relating to applications, powers and procedures are contained in the *State Administrative Tribunal Bill 2003*.

1205. Part VI Division 3 heading amended

The title of this division is amended to read “Division 3 - Orders by State Administrative Tribunal

1206. Section 81 amended

Subsection 81(1) which concerns the making of orders by the referee is repealed and replaced by provision for the State Administrative Tribunal to make orders.

Subsection 81(2a) concerning orders made by a referee being expressed in different terms from orders sought is deleted as sufficient provisions exist in the *State Administrative Tribunal Bill 2003*.

Subsection 81(7) is amended by deleting “subject to sections 79(1)(d) and 103H (8)” as section 79(1)(d) is repealed and subsection 103H(8) is later referred to in subsection 81(7)(b) - relating to the power for the State Administrative Tribunal to order costs.

Subsection 81(7)(a) is inserted to provide that the State Administrative Tribunal cannot make costs except when allowing an applicant to amend an application to compensate persons for time unnecessarily spent in connection to the application.

Subsection 81(7)(b) provides for the State Administrative Tribunal to order costs under section 103H(8).

Subsection 81(8) relating to orders made by a referee is repealed owing to the provisions contained in the *State Administrative Tribunal Bill 2003*.

Subsection 81(9) relating to orders made by a referee is repealed owing to the provisions contained in the Subsection 82(4)(c)(i)

1207. Section 82 amended

Subsection 82(3)(b) is amended by deleting reference to the referee giving written notice under section 79(1) which is repealed, and replacing it with provision for the State Administrative Tribunal to be able to make an order, notwithstanding that the time for a person to make a written submission has not expired.

Subsection 82(4)(b) is amended by deleting reference to an order being revoked by the District Court and replacing it with the “Supreme Court on appeal from the State Administrative Tribunal” to reflect that appeals from the State Administrative Tribunal are only to the Supreme Court on a matter of law.

Subsection 82(4)(c) and (i) provides that an interim order ceases to have effect where a referee makes an order under this Division or dismisses an application. The subsection is amended to replace referee with State Administrative Tribunal, or the Supreme Court on appeal from the State Administrative Tribunal.

Subsection 82(4)(c)(i) provides that an interim order ceases to have effect where a referee dismisses the application. The words “before the interim order ceases to have effect under paragraph (a) or (b) when the order is made under this Division or the application is dismissed, as the case may be” are deleted from the subsection.

Subsection 82(6) provides for a penalty for false or misleading information in relation to a request for an interim order. The subsection is repealed as the *State Administrative Tribunal Bill 2003* contains its own penalty provisions.

1208. Section 83 amended

Subsection 83(5) is amended by deleting “by the District Court” as the District Court no longer has jurisdiction over matters coming under the *Strata Titles Act 1985*.

1209. Section 84 amended

The references to “he” and “the referee” in section 84(1)(a)-(c) and section 84(3) respectively are amended to “it”.

1210. Section 85 amended

The reference to “the referee” in section 85 is amended to “it”.

1211. Section 89 amended

The reference to ‘by him’ is deleted as it is no longer relevant.

1212. Section 97 amended

The reference to “he” in section 97(2) is amended to “it”.

1213. Section 98 amended

Section 98 is amended by deleting “to a Land Valuation Tribunal” the reason for the deletion relates to the Land Valuation Tribunal being abolished and its functions subsumed by the State Administrative Tribunal.

1214. Section 99 amended

Section 99 (2) is amended to delete “of a referee” and “of the referee” as it relates to an order under subsection (1) where referee was replaced by State Administrative Tribunal.

1215. Section 99A amended

The reference to “him” in section 99A(4) is amended to “it”.

1216. Section 102 amended

Section 102 (2) Is amended by deleting “A referee who” and replaces it with “If it” meaning the State Administrative Tribunal as referred to later in the subsection, which concerns the powers it may grant an administrator.

Section 102 (5) Concerns the appointment of an administrator and the terms and conditions specified by the referee. The subsection is amended by deleting “the referee” and substituting “are specified” - meaning terms specified by the State Administrative Tribunal.

1217. Section 103F amended

The references to “the referee” in section 103F(5) is amended to “State Administrative Tribunal”.

1218. Section 103H amended

The references to “referee” in section 103H(6) is amended to “State Administrative Tribunal”.

1219. Section 104 amended

Section 104 is amended to reference the service of a copy of an order made by the State Administrative Tribunal.

1220. Sections 105 and 106 repealed

Section 105 is repealed as the State Administrative Tribunal Bill only provides for an appeal to the Supreme Court but only on a question of law.

Section 106 is repealed as the *State Administrative Tribunal Bill* 2003 only provides for an appeal to the Supreme Court but only on a question of law. The determinations available from an appeal to the Supreme Court are also provided for in the Bill.

1221. Section 110 repealed

Section 110 is repealed as the *State Administrative Tribunal Bill 2003* only provides for an appeal to the Supreme Court but only on a question of law. Subsection 104 (9) of the Bill provides that the Court may make any orders the court considers appropriate.

1222. Section 111 amended

Section 111 (1) Concerns a strata company that is the respondent to a successful appeal to the District Court being prevent from levying contributions towards the expenses of the strata company in relation to the appeal. The subsection is amended to reflect the provision in the *State Administrative Tribunal Bill 2003* that appeals will now be to the Supreme Court and therefore, appeal “to the District Court under this Division” has been deleted and replaced by “to the Supreme Court from the Administrative Tribunal”.

1223. Section 113 amended

Subsection 113 (1) concerning the procedure for sending and recording orders made by the District Court is repealed.

Subsection 113 (2) is amended to provide that orders made by the Supreme Court on appeal from the State Administrative Tribunal are to be sent to the Executive Officer of the State Administrative Tribunal. The amendment reflects that appeals are to the Supreme Court and not the District Court as per the *State Administrative Tribunal Bill 2003*.

Subsection 113 (2)(c) is repealed as it make reference to a copy of an order being served on any person who was given a notice under section 105(6) – that section has been repealed.

1224. Section 114 amended

Subsection 114 (2) concerns service by the referee on a strata company by the referee. The words “by the referee” are deleted as in future the responsibility will fall to the executive officer of the State Administrative Tribunal.

Subsections 114 (5)(c), 114 (5)(d), 114 (6) are repealed as they concern procedural matters that are provided for in the *State Administrative Tribunal Bill 2003*.

1225. Section 115 amended

Subsection 115 (1) (b) concerns the recording of orders and is amended by replacing the word “registered” with “recorded” to accommodate the electronic recording of orders. “referee” is also replaced by “executive officer of the State Administrative Tribunal” to reflect the position of referee is being subsumed by the State Administrative Tribunal.

1226. Sections 116 to 119 repealed

Section 116 concerning penalties for contravention of orders is repealed as the *State Administrative Tribunal Bill 2003* makes provision for “Offences”.

Section 116A concerning enforcement for certain orders is repealed as the *State Administrative Tribunal Bill 2003* makes provision in that regard.

Section 117 concerning protection of the referee is repealed as the *State Administrative Tribunal Bill 2003* has provision in that regard.

Section 118 concerning enforcement of orders for the payment of money is repealed as the *State Administrative Tribunal Bill 2003* makes provision in that regard.

Section 119 concerning the time at which an order is to take effect is repealed as the *State Administrative Tribunal Bill 2003* contains provisions in that regard.

1227. Sections 128 repealed

Section 128 concerning the powers of entry of a referee is repealed as the *State Administrative Tribunal Bill 2003* contains provisions in that regard.

1228. Section 130 amended

Section 130 (b) provides for the Governor to make regulations including those for fees payable for applications to the referee. The section is amended to replace the word “including” with “except”. The reason is that there will be fees regulations for the State Administrative Tribunal which will cover fees payable for applications relating to matters under the *Strata Titles Act 1985*.

Section 130 (g) and (h) concerning regulations to be made regarding practices and procedures and enforcement of orders are repealed, as the State Administrative Tribunal regulations will cover such things.

1229. Schedule 3 amended

Clause 12(11) Concerns applications for orders under subclause (10) being unable to be made after 3 years from the commencement of the *Strata Titles Amendment Act 1995* but providing that the referee may extend the period if a proprietor applies for an extension. The section is amended to delete the restriction of 3 years and instead provides that an application for an order cannot be extended unless a proprietor satisfies the State Administrative Tribunal that the justice of the case requires that it be accepted.

Section 13A – Exclusive use and privileges to laps unless provided for by by-law or referee’s order.

Clause 13A(7) concerns applications under subclause 13(5) being unable to be made after 3 years from the commencement of the *Strata Titles Amendment Act 1995* but providing that the referee may extend the period if a proprietor applies for an extension. The section is amended to delete the restriction of 3 years and instead provides that an application for an order cannot be extended unless a proprietor satisfies the State Administrative Tribunal that the justice of the case requires that it be accepted.

1230. Schedule 4 amended

Section 2 (8) concerns applications under subclause 2(7) being unable to be made after 3 years from the commencement of the *Strata Titles Amendment Act 1995* but providing that the referee may extend the period if a proprietor applies for an extension. The section is amended to delete the restriction of 3 years and instead provides that an application for an order cannot be extended unless a proprietor satisfies the State Administrative Tribunal that the justice of the case requires that it be accepted.

1231. Various references to “referee” amended

A range of references to ‘referee’ are replaced with State Administrative Tribunal as a consequence of the Tribunal assuming jurisdiction over matters previously dealt with by the Strata Titles Referee.

1232. Various references to “by a referee” deleted

A range of references to ‘by a referee’ are deleted as these are no longer relevant.

1233. Various references to “he is” deleted

A range of references to ‘he is’ are deleted as these are no longer relevant.

Division 127 — *Subiaco Redevelopment Act 1994*

1234. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Subiaco Redevelopment Act 1994*.

1235. Section 52 amended

Section 52(1) – consistent with the review jurisdiction in the Principal Bill reference to “appeal” is replaced with review and the role of State Administrative Tribunal is introduced.

Section 52(2) – deleted as generic provisions in the Principal Bill covering procedures in the review jurisdiction will apply.

1236. Section 54 amended

Section 54(2) – provides a review to the State Administrative Tribunal against a person ordered to cease or remove an unlawful development under Section 54(1)(b).

Section 54(3) – appeal deleted and replaced with application.

Section 54(4) – deletes reference to the Town Planning Appeals Tribunal and replaces it with State Administrative Tribunal.

Section 54(6) – revises the wording of this Section to clarify that costs to the Authority in removing or altering a development are to be regarded as a debt in a court of competent jurisdiction.

Division 128 — *Swan River Trust Act 1988*

1237. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Swan River Trust Act 1988*.

1238. Section 68 amended

Subsection 68(2) provides that a person served with a notice containing a direction from the Trust may appeal to the Minster against the direction. As the State Administrative Tribunal is to assume this jurisdiction the section is amended to provide for persons to apply to State Administrative Tribunal for a review of the direction.

Subsection 68(3) this section is amended by replacing the word “appeal” with “application for review”.

Subsection 68(4) concerns notice in writing being served by the Minster confirming or varying an order. As the State Administrative Tribunal is to assume jurisdiction over the right of “appeal”, Subsection 68(4) is no longer relevant and is therefore being repealed. Matters in relation to the operation of the State Administrative Tribunal are contained in the *State Administrative Tribunal Bill 2003*.

Division 129 — *Taxation Administration Act 2003*

1239. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Taxation Administration Act 2003*.

1240. Section 16 amended

Subsection 16(1) (b) Provides that the Commissioner of State Revenue is specifically required to make a reassessment under a direction of a court or tribunal hearing an appeal under section 41. As Section 41 is repealed and matters relating to appeals are now subject to a review by the State Administrative Tribunal, the subsection is amended by replacing “a court or tribunal hearing and appeal under section 41” with “the State Administrative Tribunal”.

1241. Section 17 amended

Subsection 17 (2) (a) Concerns the Commissioner making a reassessment any time after the previous reassessment was made as a consequence of a direction to do so by a court or tribunal hearing an appeal. The subsection is amended by replacing “a court or tribunal hearing an appeal under section 41” with the State Administrative Tribunal”.

1242. Part 4 heading amended

The heading to Part 4 is amended to delete the reference to “appeals” and instead refer to “review”.

1243. Section 31 amended

Section 31 provides that a taxpayer is entitled to challenge the validity or correctness of an assessment. The Section is amended by replacing “and appeal” with “or review”.

Subsection 3 (a) Provides that the challenge can be by way of objection or appeal. The subsection is amended by deleting the words “or appeal” and providing that the challenge can be by the way of an objection “or in a proceeding before the State Administrative Tribunal commenced under this Act”.

1244. Section 32 amended

Section 32 concerns challenges only being may in proceedings under Part IV of that Act and not by way of objection or appeal. The words “or appeal” are deleted and the section also amended so that challenges are also not to be by way of an application under this Act for a review.

1245. Section 33 amended

Section 33 is amended by inserting subsections (1) and (2).

Subsection 33 (1) concerns objections or appeals not suspending or deferring an obligation to pay tax. The subsection is amended by deleting the word “appeal”.

Subsection 33 (2) is a new subsection which stipulates that the State Administrative Tribunal cannot make an order suspending or deferring an obligation to pay tax before finally determining a matter brought before it under this Act.

1246. Section 34 amended

Subsection 34 (2) (c) is amended to provide that an objection against an assessment or another decision under the taxation Act that affects a taxpayers liability for taxation cannot be made against a non reviewable decision. The word “non” is deleted and “directly” is substituted.

Subsection 34 (4) is amended to provide that where a decision of the Commissioner is declared to be “non” reviewable that within 60 days a taxpayer may apply to the Small Claims Tribunal for the decision to be reconsidered. The subsection is amended to refer a “directly” reviewable decision and to replace “Small Claims Tribunal constituted by a Magistrate” with the “Administrative Tribunal”. Paragraph 2 of subsection 34(4) relating to the powers of the Small Claims Tribunal when hearing and determining an application is deleted.

1247. Section 38 amended

Subsection 38 (4) provides that a taxpayer to apply to the appeal body for directions when the Commissioner has failed to determine a matter within 120 days of the day the objection is lodged. The subsection is amended by substituting Administrative Tribunal for “appeal body”.

Subsection 38 (5) is amended by substituting Administrative Tribunal for “appeal body”.

Subsection 38 (6) is amended by substituting Administrative Tribunal for “appeal body” and deleting reference to the making of consequential orders and making orders for costs. Those provisions are contained within the *State Administrative Tribunal Bill 2003*.

Subsection 38 (7) this subsection is amended by deleting the definition of “appeal body”.

1248. Part 4 Division 3 heading amended

The heading for division 3 is a amended to read “Reviews and stated cases”

1249. Section 40 amended

Subsection 40 (1) Provides for a person dissatisfied with a decision of the Commissioner on an objection or extension of time for lodging and objection being able to lodge an appeal. The subsection is amended by deleting reference to appeal and substituting “apply to the Administrative Tribunal for a review”. The second paragraph of the subsection concerning grounds for appeal not raised in the objection is deleted. The reason relates to the ability of the administrative Tribunal being able to hear matters De Novo.

1250. Section 41 repealed

Section 41 is repealed as all applications for review are to be heard by the State Administrative Tribunal.

1251. Section 42 amended

Subsection 42 (1) is amended by substituting “application to the Administrative Tribunal for a review of a decision” for “appeal”. The second paragraph which previously provided for a court or tribunal to extend time for commencing of an appeal is repealed as the *State Administrative Tribunal Bill 2003* contains provisions in that respect.

1252. Section 43 amended

Section 43 - the first three paragraphs are deleted. These provide for the nature of orders that the appellate court or tribunal can make and stipulates that the onus for establishing that an assessment or decision to which the appeal relates is invalid or incorrect, lies with the taxpayer.

Subsections 43 (1), 43 (2), 43 (2a), and 43 (2b) are new subsections which concern the constitution of the State Administrative Tribunal will be when dealing with a matter brought before it under this Act.

Subsection 43 (3) was previously paragraph 4 of Section 43. It is amended to reflect that matters are now dealt with as applications for the review of decision by the Administrative Tribunal.

Subsection 43 (4) (a) and (b) are also amended to refer to the “the Administrative Tribunal”.

1253. Section 43A inserted

Section 43A stipulates the grounds on which an appeal from the Administrative Tribunal can be made and that it is to be in accordance with the rules of the Supreme Court.

1254. Section 47 amended

As a consequence of the amendments to section 34 of the Act which in part redefines “non-reviewable” to “directly reviewable, section 47(8) is amended.

1255. Section 56 amended

As a consequence of the amendments to section 34 of the Act which in part redefines “non-reviewable” to “directly reviewable, section 56(3) is amended.

1256. Section 57 amended

As a consequence of the amendments to section 34 of the Act which in part redefines “non-reviewable” to “directly reviewable, section 57(3) is amended.

1257. Section 59 amended

Section 59 is amended to provide that subsection 59(1) does not prevent a person from appealing against a decision of the State Administrative Tribunal.

1258. Glossary amended

As a consequence of the amendments to section 34 of the Act which in part redefines “non-reviewable” to “directly reviewable, the Glossary is amended.

Division 130 — *Taxi Act 1994*

1259. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Taxi Act 1994*.

1260. Section 20 amended

Section 20(4) – reference to an appeal by a plate owner to a Local Court is deleted and replaced with reference to a review by the State Administrative Tribunal.

Section 20(5) – is deleted as provisions in the Principal Bill cover the actions that State Administrative Tribunal may take on review.

1261. Section 22 amended

Section 22(2) – reference to an appeal by a plate owner to a Local Court is deleted and replaced with reference to a review by the State Administrative Tribunal.

Section 22(3) – is deleted as provisions in the Principal Bill cover the actions that State Administrative Tribunal may take on review.

1262. Section 23 amended

Section 23(3) – words “appealed” replaced by “applied for review”.

Section 23(4) – reference to a notice of appeal to the Local Court replaced by an application for review to the State Administrative Tribunal.

Section 23(5) – deleted as provisions in the Principal Bill cover the actions that State Administrative Tribunal may take on review.

1263. Section 30 amended

Section 30(2)(b) – words “appeal is lodged” replaced with “application for review is made”.

Section 30(3) – reference to a notice in Subsection (2) is deleted and replaced with reference to an application to State Administrative Tribunal for review.

Section 30(4) – deleted as provisions in the Principal Bill cover the actions that State Administrative Tribunal may take on review.

1264. Section 37 amended

Section 37(2) – reference to a notice to appeal to a Local Court deleted and replaced with application to State Administrative Tribunal for review.

Section 37(3) – deleted as provisions in the Principal Bill cover the actions State Administrative Tribunal may take on review.

1265. Section 38 repealed

Section 38(1) and 38(2) – deleted as they reference Rates of the Local Court and references to the Local Court in Sections 20(4), 22(2), 23(4), 30(3) and 37(2) have been deleted.

**Division 131 — *Town Planning and Development Act 1928*
Subdivision 1 — Amendments to the Act**

1266. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Town Planning and Development Act 1928*.

1267. Section 2 amended

The term “appeal” in the *Town Planning and Development Act 1928* is to be removed as the State Administrative Tribunal is to assume jurisdiction over reviews of process.

The term “legal practitioner” in the *Town Planning and Development Act 1928* is to be amended to remove reference to the meaning contained within the *Legal Practitioners Act 1893*, and add reference to entitlement to practise in the Supreme Court as the primary definition.

The term “member” in the *Town Planning and Development Act 1928* refers to a member of the Town Planning Tribunal. As its functions are to be subsumed by the State Administrative Tribunal, the term is to be removed.

The term “party” in the *Town Planning and Development Act 1928* is related to an appeal before the Town Planning Tribunal. As these functions are to be subsumed by the State Administrative Tribunal, the term is to be removed.

The term “President” in the *Town Planning and Development Act 1928* is to be removed, as the function is to be subsumed by the State Administrative Tribunal.

The term “Principle Registrar” in the *Town Planning and Development Act 1928* is to be removed, as the function is to be subsumed by the State Administrative Tribunal.

The term “regulations” in the *Town Planning and Development Act 1928* is to be amended to reflect that the Act is now bound by regulations made under the *State Administrative Tribunal Act 2003*.

The term “rules” in the *Town Planning and Development Act 1928* is to be amended to reflect that the Act is now bound by the rules made under the *State Administrative Tribunal Act 2003*.

The term “tribunal” in the *Town Planning and Development Act 1928* refers to the Town Planning Tribunal. As its functions are to be subsumed by the State Administrative Tribunal, the term is to be removed

1268. Section 7B amended

Section 7B of the *Town Planning and Development Act 1928* outlines the authority and circumstances under which the Minister may make interim development orders surrounding the regulation, restriction or prohibition of the development of any land. Subsection 7B(6)(a) refers to processes by which a person aggrieved by a refusal of a permit may make application for a review of the decision. Subsection 7B(6)(a) is to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction over such matters.

Subsections 7B(6)(c) and 7B(6)(d) of the *Town Planning and Development Act 1928* are to be amended to better reflect the nature of the administrative action, as a review rather than an appeal.

Subsection 7B(7)(a) of the *Town Planning and Development Act 1928* outlines penalties for failure to comply with an interim development order. Subsection 7B(7)(a)(iii) is to be added to include a penalty for failure to comply with a local government order made under subsection 7B(8)(a).

Subsection 7B(8)(b) of the *Town Planning and Development Act 1928* refers to processes by which a person aggrieved by a local government order may make application for a review of the decision. Subsection 7B(8)(b) is to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction over such matters by conducting a review of the decision.

Subsection 7B(8)(ba) of the *Town Planning and Development Act 1928* is to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction over such matters, and may vary or substitute a direction, with which the person must then comply.

Subsection 7B(12)(a) of the *Town Planning and Development Act 1928* outlines conditions that must be met for any claim to compensation resulting from an interim development order. Subsection 7B(12)(a)(ii) is to be amended to reflect that a decision of the State Administrative Tribunal that contradicts an interim development order of local government may entitle a person to compensation.

1269. Section 8A amended

Section 8A of the *Town Planning and Development Act 1928* refers to processes by which a person aggrieved by a refusal of application by a town planning scheme may make application for a review of the decision. The title of the section is to be amended to better reflect the nature of the administrative action that results.

Subsection 8A(1)(c) of the *Town Planning and Development Act 1928* is to be amended to reflect that the State Administrative Tribunal is to assume jurisdiction over such matters by conducting a review of the decision.

Subsection 8A(2) of the *Town Planning and Development Act 1928* contains provisions relating to the right to make an appeal against a decision of a town planning scheme. The terminology is to be amended to better reflect the administrative action that results, being a review of decision.

1270. Section 8B amended

Section 8B of the *Town Planning and Development Act 1928* refers to processes for the review of decisions made under an assessed scheme under the EP Act. The terminology in the title and section is to be amended to better reflect the nature of the administrative action that results.

1271. Section 10AA amended

Section 10AA of the *Town Planning and Development Act 1928* refers to processes for the review of a decision that a development contravenes a town planning scheme. The terminology in the title and section is to be amended to better reflect the nature of the administrative action that results, and that the State Administrative Tribunal is to assume jurisdiction over such matters.

Subsections 10AA(2), 10AA(3), 10AA(4) and 10AA(5) of the *Town Planning and Development Act 1928* refer to processes of the Town Planning Tribunal in relation to appeals. As the State Administrative Tribunal is to assume jurisdiction over matters for review, these subsections are irrelevant and are therefore being repealed.

1272. Section 17 amended

Section 17 of the *Town Planning and Development Act 1928* outlines the authority of the Minister to allocate costs between local governments. Subsection 17(3) is to be amended to reflect that application for a review of such decisions will now be made to the State Administrative Tribunal.

1273. Section 18 amended

Section 18 of the *Town Planning and Development Act 1928* makes provisions for the failure of local government to comply with the preparation and adoption of an appropriate town planning scheme. Subsections 18(2a), 18(2b), 18(2c) and 18(3) contain references to the process of referral to the Town Planning Tribunal. The terminology of these subsections is to be amended to reflect that the State Administrative Tribunal now has jurisdiction over such matters, and is to deal with them by way of review.

Subsection 18(4) of the *Town Planning and Development Act 1928* refers to the Governor's authority to make rules regarding appeals. As the State Administrative Tribunal is to assume jurisdiction, this subsection is irrelevant and is therefore being repealed.

1274. Section 26 amended

Section 26 of the *Town Planning and Development Act 1928* concerns the requirements of a person who is seeking a review of a decision made by the Western Australian Planning Commission. The title has been amended to better reflect the nature of the administrative action that results. Subsection 26(1) of the Act is to propose that all grievances are to be resolved through an application by the aggrieved person to the State Administrative Tribunal, requesting a review of the Commission's decision.

Subsections 26(1)(ab), 26(1)(ad) and 26(2) of the *Town Planning and Development Act 1928* refer to appeals to the Town Planning Tribunal. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Town Planning Tribunal, the terminology in these subsections is to be amended to reflect the appropriate authority and the nature of the administrative action that results.

Subsection 26(1)(c) of the *Town Planning and Development Act 1928* refers to appeals that are granted by the Town Planning Tribunal. As the State Administrative Tribunal is to assume jurisdiction over such matters, the subsection is irrelevant and is therefore being repealed.

1275. Section 28A amended

Section 28A of the *Town Planning and Development Act 1928* makes provisions for subdividers following the commencement of section 16 of the *Town Planning and Development Amendment Act 1982*. Subsection 28A(5) outlines circumstances in which the section may still govern, despite being repealed by the amending Act. As the State Administrative Tribunal is to subsume the amending Act, subsection 28A(5) is irrelevant and is therefore being repealed.

1276. Part V heading replaced

Part V of the *Town Planning and Development Act 1928* concerns the requirements of a person who is aggrieved by a decision made by the Act or a planning scheme. The title is to be amended to better reflect the nature of the administrative action that results.

1277. Sections 36 and 37 replaced

Section 36 of the *Town Planning and Development Act 1928* outlines the establishment of the Town Planning Appeal Tribunal for the purpose of hearing appeals. As the State Administrative Tribunal is to assume jurisdiction over such matters, the section is irrelevant and is therefore being repealed.

Section 37 of the *Town Planning and Development Act 1928* outlines the structure of the Town Planning Appeal Tribunal for the purpose of hearing appeals. As the State Administrative Tribunal is to assume jurisdiction over such matters, the section is irrelevant and is therefore being repealed.

Section 36 of the *Town Planning and Development Act 1928* is a new section which outlines the circumstances under which a person may make application for review to the State Administrative Tribunal for a review of a planning scheme decision. The new section provides for the State Administrative Tribunal to assume jurisdiction over such matters, and outlines the conditions under which an application for review can be made.

Section 37 of the *Town Planning and Development Act 1928* is a new section which provides definitions for terms within that part of the Act that are consistent with the definitions of terms used in the State Administrative Tribunal Act 2003.

1278. Section 38 amended

Section 38 of the *Town Planning and Development Act 1928* concerns the requirements of a member constituting the State Administrative Tribunal. The title is to be amended to better reflect the proposed structure of the State Administrative Tribunal.

Subsections 38(1) and 38(2) of the *Town Planning and Development Act 1928* are to be amended to reflect that a member or members constituting the State Administrative Tribunal are to have appropriate knowledge and experience in the relevant field upon which an application for review is based.

Subsections 38(3), 38(4) and 38(5) of the *Town Planning and Development Act 1928* are new subsections, which replace previous subsections that outlined conditions in relation to the Town Planning Tribunal, as the State Administrative Tribunal is to assume jurisdiction over such matters. The sections describe the requirements that need to be met in order to ensure that an appropriately qualified member determines each application to the State Administrative Tribunal.

1279. Section 39 repealed

Section 39 of the *Town Planning and Development Act 1928* relates to members of the Town Planning Tribunal. As its functions are being subsumed by the State Administrative Tribunal, this section is no longer relevant and is therefore being repealed.

1280. Part V Divisions 2 and 3 repealed

Division 2 of the *Town Planning and Development Act 1928* includes sections 40 – 42 of the Act. These sections relate specifically to the structure and functions of the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this division is irrelevant and is therefore being repealed.

Division 3 of the *Town Planning and Development Act 1928* includes sections 43 – 46 of the Act. These sections relate specifically to the Principal Registrar and other officers of the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this division is irrelevant and is therefore being repealed.

1281. Part V Divisions 4 heading deleted

The heading to Part V Division 4 is deleted as it is no longer relevant.

1282. Sections 47 to 57 repealed

Section 47 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 48 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 49 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 50 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 51 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 52 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 53 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 54 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 55 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 56 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 57 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

1283. Section 58 amended

Section 58 of the *Town Planning and Development Act 1928* provides that an applicant may elect that no party to the application is to be represented by a legal practitioner, with the President retaining the authority to direct otherwise in certain circumstances. Subsections 58(1) and 58(2) of the Act refer to previous provisions under the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this division is irrelevant and is therefore being repealed.

Subsections 58(3) and 58(4) of the *Town Planning and Development Act 1928* outline the processes that are to apply to the State Administrative Tribunal. The terminology in the subsections is to be amended to better reflect the nature of the administrative actions involved.

1284. Section 59 repealed

Section 59 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

1285. Section 60 amended

Section 60 of the *Town Planning and Development Act 1928* provides that the Minister for the Environment must be invited to make a submission prior to any determination in respect to an application under section 8B of this Act. The terminology in the section is to be amended to reflect that the State Administrative Tribunal is to have jurisdiction over these matters, and to better reflect the nature of the relevant administrative actions.

1286. Section 61 amended

Section 61 of the *Town Planning and Development Act 1928* outlines the matters that must be considered in the determination of an application for review. It contains a number of references to the appeal process and the Appeal Tribunal, both of which are to be subsumed by the State Administrative Tribunal. The terms “Tribunal” and “appeal” throughout section 61 of the Act are to be replaced with reference to the State Administrative Tribunal and the application for review, respectively.

1287. Section 62 replaced

Section 62 of the Act is recast so as to enable the State Administrative Tribunal to hear submissions from persons who are not parties to matters before it under the Act.

1288. Sections 63 to 65 repealed and section 63 inserted

Section 63 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 64 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 65 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

New section 63 provides that the provisions of the *State Administrative Tribunal Bill 2003* concerning joinders do not apply in relation to matters before the State Administrative Tribunal under the *Town Planning and Development Act 1928*.

1289. Sections 66 amended

Section 66 of the *Town Planning and Development Act 1928* outlines the circumstances under which an order or direction may be reviewed. Subsection 66(1) is to be amended to provide that the President may review any order that was made on a matter involving a question of law, when the State Administrative Tribunal was constituted without a legally qualified member as defined under the *State Administrative Tribunal Act 2003*.

Subsections 66(2) and 66(5) of the *Town Planning and Development Act 1928* are to be amended to replace references to the Town Planning Tribunal with reference to the State Administrative Tribunal, as the State Administrative Tribunal is to assume jurisdiction over these matters.

Subsections 66(3) and 66(4) are to be amended to remove references to the appeal process and previous governing legislation respectively, as the State Administrative Tribunal is to assume jurisdiction over these matters.

1290. Sections 67 and 68 repealed

Section 67 of the *Town Planning and Development Act 1928* relates to appeals made on decisions of the Town Planning Tribunal to the Supreme Court. As these functions are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 68 of the *Town Planning and Development Act 1928* relates to appeals made to the Town Planning Tribunal. As these functions are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

1291. Part V Division 5 heading deleted

The heading to Part V Division 5 is deleted as it is no longer relevant.

1292. Section 69 amended

Section 69 of the *Town Planning and Development Act 1928* outlines provisions for the Minister to make submissions in relation to appeals before the Tribunal. It contains a number of references to the “Tribunal” and the “appeal”. The terminology throughout the section is to be replaced with references to the State Administrative Tribunal and the application respectively, as the State Administrative Tribunal is to assume jurisdiction over such matters.

1293. Section 70 amended

Section 70 of the *Town Planning and Development Act 1928* allows for circumstances in which the Minister may call in and determine an application if it is considered to be an issue of State or regional importance. It contains a number of references to the “Tribunal” and the “appeal”. The terminology throughout the section is to be replaced with references to the State Administrative Tribunal and the application respectively, as the State Administrative Tribunal is to assume authority in such matters.

Subsection 70(2)(a) of the *Town Planning and Development Act 1928* is to be amended to refer to the President of the State Administrative Tribunal as being the appropriate authority to refer such matters.

Subsection 70(2)(a) of the *Town Planning and Development Act 1928* is to be amended to provide for the transmission to the Clerk of each house of Parliament, a copy of the Minister’s decision, to be actioned in accordance with the new subsection 72(1) of this Act.

1294. Section 71 amended

Section 71 of the *Town Planning and Development Act 1928* refers to administrative requirements following the referral of a matter to the Minister. It contains a number of references to the “Registrar” and the “appeal”. The terminology throughout the section is to be replaced with references to the executive officer of the State Administrative Tribunal and the application respectively, as the State Administrative Tribunal is to assume authority in such matters.

1295. Part V Division 6 heading deleted

The heading to Part V Division 6 is deleted as it is no longer relevant.

1296. Section 72 replaced

Section 72 of the *Town Planning and Development Act 1928* relates to administrative functions associated with appeals to the Supreme Court. As these functions are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

New Section 72 - Section 72 of the *Town Planning and Development Act 1928* outlines administrative requirements for transmission of the copy of directions to the Clerk of each House of Parliament, in the event that a House of Parliament is not sitting.

Subsection 72(3) of the *Town Planning and Development Act 1928* is to be added to provide that the laying of a copy of a direction is regarded to have occurred if it is noted in the Minutes, Votes and Proceedings of the House on the first sitting day of Parliament following the Clerk's receipt of the copy of direction.

1297. Sections 73 to 75 repealed

Section 73 of the *Town Planning and Development Act 1928* relates directly to officers of the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, which is subject to provisions in the *State Administrative Tribunal Act 2003*, this section is irrelevant and is therefore being repealed.

Section 74 of the *Town Planning and Development Act 1928* relates to the powers of the President of the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

Section 75 of the *Town Planning and Development Act 1928* relates to the Governor's authority to make regulations in respect of the Town Planning Tribunal. As the functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this section is irrelevant and is therefore being repealed.

1298. The First Schedule amended

Schedule 1 Clause 27A of the *Town Planning and Development Act 1928* outlines the relevant authority to which an aggrieved person may apply when discretionary power is vested by a scheme. Clause 27A is to be amended to remove reference to an appeal to the Tribunal, and provide reference to the State Administrative Tribunal as the appropriate authority to apply to for a review.

1299. Schedules 3 and 4 repealed

Schedule 3 of the *Town Planning and Development Act 1928* contains provisions for the responsibilities and functions of officers of the Town Planning Tribunal. As all functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this schedule is irrelevant and is therefore being repealed.

Schedule 4 of the *Town Planning and Development Act 1928* contains provisions for the responsibilities and functions of the Principal Registrar of the Town Planning Tribunal. As all functions of the Tribunal are to be subsumed by the State Administrative Tribunal, this schedule is irrelevant and is therefore being repealed.

Subdivision 2 — Amendments needed because Act amended

1300. Planning Appeals Amendment Act 2002 amended

Section 12 of the Act deals with the review of the *Town Planning and Development Act 1928* as a consequence of amendments made by the *Planning Appeals Amendment Act 2002*. The review specifically deals with the operations of the Town Planning Appeals Tribunal. As the State Administrative Tribunal is assuming jurisdiction over matters being dealt with by the Town Planning Appeals Tribunal, section 12 is no longer necessary and is therefore being repealed.

Section 17(4) deals with transitional matters in relation to appeals under the *Town Planning and Development Act 1928* which had commenced prior to the amendments contained in the *Planning Appeals Amendment Act 2002*. These transitional provisions are carried forward in clause 1301 of the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003*.

Section 18 deals with transitional matters in relation to references to the Town Planning Appeal Committee under the *Town Planning and Development Act 1928* which had been in operation prior to the amendments contained in the *Planning Appeals Amendment Act 2002*. These transitional provisions are no longer necessary and are therefore being repealed.

Subdivision 3 — Transitional provisions

1301. Ministerial referrals

This clause deals with transitional matters in relation to appeals made to the Minister under the *Town Planning and Development Act 1928* after 1 July 2001. It carries forward provisions from section 17(4) of the *Planning Appeals Amendment Act 2002* and deals with the transferral of such appeals to the State Administrative Tribunal in certain cases.

1302. References to Committee and Tribunal

Clause 1302 provides that, unless the context provides otherwise, references in the *Town Planning and Development Act 1928* to appeals to the Town Planning Appeals Committee or to the Town Planning Appeals Tribunal are to be read as if they refer an application for review made to the State Administrative Tribunal

Division 132 — Transport Co-ordination Act 1966

1303. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Transport Co-ordination Act 1966*.

1304. Section 47Z amended

The interpretation of “Local Court” is deleted.

1305. Section 47ZF amended

Subsection 47ZF (l) This section is amended to change the power of the Governor to make regulations concerning appeals from the decision of a Minister to the Local Court to the review of decisions of a Minister to the State Administrative Tribunal.

1306. Section 57 amended

Subsection 57(3) is amended by replacing “a right of appeal to a magistrate”, with “an application for review to the State Administrative Tribunal”.

Subsection 57(4) is amended to reflect that rather than instituting an appeal a person can apply for a review of a decision to the State Administrative Tribunal.

Subsection 57(5) Provides for orders a magistrate can make on the hearing of an appeal. As the *State Administrative Tribunal Bill 2003* contains provisions for the outcome of reviews this section is repealed.

Subsection 57(6) Provides that a decision of a magistrate is final. As matters will now be determined by the State Administrative Tribunal on review the decision is subject to the provisions contained in *State Administrative Tribunal Bill 2003*. That Bill provides that a party may appeal, but only if the court to which the appeal lies gives leave to appeal and the appeal can only be brought on a question of law.

1307. Section 60 amended

Section 60(n) is amended by stipulating the Governor may make fees payable in respect to applicants other than for applications to the State Administrative Tribunal for a Review.

Division 133 — *Travel Agents Act 1985*

1308. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Travel Agents Act 1985*.

1309. Section 3 amended

The definitions of “inspector” “the Chairman”, “the Registrar” and “the Tribunal” are deleted as the term “inspectors” is no longer used in the *Travel Agents Act 1985* (WA) and the Commercial Tribunal is abolished.

1310. Section 9 amended

Subsections (1) and (4) are amended to delete reference to the “Tribunal” which is abolished and the term “Commissioner” is inserted. The effect will be that applications must be made to the Commissioner for Fair Trading rather than the Tribunal in future.

Subsection (5) is amended to insert references to “Commissioner” rather than “Tribunal” and “Registrar”. The effect of the amendments will be that the Commissioner may seek further information in addition to that provided in an application.

1311. Section 10 amended

Section 10 provides that an application for a travel agents licence is to be published and investigations made as to whether the licence should be issued. The section presently provides that the application is made to the Registrar who is to ask the Commissioner to investigate. The Commissioner can, in turn, request the Commissioner of Police to investigate the application.

Subsection (1) is amended to provide that applications for licences are to be made to the Commissioner rather than the Registrar as the position of registrar is abolished. In consequence the subclause providing that the Registrar is to ask the Commissioner to investigate is abolished. Subsection (2) is amended to make it clear that the Commissioner can make such investigations into the application as thought fit. Subsection (3) is also amended to clarify that the Commissioner of Police may be asked to investigate and report the results to the Commissioner.

1312. Section 11 amended

Section 11 provides that objections can be lodged within 14 of the publication of a notice with respect to an application for a travel agents licence. The subsection (1) presently provides that objections are to be lodged with the Tribunal and can be made by any person or by the Commissioner, with the consent of the Minister. The subsection is amended as the Tribunal is abolished and objections are to be forwarded to the Commissioner.

Subsection (2) specifies the material that must be contained in an objection. The word “Commissioner” is substituted for “Tribunal” in paragraph (a) and a reference to the Commissioner is deleted from paragraph (c) as it is no longer required.

1313. Section 12 amended

Subsection (1) provides that unless subsections (2) or (4) require it to be refused the Commissioner for Fair Trading shall grant an application for a licence as soon as practicable after the expiration of the period for objection.

Subsection (2) lists of the reasons why a person may be refused a licence. Reasons include the fact that the person is an undischarged bankrupt or not a fit and proper person to be the holder of a licence. The subsection is amended by inserting a reference to the “Commissioner” in place of a reference to the “Tribunal” which is abolished.

Subsection (3) substitutes “Commissioner” for “Tribunal”. The subsection sets out matters that may be considered in considering whether or not a person is a fit and proper person for the purposes of subsection (2).

Subsection (4) sets out the matters to be taken into account when considering an application for a licence made by a body corporate. The subsection is amended by deleting a reference to the “Tribunal” and inserting the word “Commissioner” in two places.

Subsection (5) provides an application for licence is not be refused on certain specified grounds unless the person has been informed and afforded an opportunity to be heard and make submissions on the matter.

Subsection (6) provides that the Commissioner is, as soon as possible after deciding to refuse a licence, to notify the applicant and inform the applicant that they have the right to apply to the State Administrative Tribunal for a review of the refusal.

Subsection (7) provides that if a licence is granted the Commissioner is to notify any person who lodged an objection to the granting of the application of the right to apply to the State Administrative Tribunal for a review of that decision.

Subsection (8) provides that the Commissioner may refrain from granting a licence if the applicant, or the directors and officers of a body corporate, have not attended and satisfied the Commissioner as to any matters the Commissioner thinks appropriate.

1314. Section 13 amended

Subsection (1) provides that conditions may be imposed on a travel agents licence. The word "Commissioner" is inserted in place of "Tribunal" which is abolished.

Subsection (2a) provides for the suspension or cancellation of a licence. The word "Commissioner" is inserted in place of "Registrar" as that position is abolished.

Subsection (3) provides that the Commissioner is not to impose conditions or restrictions on a licence unless the applicant, or the holder of a licence already issued, is given an opportunity to make written submissions with respect to those conditions or restrictions to be imposed or varied.

Subsection (4) is deleted as the Tribunal will be abolished and will no longer hold hearings.

1315. Section 18 amended

Subsection (1) is amended to delete a reference to section 61(5) that is deleted.

1316. Section 20 amended

Section 20(1) provides that a licensee may surrender their licence. Subsection (2) provides that if it is decided to hold an inquiry in relation to a licence the licence cannot be surrendered until after the inquiry is completed. The subsection effectively prevents a licensee avoiding any penalty by anticipating cancellation of their licence.

Subsection (3) provides that if a licence is surrendered so much of the licence fee as is appropriate is to be refunded. The subsection is amended to replace the word "Tribunal" with the word "Commissioner".

1317. Section 21 amended

Subsection (1) provides that a person may lodge a written complaint about a licence if the complaint complies with the subsection (2). The subsection previously provided that the objection was to be made to the Tribunal, however, it is now to be made to the Commissioner.

Subsection (2) provides that a complaint complies with the subsection (1) if it specifies the licensee and the grounds of the complaint and those grounds reasonably give rise to a belief that there is a need to hold an inquiry.

Subsection (3) is deleted as the Tribunal is to be abolished.

Subsection (4) provides that the Commissioner may, on receiving a complaint, or on the Commissioner's own initiative, inquire into a licence. The Commissioner may, among other things, take into account whether the licensee has failed to comply with the provisions of any Act or conditions or restrictions that have been imposed. Paragraph (i) substitutes "Commissioner" for "Tribunal". Previously the inquiry was arranged by the Chairman and held by the Tribunal.

The existing subsection (5) provides that the Tribunal could dismiss an objection if it was frivolous, vexatious, misconceived or lacking in substance or the grounds had not been made out. The proposed new subsection (5) will provide that the Commissioner may take a matter to the State Administrative Tribunal.

The proposed new subsection (6) will provide that if the Commissioner decides not to make an allegation to the State Administrative Tribunal concerning a licensee the Commissioner is required to notify the person who made the complaint of that decision and the reason for it. The previous subsection (6) sets out some of the functions of the former Tribunal.

Subsection (7) is deleted as the Tribunal is to be abolished.

1318. Section 22 amended

Subsection (1) provides the penalties which may be imposed on a licensee. The penalties were previously imposed by the Commercial Tribunal, however, they will, in future, be imposed by the State Administrative Tribunal.

Subsections (2) and (3) which set out the penalties that could be imposed are deleted as the relevant matters will be in the State Administrative Tribunal legislation.

Subsection (4) provides for cancellation of a licence on the disqualification of my licensee. Previously the cancellation was by the Tribunal, however, in future it will be by the Commissioner.

Subsection (5) previously provided that a suspended or cancelled licence was to be returned to the Registrar. It will now be returned to the Commissioner.

Subsection (7) provides that if a person has been convicted of an offence and the offence is, wholly or partly, the subject matter of a proceeding before the State Administrative Tribunal the person is not liable for a further fine in relation to that particular matter.

1319. Part II Division 4 heading amended

The heading to Part II Division 4 is amended to delete reference to “Appeal” and instead refer to “Review”.

1320. Section 23 replaced

Section 23 previously provided that a person could appeal a decision of the Commercial Tribunal to the District Court. The section is deleted as the Commercial Tribunal is to be abolished and a new section is inserted providing for review by the State Administrative Tribunal.

The proposed new subsection (1) provides that a person who is aggrieved by a decision may seek a review in the State Administrative Tribunal.

Subsection (2) defines the terms "person aggrieved" and "reviewable decision". A “person aggrieved” is any person who lodged an objection or the holder of the licence to which a reviewable decision relates. A "reviewable decision" is one made under section 12 to grant or refuse licence, section 13 to impose or vary a condition or restriction, section 33(3) to grant or refuse an application to impose a condition or a decision that prevents a person participating in the travel agents Compensation Scheme.

1321. Section 24 replaced

Section 24 previously provided for making of an appeal against the refusal of an application or the imposition of a condition to the District Court. Appeals will, in future, be heard by the State Administrative Tribunal and accordingly subsections (1), (2) and (3) making specific provision for District Court are deleted.

Subsection (4) is amended to provide that the State Administrative Tribunal may order that a person is admitted to the travel agents Compensation Scheme or that their participation is terminated. Subsection (5) provides that an order under subsection (4) is to be given effect as if it is an order against the Scheme.

1322. Section 25 repealed

Section 25 is repealed as matters of appeal will now be dealt with in the State Administrative Tribunal legislation.

1323. Section 30 amended

Section 30 prevents the employment of a disqualified person as a travel agent. Subsection (1) is amended to replace “tribunal” with “Commissioner” as the position of Registrar is abolished. Paragraph (e) is amended to delete a reference to section 61(5) of the *Travel Agents Act 1985* (WA) as that section is repealed.

1324. Section 33 amended

Section 33 provides that a legal personal representative of a deceased licensee may apply for authority to carry on the business of the deceased licensee. Subsection (1) previously provided that the application to carry on the business was to be made to the Registrar. The subsection is amended to word provide that the application is now to be made to the Commissioner.

The previous subsection (2) is deleted. The proposed new subsection (2) provides that the Commissioner may make an investigation or undertake an inquiry to deal with an application under subsection (1).

Subsection (3) provides that an application under subsection (1) may be made subject to appropriate terms and conditions.

1325. Section 37 amended

Section 37 provides that the Commissioner may require a credit provider to give undertakings that they will discontinue unjust conduct and rectified the consequences of that unjust conduct. A reference to the "Tribunal" is deleted and a reference to the "State Administrative Tribunal" is inserted in subsection (1).

Subsection (3) provides that if an undertaking is given, and observed, neither the Tribunal nor the Commissioner may make subsequent reference to the relevant allegations.

1326. Section 38 amended

Section 38 provides that the Commissioner is to maintain a Register of Undertakings. Subsection (1) is amended to delete a reference to a requirement to lodge a copy of the deed with the Registrar as the position of Registrar is abolished. Subsection (5) is amended to insert a reference to the State Administrative Tribunal in place of the Commercial Tribunal.

1327. Section 39 amended

Section 39 provides that the Commissioner can apply to restrain unjust conduct. The section is amended in four places to substitute a reference to the State Administrative Tribunal in place of a reference to the Commercial Tribunal.

1328. Sections 42 to 47 repealed

Sections 42 to 47 are deleted as the extension of the *Consumer Affairs Act 1971* (WA) sections 19 to 23A so it applies to functions of the Commissioner under any Act is incompatible with the retention of sections 42 to 47 of the *Travel Agents Act 1985* (WA).

1329. Section 52 amended

Section 52 provides that person's who have obtained information shall not, either directly or indirectly, except in legal proceedings or in the exercises or performance of their powers and duties divulge that information to another person. Subsection (1) is amended to provide that the Registrar or a member of the former Commercial Tribunal is required to maintain secrecy. Subsection (3) is amended to delete a reference to the *Commercial Tribunal Act 1984* which is repealed and insert a reference to the *State Administrative Tribunal Act 2003*.

1330. Sections 54 repealed

Section 54 providing potential penalties for disobeying an order of the Commercial Tribunal is deleted as relevant functions will be dealt with in the State Administrative Tribunal legislation.

1331. Sections 58 amended

A new subsection (2) is inserted in section 58 to provide that the annual report of the Commissioner responsible for this act shall include details of the matters listed.

1332. Part V is repealed

Sections 61 and 62 were transitional provisions that have been deleted as their application is exhausted.

1333. Various references to “Tribunal” amended

Various references to “Tribunal” are amended to instead refer to either “Commissioner” or “State Administrative Tribunal” as the case may be.

1334. Various references to “Registrar” amended

Various references to “Registrar” are amended to instead refer to “Commissioner”.

Division 134 — *Valuation of Land Act 1978*

1335. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Valuation of Land Act 1978*.

1336. Section 4 amended

The term “Land Valuation Tribunal” is to be removed as the State Administrative Tribunal is to assume authority over the Act.

1337. Section 13 amended

The reference to Land Valuation Tribunal is amended to instead refer to the State Administrative Tribunal.

1338. Part IV heading amended

The title of Part IV of the *Valuation of Land Act 1978* is to be amended from “appeal” to “review” to better reflect the nature of the administrative action that results.

1339. Section 32 amended

Section 32 of the *Valuation of Land Act 1978* outlines the requirements for a person who is dissatisfied with a valuation made by the Valuer-General. The terminology in subsection 32(9) of the Act is to be amended to better reflect the nature of the administrative action that will result, where the Valuer-General disallows an objection and the person wishes for the decision to be reviewed.

1340. Section 33 amended

Section 33 of the *Valuation of Land Act 1978* concerns the requirements of a person who is seeking a review of a decision made by the Valuer-General. The title has been amended to better reflect the nature of the administrative action that results. Subsection 33(1) of the Act is to propose that all notices of objection are to be referred by the Valuer-General to the State Administrative Tribunal, which now has jurisdiction over such matters.

Subsections 33(2) and 33(3) of the *Valuation of Land Act 1978* refer to appeals made through the Land Valuation Tribunal. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Land Valuation Tribunal, reference to it is to be added in subsection 33(2). Subsection 33

1341. Section 34 amended

Section 34 of the *Valuation of Land Act 1978* outlines the additional requirements of the Valuer-General to inform relevant authorities regarding an objection to a valuation, or an application for a review is lodged. The title of this section is to be amended to better reflect the nature of the administrative function of review. Subsection 34(e) refers to the Valuer-General's obligation to inform about the treatment of an evaluation appeal. The terminology is to be amended to reflect that the State Administrative Tribunal is to assume authority over the review process.

1342. Section 34A amended

Section 34A of the *Valuation of Land Act 1978* states a provision in the event that a valuation is amended following review. The terminology is to be amended to reflect that the State Administrative Tribunal is to assume authority over the review process.

1343. Section 35 amended

Section 35 of the *Valuation of Land Act 1978* sets out the procedures for a review of a refusal on a time extension to object to a valuation. As the State Administrative Tribunal is to assume authority over the review process, the terminology in subsections 35(1) and 35(2) is to be amended to add reference to the State Administrative Tribunal, and to remove references to the Land Valuation Tribunal and the former appeal process. Subsection 35(3) is to be added to outline the requirements of the Valuer-General in the referral process.

1344. Section 36 amended

Section 36 of the *Valuation of Land Act 1978* outlines the requirements for an application of review in the question of general interest as to whether or not proper principles were applied in a valuation. The terminology in subsection 36(1) is to be amended to reflect that the State Administrative Tribunal is to assume authority over the review process. Subsection 36(2) is to be amended to reflect the nature of the administrative process as a review rather than an appeal.

Subsection 36(3) of the *Valuation of Land Act 1978* refers to hearings before the Land Valuation Tribunal. As the State Administrative Tribunal is to assume jurisdiction over these matters, this subsection is irrelevant and is therefore being repealed.

1345. Sections 36A and 36B inserted

Section 36A of the *Valuation of Land Act 1978* is a new section that is proposed to enable the State Administrative Tribunal, in the course of a review, to consider or raise additional issues to those initially presented, and allows each party to the proceedings the chance to properly consider and respond to new issues that arise.

Section 36B of the *Valuation of Land Act 1978* is a new section which proposes that the State Administrative Tribunal may have the authority to publish the reasons for a matter if it considers the matter to be of general or public interest. Subsection 36B(2) is to provide that this would have effect in addition to other provisions in the *State Administrative Tribunal Act 2003*.

Division 135 — *Veterinary Preparations and Animal Feeding Stuffs Act 1976*

1346. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Veterinary Preparations and Animal Feeding Stuffs Act 1976*.

1347. Section 40 amended

Section 40(3) – reference to an appeal by a person aggrieved by the seizure or detention provisions referred to in the Act to a Stipendiary Magistrate sitting in a court of summary jurisdiction is amended and replaced by an application to the State Administrative Tribunal for review.

Section 40(4) – word “appeal” replaced by “review”.

Section 40(5) – word “appeal” replaced by “review” and reference to orders following court hearings replaced by what is ordered on review.

1348. Section 68 amended

Section 68(2)(c) – deleted as regulations regarding appeals will be unnecessary and will become regulations relating to State Administrative Tribunal.

Section 68(3)(b) – qualities that the regulation prescribing charges are to be for matters other than an application to State Administrative Tribunal, as this is covered by the Principal Bill and State Administrative Tribunal regulations.

Division 136 — *Veterinary Surgeons Act 1960*

1349. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Veterinary Surgeons Act 1960*.

1350. Section 2 amended

The definition of District Court is deleted as it is no longer necessary.

1351. Section 16AC amended

This section places an obligation on the Veterinary Surgeons' Board to provide an annual report to the Minister and for the Minister to table the report in Parliament.

A new subsection (16AC(1a)) has been inserted which specifies certain details which are to be included in the annual report. These details concern: the number and nature of matters brought before the State Administrative Tribunal (subsection 16AC(1a)(a)); the number of such matters still outstanding (subsection 16AC(1a)(b)); trends or problems which have emerged (subsection 16AC(1a)(c)); workload forecasts for the ensuing year (subsection 16AC(1a)(d)); and, proposals for improving the Board's performance (subsection 16AC(1a)(e)).

1352. Section 16A amended

This section deals with the powers of the Registrar of the Veterinary Surgeons' Board, the Board and inspectors to conduct inquiries and make appropriate recommendations over what course of action should be followed. It has been amended, through the insertion of subsection 16A(ca), to include the option of making an allegation to the State Administrative Tribunal of unprofessional conduct by a veterinary surgeon.

1353. Section 16B amended

This section deals with the powers of the Registrar and inspectors to require and obtain information in the course of an investigation or inquiry and is subject to amendments of a technical nature.

Section 16B(1) has been amended to replace the term "his duties" with the word "functions". Subsection 16B(a)(i) has been amended to delete the words "him" and "he" and replace the word "he" with the words "the Registrar or inspector". Subsection 16B(c) has been amended to replace the words "that he finds" with the word "found", and an amendment to subsection 16B(d) replaces the word "him" with the words "Registrar or inspector".

1354. Section 22 amended

Under this Act, a person can be registered as a veterinary surgeon (if certain qualifications are held by the applicant) or as a specialist (if the applicant meets certain prescribed prerequisites). A refusal to register an applicant on grounds other than failure to meet these two standards can be subject to a request for review. Section 22(1) has been amended so that such requests are no longer to be made to the District Court but are, instead, to be made to the State Administrative Tribunal. Section 22(2) has been removed as it is now redundant.

1355. Section 23 amended

This section sets out the processes involved in removing a veterinary surgeon from the Register of veterinary surgeons.

Section 23(2a) has been amended so that the Board, after an investigation, can no longer determine that a veterinary surgeon has been guilty of unprofessional conduct. Instead, the Board can make an allegation to the State Administrative Tribunal to this effect.

Section 23(2a) has been further amended through the insertion of section 23(2aa) which empowers the State Administrative Tribunal to take certain actions if it considers that, following an allegation, a veterinary surgeon is guilty of unprofessional conduct. These actions remain the same as previously with the following exceptions: subsection 23(2aa)(d) takes away the Veterinary Surgeons' Board's authority to suspend a veterinary surgeon and transfers it to the State Administrative Tribunal; subsection 23(2aa)(e) empowers the State Administrative Tribunal to order the removal of a veterinary surgeon's name from the Register (the former subsection 23(2a)(e) had authorised the Board to remove the name); the former section 23a(vi) which required the veterinary surgeon in question to pay the costs of the inquiry has been deleted; and, the former subsection 23(2a)(vii) which empowered the Board to impose conditions on a veterinary surgeon's registration has been replaced with subsection 23(2aa)(f) which gives the State Administrative Tribunal the power to make an order to this effect.

Section 23(2b) has been amended by inserting a reference to the State Administrative Tribunal, as well as the Veterinary Surgeons' Board, as having the authority to act against a veterinary surgeon registered under this Act if the veterinary surgeon is subject to a determination by a regulatory body in another jurisdiction.

Section 23(3) previously stipulated that a veterinary surgeon who had been suspended as a result of proceedings under this Act was deemed to not be registered under the Act. This has been amended so as to revoke the status of being a registered veterinary surgeon if the veterinary surgeon has been suspended under this Act in general or by the State Administrative Tribunal in association with proceedings that have been commenced under this Act.

Sections 23(6), 23(7), 23(8) and 23(9) which had dealt with the Veterinary Surgeons' Board's powers in relation to conducting enquiries has been deleted as these provisions are now redundant.

Section 23(10) previously required the Registrar to make a note on the register if there was an enquiry by the Board into a veterinary surgeon's conduct. This section has been amended to delete the reference to the Board as it will no longer conduct enquiries. Instead, the Board will have the power to make an allegation to the State Administrative Tribunal and, if as a result of this the State Administrative Tribunal makes an order against a person, the Registrar is to record these details on the register.

Section 23(11) deals with the circumstances under which the Veterinary Surgeons' Board can remove a person's name from the Register. It has been amended to reflect the changed powers of the Board whereby it will not be able to issue orders under this section or make decisions with respect to penalties or the payment of costs. The relevant references to the Board's powers have been deleted.

Section 23(12) had previously conferred on a person the right of appeal to the District Court with respect to decisions made by the Board concerning the removal of a veterinary surgeon's name from the Register. This section has been amended to remove this avenue of appeal and has replaced it with the right to apply to the State Administrative Tribunal for a review of a decision by the Board, except where the decision in question is to make an allegation to the State Administrative Tribunal.

Sections 23(13) and 23(14) which dealt with appeals to the District Court have been deleted as they are now redundant.

1356. Section 24 amended

Section 24(1) had previously required that the restoration of a person's name to the Register be done so at the Order of the District Court on appeal or by the direction of the Board, if the person's name had been removed at the instigation or on the order of the Board. This section has been amended to delete the reference to an appeal to the District Court as the District Court will no longer have jurisdiction over these matters. Section 14(1) now says that a person's name can be restored to the Register by order of the State Administrative Tribunal upon application for review or by direction of the Board.

Section 24(2) has been amended by inserting a limit on the Board's powers to have a person's name restored to the Register. If the person's name was removed from the Register by order of the State Administrative Tribunal, the Board cannot direct that the person's name be re-entered on the Register.

Section 24(3) which had referred to the Board having the power to rescind orders suspending the registration of a veterinary surgeon has been deleted as it is now redundant. This is because it is now the State Administrative Tribunal, and not the Board, which will have the power to order the suspension of veterinary surgeon.

Section 24(4) specifies the circumstances under which a veterinary surgeon, whose name has been removed from the Register, can apply to the Board either to have her or his name restored to the Register or for a variation to the order for her or his suspension. This section has been amended by deleting subsection 24(4)(a)(iii) which had included orders pursuant to disciplinary proceedings as the Board will no longer have the authority to make decisions reversing disciplinary decisions.

A new section 24(4a) has been inserted and it applies in the circumstance where a veterinary surgeon's name was removed from the Register as the result of proceedings before the State Administrative Tribunal which in turn were the result of an allegation made by the Board to the State Administrative Tribunal. Under section 24(4a) the veterinary surgeon will be able to apply to the Board to have her or his name restored or the order varied, but must first obtain leave from the State Administrative Tribunal to do so.

Section 24(5) has been amended to include the words "to the Board" to make it clear that it is the Board that considers applications for registration.

1357. Section 24A amended

Section 24A(10) had previously empowered the Veterinary Surgeons' Board to authorise the Registrar to cancel the registration of a veterinary clinic or hospital in the event of a breach of the Act by a holder of a certificate of registration. This has been amended to remove this power and instead authorise the Board to make an allegation to the State Administrative Tribunal in this circumstance.

Section 24(11) has been inserted so as to give the State Administrative Tribunal the authority to cancel the registration of a veterinary clinic or hospital if it finds that an allegation of non-compliance by the Board has been substantiated.

1358. Section 24B amended

Section 24B(1) had previously provided an avenue of appeal to the District Court over a decision by the Board to refuse to grant or renew the registration of a veterinary clinic or hospital. However, the District Court will no longer have jurisdiction over these matters, and accordingly, section 24B(1) has been amended to remove the right to appeal to the District Court and has replaced it with a right to apply to the State Administrative Tribunal to have the decision reviewed.

Section 24B(2) has been deleted in its entirety as it dealt with appeal proceedings before the District Court and, as the District Court will no longer be involved in these matters, this section is now redundant.

1359. Section 26E amended

Section 26E requires veterinary nurses to be registered and sets out the processes involved in their registration. Under the former section 26E(5) a person whose application to be so registered could appeal to the District Court. However, the jurisdiction for these matters now lies with the State Administrative Tribunal and not the District Court. Accordingly, section 26E has been amended to remove the right of appeal to the District Court and replace it with a right to apply to the State Administrative Tribunal to have decision to refuse registration reviewed.

Section 25E(6) has been deleted. This section had dealt with the nature of appeals to the District Court under section 26E, and as this avenue of appeal will cease to exist, this section has become redundant.

1360. Section 26F amended

This section authorises an animal welfare society to treat animals if they are licensed to do so by the Veterinary Registration Board, and it sets out the licensing procedure to be followed. If an animal welfare society has a grievance in relation to a licensing decision made by the Board, it has a right of review. Previously, this right was to be able to write to the Minister seeking a determination. This has been amended so that such a grievance is now to be in the form of an application to the State Administrative Tribunal for a review of the decision.

1361. Section 31 amended

This section sets out the scope for the regulations which can be made by the Governor under this Act. Section 31(e) allows for regulations concerning the setting of fees in relation to actions such as registration, but it has been amended to specifically exclude the initiation of a proceeding before the State Administrative Tribunal from this section.

Section 31(f) has been amended by removing the reference to the “deregistration” of veterinary surgeons and is now couched only in terms of “registration”.

Section 31(h) has been amended by removing the cancellation of certificates of registration from the scope of the regulations.

Division 137 — *Water Boards Act 1904*

1362. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Water Boards Act 1904*.

1363. Heading amended

The heading before section 87 of the Act is amended to delete reference to ‘Appeals’ and instead refer to ‘Review’.

1364. Section 87 amended

Section 87 of the *Water Boards Act 1904* is amended by inserting “rating records” to replace “rate book” in the heading of section 87 to be consistent with the wording in the substantive section.

1365. Section 88 amended

Section 88 of the *Water Boards Act 1904* currently provides that any person who is dissatisfied with any entry in the rating records and who stands rated on the basis of that entry, may serve upon the Water Board a written objection to that entry. In the event that the objection is disallowed by the Water Board then the person may serve on the Water Board a notice requiring the Water Board to treat the objection as an appeal in which case the Water Board is required to refer the objection to a Land Valuation Tribunal under the *Land Valuations Tribunals Act 1978*. The State Administrative Tribunal is to assume jurisdiction over disallowances by the Water Board of objections to rating record entries and as a consequence section 88 is amended to reflect that new review process.

1366. Section 89 amended

Section 89 of the *Water Boards Act 1904* is amended to provide for review by the State Administrative Tribunal of a decision by the Water Board to refuse to extend time for service of an objection against an entry in the rating records.

1367. Sections 89A and 89B inserted

Section 89A of the *Water Boards Act 1904* is a new provision which provides that upon a review pursuant to section 88 or 89, that State Administrative Tribunal may consider grounds in addition to those stated in the notice of objection and reasons in addition to those previously given for the Water Board’s decision that is under review. The State Administrative Tribunal is to ensure that the parties and any other person entitled to be heard are given reasonable opportunity to properly consider and respond to any new ground or reason that it proposes to consider.

Section 89B of the *Water Boards Act 1904* is a new provision which provides that, in addition to its obligations under the *State Administrative Tribunal 2003*, the State Administrative Tribunal is to provide to the parties and publish written reasons for any order it makes that it considers to be of general interest or significance.

1368. Section 90 amended

Section 90 of the *Water Boards Act 1904* is amended by replacing references to “appeal” to references to “review” as a consequence of the implementation of the review procedure through the State Administrative Tribunal.

1369. Section 91 amended

Section 91 of the *Water Boards Act 1904* is amended by deleting references to the former appeal process.

1370. Section 91A amended

Section 91A of the *Water Boards Act 1904* is amended by inserting “rating records” to replace “rate book” and by inserting “review” to replace “appeal” in the section heading.

Division 138 — *Water Services Coordination Act 1995*

1371. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Water Services Coordination Act 1995*.

1372. Section 21 amended

Section 21 of the *Water Services Coordination Act 1995* refers to professional operators existing prior to the commencement of the Act, and outlines their entitlements to a licence following commencement of the Act under the authority of the Water Services Coordinator. Subsection 21(2)(ii) is to be amended to reflect that the Coordinator will no longer have jurisdiction over appeals against refusals to grant a licence, but will be able to consider applications for a review of a refusal, which may then be referred to the State Administrative Tribunal.

Subsection 21(3) of the *Water Services Coordination Act 1995* is also to be amended to reflect that an appeal will now be known as a review of a refusal to grant a licence.

1373. Part 3 Division 8 heading replaced

The heading to Part 3 Division 8 is replaced with a new heading entitled “Division 8 - Review”.

1374. Section 44 amended

Section 44 of the *Water Services Coordination Act 1995* concerns the requirements of a person who is seeking a review of a licensing decision made by the Water Services Coordinator. The title has been amended to better reflect the nature of the administrative action that results. Subsection 44(1) of the Act is to propose that all grievances are to be resolved through an application by the aggrieved person to the State Administrative Tribunal, requesting a review of the Coordinator’s decision.

Subsections 44(2), 44(3), 44(4) and 44(5) refer to appeals made to the responsible Minister, who previously referred matters to suitably qualified person(s). As the State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Minister, these subsections are no longer relevant and are therefore being repealed.

1375. Section 54 amended

Section 54 of the *Water Services Coordination Act 1995* concerns the requirements of a person who is seeking a review of any order made by the Water Services Coordinator under section 53 of the Act. The title has been amended to better reflect the nature of the administrative action that results. Subsection 54(1) of the Act is to propose that all grievances are to be resolved through an application by the aggrieved person to the State Administrative Tribunal, requesting a review of the order.

Subsections 54(2) and 54(3) refer to appeals made to the responsible Minister. As the State Administrative Tribunal is to assume jurisdiction over matters that were previously referred to the Minister, these subsections are no longer relevant and are therefore being repealed.

1376. Section 57 amended

Section 57 of the *Water Services Coordination Act 1995* outlines the entitlements of a person from whom the Coordinator has requested prescribed information in relation to water supply, facilities or works. A person may object to complying with a request on the grounds that it will result in the disclosure of a trade secret.

Subsection 57(4) of the *Water Services Coordination Act 1995* is to be amended to reflect that the State Administrative Tribunal is to assume the jurisdiction over the hearing of objections to requests for information on the grounds outlined in subsection 57(1).

Subsection 57(5) of the *Water Services Coordination Act 1995* refers to the capacity of a District Court Judge to make orders on such appeals. As the State Administrative Tribunal is to assume jurisdiction over these matters, subsection 57(5) is irrelevant, and is therefore being repealed.

1377. Section 59H amended

Section 59H of the *Water Services Coordination Act 1995* contains the annual reporting requirements in relation to the Plumbers Licensing Board. It is proposed to add subsection 59H(2), which will outline additional matters to be reported on. The proposed subsection 59H(2) will outline the requirement of the Board to report on matters that have been referred to the State Administrative Tribunal under the Act, including matters that are still pending, and to report on general administrative issues in relation to the operations of the Board.

1378. Schedule 3 amended

Schedule 3 of the *Water Services Coordination Act 1995* outlines the extent of the Governor's authority in making regulations with regard to the administrative functions of the Plumbers Licensing Board. Schedule 3 Clause 7 is to be amended to remove reference to the Board's authority in disciplinary matters, as the State Administrative Tribunal is to assume jurisdiction over disciplinary proceedings. The Board will maintain its supervisory and regulatory functions.

Schedule 3 Clause 8 of the *Water Services Coordination Act 1995* relates to the making of regulations by the Board regarding the licensing of plumbers. Clauses 8(i) and 8(k) contain references to inquiries into disciplinary matters by the Board. As the State Administrative Tribunal will now assume jurisdiction over disciplinary matters, the reference to inquiries into these matters by the Board is to be removed. Schedule 3 Clause 8(k) is irrelevant and is therefore being repealed.

Schedule 3 Clauses 8(j) and 8(l) of the *Water Services Coordination Act 1995* refer to disciplinary matters that are dealt with by the Board. As the State Administrative Tribunal is to assume jurisdiction over disciplinary matters, these clauses are to be amended to include references to the Tribunal in the conferral of disciplinary matters.

Schedule 3 Clause 13 of the *Water Services Coordination Act 1995* refers to the authority to regulate fees to be paid in relation to matters provided for in the regulations. Clause 13 is to be amended to exclude the authority to regulate fees in relation to State Administrative Tribunal functions.

Division 139 — *Waterways Conservation Act 1976*

1379. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Waterways Conservation Act 1976*.

1380. Section 46 amended

Section 46(11)(c) – a person aggrieved by a decision of the Commission in relation to grant or renewal of licences, or by revocation or placement of conditions on a licence can apply to the State Administrative Tribunal for review. This replaces an appeal to the Minister against a decision of the Commission.

Section 46(12) – deletes, provision for a person aggrieved by the Minister's decision to appeal to the Supreme Court consistent with State Administrative Tribunal's review jurisdiction in the Principal Bill.

1381. Section 76 amended

Section 76(2)(f) – reference to regulations for the payment or remission of fees and charges relating to appeals is deleted consistent with amendments to Section 46(11)(c).

Division 140 — *Western Australian Marine Act 1982*

1382. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Western Australian Marine Act 1982*.

1383. Section 3 amended

“Appeal Authority” and its definition, the Western Australia Certificates of Competency Appeal Authority, is deleted as the State Administrative Review Tribunal is to assume jurisdiction for matters that previously were determined by that Authority.

1384. Section 10 amended

Section 10 of the *Western Australian Marine Act 1982* provides that the Governor may make regulations prescribing all matters necessary or convenient to be prescribed to give effect to the purpose of Division 2 of the Act – Examinations and certificates of Competency.

Subsection 10(f) of the *Western Australian Marine Act 1982* is amended to allow for regulations to provide for State Administrative Tribunal review of decisions about the grant, endorsement and revalidation of certificates of competency for masters, mates, marine engineers, marine engine drivers and coxswains.

Subsection 10(g) of the *Western Australian Marine Act 1982* is amended to replace the reference to the previous appeal procedure with a reference to the new procedure of review by State Administrative Review Tribunal of suspension or cancellation of certificates of competency.

Subsection 10(j) of the *Western Australian Marine Act 1982* which allows for regulations in respect to appeals to the Appeal Authority is repealed as the State Administrative Tribunal is to assume jurisdiction.

1385. Section 11 replaced

Section 11 of the *Western Australian Marine Act 1982* is amended by inserting “Constituting the State Administrative Tribunal” to replace “Appeal Authority” in the heading of section 11 to reflect the jurisdiction of the State Administrative Tribunal.

Subsections 11(1), (2) and (3) of the *Western Australian Marine Act 1982* which provide for the constitution of the Western Australia Certificates of Competency Appeal Authority are repealed.

Subsection 11(4) of the *Western Australian Marine Act 1982* prescribes that in an appeal concerning the certificate of competency of a master, mate or coxswain, or a candidate for such a certificate then at least one of the members of the Appeal authority must hold a certificate of competency as a master class I, or an equivalent or higher certificate. The State Administrative Tribunal is to assume jurisdiction over review of decisions relating to the certificate of competency of a master, mate, or coxswain or a candidate for such a certificate and accordingly, subsection 11(4) is amended to repeal references to the Appeal authority and to provide instead that in such matters the State Administrative Tribunal must be constituted by at least one member who holds a certificate of competency as a master class I, or an equivalent or higher certificate.

Subsection 11(5) of the *Western Australian Marine Act 1982* prescribes that in an appeal concerning the certificate of competency of a marine engineer or marine engine driver or a candidate for such a certificate then at least one of the members of the Appeal Authority must hold a certificate of competency as a marine engineer class I, or an equivalent or higher certificate. The State Administrative Tribunal is to assume jurisdiction over review of decisions relating to the certificate of competency of a marine engineer or marine engine driver or a candidate for such a certificate and accordingly, subsection 11(5) is amended to repeal references to the Appeal Authority and to provide instead that in such matters the State Administrative Tribunal must be constituted by at least one member who holds a certificate of competency as a marine engineer class I, or an equivalent or higher certificate.

1386. Section 127 amended

Section 127 of the *Western Australian Marine Act 1982* provides for service of summons and process in any legal proceeding under the Act *Western Australian Marine Act 1982*.

Subsection 127(2) inserts a new provision to define “legal proceeding under this Act” to include any proceeding under the *State Administrative Tribunal 2003* in an application for review under the *Western Australian Marine Act 1982*.

Division 141 — *Western Australian Meat Industry Authority Act 1976*

1387. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Western Australian Meat Industry Authority Act 1976*.

1388. Section 22 amended

Section 22 of the *Western Australian Meat Industry Authority Act 1976* provides for an appeal to the Minister where the Western Australian Meat Industry Authority (the Authority) refuses an application for approval of an abattoir, or approval for structural alterations or additions or where conditions or restrictions are imposed. The State Administration Tribunal is to assume jurisdiction over refusals by the Authority of applications in respect of abattoirs and Section 22 is amended to replace the process of appeal to the Minister with review by the State Administration Tribunal.

Division 142 — *Western Australian Planning Commission Act 1985*

1389. The Act amended

The amendments in this Division to confer jurisdiction on the State Administrative Tribunal are being made to the *Western Australian Planning Commission Act 1985*.

1390. Section 18 amended

Section 18 of the *Western Australian Planning Commission Act 1985* prescribes the functions of the Western Australian Planning Commission. Subsection 18 (1b)(a)(2) provides that a regional planning scheme or amendments thereto shall not be formulated in a manner that is inconsistent with an Order by the Minister pursuant to section 59 of the *Heritage of Western Australia Act 1990* except insofar as may be ordered on appeal or referral to the Town Planning Appeal Tribunal pursuant to section 60 of that Act. The State Administrative Tribunal is to assume jurisdiction over Ministerial Orders pursuant to section 59 of the *Heritage of Western Australia Act 1990* and section 18 of the *Western Australian Planning Commission Act 1985* is amended to provide for review by the State Administrative Tribunal.

1391. Section 25 amended

Section 25 of the Act enables an aggrieved person to appeal, under Part V of the *Town Planning and Development Act 1928* to the Town Planning Appeals Tribunal. As the State Administrative Tribunal is assuming jurisdiction over matters previously dealt with by the Town Planning Appeals Tribunal, section 25 is amended to instead refer to the ability to seek a review of decisions through the State Administrative Tribunal.

1392. Section 29 amended

Section 29 of the Act is amended to refer to an application for review of a decision made by the Commission.

1393. Section 32 amended

Section 32 is amended to provide that instead of having to make application to either the Local Court or the Supreme Court for a determination of the value of land, a person can make application to the State Administrative Tribunal.

1394. Section 37E amended

Section 37E of the Act enables an aggrieved person to appeal, under Part V of the *Town Planning and Development Act 1928* to the Town Planning Appeals Tribunal. As the State Administrative Tribunal is assuming jurisdiction over matters previously dealt with by the Town Planning Appeals Tribunal, section 37E is amended to instead refer to the ability to seek a review of decisions through the State Administrative Tribunal.

1395. Section 37J amended

Section 37J of the Act enables an aggrieved person to appeal, under Part V of the *Town Planning and Development Act 1928* to the Town Planning Appeals Tribunal. As the State Administrative Tribunal is assuming jurisdiction over matters previously dealt with by the Town Planning Appeals Tribunal, section 37J is amended to instead refer to the ability to seek a review of decisions through the State Administrative Tribunal.

Part 3 — Certain Acts repealed

1396. *Commercial Tribunal Act 1984* repealed

The *Commercial Tribunal Act 1984* is to be repealed. The State Administrative Tribunal will be assuming jurisdiction, under enabling Acts, for matters previously dealt with by the Commercial Tribunal.

1397. *Land Valuation Tribunals Act 1978* repealed

The *Land Valuation Tribunals Act 1978* is to be repealed. The State Administrative Tribunal will be assuming jurisdiction, under enabling Acts, for matters previously dealt with by Land Valuation Tribunals.

Part 4 — Other amendments

1398. *Constitution Acts Amendment Act 1899* amended

References to the Mental Health Review Board, Retirement Villages referee, land valuation tribunal and the Town Planning Appeal Tribunal contained in Schedule V of the Act are deleted as a consequence of the State Administrative Tribunal assuming jurisdiction over matters previously dealt with by these bodies.

1399. *Financial Administration and Audit Act 1985* amended

Reference to the Racing Penalties Appeal Tribunal of Western Australia is deleted as a consequence of the State Administrative Tribunal assuming jurisdiction over matters previously dealt with by this body.

1400. *Parliamentary Commissioner Act 1971* amended

Section 13(2) of the Act is amended to refer to the State Administrative Tribunal and its members. The amendments to section 13 will mean that the Parliamentary Commissioner's investigative powers will not extend to matters being dealt with by the State Administrative Tribunal.

Part 5 — Some transitional issues

1401. *General principles governing transfer of jurisdiction*

Clause 1401 deals with the transfer of matters from their current jurisdiction to their new jurisdiction and the powers conveyed on the former jurisdiction are deemed to have been made by the new jurisdiction. Clause 1401 does not deal with matters where the new jurisdiction is vested in the State Administrative Tribunal. There are provisions under clause 164 of the *State Administrative Tribunal Bill 2003* to deal with such issues.

1402. *Regulations about transitional issues*

Clause 1402 enables regulations to be made, if necessary, so as to apply the principles in clause 1401 in relation to a specific matter.