

# VALUERS REGISTRATION AMENDMENT BILL 2001

## EXPLANATORY NOTES

### GENERAL OUTLINE

#### Short title

The Act will be known as the *Valuers Registration Amendment Act 2001*.

#### Objectives of the Bill

The objectives of the Bill are to amend the *Valuers Registration Act 1992* to ensure greater community input and greater confidence in the competency of valuers, and to update and improve the efficiency in the administration of the Act. The amendments will:

- Broaden the membership of the Valuers Registration Board (the Board) to include 2 business and community representatives in addition to 3 registered valuers;
- Introduce competency based renewal of registration of valuers and renewal of listing as specialist retail valuers
- Change mandatory period for prerequisite experience for registration from 5 to 3 years;
- Give registered valuers the option of paying renewal fees in advance for up to 5 years;
- Provide for a quorum of 3 members to disciplinary committees and to exclude members from such committees if there is an apparent conflict of interest;
- Give the Board more flexibility in recovering investigation costs if a person is found guilty of a charge;
- Remove the anti competitive restriction on trading that the Board may place on a specialist retail valuer under section 42C(2); and
- Update the changed name of an “institute” to the Australian Property Institute.

**Reasons for the Bill**

Following the completion of the National Competition Policy Review of Valuers Registration legislation, Government decided that in view of the possible impacts on infrequent users of valuation services, registration of valuers should be retained for a transitional period of at least 3 years with annual renewal to be competency based in addition to the fee requirement. The review also suggested greater business and community input into the Board's responsibilities. Other matters have been raised by the Board to update and make the administration of the Act to be more effective. The option of paying fees up to 5 years in advance is a recommendation of the Red Tape Reduction Committee.

**Way in which the policy objective is to be achieved**

The policy objectives will be achieved on passage by appointing two additional community and business representatives to the Board and changing the administration processes to meet the changes. Adequate notice will be given to registered valuers and listed specialist retail valuers of the new competency based renewal process that will require valuers to submit a certificate or statement of continuing professional development (CPD) at the time for annual renewal of registration.

**Alternate ways of achieving the objective**

The National Competition Policy Review of Valuers Registration legislation explored options other than occupation registration to ensure consumer protection. However, following the decision to maintain registration of valuers for a transitional period, there is no other alternative than to amend the legislation to meet the objectives.

**Consistency with fundamental legislative principles**

The Bill conforms to fundamental legislative principles.

**Administrative cost to government of the implementation**

Apart from the actual cost of printing the legislation, there are no direct costs for government. The Board is self-funding and will meet any additional administrative costs from these changes.

## **Consultation**

Consultation on this draft legislation included all relevant State Government Departments, the Valuers Registration Board, the Australian Property Institute and the Real Estate Institute of Queensland. There was wide public consultation on the National Competition Policy review of Valuers' Registration legislation which preceded these draft changes.

## **ANALYSIS OF THE BILL**

*Clause 1* sets out the short title of the Act.

*Clause 2* identifies the Act is generally to commence on a day to be fixed by proclamation, with *Clauses 14* and *19*, to the extent that they introduce a renewal statement or certificate about continuing professional development (CPD), to commence on 1 May 2002. This latter commencement date is to allow adequate notice to be given to registered valuers or listed specialist retail valuers of the CPD requirement in the renewal of registration or listing.

*Clause 3* names the Principal Act being amended.

*Clause 4* amends definitions in the Act by widening the meaning of "appointed member" to include the additional members to the Board appointed from business, community and professional organizations under *Clause 5* of this Bill, and by including definitions of the new "annual renewal" date of 1 May and "CPD" – for a registered valuer means continuing professional development" - which is necessary from the introduction of a renewal statement or certificate of CPD under *Clauses 14* and *19*.

*Clause 5* updates a name of an institute and provides for two additional Board members to the current 3 registered valuers to be appointed from names submitted by business, community and professional organizations. This is to allow business and community to have greater input into the administration of valuer's registration. A further amendment to section 6(2) provides that the additional members are also to be appointed by Governor in Council by gazette notice.

*Clause 6* updates the name of an institute.

*Clause 7* makes a consequential amendment on the reasons for a member to be removed from office to exclude the reference of “ceases to be a registered valuer” from applying to members appointed from business and community under *Clause 5*.

*Clause 8* provides for a quorum of 3 members instead of 2 to constitute a meeting following the changed membership of the Board to a total of 5. There is also a consequential amendment to section 21(3) to plural speech to reflect more than one member being present.

*Clause 9* changes the date for publishing a copy of the register of valuers from 1 January to 1 July in each year to follow the changes in renewal dates for registration to 1 May each year as a result of *Clause 12* of this Bill.

*Clause 10* updates the reference to a prescribed institute by removing the qualification of “of valuers” to reflect the trend for property institutes to have a more general property focus than the previous concentration on a particular discipline. The clause also changes the prerequisite period during which practical valuation experience may be demonstrated from 5 years to 3 years to be commensurate with current academic courses.

*Clause 11* makes a consequential amendment to section 34(2) to clarify that it is the prescribed roll fee for the financial year which is being apportioned for part of the year when a person is first registered as a valuer.

*Clause 12* changes the heading of section 36 from “**annual roll fee**” to “**roll fee, late fee and restoration fee**” and the dates for renewal by payment of the prescribed roll fee from a calendar year to those commensurate with a financial year.

*Clauses 14* and *19* introduce additional requirements for renewal of registration of a valuer, or listing as a specialist retail valuer. The Board will accept as meeting the requirement, a registered valuer giving it a statement or certificate about CPD covering at least 12 months over the previous 18 months. This 18-month period includes the prior calendar year adopted by a professional or property body for its own CPD activities. In other words, the professional or property body’s certificate of completion of CPD, or the requirements for issue of such a certificate are available, or are known to registered valuers prior to the first of May renewal date for registration.

*Clause 13* inserts a new section to allow payment of the prescribed roll fee up to 5 years in advance. It also provides that the fee may be refunded after the next annual renewal date, if the particulars of a valuer are removed

from the roll, or the roll fee was reduced during the five-year period. It also allows for payment of the higher fee, if the annual prescribed fee is increased during the five-year period.

*Clause 14* introduces new sections 36B to 36D which implement the annual competency based renewal of registration by providing that a registered valuer must give to the Board a statement or certificate about prescribed CPD, or an application for exemption from providing a statement or certificate about prescribed CPD in special circumstances. It also provides for a fee for late lodgement of the CPD statement or certificate and the appropriate entries that are to be made in the register about the renewal of registration.

*Clause 15* renames a heading and makes a consequential amendment to sections 40 (2) and (4) dealing with the restoration of registration.

*Clause 16* removes subsection 42C(2) and (3) from the Act, as these subsections have been found to place an unnecessary restriction on trading by listed specialist retail valuers.

*Clause 17* introduces a new subsection to ensure that upon a decision to refuse an application for listing as a specialist retail valuer, the board must make the applicant aware of their right of appeal against the decision.

*Clause 18* removes a redundant reference to “time” in a decision by the board on an application by a registered valuer for recording on a list as a specialist retail valuer.

*Clause 19* introduces new sections 42FA to 42FD which implement the annual competency based renewal of recording on a list of specialist retail valuers. 42FA provides that a registered valuer must pay the prescribed fee and give to the Board a statement that in the last 18 months that the listed registered valuer has undertaken the prescribed amount of CPD relating to retail rental valuation.

42FB provides for the option payment up to 5 years in advance of the prescribed annual renewal fee for the recording. It also provides that the fee may be refunded after the next annual renewal date, if the particulars of a valuer are removed from the list, or the recording fee was reduced during the five-year period. It also allows for payment of the higher fee, if the annual prescribed fee is increased during the five-year period.

42FC allows the board to exempt a specialist retail valuer from providing a statement or certificate about prescribed CPD in special circumstances.

42FD provides for the appropriate entries that are to be recorded on the list about the renewal of the recording of a valuer as a specialist retail valuer.

*Clause 20* replaces a heading of a section to be more explicit of its effect on a recorded specialist retail valuer.

*Clause 21* introduces new sections 42GA to 42 GD which provide for the procedures for the board to:

- remove a valuer's particulars from the list of specialist retail valuers;
- restore a valuers name on this list;
- penalise a person for unauthorised dealing with this list; and
- allow waiver of payment of prescribed fees payable regarding recording on this list, if the board considers it reasonable in the circumstances.

These new sections parallel those currently applying in the Act to the registration of valuers.

*Clause 22* amends section 50 dealing with a disciplinary committee to provide for a minimum of 3 members or assistant members to form the committee. This will allow the committee to function without using a member or assistant member who may have an apparent conflict of interest.

*Clause 23* introduces a new section 50A to ensure a member or assistant member is not appointed to a disciplinary committee if there is an apparent conflict of interest. It also provides that, if during a proceeding of the committee, a chairperson or member becomes aware of a conflict of interest in the matter being dealt with, that person must resign from that committee.

*Clause 24* amends section 59 dealing with cancellation of registration etc by allowing a disciplinary committee to order a person found guilty of a charge to pay partial costs of the investigation (currently only full costs can be ordered). It also clarifies that if a registered valuer fails to pay an order for a penalty or costs within the stated time, the Board may take action to suspend or cancel the valuer's registration.

*Clause 25* removes the redundant reference to appeals against a geographical limitation of practise of a specialist retail valuer, following the omission of the power to impose such a limitation by *Clause 16*.

*Clause 26* inserts a new part 6 heading to preface the existing transitional provisions of the Principal Act contained in sections 70 and 71.

*Clause 27* inserts a new Part 7 heading and sections 72 to 74 to provide for transitional provisions regarding the publishing of names of registered valuers from 1 January to 1 July and the change in the due date for payment of roll fees from 1 November in a year to 1 May of the next year.