

South Australia

## Psychological Practices Act 1973

An Act to provide for the registration of psychologists, the protection of the public from unqualified persons and certain harmful practices and for other purposes.

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### Contents

#### Part 1—Preliminary

- 1 Short title
- 4 Definitions
- 5 Act not to apply to certain persons
- 6 Exemption from application of the whole or part of Act

#### Part 2—The South Australian Psychological Board

##### Division 1—The Board and registrar

- 7 South Australian Psychological Board
- 8 Composition of Board
- 9 Terms and conditions of office
- 10 Quorum etc of the Board
- 10A Conflict of interest under Public Sector (Honesty and Accountability) Act
- 11 Validity of acts of Board
- 12 Common Seal of the Board
- 13 Registrar, officers and servants
- 14 Powers and functions of Board
- 15 Judicial notice of certificate of registration
- 16 Funds, assets of the Board
- 17 Annual report
- 18 Accounts and audit
- 19 Delegation by Board

##### Division 2—Registration

- 20 Register of psychologists
- 21 Certificate of registration
- 22 Qualification for registration
- 23 Refusal to register as psychologist etc
- 24 Removal from the register

##### Division 3—Inquiries

- 25 Registrar's powers of investigation
- 26 Inquiries, disciplinary powers etc
- 27 Procedure in relation to inquiry
- 28 Powers of Board as a disciplinary tribunal

- 29 Appeal
- 30 Operation of order may be suspended
- 31 Certificate of registration to be surrendered

### Part 3—Practice of psychology

- 32 Prescribed psychological practices
- 33 Advertising by unregistered persons prohibited
- 34 Unregistered persons not to practise psychology on behalf of registered psychologist
- 35 Restriction on the use of unregistered title etc
- 36 Restriction on the use of certain titles by a company or association
- 37 Restriction on the use of certain titles by an unregistered person
- 38 Use of psychological title by educational institution

### Part 4—Hypnotism

- 39 Practice of hypnosis

### Part 5—Miscellaneous

- 40 Summary proceedings for offences
- 41 Regulations

### Legislative history

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Psychological Practices Act 1973*.

### **4—Definitions**

In this Act, unless the contrary intention appears—

***hypnosis*** includes any activity or practice prescribed as being hypnosis for the purposes of this Act;

***member***, in relation to the Board, means a member of the Board, and includes the member who is, for the time being, chairman of the Board;

***prescribed psychological practice*** means a psychological practice relating to—

- (a) the administration or interpretation of individual tests of intelligence; or
- (b) the interpretation of personality tests or inventories,

prescribed as being a psychological practice for the purposes of this Act;

***registered psychologist*** means a person whose name is for the time being in the register;

***school*** means a school as defined in the *Education Act 1972*;

***the Board*** means the South Australian Psychological Board constituted under section 7 of this Act;

*the register* means the register established and maintained pursuant to section 20 of this Act;

*the registrar* means the registrar appointed and for the time being in office pursuant to section 13 of this Act.

## **5—Act not to apply to certain persons**

This Act does not apply to any thing done or omitted to be done—

- (a) by a legally qualified medical practitioner in the ordinary course of medical practice; or
- (b) by a student or teacher, in the course of study or research being undertaken at any university, institute of technology, school or other prescribed institution.

## **6—Exemption from application of the whole or part of Act**

- (1) The Governor may by proclamation declare any person or any person of a class to be exempt from the provisions of this Act specified in the proclamation on that person or person of a class complying with such conditions, if any, as may be specified in the proclamation and that proclamation shall apply and have effect accordingly.
- (2) The Governor may by proclamation revoke or vary any declaration or condition referred to in subsection (1) of this section.

# **Part 2—The South Australian Psychological Board**

## **Division 1—The Board and registrar**

### **7—South Australian Psychological Board**

- (1) There shall be a Board entitled the *South Australian Psychological Board*.
- (2) The Board—
  - (a) shall be a body corporate with perpetual succession and a common seal; and
  - (b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property; and
  - (c) may in its corporate name and capacity sue and be sued; and
  - (d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.
- (3) Where a document purporting to bear the common seal of the Board is produced before any court or person acting judicially that court or that person, as the case may be, shall, unless the contrary is proved, presume—
  - (a) that the document purporting to bear the common seal of the Board bears the common seal of the Board; and
  - (b) that the common seal was duly affixed.

## **8—Composition of Board**

- (1) The Board shall consist of seven members appointed by the Governor, of whom—
  - (a) one, who shall be chairman, shall be a legal practitioner nominated by the Minister; and
  - (b) one shall be a medical practitioner with a post-graduate qualification in psychiatry nominated by the Minister; and
  - (c) one shall be a person, who gives instruction in psychology at a university or other tertiary institution in South Australia, nominated by the Minister; and
  - (d) four shall be persons, nominated by the Minister, being persons who, in the opinion of the Minister, have a knowledge of the practice of psychology.
- (2) Any person appointed to membership of the Board under subsection (1)(d) of this section after the first appointments have been made under that paragraph must be a registered psychologist.

## **9—Terms and conditions of office**

- (1) Subject to this Act, a member of the Board shall be appointed for such term of office, not exceeding three years, as the Governor may determine and specify in the instrument of his appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.
- (2) If a member of the Board is unable, or fails, for any reason to act in his capacity as a member, the Governor may appoint a suitable person to be a deputy of the member, and such a person, while so acting, shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.
- (3) The Governor may remove a member of the Board from office for—
  - (a) mental or physical incapacity; or
  - (b) neglect of duty; or
  - (c) dishonourable conduct; or
  - (d) any other cause considered sufficient by the Governor.
- (4) The office of a member of the Board shall become vacant if—
  - (a) he dies; or
  - (b) his term of office expires; or
  - (c) he resigns by written notice addressed to the Minister; or
  - (d) he is removed from office by the Governor pursuant to subsection (3) of this section.
- (5) Upon the office of a member of the Board becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

## **10—Quorum etc of the Board**

- (1) Four members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting unless a quorum is present.
- (2) A decision carried by a majority of the votes cast by the members present at a meeting of the Board shall be a decision of the Board.
- (3) The chairman shall preside at a meeting of the Board and, in addition to a deliberative vote, in the event of an equality of votes, have a second or casting vote.
- (4) In the absence of the chairman from a meeting of the Board, the members present shall elect one of their number to be chairman for that meeting and a member so elected shall have and may perform and discharge all the powers and functions of the chairman at that meeting.
- (5) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

## **10A—Conflict of interest under Public Sector (Honesty and Accountability) Act**

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with psychologists generally or psychiatrists generally or a substantial section of psychologists or psychiatrists.

## **11—Validity of acts of Board**

- (1) No act or proceeding of the Board shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member and any such act or proceeding shall be as valid and effectual as it would have been if the vacancy or defect had not existed.

## **12—Common Seal of the Board**

- (1) The common seal of the Board shall be kept in the custody of such member or officer of the Board as the Board determines and shall not be affixed to any instrument except in pursuance of a resolution of the Board.
- (2) The affixing of the common seal to any instrument executed by the Board shall be attested by the signatures of any two members.

## **13—Registrar, officers and servants**

- (1) The Board shall appoint a registrar and may employ such other officers and servants as it considers necessary for the administration of this Act.
- (2) The Board may, with the approval of the Minister and under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

## **14—Powers and functions of Board**

The Board shall—

- (a) control the registration of psychologists; and

- (b) conduct inquiries into the professional or other conduct of registered psychologists; and
- (c) subject to this Act, decide all claims for registration as psychologists under this Act.

### **15—Judicial notice of certificate of registration**

In all courts and before all persons acting judicially—

- (a) a certificate purporting to be signed by the registrar stating that any person is or was on any particular day or throughout any particular period duly registered as a psychologist under this Act shall be *prima facie* evidence of the fact so stated in that certificate; and
- (b) the production of the register or an extract from the register certified as such by the registrar shall be *prima facie* evidence of the matter set out in that register or extract, as the case may be.

### **16—Funds, assets of the Board**

- (1) The assets of the Board shall consist of—
  - (a) all money received by way of fees; and
  - (b) all gifts, devises and bequests made to the Board; and
  - (c) all money or property that is acquired by the Board for any of the purposes of this Act.
- (2) The Board shall apply its funds in payment of the expenses incurred by the Board in the administration of this Act, including the remuneration of the members of the Board at such rates as are fixed by the Governor, and the remuneration of the registrar and other officers and servants employed by the Board.

### **17—Annual report**

- (1) The Board shall on or before the thirty-first day of October in each year submit a report to the Minister upon the administration of this Act during the year ended on the preceding thirtieth day of June in that year.
- (2) The Minister shall cause a copy of a report under this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session, or if Parliament is not then in session, within fourteen days of the commencement of the next session of Parliament.

### **18—Accounts and audit**

- (1) The Board shall cause proper accounts to be kept of its financial affairs.
- (2) The Auditor-General may at any time and shall at least once in each year, audit the accounts of the Board.
- (3) The provisions of section 41 of the *Audit Act 1921* shall apply and have effect as if the Board were a public corporation referred to in that section.

## **19—Delegation by Board**

- (1) The Board may by writing over the common seal of the Board delegate to any member of the Board or person any of the powers and functions conferred on the Board by this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate with respect to the matters or matters of the class specified or the place or locality defined in the instrument of delegation.
- (2) A delegation under subsection (1) of this section is revocable in writing at will and no delegation shall prevent the exercise of any power or function of the Board.

## **Division 2—Registration**

### **20—Register of psychologists**

The registrar shall keep a register in which the names and qualifications of all registered psychologists shall be entered and shall ensure that the register is at all reasonable times open for inspection without charge, by any person.

### **21—Certificate of registration**

The registrar shall on application made to him at any time by a registered psychologist and on payment of the prescribed fee issue to that psychologist a certificate to the effect that the psychologist is a registered psychologist.

### **22—Qualification for registration**

- (1) Subject to this Act, a person—
  - (a) who has attained the age of eighteen years; and
  - (b) who is of good fame and character; and
  - (c) who—
    - (i) is the holder of a degree from a recognised university, in the course of attaining which, or after attaining which, he has successfully passed such subjects in the discipline of psychology as constitute a progression three year course of study in psychology and satisfies the Board—
      - (A) that he was practising psychology in this State immediately before the commencement of this Act; or
      - (B) that, either before or after, or partly before and partly after, that commencement, he had not less than three years' experience in the practice of psychology that in the opinion of the Board is sufficient to render him competent to practise psychology at the time he seeks registration under this Act; or
    - (ii) has passed such examinations as are considered by the Board necessary to establish that he has sufficient qualifications for registration under this Act; or

- (iii) is a member of any body established outside the State or has obtained any qualification outside the State in respect of which membership or qualification the Board is of the opinion that the membership or qualification, as the case may be, is sufficient qualification for registration under this Act; and
- (d) who has paid the prescribed fee,
- shall be entitled to be registered by having his name entered on the register.
- (2) Every registration effected pursuant to this section shall be in force until the thirtieth day of September in the year next following the year on which the registration was so effected.
- (3) Any registered psychologist may on payment of the prescribed fee renew his registration for the year next ensuing after the thirtieth day of September in any year.
- (4) In this section a ***recognised university*** means a university for the time being declared pursuant to subsection (5) of this section to be a recognised university.
- (5) The Board may, by notice published in the Gazette, declare a university to be a recognised university for the purposes of this Act and may by a notice published in a like manner amend, vary or revoke such a declaration.

### **23—Refusal to register as psychologist etc**

- (1) If an applicant for registration as a psychologist has been at any time deprived of his qualification or diploma, in the absence of which he would not be entitled to be so registered, by the body which granted his qualification or diploma, the Board may, without prejudice to any future application, refuse him registration as a psychologist.
- (2) The Board may refuse to register as a psychologist any person who is otherwise entitled to be registered but whose name has been removed from any register or roll established or kept under the law of any place providing for the registration or certification of psychologists under a public authority, but the Board shall not refuse to register any such person unless the reason for such removal was an act or omission of a nature affecting his conduct in the practice of psychology for which, if done or omitted to have been done in this State, the Board would have been authorised under this Act to cause the name of such person to be removed from the register.

### **24—Removal from the register**

- (1) The Registrar shall remove from the register the name of any registered psychologist who has died or become of unsound mind or whose registration has expired or has been cancelled or suspended by the Board under section 26 of this Act.
- (2) Any entry in the register which appears to the Board to have been irregularly or fraudulently procured may with the consent of the Minister be removed by the registrar from the register.

## **Division 3—Inquiries**

### **25—Registrar's powers of investigation**

- (1) The registrar may of his own motion and shall at the direction of the Board make any investigation that he or the Board considers necessary or expedient for the purpose of determining any application, or other matter before the Board.

- (2) The registrar shall report in writing to the Board upon every such investigation.

## **26—Inquiries, disciplinary powers etc**

- (1) The Board may, upon the application of any person made in the prescribed manner, or of its own motion, inquire into the conduct of any registered psychologist.
- (2) If after conducting an inquiry under subsection (1) of this section the Board is satisfied that proper cause exists for disciplinary action, the Board may do one or more of the following—
- (a) reprimand the person in relation to whom the inquiry was held; and
  - (b) cancel the registration of that person or, for a period not exceeding twelve months, suspend his registration.
- (3) There shall be proper cause for disciplinary action if a registered psychologist—
- (a) has improperly obtained registration; or
  - (b) has been guilty of gross professional negligence or malpractice or misconduct; or
  - (c) has been convicted of an indictable offence.

## **27—Procedure in relation to inquiry**

- (1) The Board shall give to the registered psychologist whose conduct is the subject of an inquiry and to any person upon whose application an inquiry is to be held not less than seven days' notice of the time and place at which it intends to conduct the inquiry and shall afford any such person a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board.
- (2) If a person to whom notice has been given pursuant to subsection (1) of this section does not attend at the time and place fixed by the notice, the Board may hold the inquiry in his absence.
- (3) The procedure at an inquiry shall be determined by the Board.
- (4) Where the conduct of any registered psychologist becomes the subject of an inquiry conducted by the Board he may be represented by a legal practitioner at the inquiry.

## **28—Powers of Board as a disciplinary tribunal**

- (1) For the purposes of an inquiry, the Board may—
- (a) by summons signed on behalf of the Board by a member of the Board, require the attendance before the Board of any person whom the Board thinks fit to call before it; or
  - (b) by summons signed on behalf of the Board by a member of the Board, require the production of any books, papers or documents; or
  - (c) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of any of them or of any of their contents; or

- (d) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board relevant to any matter being inquired into by the Board, which oath or affirmation may be administered by any member of the Board; or
  - (e) require any person appearing before the Board including the person whose conduct is the subject of the inquiry (whether he has been summoned to appear or not) to answer any relevant questions put to him by any member of the Board or by any other person appearing before the Board.
- (2) Subject to subsection (3) of this section, if any person—
- (a) who has been served with a summons to attend before the Board neglects or fails to attend in obedience to the summons; or
  - (b) who has been served with a summons to produce any books, papers or documents, neglects or fails to comply with the notice; or
  - (c) misbehaves himself before the Board, wilfully insults the Board or any member thereof, or interrupts the proceedings of the Board; or
  - (d) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Board,
- he shall be guilty of an offence and liable to a penalty not exceeding \$250.
- (3) A person shall not be obliged to answer a question put to him by the Board if the answer to that question would tend to incriminate him or to produce any books, papers or documents if their contents would tend to incriminate him.
- (4) In the course of an inquiry the Board may receive in evidence, and act upon—
- (a) any transcript of evidence in proceedings before a court; or
  - (b) any findings or judgment of a court,
- that may be relevant to the proceedings.
- (5) The Board may, upon the determination of an inquiry under this Part, make such orders as to costs as the Board thinks just and reasonable.
- (6) Where the Board makes an order for the payment of costs against a person registered under this Act and the costs are not paid within the time fixed by the Board, the Board may suspend the registration of that person until the costs are paid, or for such period as the Board thinks fit.
- (7) Where the Board has ordered the payment of costs, the costs shall be recoverable summarily.

## **29—Appeal**

- (1) A right of appeal to the Supreme Court shall lie against any order of the Board made in the exercise or purported exercise of any of its powers or functions under this Act.
- (2) The appeal must be instituted within one month of the making of the order appealed against but the Supreme Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

- (3) The Supreme Court may, on the hearing of the appeal, do one or more of the following, according to the nature of the case—
  - (a) affirm, vary or quash the order appealed against, or substitute, or make in addition, any order that should have been made in the first instance;
  - (b) remit the subject matter of the appeal to the Board for further hearing or consideration;
  - (c) make any further or other order as to costs or any other matter that the case requires.
- (4) The Board shall, if so required by any person against whom an order has been made, state in writing the reasons for its order.
- (5) If the reasons of the Board are not given in writing at the time of making an order and the appellant then requested the Board to state its reasons in writing, the time for instituting the appeal shall run from the time when the appellant receives the written statement of those reasons.

### **30—Operation of order may be suspended**

- (1) Where an order has been made by the Board and the Board or the Supreme Court is satisfied that an appeal against the order has been instituted, it may suspend the operation of the order until the determination of the appeal.
- (2) Where the Board has suspended the operation of an order under subsection (1) of this section the Board may terminate the suspension, and where the Supreme Court has done so, the Supreme Court may terminate the suspension.

### **31—Certificate of registration to be surrendered**

Upon the cancellation or suspension of a registration pursuant to section 26(2) of this Act any person, having in his possession, custody or control a certificate issued pursuant to section 21 of this Act to the effect that the cancelled registration or suspension is current or to whom such a certificate has been issued shall within seven days of being informed of the cancellation or suspension—

- (a) post or deliver that certificate to the Board; or
- (b) satisfy the Board that the certificate has been lost or destroyed.

Maximum penalty: \$50.

## **Part 3—Practice of psychology**

### **32—Prescribed psychological practices**

- (1) After the expiration of the third month following the commencement of this Act, a person other than a registered psychologist shall not—
  - (a) hold himself out as competent to undertake or carry out; or
  - (b) undertake or carry out,a prescribed psychological practice.

Maximum penalty: \$500.

- (2) After the expiration of the third month next following the commencement of this Act, a person other than a registered psychologist shall not, without the consent in writing of the Minister (proof of which consent shall lie upon that person) use or have in his possession any prescribed instrument or prescribed device.

Maximum penalty: \$500.

### **33—Advertising by unregistered persons prohibited**

A person, other than a registered psychologist, shall not advertise or hold out—

- (a) that he is skilled in the practice of psychology; or
- (b) that he is willing to practise psychology; or
- (c) that he is competent to teach the practice of psychology; or
- (d) that he is willing to instruct in the practice of psychology; or
- (e) that he seeks or requires human subjects for investigation or research involving the practice of psychology.

Maximum penalty: \$250.

### **34—Unregistered persons not to practise psychology on behalf of registered psychologist**

A registered psychologist shall not authorise, permit or suffer any person other than a registered psychologist to practise psychology for him or on his behalf except in the prescribed manner and in the prescribed circumstances.

Maximum penalty: \$500.

### **35—Restriction on the use of unregistered title etc**

A registered psychologist, in relation to the practice of psychology, shall not suffer or permit any nameplate, sign, advertisement, hand-bill or notice relating to him to bear any title, words, letters, addition or description either in full or in abbreviation or in combination other than that or those inserted in the register in connection with his registration under this Act.

Maximum penalty: \$500.

### **36—Restriction on the use of certain titles by a company or association**

A company or association, whether or not it consists wholly of registered psychologists, shall not, except with the consent of the Board, assume or use either alone or in combination with any other words or letters, the name or title "psychological company", "psychological institute", "psychological hospital", "psychological college", "college of psychology" or "school of psychology" or any other name or title having a similar meaning.

Maximum penalty: \$500.

### 37—Restriction on the use of certain titles by an unregistered person

After the expiration of the third month next following the commencement of this Act, a person, who is not for the time being registered as a psychologist under this Act, shall not—

- (a) assume, either alone or in combination with any other words or letters, the name or title of "psychologist";
- (b) use any name, title or description likely to cause any person reasonably to believe that he is registered under this Act.

Maximum penalty: \$500.

### 38—Use of psychological title by educational institution

Nothing in this Part shall limit or restrict the use of any title or description assumed by any public educational institution recognised by the Board by notice in writing as being an institution for the purpose of education in psychology.

## Part 4—Hypnotism

### 39—Practice of hypnosis

- (1) A person other than—
  - (a) a registered psychologist, in the ordinary course of his psychological practice; or
  - (b) a legally qualified medical practitioner, in the ordinary course of his medical practice; or
  - (c) a dentist as defined in the *Dentists Act 1931*, approved by the Board, in the practice of dentistry as defined in that Act; or
  - (d) a prescribed person, under or in accordance with the conditions specified in relation to him by the Board,

shall not engage in the practice of hypnosis.

Maximum penalty: \$500 or 3 months' imprisonment.

- (2) In this section a *prescribed person* means a person—
  - (a) who, during a period of not less than two years immediately preceding the commencement of this Act, had, in the opinion of the Board, derived his income principally from the practice of hypnosis for therapeutic purposes; and
  - (b) who is approved by the Board as a person entitled to practise hypnosis in accordance with such conditions as are specified by the Board in relation to him.

## Part 5—Miscellaneous

### 40—Summary proceedings for offences

All proceedings for offences against this Act shall be dealt with summarily.

## 41—Regulations

The Governor may make such regulations, not inconsistent with this Act, as may be necessary or convenient for the purpose of carrying out or giving effect to this Act or the objects thereof, including (but without limiting the generality of the foregoing) regulations for—

- (a) the keeping of the register and the payment of fees in connection with registration and removal of registration; and
- (b) the cancellation and suspension of registration and matters incidental thereto; and
- (c) the practice of psychology and the conduct of such practice; and
- (d) the employment by registered psychologists, in the practice of psychology, of persons other than registered psychologists; and
- (e) penalties, not exceeding two hundred dollars in each case, for offences under the regulations.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Repeal of Act

The *Psychological Practices Act 1973* was repealed by Sch 1 cl 28(i) of the *Health Practitioner Regulation National Law (South Australia) Act 2010* on 1.7.2010.

### Principal Act and amendments

Year	No	Title	Assent	Commencement
1974	37	<i>Psychological Practices Act 1973</i>	11.4.1974	3.3.1975 ( <i>Gazette</i> 19.12.1974 p3768)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 123 (ss 279—282)—1.2.2010 ( <i>Gazette</i> 28.1.2010 p320)

### Provisions amended since 3 February 1976

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
ss 2 & 3	<i>omitted under Legislation Revision and Publication Act 2002</i>	
Pt 2		
s 8		
s 8(3) and (4)	<i>deleted by 84/2009 s 279</i>	<i>1.2.2010</i>
s 10A	inserted by 84/2009 s 280	1.2.2010
s 11		
s 11(2)	<i>deleted by 84/2009 s 281</i>	<i>1.2.2010</i>
s 13		
s 13(2)	substituted by 84/2009 s 282	1.2.2010