

# House of Assembly

As passed all stages and awaiting assent.

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South Australia

## Statutes Amendment (SACAT) Bill 2019

A BILL FOR

An Act to amend various Acts for the purpose of vesting jurisdiction in the South Australian Civil and Administrative Tribunal, to make associated amendments to the *Mines and Works Inspection Act 1920*, the *Pastoral Land Management and Conservation Act 1989*, the *Residential Parks Act 2007*, the *Retirement Villages Act 2016* and the *South Australian Civil and Administrative Tribunal Act 2013* and for other purposes.

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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 *Statutes Amendment (SACAT) Act 2019*.

#### 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

#### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Air Transport (Route Licensing—Passenger Services) Act 2002***

### **4—Amendment of section 3—Interpretation**

Section 3(1)—after the definition of *scheduled air service* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### **5—Substitution of Part 4**

Part 4—delete the Part and substitute:

## **Part 4—Reviews**

### **15—Reviews**

(1) If—

(a) the holder of a route service licence is dissatisfied with—

- (i) a decision of the Minister with respect to the variation, or proposed variation, of a condition of the licence under section 8(5); or
- (ii) a decision of the Minister on an application for a variation of a condition of the licence under section 8(6); or
- (iii) a decision of the Minister refusing consent to a dealing with the licence under section 10(1); or
- (iv) a decision of the Minister refusing consent to the surrender of the licence under section 14(1); or
- (v) a decision of the Minister to suspend or cancel the licence (other than a decision to cancel the licence in conjunction with the expiration of the period of the relevant declaration under Part 2); or

(b) an existing operator within the meaning of section 12 is dissatisfied with a decision of the Minister fixing the conditions of a service route licence offered to the existing operator under that section,

the holder of the licence or the existing operator (as the case may be) may seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.

(2) An application for a review must be made—

- (a) in the case of a review of a decision referred to in subsection (1)(b)—within 14 days after the applicant receives notice of the decision; or



- (b) in any other case—within 21 days after the applicant receives notice of the relevant decision,  
(or within such longer period as the Tribunal may allow).
- (3) The Minister must, if so required by a person affected by a decision of the Minister that is, or may be, the subject of a review by the Tribunal, state in writing the reasons for the decision.
- (4) Except as provided by this section, a decision of the Minister under Part 2 or 3 is not subject to review or appeal in the Tribunal or any court.

## **6—Transitional provisions**

- (1) A right to appeal to the Administrative and Disciplinary Division of the District Court under section 15 of the principal Act in relation to a matter in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced instead before the Tribunal.
- (2) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced under the principal Act before the relevant day.
- (3) In this section—

*principal Act* means the *Air Transport (Route Licensing—Passenger Services) Act 2002*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 3—Amendment of *Architectural Practice Act 2009***

### **7—Amendment of section 3—Interpretation**

- (1) Section 3(1), definition of *District Court*—delete the definition
- (2) Section 3(1)—after the definition of *representative body* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **8—Amendment of section 7—Terms and conditions of membership**

Section 7(5)—delete subsection (5)

### **9—Amendment of section 13—Functions of Board**

Section 13(4)—delete subsection (4)

### **10—Amendment of section 15—Delegations**

Section 15(1)(b)—delete paragraph (b)

**11—Amendment of section 16—Board's procedures**

- (1) Section 16(2)—delete "(other than for the purposes of hearing and determining proceedings under Part 4)"
- (2) Section 16(4)—delete ", except in hearing and determining proceedings under Part 4,"
- (3) Section 16(7)—delete subsection (7)

**12—Repeal of sections 18 to 21**

Sections 18 to 21 (inclusive)—delete the sections

**13—Amendment of section 23—Annual report**

Section 23(2)(a)(iii)—delete "Board" and substitute:

Tribunal

**14—Amendment of section 27—General provisions relating to registers**

Section 27(5)—after "legal proceedings" insert:

(including proceedings before the Tribunal)

**15—Amendment of section 28—Registration of natural persons as architects**

Section 28—after subsection (3) insert:

- (4) The Board may, at any time, on application by a registered architect, vary or revoke a condition imposed by the Board in relation to the person's registration under this section.

**16—Amendment of section 31—Reinstatement on register**

Section 31(1)(c)—delete "Board" and substitute:

Tribunal

**17—Amendment of section 36—Reinstatement on register**

Section 36(1)(c)—delete "Board" and substitute:

Tribunal

**18—Substitution of heading to Part 4 Division 3**

Heading to Part 4 Division 3—delete the heading to Division 3 and substitute:

**Division 3—Disciplinary proceedings**

**19—Amendment of section 46—Obligation to report unprofessional conduct of architect**

- (1) Section 46(1)—delete "Board" and substitute:  
Registrar
- (2) Section 46(2)—delete "Board" and substitute:  
Registrar

**20—Amendment of section 47—Hearing by Tribunal as to matters constituting grounds for disciplinary action**

- (1) Section 47(1)—delete "(the *respondent*) may be laid before the Board (in a manner and form approved by the Board)" and substitute:

may be laid before the Tribunal
- (2) Section 47(2)—delete subsection (2)
- (3) Section 47(3)—delete "Board" and substitute:

Tribunal
- (4) Section 47(4)—delete subsection (4) and substitute:
  - (4) The Tribunal may (without limiting the powers of the Tribunal under the *South Australian Civil and Administrative Tribunal Act 2013*), during the hearing of a complaint under this section—
    - (a) allow an adjournment to enable an inspector to investigate or further investigate matters to which the complaint relates; and
    - (b) allow the modification of the complaint or additional allegations to be included in the complaint subject to any conditions as to adjournment and notice to parties and other conditions that the Tribunal may think fit to impose.
- (5) Section 47(5)—delete subsection (5) and substitute:
  - (5) On the hearing of a complaint, the Tribunal may, if it is satisfied that there is proper cause for taking disciplinary action against the person to whom the complaint relates, by order, do 1 or more of the following:
    - (a) reprimand the person;
    - (b) impose a fine not exceeding \$10 000 on the person;
    - (c) if the person is a registered architect—
      - (i) impose conditions on the person's registration restricting the person's right to provide services as an architect;
      - (ii) suspend the person's registration for a period not exceeding 1 year;
      - (iii) cancel the person's registration;
      - (iv) disqualify the person from being registered;
    - (d) if the person is a body corporate, or a partner in a partnership, that is a registered architectural business—
      - (i) suspend the registration of the body corporate or partnership for a period not exceeding 1 year;
      - (ii) cancel the registration of the body corporate or partnership;

- (iii) disqualify the body corporate or partnership from being registered.
- (6) Section 47(6)—delete "Board" and substitute:  
Tribunal
- (7) Section 47—after subsection (6) insert:
- (6a) The Tribunal must, following the determination of proceedings under this section, notify the Board of the outcome of the proceedings.
  - (6b) The Tribunal may, on application by a party to the proceedings, vary or revoke a condition imposed by the Tribunal under this section in relation to the person's registration under this Act.
  - (6c) An application under subsection (6b) may not be made—
    - (i) within 1 month of the imposition of the condition by the Tribunal to which the application relates; or
    - (ii) within 12 months of any previous application under subsection (6b) by the party to vary or revoke a condition, unless leave is granted by the Tribunal.
  - (6d) The Board, the Minister and representative bodies are entitled to appear and be heard on an application under subsection (6b).
  - (6e) A fine imposed by the Tribunal under subsection (5) is payable to the Board (and is recoverable by the Board as a debt).
- (8) Section 47(8) and (9)—delete subsections (8) and (9)

## 21—Substitution of section 48

Section 48—delete the section and substitute:

### 48—Participation of assessors in disciplinary proceedings

- (1) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be a panel of assessors consisting of persons who are registered architects.
- (2) In any proceedings under this Part, the Tribunal will, if the President so determines, sit with 1 or more assessors from the panel.
- (3) In this section—

*President* means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*.

## 22—Substitution of section 49

Section 49—delete the section and substitute:

### 49—Related provisions

- (1) The Registrar of the Board must, if the person the subject matter of proceedings before the Tribunal under this Part is a partner in a partnership that is a registered architectural business, give such written notice as the Registrar thinks fit to each partner in the partnership, of the time and place at which the Tribunal intends to conduct those proceedings.
- (2) The requirement to give notice under subsection (1) does not extend to adjournments.
- (3) Each partner in a partnership to whom notice is given under subsection (1) is entitled to appear and be heard in the proceedings.

## 23—Substitution of heading to Part 5

Heading to Part 5—delete the heading and substitute:

### Part 5—Reviews

## 24—Amendment of section 50—Review by Tribunal

- (1) Section 50(1)—delete "An appeal lies to the District Court against—" and substitute:

A person may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the following decisions of the Board:

- (2) Section 50(1)—delete "; or" wherever occurring and substitute in each case:  
;
- (3) Section 50(1)(d)—delete paragraph (d)
- (4) Section 50(2) and (3)—delete subsections (2) and (3) and substitute:
  - (2) An application for review must be made within 1 month of the date of the making of the relevant decision of the Board.

## 25—Repeal of section 51

Section 51—delete the section

## 26—Amendment of section 52—Variation or revocation of conditions imposed by Tribunal

Section 52(1)—delete subsection (1) and substitute:

- (1) The Tribunal may, on application by a party to the proceedings, vary or revoke a condition imposed by the Tribunal in relation to a person's registration in proceedings under this Part.
  - (1a) An application under subsection (1) may not be made—
    - (i) within 1 month of the imposition of the condition by the Tribunal to which the application relates; or

- (ii) within 12 months of any previous application under subsection (1) by the party to vary or revoke a condition, unless leave is granted by the Tribunal.

### **27—Repeal of section 53**

Section 53—delete the section

### **28—Amendment of section 66—Review by Tribunal of decisions relating to courses**

- (1) Section 66(1)—delete "apply to the Minister" and substitute:

make an application to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*
- (2) Section 66(2)—delete subsection (2)

### **29—Amendment of section 70—Evidentiary provision**

Section 70(2)—after "legal proceedings" insert:

(including proceedings before the Tribunal)

### **30—Transitional provisions**

- (1) A right to lay a complaint under section 47 of the principal Act with respect to a matter in existence before the relevant day, with the effect that the relevant proceedings would have been commenced before the Board, will be exercised as if this Part had been in operation before the right arose, so that the complaint may be laid instead before the Tribunal.
- (2) A decision or order of the Board under Part 4 Division 3 of the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision or order of the Tribunal.
- (3) Any proceedings before the Board under Part 4 Division 3 of the principal Act immediately before the relevant day that have proceeded to a listing will, unless the President of the Tribunal and the presiding member of the Board otherwise agree, continue and be determined by the Board under the principal Act as if it had not been amended by this Part.
- (4) Any decisions or orders arising out of any proceedings before the Board referred to in subsection (3) will take effect as if they were a decision or order of the Tribunal (including for the purposes of exercising any rights of review or appeal under the *South Australian Civil and Administrative Tribunal Act 2013*).
- (5) Any proceedings before the Board under Part 4 Division 3 of the principal Act immediately before the relevant day that have not proceeded to a listing will, subject to such directions as the President of the Tribunal thinks fit, be transferred to the Tribunal where they may proceed as if they had been commenced before the Tribunal.
- (6) The Tribunal may take such steps as the Tribunal thinks fit to promote or ensure the smoothest possible transition from 1 jurisdiction to another in connection with the operation of subsection (5).

- (7) A right of appeal under section 50 of the principal Act, other than under section 50(1)(d), in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Administrative and Disciplinary Division of the District Court.
- (8) Nothing in this section affects a right of appeal to the Administrative and Disciplinary Division of the District Court against a decision of the Board in proceedings under Part 4 made or given before the relevant day (as the right existed under section 50(1)(d) of the principal Act before its repeal by this Act).
- (9) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (10) A right to apply for review under section 66 of the principal Act in existence before the relevant day (but not exercised before the relevant day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than by making application to the Minister under that section.
- (11) Nothing in subsection (10) affects any proceedings arising from an application made under section 66 of the principal Act before the relevant day.
- (12) For the purposes of this section, proceedings of the Board, in respect of a matter, have *proceeded to a listing* if a hearing (including a directions hearing, interlocutory hearing or other preliminary hearing) has been held by the Board.
- (13) In this section—

*Board* means the Architectural Practice Board of South Australia established under the principal Act;

*President* means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*;

*principal Act* means the *Architectural Practice Act 2009*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 4—Amendment of *Births, Deaths and Marriages Registration Act 1996***

### **31—Amendment of section 29J—Application to change child's sex or gender identity**

- (1) Section 29J(2)(b)—delete "Court" and substitute:  
Tribunal
- (2) Section 29J(4)—delete "Court" wherever occurring and substitute in each case:  
Tribunal
- (3) Section 29J(5)—delete "Court" and substitute:  
Tribunal

- (4) Section 29J(6)—delete subsection (6)

### **32—Amendment of section 29P—Application for identity acknowledgement certificate in respect of child**

- (1) Section 29P(2)(d)—delete "Court" and substitute:

Tribunal

- (2) Section 29P(4)—delete "Court" wherever occurring and substitute in each case:

Tribunal

- (3) Section 29P(5)—delete "Court" and substitute:

Tribunal

- (4) Section 29P(6)—delete subsection (6)

### **33—Amendment of section 29S—Registrar may limit number of applications**

- (1) Section 29S(3)—delete "appeal against the decision to the Court" and substitute:

apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for a review of the decision

- (2) Section 29S(4)—delete "An appeal under this section" and substitute:

An application for review

- (3) Section 29S(4)—after "application" insert:

referred to in subsection (2)(b)

- (4) Section 29S(5)—delete "an appeal under this section" and substitute:

a review

- (5) Section 29S(5)—delete "Court" and substitute:

Tribunal

### **34—Transitional provisions**

- (1) A right to make an application to the Magistrates Court under section 29J or 29P, or appeal to the Magistrates Court under section 29S, of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Magistrates Court.
- (2) Nothing in this section affects any proceedings before the Magistrates Court commenced before the relevant day.
- (3) In this section—

***principal Act*** means the *Births, Deaths and Marriages Registration Act 1996*;

***relevant day*** means the day on which this Part comes into operation;

***Tribunal*** means the South Australian Civil and Administrative Tribunal.



## Part 5—Amendment of *Boxing and Martial Arts Act 2000*

### 35—Substitution of heading to Part 6

Heading to Part 6—delete the heading and substitute:

### **Part 6—Reviews**

### 36—Amendment of section 16—Review by Tribunal

- (1) Section 16(1)—delete "appeal to the Administrative and Disciplinary Division of the District Court against the decision" and substitute:

apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the Minister's decision

- (2) Section 16(2)—delete subsection (2) and substitute:

(2) Subject to subsection (4), an application for review under subsection (1) must be made within 1 month of the making of the Minister's decision.

- (3) Section 16(4)—delete "instituting an appeal" and substitute:

making an application to the Tribunal for review

- (4) Section 16—after subsection (4) insert:

(5) In this section—

***Tribunal*** means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### 37—Transitional provisions

- (1) A right of appeal under section 16 of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Administrative and Disciplinary Division of the District Court.
- (2) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (3) In this section—

***principal Act*** means the *Boxing and Martial Arts Act 2000*;

***relevant day*** means the day on which this Part comes into operation;

***Tribunal*** means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## Part 6—Amendment of *Building Work Contractors Act 1995*

### 38—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of ***District Court***—delete the definition

- (2) Section 3(1)—after the definition of *subcontract* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### **39—Amendment of section 10—Reviews**

- (1) Section 10(1) and (2)—delete subsections (1) and (2) and substitute:

- (1) An applicant for a licence may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of a decision of the Commissioner refusing the application.
- (2) Subject to subsection (4), an application for review must be made within 1 month of the making of the Commissioner's decision.

- (2) Section 10(4)—delete "instituting an appeal" and substitute:

making an application for review

### **40—Amendment of section 17—Reviews**

- (1) Section 17(1) and (2)—delete subsections (1) and (2) and substitute:

- (1) An applicant for registration may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of a decision of the Commissioner refusing the application.
- (2) Subject to subsection (4), an application for review must be made within 1 month of the making of the Commissioner's decision.

- (2) Section 17(4)—delete "instituting an appeal" and substitute:

making an application for review

### **41—Amendment of section 19A—Commissioner may suspend or impose conditions on licence or registration in urgent circumstances**

- (1) Section 19A(4) and (5)—delete subsections (4) and (5) and substitute:

- (4) A person whose licence or registration is suspended or made subject to conditions under this section may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision of the Commissioner to suspend the licence or registration or to impose the conditions.
- (5) Subject to subsection (7), an application for review must be made within 1 month of the making of the relevant decision of the Commissioner.

- (2) Section 19A(6)—delete "appellant" and substitute:

person whose licence or registration has been suspended or made subject to conditions

(3) Section 19A(7) and (8)—delete subsections (7) and (8) and substitute:

(7) If the reasons of the Commissioner are not given in writing at the time of making the decision and the person (within 1 month of the making of the decision) requires the Commissioner to state the reasons in writing, the time for making an application for review runs from the time at which the person receives the written statement of those reasons.

#### **42—Amendment of section 19B—Commissioner may cancel, suspend or impose conditions on licence or registration**

(1) Section 19B(3) and (4)—delete subsections (3) and (4) and substitute:

(3) A person whose licence or registration is cancelled, suspended or made subject to conditions under this section may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision of the Commissioner to cancel or suspend the licence or registration or to impose the conditions.

(4) Subject to subsection (6), an application for review must be made within 1 month of the making of the relevant decision of the Commissioner.

(2) Section 19B(5)—delete "appellant" and substitute:

person whose licence or registration has been cancelled or suspended or made subject to conditions

(3) Section 19B(6) and (7)—delete subsections (6) and (7) and substitute:

(6) If the reasons of the Commissioner are not given in writing at the time of making the decision and the person (within 1 month of the making of the decision) requires the Commissioner to state the reasons in writing, the time for making an application for review runs from the time at which the person receives written statement of those reasons.

#### **43—Amendment of section 22—Complaints**

Section 22—delete "District Court" and substitute:

Tribunal

#### **44—Amendment of section 23—Hearing by Tribunal**

(1) Section 23—delete "District Court" wherever occurring and substitute in each case:

Tribunal

(2) Section 23(2)—delete "the Court" wherever occurring and substitute in each case:

the Tribunal

#### 45—Substitution of section 24

Section 24—delete the section and substitute:

##### 24—Participation of assessors in disciplinary proceedings

- (1) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be a panel of assessors consisting of—

- (a) persons representative of building work contractors; and
- (b) persons representative of members of the public who deal with building work contractors,

who have expertise that would be of value to the Tribunal in relation to proceedings before the Tribunal under this Part.

- (2) In any proceedings under this Part, the Tribunal will, if the President so determines, sit with 1 or more assessors from the panel.
- (4) In this section—

*President* means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*.

#### 46—Amendment of section 25—Disciplinary action

Section 25—delete "District Court" wherever occurring and substitute in each case:

Tribunal

#### 47—Amendment of section 26—Contravention of orders

Section 26—delete "District Court" and substitute:

Tribunal

#### 48—Amendment of section 47—Commissioner and proceedings before Tribunal

- (1) Section 47(1)—delete "District Court" and substitute:

Tribunal

- (2) Section 47(1)—after "Part 2, 3" insert:

, 3A, 3B

- (3) Section 47—after subsection (2) insert:

- (3) Subsection (1) applies in addition to section 53 of the *South Australian Civil and Administrative Tribunal Act 2013*.

#### 49—Repeal of Schedule 1

Schedule 1—delete the Schedule

## **50—Transitional provisions**

- (1) A right of appeal under section 10, 17, 19A or 19B of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Administrative and Disciplinary Division of the District Court.
- (2) A right to lodge a complaint under section 22 of the principal Act with respect to a matter in existence before the relevant day, with the effect that the relevant proceedings would have been commenced before the Administrative and Disciplinary Division of the District Court, will be exercised as if this Part had been in operation before the right arose, so that the complaint may be lodged with the Tribunal rather than the District Court.
- (3) A decision or order of the Administrative and Disciplinary Division of the District Court under Part 4 of the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision or order of the Tribunal.
- (4) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (5) A member of each panel of persons who may sit as assessors established under Schedule 1 of the principal Act (as in force immediately before the relevant day) will cease to hold office on the commencement of this subsection and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time.
- (6) In this section—

*principal Act* means the *Building Work Contractors Act 1995*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 7—Amendment of *Controlled Substances Act 1984***

### **51—Amendment of section 4—Interpretation**

Section 4(1)—after the definition of *trafficable quantity* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **52—Amendment of section 11A—Application of Commonwealth therapeutic goods laws**

Section 11A(3)(b)—delete "Administrative and Disciplinary Division of the District Court of South Australia" and substitute:

Tribunal

### 53—Substitution of section 11L

Section 11L—delete the section and substitute:

#### 11L—Tribunal may sit with assessors

- (1) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be a panel of assessors consisting of persons who have expertise that would be of value to the Tribunal in relation to proceedings before the Tribunal on a review or an appeal under the applied provisions.
- (2) In any proceedings before the Tribunal on a review or an appeal under the applied provisions, the Tribunal may, if the President so determines, sit with 1 or more assessors selected by the President from the panel referred to in subsection (1).
- (3) In this section—

*President* means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*.

### 54—Amendment of section 55—Licences, authorities and permits

- (1) Section 55(5)—delete subsection (5) and substitute:
  - (5) If the Minister makes a decision under subsection (4)(c) to suspend or revoke a person's licence, authority or permit, the person may seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) Section 55(6)—delete "an appeal must be instituted" and substitute:

an application for a review must be made
- (3) Section 55(7)—delete "appellant" and substitute:

person applying for a review
- (4) Section 55(8)—delete subsection (8) and substitute:
  - (8) If the reasons of the Minister are not given in writing at the time of making the decision that is to be the subject of a review and the person seeking the review, within 1 month of the making of the decision, requires the Minister's reasons in writing, the time for applying for a review runs from the time when the person receives the written statement of those reasons.

### 55—Amendment of section 57—Power of Minister to prohibit certain activities

- (1) Section 57(5) and (6)—delete subsections (5) and (6) and substitute:
  - (5) If the Minister decides to make an order under subsection (1), a person to whom the order applies may seek a review of the Minister's decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
  - (6) Subject to subsection (8), an application for a review must be made within 1 month after the applicant receives notice of the relevant order.

- (2) Section 57(7)—delete "appellant" and substitute:  
person applying for a review
- (3) Section 57(8)—delete subsection (8) and substitute:
  - (8) If the reasons of the Minister are not given in writing at the time of making the decision that is to be the subject of a review and the person seeking the review, within 1 month of the making of the decision, requires the Minister's reasons in writing, the time for applying for a review runs from the time when the person receives the written statement of those reasons.

## **56—Transitional provisions**

- (1) A right of appeal under the principal Act in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Administrative and Disciplinary Division of the District Court.
- (2) A decision or order of the Administrative and Disciplinary Division of the District Court under the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision or order of the Tribunal.
- (3) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced under the principal Act before the relevant day.
- (4) A member of a panel of persons who may sit as assessors established under the principal Act (as in existence immediately before the relevant day) ceases to hold office on the commencement of this subsection and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time.
- (5) In this section—

*principal Act* means the *Controlled Substances Act 1984*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 8—Amendment of *Dangerous Substances Act 1979***

### **57—Amendment of section 2—Interpretation**

Section 2(1)—after the definition of *transport* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **58—Amendment of section 29—Provisions relating to seizure**

Section 29(4), definition of *the prescribed period*—delete "Administrative and Disciplinary Division of the Court" and substitute:

Tribunal

## 59—Amendment of section 33—Notices

Section 33(2)(e)—delete the paragraph and substitute:

- (e) must state that the person may seek a review of the decision to issue the notice by the Tribunal.

## 60—Substitution of section 37

Section 37—delete the section and substitute:

### 37—Reviews

- (1) If—
  - (a) a person directly affected by a decision of the Competent Authority relating to a licence, accreditation or permit is dissatisfied with the decision; or
  - (b) a person to whom a notice has been issued under Part 6 is dissatisfied with the decision to issue the notice; or
  - (c) a person who applies for an exemption under section 36 is dissatisfied with a decision of the Competent Authority not to grant the exemption, or to impose a particular condition on an exemption,  
  
the person may seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) In circumstances where an application for a review of a decision may be made under the regulations, a person may seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (3) However, a right to seek a review under this section operates subject to any process under the regulations that provides for reconsideration of a decision before an application for a review of the decision may be made to the Tribunal.
- (4) An application for a review must be made—
  - (a) in the case of a review of a decision to issue a notice under Part 6—within 14 days of the receipt of the notice; or
  - (b) in the case of a review under subsection (2)—within the time prescribed by the regulations; or
  - (c) in any other case—within 1 month after the applicant receives notice of the relevant decision,  
  
(or within such longer period as the Tribunal may allow).

## 61—Amendment of section 50—Regulations

Section 50(2)(y)—delete "Administrative and Disciplinary Division of the District Court" and substitute:

Tribunal



## 62—Transitional provisions

- (1) A right to appeal to the Administrative and Disciplinary Division of the District Court under section 37 of the principal Act in relation to a matter in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced instead before the Tribunal.
- (2) A decision or order of the Administrative and Disciplinary Division of the District Court under the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision or order of the Tribunal.
- (3) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced under the principal Act before the relevant day.
- (4) In this section—

*principal Act* means the *Dangerous Substances Act 1979*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## Part 9—Amendment of *Electoral Act 1985*

### 63—Amendment of section 4—Interpretation

Section 4(1)—after the definition of *to publish* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### 64—Amendment of section 31A—Itinerant persons

Section 31A(8)(c)—delete "appeal against" and substitute:

seek a review of

### 65—Amendment of section 32B—Enrolment or transfer of enrolment

Section 32B(3)(c)—delete "appeal against" and substitute:

seek a review of

### 66—Amendment of section 35—Determination of objection

Section 35(3)(c)—delete "appeal against" and substitute:

seek a review of

### 67—Amendment of section 42—Registration

Section 42(6)(c)—delete "appeal against" and substitute:

seek a review of

**68—Substitution of heading to Part 12**

Heading to Part 12—delete the heading and substitute:

**Part 12—Reviews and Court of Disputed Returns**

**69—Substitution of heading to Part 12 Division 1**

Heading to Part 12 Division 1—delete the heading to Division 1 and substitute:

**Division 1—Reviews**

**70—Amendment of section 100—Reviewable decisions**

- (1) Section 100(1)—delete "An appeal under this Division may be made against any of the following decisions" and substitute:

The following are *reviewable decisions* for the purposes of this Division

- (2) Section 100(2)—delete "decision that may be appealed against under this Division" and substitute:

reviewable decision if

- (3) Section 100(2)(a)—delete "if"  
(4) Section 100(2)(b)—delete "if"

**71—Amendment of section 101—Review by Electoral Commissioner or Tribunal**

- (1) Section 101(1)—delete "decision that may be appealed against under this Division may appeal against the decision to" and substitute:

reviewable decision may seek a review of the decision by

- (2) Section 101(1)(b)—delete "Administrative and Disciplinary Division of the District Court" and substitute:

Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*

- (3) Section 101(2)—delete "appeal must be instituted" and substitute:

application for review must be made

- (4) Section 101(3)—delete "an appeal to" and substitute:

a review by

- (5) Section 101(3)(a)—delete "appeal be instituted" and substitute:

application for review be made

- (6) Section 101(3)(b)—delete "appeal" first occurring and substitute:

application for review

- (7) Section 101(3)(b)—delete "appeal" second occurring and substitute:

application

- (8) Section 101(3)(c)—delete "appellant" and substitute:  
applicant
- (9) Section 101(3)(c)—delete "appeal" and substitute:  
review
- (10) Section 101(3)(d)(i)—delete "decision appealed against" and substitute:  
reviewable decision
- (11) Section 101(4)—delete "District Court under Part 6 Division 2 of the *District Court Act 1991*" and substitute:  
Tribunal under the *South Australian Civil and Administrative Tribunal Act 2013*

## **72—Transitional provisions**

- (1) A right of appeal to the District Court under Part 12 Division 1 of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) Nothing in this section affects any proceedings before the District Court commenced before the relevant day.
- (3) In this section—  
*principal Act* means the *Electoral Act 1985*;  
*relevant day* means the day on which this Part comes into operation;  
*Tribunal* means the South Australian Civil and Administrative Tribunal.

## **Part 10—Amendment of *Employment Agents Registration Act 1993***

### **73—Amendment of section 3—Interpretation**

Section 3—after the definition of *registered premises* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **74—Amendment of section 7—Application for a licence**

Section 7(13)(c)—delete "appeal" and substitute:  
review

### **75—Amendment of section 9—Application for renewal of a licence**

Section 9(4)(b)—delete "appeal" and substitute:  
review

## 76—Substitution of section 15

Section 15—delete the section and substitute:

### 15—Reviews

- (1) The Tribunal has jurisdiction to deal with matters consisting of a review of a decision of the Director under Division 1.
- (2) An application for review of a decision of the Director under Division 1 may be made to the Tribunal within 28 days after the applicant receives notice of the relevant decision (or such longer period as the Tribunal may allow).
- (3) Without derogating from the powers of the Tribunal under section 36 of the *South Australian Civil and Administrative Tribunal Act 2013*, if a review relates to a decision of the Director—
  - (a) to refuse to renew a licence; or
  - (b) to refuse to transfer a licence; or
  - (c) to cancel a licence,the Director or the Tribunal may order that the licence remain in force until the determination of the review.

## 77—Transitional provisions

- (1) A right to appeal to the Magistrates Court under section 15 of the principal Act in relation to a matter in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced instead before the Tribunal.
- (2) Nothing in this section affects any proceedings before the Magistrates Court commenced under the principal Act before the relevant day.
- (3) In this section—

*principal Act* means the *Employment Agents Registration Act 1993*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## Part 11—Amendment of *Equal Opportunity Act 1984*

### 78—Amendment of section 5—Interpretation

- (1) Section 5(1), after the definition of *Registrar* insert:

*SAET* means the South Australian Employment Tribunal established under the *South Australian Employment Tribunal Act 2014*;
- (2) Section 5(1), definition of *Tribunal*—delete "South Australian Employment Tribunal established under the *South Australian Employment Tribunal Act 2014*" and substitute:

South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*

### **79—Amendment of section 92—Tribunal may grant exemptions**

Section 92—after subsection (8) insert:

- (9) A decision of the Tribunal under this section may not be the subject of an application for internal review under section 70 of the *South Australian Civil and Administrative Tribunal Act 2013*.

### **80—Amendment of section 95B—Referral of complaints to Tribunal**

Section 95B—after its present contents (now to be designated as subsection (1)) insert:

- (2) Despite subsection (1)(ba), if, in respect of a complaint, the Commissioner is of the opinion that—
  - (a) the complaint relates to a matter that may be the subject of proceedings under another Act in respect of which SAET has jurisdiction; and
  - (b) the matter should be transferred to SAET (whether or not there has been an attempt to resolve the matter by conciliation),

the Commissioner may refer the matter to SAET for hearing and determination (but nothing in this subsection prevents the Commissioner from acting under subsection (1)(ba)).

- (3) If the Commissioner refers a matter to SAET under subsection (2), SAET will be taken to have jurisdiction under this Act to deal with the matter and the matter may be determined by SAET in accordance with this Act.

### **81—Amendment of section 96—Power of Tribunal to make certain orders**

Section 96(4) and (5)—delete subsections (4) and (5)

### **82—Substitution of Heading to Part 8 Division 2**

Heading to Part 8 Division 2—delete the heading and substitute:

#### **Division 2—Reviews and appeals**

### **83—Amendment of section 96B—Review of refusal to extend time**

- (1) Section 96B(1)—after "Tribunal" insert:

under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*
- (2) Section 96B(3)—delete subsection (3)

## 84—Insertion of section 96C

After section 96B insert:

### 96C—No internal review by Tribunal

A decision or order of the Tribunal in proceedings under this Part (including a decision to refer a matter to the Commissioner for investigation under section 93A) may not be the subject of an application for an internal review under section 70 of the *South Australian Civil and Administrative Tribunal Act 2013*.

## 85—Insertion of sections 98 to 98C

After section 97 insert:

### 98—Representation

In addition to section 56(1) of the *South Australian Civil and Administrative Tribunal Act 2013*, a person appearing in proceedings before the Tribunal may, by leave of the Tribunal, be represented by an officer or employee of a registered industrial association.

### 98A—Appeals

- (1) A right of appeal lies to the Supreme Court against—
  - (a) a decision by the Tribunal on an application for the grant, renewal or revocation of an exemption; or
  - (b) a decision or order made by the Tribunal in proceedings under this Part.
- (2) An appeal under this section may be made by a party to the proceedings to which the appeal relates.
- (3) The following provisions operate in connection with the application of section 71 of the *South Australian Civil and Administrative Tribunal Act 2013* in relation to an appeal under this section:
  - (a) section 71(2), (2a) and (3a) of the *South Australian Civil and Administrative Tribunal Act 2013* do not apply;
  - (b) if the reasons of the Tribunal were not given in writing at the time of the making of a decision or order and the appellant then requested the Tribunal to state its reasons in writing, the time for instituting the appeal under section 71 of the *South Australian Civil and Administrative Tribunal Act 2013* runs from the time when the written statement of those reasons is given to the appellant;
  - (c) an appeal under this section must be conducted as a review of the decision or order of the Tribunal;
  - (d) the Supreme Court may, on the hearing of an appeal, exercise 1 or more of the following powers:

- (i) affirm, vary or quash the decision or order appealed against, or substitute, or make in addition, a decision or order that should have been made in the first instance;
- (ii) remit the subject matter of the appeal to the Tribunal for further hearing or consideration or for rehearing;
- (iii) make any order as to costs or any other matter that the justice of the case requires.

### **98B—Transfer of proceedings**

- (1) The Tribunal may, on application by a party to the proceedings or on its own initiative, transfer proceedings before the Tribunal under this Act (the *transferred proceedings*) to SAET if—
  - (a) the transferred proceedings include or relate to matters that may be the subject of proceedings under another Act in respect of which SAET has jurisdiction; and
  - (b) the Tribunal considers that it would be more appropriate or expeditious for the transferred proceedings to be dealt with by SAET.
- (2) The following provisions apply to transferred proceedings under subsection (1):
  - (a) SAET will be taken to have jurisdiction under this Act to deal with the matter the subject of the transferred proceedings;
  - (b) the transferred proceedings may be determined by SAET in accordance with this Act.
- (3) If proceedings are transferred to SAET under subsection (1)—
  - (a) a registrar or other member of the staff of the Tribunal must forward to SAET—
    - (i) a file containing all documents filed in the Tribunal in the proceedings; and
    - (ii) a transcript of any evidence taken before the Tribunal in the proceedings; and
    - (iii) copies of any order made by the Tribunal in relation to the proceedings; and
  - (b) SAET may—
    - (i) receive in evidence any transcript of any evidence taken before the Tribunal in the proceedings and draw any conclusions of fact from that evidence that appear proper; and
    - (ii) adopt any findings or decision of the Tribunal that may be relevant to proceedings before SAET; and

- (iii) adopt or make any decision, direction, determination or order in relation to the proceedings; and
- (iv) continue any proceedings as if they had been commenced before or in the SAET; and
- (v) take other steps to promote or ensure the smoothest possible transition from 1 jurisdiction to another in connection with the operation of this section.

### **98C—No application for review**

A decision of the Tribunal to transfer proceedings before the Tribunal to SAET under section 98B(1) may not be the subject of an application for an internal review under section 70 of the *South Australian Civil and Administrative Tribunal Act 2013*.

### **86—Amendment of section 100—Proceedings under *Fair Work Act 1994***

- (1) Section 100(1)—after "proceedings" insert:  
before SAET
- (2) Section 100(6)—delete "the Tribunal in proceedings before the Tribunal" and substitute:  
SAET in proceedings before SAET

### **87—Repeal of Schedule 1**

Schedule 1—delete the Schedule

### **88—Transitional provisions**

- (1) Any proceedings before the South Australian Employment Tribunal under the principal Act immediately before the relevant day that have proceeded to a listing will, unless the President of the Tribunal and the President of the South Australian Employment Tribunal otherwise agree, continue and be completed in all respects under the principal Act as if this Part had not come into operation.
- (2) A decision arising out of any proceedings under subsection (1) will take effect as if it were a decision of the South Australian Employment Tribunal under the principal Act (including for the purposes of exercising any rights of review or appeal).
- (3) In relation to proceedings before the South Australian Employment Tribunal under the principal Act immediately before the relevant day that have not proceeded to a listing, the proceedings will, subject to such directions as the President of the Tribunal thinks fit, be transferred to the Tribunal where they may proceed as if they had been commenced before the Tribunal.
- (4) Without limiting a preceding subsection, a right to make any application or referral, or to seek a review, under the principal Act with respect to any matter in existence before the relevant day, with the effect that the relevant proceedings would have been commenced before the South Australian Employment Tribunal, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced instead before the Tribunal.



- (5) The Tribunal may—
- (a) receive in evidence any transcript of evidence in proceedings before the South Australian Employment Tribunal, and draw any conclusions of fact from that evidence that appear proper; and
  - (b) adopt any findings or determinations of the South Australian Employment Tribunal that may be relevant to proceedings before the Tribunal; and
  - (c) adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to proceedings before the South Australian Employment Tribunal before the relevant day (including so as to make a decision or determination, or a direction or order, in relation to proceedings fully heard before the relevant day); and
  - (d) take other steps to promote or ensure the smoothest possible transition from 1 jurisdiction to another in connection with the operation of this section.
- (6) Nothing in a preceding subsection affects proceedings under section 100 of the principal Act.
- (7) An exemption granted by the South Australian Employment Tribunal under section 92 of the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be an exemption granted by the Tribunal.
- (8) A member of a panel established under Schedule 1 of the principal Act (as in force immediately before the relevant day) holding office immediately before the relevant day will cease to hold office on the relevant day and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time (and no right of action will arise against a Minister or the State on account of that termination).
- (9) In this section—

*principal Act* means the *Equal Opportunity Act 1984*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal.

## **Part 12—Amendment of *Gene Technology Act 2001***

### **89—Amendment of section 10—Definitions**

- (1) Section 10(1), definition of *District Court*—delete the definition
- (2) Section 10(1)—after the definition of *thing* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### **90—Amendment of section 19—Review of certain decisions**

Section 19, note—delete "appeal against a reviewable decision under this Act to the District Court" and substitute:

apply for review of a reviewable decision under this Act to the Tribunal

## 91—Amendment of section 183—Review of decisions by South Australian Civil and Administrative Tribunal

- (1) Section 183(1)—delete "appeal to the District Court against" and substitute:

apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of
- (2) Section 183(2)—delete subsection (2) and substitute:
  - (2) An application for review must be made within 28 days after the making of the decision the subject of the review.
- (3) Section 183(3) and (4)—delete subsections (3) and (4) and substitute:
  - (3) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be a panel of assessors consisting of persons who have expertise that would be of value to the Tribunal in relation to proceedings before the Tribunal on a review under this section.
  - (4) In any proceedings on a review under this section, the Tribunal may, if the President so determines, sit with 1 or more assessors from a panel.

## 92—Transitional provisions

- (1) A right of appeal under section 183 of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) Nothing in this section affects any proceedings before the District Court commenced before the relevant day.
- (3) A member of the panel established under section 183 of the principal Act holding office immediately before the relevant day will cease to hold office on the relevant day and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time.
- (4) In this section—

*principal Act* means the *Gene Technology Act 2001*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## Part 13—Amendment of *Hairdressers Act 1988*

### 93—Amendment of section 4—Interpretation

Section 4—after the definition of *the repealed Act* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

#### 94—Amendment of section 4B—Right of review

- (1) Section 4B(1) and (2)—delete subsections (1) and (2) and substitute:
  - (1) An applicant for a determination may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of a determination of the Commissioner refusing the application under section 4A.
  - (2) Subject to subsection (4), an application for review must be made within 1 month of the making of the determination by the Commissioner.
- (2) Section 4B(4)—delete "instituting an appeal" and substitute:

making an application for review

#### 95—Transitional provisions

- (1) A right of appeal under section 4B of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Administrative and Disciplinary Division of the District Court.
- (2) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (3) In this section—

*principal Act* means the *Hairdressers Act 1988*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### Part 14—Amendment of *Health and Community Services Complaints Act 2004*

#### 96—Amendment of section 4—Interpretation

Section 4(1)—after the definition of *State Ombudsman* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

#### 97—Amendment of section 56—Right of review

- (1) Section 56(1)—delete "appeal to the Administrative and Disciplinary Division of the District Court (the *Court*) against" and substitute:

apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of
- (2) Section 56(2)—delete "appeal" and substitute:

application for review

- (3) Section 56(3)—delete "Court" wherever occurring and substitute in each case:

Tribunal

- (4) Section 56(3)—delete "an appeal" and substitute:

a review

### **98—Amendment of section 56E—Review**

- (1) Section 56E(1)—delete "appeal the decision to make the order or publish the statement to the Administrative and Disciplinary Division of the District Court (the *Court*)" and substitute:

apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision to make the order or publish the statement

- (2) Section 56E(2)—delete "appeal under this section must be commenced" and substitute:

application for review under this section must be made

- (3) Section 56E(2)—delete "Court" and substitute:

Tribunal

- (4) Section 56E(3)—delete subsection (3) and substitute:

- (3) On a review under this section, the Tribunal may confirm, vary or revoke an order or publication the subject of the review.

### **99—Transitional provisions**

- (1) A right of appeal under section 56 or 56E of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) Nothing in this section affects any proceedings before the District Court commenced before the relevant day.
- (3) In this section—

*principal Act* means the *Health and Community Services Complaints Act 2004*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 15—Amendment of *Health Care Act 2008***

### **100—Amendment of section 3—Interpretation**

Section 3(1)—after the definition of *spouse* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

**101—Amendment of section 58—Licence to provide non-emergency ambulance services**

Section 58(17)—delete "appeal against the decision to the Administrative and Disciplinary Division of the District Court" and substitute:

apply to the Tribunal for review of the decision under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*

**102—Amendment of section 87—Review of decision or order of Minister**

(1) Section 87(1) and (2)—delete subsections (1) and (2) and substitute:

(1) A decision or order of the Minister under this Part is reviewable by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.

(2) An application for review of a decision or order of the Minister under this Part must be made within 1 month of the making of the decision or order, but the Tribunal may, if it is satisfied that it is just and reasonable in the circumstances to do so, extend that period (whether or not it has already expired).

(2) Section 87(3)—delete subsection (3)

(3) Section 87(5)—delete "appellant" wherever occurring and substitute in each case:  
applicant

(4) Section 87(5)—delete "instituting the appeal" and substitute:  
making the application for review

(5) Section 87(6) and (7)—delete subsections (6) and (7)

**103—Amendment of section 89I—Review of decision or order of Minister**

(1) Section 89I(1) and (2)—delete subsections (1) and (2) and substitute:

(1) A decision or order of the Minister under this Part is reviewable by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.

(2) An application for review of a decision or order of the Minister under this Part must be made within 1 month of the making of the decision or order, but the Tribunal may, if it is satisfied that it is just and reasonable in the circumstances to do so, extend that period (whether or not it has already expired).

(2) Section 89I(3)—delete subsection (3)

(3) Section 89I(5)—delete "appellant" wherever occurring and substitute in each case:  
applicant

(4) Section 89I(5)—delete "instituting the appeal" and substitute:  
making the application for review

(5) Section 89I(6) and (7)—delete subsections (6) and (7)

#### **104—Transitional provisions**

- (1) A right of appeal under section 58, 87 or 89I of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Supreme Court or District Court.
- (2) Nothing in this section affects any proceedings before the Supreme Court or District Court commenced before the relevant day.
- (3) In this section—

*principal Act* means the *Health Care Act 2008*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### **Part 16—Amendment of *Health Practitioner Regulation National Law (South Australia) Act 2010***

#### **105—Amendment of section 3—Definitions**

- (1) Section 3(1), definition of *District Court*—delete the definition
- (2) Section 3(1), definition of *Tribunal*—delete "South Australian Health Practitioners Tribunal constituted under this Act" and substitute:

South Australian Civil and Administrative Tribunal established under the  
*South Australian Civil and Administrative Tribunal Act 2013*

#### **106—Amendment of section 6—Responsible tribunal for *Health Practitioner Regulation National Law***

Section 6—delete "South Australian Health Practitioners Tribunal" and substitute:

South Australian Civil and Administrative Tribunal

#### **107—Substitution of section 6A**

Section 6A—delete section 6A and substitute:

##### **6A—Review of appellable decisions by Tribunal**

- (1) A person who is the subject of an appellable decision under section 199 of the *Health Practitioner Regulation National Law (South Australia)* may appeal against that decision by applying to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for a review of the appellable decision.
- (2) For the purposes of section 199 of the *Health Practitioner Regulation National Law (South Australia)*, an application under subsection (1) must be made within 28 days after—
  - (a) the person making the application was given notice of the appellable decision; or

- (b) the person making the application was given reasons for the appellable decision,

whichever is the later.

- (3) The Tribunal may, in its discretion, extend the time fixed under subsection (2) for making an application under subsection (1), even if the time for making the application has ended.

### **6B—No internal review by Tribunal**

- (1) A decision of the Tribunal under section 196 or 197 of the *Health Practitioner Regulation National Law (South Australia)* may not be the subject of an application for an internal review under section 70 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) Section 71(2), (2a) and (3a) of the *South Australian Civil and Administrative Tribunal Act 2013* do not apply in relation to an appeal against a decision of the Tribunal under section 196 or 197 of the *Health Practitioner Regulation National Law (South Australia)*.

### **108—Substitution of Part 3**

Part 3—delete the Part and substitute:

## **Part 3—Tribunal proceedings and powers**

### **8—Interpretation**

In this Part—

*relevant authority* means—

- (a) a member of the Tribunal; or
- (b) the Registrar of the Tribunal; or
- (c) any other officer authorised under section 40(5)(c) of the *South Australian Civil and Administrative Tribunal Act 2013* to issue summonses.

### **9—Participation of assessors on Tribunal**

- (1) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be—
- (a) a panel of assessors consisting of persons from the health professions under the *Health Practitioner Regulation National Law*; and
- (b) a panel of assessors consisting of persons who are not members of the health professions under the *Health Practitioner Regulation National Law* and who are qualified, by reason of their knowledge, expertise and experience, to represent the interests of a broad range of consumers of health services.

- (2) In exercising its powers for the purposes of this Act, the Tribunal will, if the President of the Tribunal so determines, be constituted by 3 members of whom—
- (a) 2 will be selected from the panel of assessors constituted under subsection (1)(a); or
  - (b) —
    - (i) 1 will be selected from the panel of assessors constituted under subsection (1)(a); and
    - (ii) 1 will be selected from the panel of assessors constituted under subsection (1)(b).
- (3) In selecting members from the panel constituted under subsection (1)(a), the President must select 1 person who is a member of the same health profession under the *Health Practitioner Regulation National Law* as the person in relation to whom the relevant matter relates.
- (4) For the purposes of proceedings before the Tribunal under this Act, the person presiding over the proceedings may, sitting alone—
- (a) deal with—
    - (i) preliminary, interlocutory or procedural matters; or
    - (ii) questions of costs; or
    - (iii) questions of law; or
  - (b) enter consent orders; or
  - (c) perform any other function or exercise any other power of a prescribed kind,

and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the member considers appropriate.

### **10—Interim power to suspend or impose conditions**

- (1) The Tribunal may, in connection with proceedings before the Tribunal under this Act, if of the opinion that it is desirable to do so in the public interest, and in accordance with any process or procedure determined by the Tribunal—
- (a) suspend the registration of the person the subject of the proceedings; or
  - (b) impose conditions on the person's registration restricting the person's right to provide health services,
- pending hearing and determination of the proceedings.
- (2) A suspension or condition imposed under subsection (1)—
- (a) will have effect for a period, not exceeding 30 days, determined by the Tribunal; and



- (b) may be extended from time to time for a further period or periods, not exceeding 30 days, determined by the Tribunal.
- (3) In addition, if a National Board, or a panel of a National Board, has exercised its power to suspend the registration of the person the subject of the proceedings or imposed conditions on the person's registration, the Tribunal may revoke or vary the suspension or conditions so imposed.
- (4) Without limiting any other provision or any other law, the person the subject of the proceedings and the relevant National Board are entitled to appear and make submissions at any proceedings under subsection (1) or (2)(b).

### **11—Tribunal proceedings**

- (1) Without limiting any other provision or any other Act or law, the Tribunal may adopt procedures under which a member of the Tribunal participates in the proceedings of the Tribunal by means of an audio visual link or an audio link.
- (2) In the course of any proceedings, the Tribunal may—
  - (a) receive in evidence a transcript of evidence taken in proceedings before a court, tribunal or other body constituted under the law of South Australia or of any other State or a Territory of Australia, of the Commonwealth or of another country, and draw any conclusions of fact from the evidence that it considers proper; and
  - (b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court, tribunal or body that may be relevant to the proceedings.

### **12—Failure to comply with a summons**

- (1) In connection with the issuing of a summons under section 40 of the *South Australian Civil and Administrative Tribunal Act 2013*, if a person summoned by the Tribunal for the purposes of proceedings under this Act—
  - (a) fails to produce evidentiary material as required by the summons; or
  - (b) fails to appear before the Tribunal as required by the summons; or
  - (c) having appeared, refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Tribunal,

a certificate of the failure or refusal, signed by the relevant authority, may be filed in the Supreme Court.

- (2) If a certificate has been filed under subsection (1), a party or, in the case of a summons issued by the Tribunal on its own initiative, the Registrar of the Tribunal, may apply to the Supreme Court for an order directing the person summoned by the Tribunal—
  - (a) to produce the evidentiary material; or
  - (b) to appear, or be sworn or affirm, or answer questions, before the Tribunal,(as the case may require) and on that application the Court may make such orders as it thinks fit (including orders for costs).
- (3) The Supreme Court may require that notice be given of an application under subsection (2) to the person against whom the order is sought or any other person (but an order may be made, if the Court thinks fit, although no notice has been given of the application).

### **13—Request to submit to medical examination at request of another party**

- (1) A party whose medical condition is in issue in proceedings before the Tribunal must, at the request of another party to the proceedings, submit to a medical examination, at the cost of the party making the request, by a medical expert nominated by that party.
- (2) If a party has been requested to submit to a medical examination after the proceedings have been referred to the substantive hearing, the party is not required to comply with the request unless the Tribunal authorises the request.
- (3) A party who requests another to submit to a medical examination must, at the request of that other party, pay to the other party a reasonable sum to cover the cost of travelling expenses and loss of earnings from attendance at the medical examination.
- (4) A medical practitioner who carries out a medical examination at the request of a party must prepare a written report setting out the results of the examination.
- (5) A party who requests another party to submit to a medical examination under this section must give the other parties to the action a copy of the report obtained on the examination.
- (6) If the party undergoing the examination does not receive a copy of the medical expert's report for the examination within 14 calendar days after the date of the examination, that party may ask the medical practitioner for a copy of the report.

### **14—Non-compliance with request to submit to medical examination**

- (1) If a party fails to comply with a request to submit to a medical examination under section 13, the party that requested the examination may make an application to the Tribunal seeking an order—
  - (a) confirming that the relevant party's medical condition is in issue in the proceedings; and
  - (b) that the party whose medical condition is in issue must submit to a medical examination.
- (2) If the Tribunal makes an order under subsection (1)(b) that a party must submit to a medical examination and the party does not comply with the order, a certificate of the non-compliance, signed by the relevant authority, may be filed in the Supreme Court.
- (3) If a certificate has been filed under subsection (2), a party may apply to the Supreme Court for an order directing the other party to comply with the Tribunal's order that the party must submit to a medical examination and on that application the Court may stay the proceedings before the Tribunal until the relevant party complies with the requirement.

### **15—Fine recovery**

A fine payable to a National Board under Part 8 Division 12 of the *Health Practitioner Regulation National Law (South Australia)* may be recovered as a debt due to that National Board.

### **109—Amendment of section 47—Notices**

Section 47(2)(e)—delete "appeal to the District Court against" and substitute:

seek a review by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* of the decision to issue

### **110—Substitution of section 48**

Section 48—delete the section and substitute:

#### **48—Reviewable decisions**

- (1) The following are *reviewable decisions* for the purposes of this Division:
  - (a) a refusal by the Authority to register, or renew the registration of, premises as a pharmacy or pharmacy depot under this Division;
  - (b) a decision by an authorised officer to issue a notice under section 47;
  - (c) a decision by the Authority to suspend or cancel the registration of premises as a pharmacy or pharmacy depot under this Division.

- (2) A person may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for a review of a reviewable decision.
- (3) An application for review must be made to the Tribunal within 28 days after the making of the relevant decision (or such longer period as the Tribunal may allow).

### **111—Substitution of sections 62 and 63**

Sections 62 and 63—delete sections 62 and 63 and substitute:

#### **62—Review by Tribunal**

- (1) A right of review lies from a decision of the Authority in proceedings under this Division to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) An application for review under subsection (1) of a decision—
  - (a) may be made by the complainant or the respondent in the proceedings in which the decision was made; and
  - (b) must be instituted within 1 month of the date of the decision (or such longer period as the Tribunal may allow).

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

- (1) If an order has been made by the Authority, and the Authority or the Tribunal is satisfied that an application for review of the decision has been made, or is intended, the Authority or the Tribunal (as the case requires) may suspend the operation of the order until the determination of the review.
- (2) If the Authority has suspended the operation of an order under subsection (1), the Authority may terminate the suspension, and if the Tribunal has done so, the Tribunal may terminate the suspension.

#### **63A—Variation or revocation of conditions imposed by Tribunal**

- (1) Subject to subsection (2), if the Tribunal imposed a condition on a practitioner's registration under the *Health Practitioner Regulation National Law (South Australia)*, the Tribunal may, on application by a party to those proceedings, vary or revoke the condition.
- (2) An application by a party under subsection (1) may not be made—
  - (a) within 1 month of the imposition of the condition; or
  - (b) within 12 months of a previous application under subsection (1) by the party to vary or revoke a condition, unless leave is granted by the Tribunal.
- (2) A National Board, a panel or the Minister are entitled to appear and be heard on an application under this section.

**112—Transitional provisions**

- (1) A right of appeal to the District Court under the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) Nothing in subsection (1) affects any proceedings before the District Court commenced before the relevant day.
- (3) A right of appeal to the South Australian Health Practitioners Tribunal under section 199 of the *Health Practitioner Regulation National Law (South Australia)* in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the South Australian Health Practitioners Tribunal.
- (4) Any proceedings before the South Australian Health Practitioners Tribunal under the principal Act immediately before the relevant day will, subject to such directions as the President of the Tribunal thinks fit, be transferred to the Tribunal where they may proceed as if they had been commenced before that Tribunal.
- (5) The Tribunal may—
  - (a) receive in evidence any transcript of evidence in proceedings before the South Australian Health Practitioners Tribunal, and draw any conclusions of fact from that evidence that appear proper; and
  - (b) adopt any findings or determinations of the South Australian Health Practitioners Tribunal that may be relevant to proceedings before the Tribunal; and
  - (c) adopt or make any decision (including a decision in the nature of a determination), direction or order in relation to proceedings before the South Australian Health Practitioners Tribunal before the relevant day (including so as to make a decision or determination, or a direction or order, in relation to proceedings fully heard before the relevant day); and
  - (d) take other steps to promote or ensure the smoothest possible transition from 1 jurisdiction to another in connection with the operation of this section.
- (6) The South Australian Health Practitioners Tribunal is dissolved by force of this subsection.
- (7) Subject to subsection (8), a member of the South Australian Health Practitioners Tribunal holding office when subsection (6) comes into operation will cease to hold office at that time and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time (but any such termination will not affect any right of action that a person may have against a Minister or the State on account of that termination).
- (8) A person who, immediately before the relevant day, held an appointment under section 10 of the principal Act (as in force immediately before the relevant day) will be taken to have been appointed as an assessor under section 22 of the *South Australian Civil and Administrative Tribunal Act 2013* and will hold office as an assessor for the remainder of the term specified in the panel member's instrument of appointment under section 10.

(9) In this section—

*principal Act* means the *Health Practitioner Regulation National Law (South Australia) Act 2010*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal.

## **Part 17—Amendment of *Mines and Works Inspection Act 1920***

### **113—Amendment of section 10—Powers of inspector on inspection**

Section 10(3a)—delete "appealable under section 10A" and substitute:

reviewable under section 11

### **114—Amendment of section 11—Reviews—amenity issues**

Section 11—after subsection (4) insert:

(5) In this section—

*Tribunal* means the means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 18—Amendment of *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013***

### **115—Amendment of section 3—Interpretation**

(1) Section 3(1), definition of *District Court*—delete the definition

(2) Section 3(1)—after the definition of *treatment, care and support needs assessment* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under *South Australian Civil and Administrative Tribunal Act 2013*.

### **116—Substitution of section 35**

Section 35—delete the section and substitute:

#### **35—Review by Tribunal**

- (1) A party to a dispute to which a determination of a review officer under this Division relates may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the determination of the review officer.
- (2) An application for review must be made within 28 days of the date of the determination of the review officer.

## 117—Substitution of section 37

Section 37—delete the section and substitute:

### 37—Review by Tribunal

- (1) Subject to subsection (2), a person may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of a determination of an expert review panel under this Division that a person is ineligible or otherwise does not qualify to participate in the Scheme.
- (2) An application for review by the Tribunal may only be made by or on behalf of the person to whom the determination relates.
- (3) An application for review must be made within 28 days of the date of the determination of the expert review panel.

## 118—Amendment of Schedule 1—Expert review panels

- (1) Schedule 1, clause 6(7)(a)—after "court" insert:  
or the Tribunal
- (2) Schedule 1, clause 7—after "court" insert:  
or the Tribunal

## 119—Transitional provisions

- (1) A right of appeal to the Administrative and Disciplinary Division of the District Court under sections 35 and 37 of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (3) In this section—

*principal Act* means the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## Part 19—Amendment of *Motor Vehicles Act 1959*

### 120—Amendment of section 5—Interpretation

- (1) Section 5(1), definition of *District Court*—delete the definition
- (2) Section 5(1)—after the definition of *trailer* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **121—Amendment of section 98PC—Cause for disciplinary action**

Section 98PC(1)(f)—delete "District Court" and substitute:

Tribunal

### **122—Amendment of section 98PD—Complaints**

Section 98PD—delete "District Court" and substitute:

Tribunal

### **123—Substitution of sections 98PE and 98PF**

Sections 98PE and 98PF—delete the sections and substitute:

#### **98PE—Hearing by Tribunal**

- (1) On the lodging of a complaint, the Tribunal may conduct a hearing to determine whether the matters alleged in the complaint constitute grounds for disciplinary action under this Part.
- (2) Without limiting the usual powers of the Tribunal, the Tribunal may during the hearing—
  - (a) allow an adjournment to enable an authorised officer to investigate or further investigate matters to which the complaint relates; and
  - (b) allow the modification of the complaint or additional allegations to be included in the complaint subject to any conditions as to adjournment and notice to parties and other conditions that the Tribunal may think fit to impose.

#### **98PF—Appointment, selection etc of assessors**

- (1) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be a panel of assessors consisting of—
  - (a) persons representative of the motor trade industry; and
  - (b) persons representative of the towtruck industry.
- (2) In any proceedings under this Part, the Tribunal may, if the President so determines, sit with 1 or more assessors selected by the President from the panel referred to in subsection (1).
- (3) In this section—

*President* means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*.

### **124—Amendment of section 98PG—Disciplinary action**

- (1) Section 98PG(1)—delete "District Court" and substitute:

Tribunal

- (2) Section 98PG(2)—delete "District Court" and substitute:

Tribunal



## 125—Amendment of section 98T—Permit contents, conditions and entitlements

- (1) Section 98T(6)—delete and substitute:
  - (6) A person who is aggrieved by a decision of a council to refuse to make an arrangement under subsection (3), or to revoke or vary such an arrangement, may seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) Section 98T—after subsection (6) insert:
  - (7) An application for review must be made to the Tribunal within 28 days of the making of the decision.
  - (8) If the reasons of the council are not given in writing at the time of making the decision that is to be the subject of a review and the person seeking the review, within 1 month of the making of the decision, requires the council's reasons in writing, the time for applying for a review runs from the time when the person receives the written statement of those reasons.

## 126—Substitution of section 98ZA

Section 98ZA—delete the section and substitute:

### 98ZA—Review by Tribunal

- (1) A person who is dissatisfied with a decision as confirmed, varied or substituted by the Registrar on a review under section 98Z may seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) An application for review must be made to the Tribunal within 28 days of the making of the decision.
- (3) If the reasons of the Registrar are not given in writing at the time of making the decision that is to be the subject of a review and the person seeking the review, within 1 month of the making of the decision, requires the Registrar's reasons in writing, the time for applying for a review runs from the time when the person receives the written statement of those reasons.

## 127—Repeal of Schedule 5

Schedule 5—delete the Schedule

## 128—Transitional provisions

- (1) A right of appeal under the principal Act in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Administrative and Disciplinary Division of the District Court.

- (2) A right to lodge a complaint under section 98PD of the principal Act in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that the complaint may be lodged with the Tribunal rather than the Administrative and Disciplinary Division of the District Court.
- (3) A decision or order of the Administrative and Disciplinary Division of the District Court under Part 3C of the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision or order of the Tribunal.
- (4) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (5) Nothing in this Part affects any review before the Minister under section 98T of the principal Act, as in force immediately before the relevant day, that was commenced but not determined before the relevant day, and a right of review by the Tribunal under section 98T of the principal Act, as in force after the relevant day, will apply to and in respect of a decision of the Minister on that review (and a reference to a decision of the Minister in section 98T as in force after the relevant day will be taken to be a reference to the decision of the Tribunal on that review).
- (6) A member of a panel of persons who may sit as assessors established under the principal Act (as in existence immediately before the relevant day) ceases to hold office on the commencement of this subsection and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time.
- (7) In this section—

*principal Act* means the *Motor Vehicles Act 1959*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 20—Amendment of *Pastoral Land Management and Conservation Act 1989***

### **129—Amendment of section 50—Jurisdiction of Tribunal**

Section 50(3)—delete ", in the opinion of the Governor,"

## **Part 21—Amendment of *Plumbers, Gas Fitters and Electricians Act 1995***

### **130—Amendment of section 3—Interpretation**

- (1) Section 3, definition of *Court*—delete the definition
- (2) Section 3—after the definition of *stormwater drain* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **131—Amendment of section 10—Reviews**

- (1) Section 10(1) and (2)—delete subsections (1) and (2) and substitute:
  - (1) An applicant for a licence may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of a decision of the Commissioner refusing the application.
  - (2) Subject to subsection (4), an application for review must be made within 1 month of the making of the Commissioner's decision.
- (2) Section 10(4)—delete "instituting an appeal" and substitute:

making an application for review

### **132—Amendment of section 17—Reviews**

- (1) Section 17(1) and (2)—delete subsections (1) and (2) and substitute:
  - (1) An applicant for registration may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of a decision of the Commissioner refusing the application.
  - (2) Subject to subsection (4), an application for review must be made within 1 month of the making of the Commissioner's decision.
- (2) Section 17(4)—delete "instituting an appeal" and substitute:

making an application for review

### **133—Amendment of section 18A—Commissioner may suspend or impose conditions on licence or registration in urgent circumstances**

- (1) Section 18A(4) and (5)—delete subsections (4) and (5) and substitute:
  - (4) A person whose licence or registration is suspended or made subject to conditions under this section may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision of the Commissioner to suspend the licence or registration or to impose the conditions.
  - (5) Subject to subsection (7), an application for review must be made within 1 month of the making of the relevant decision of the Commissioner.
- (2) Section 18A(6)—delete "appellant" and substitute:

person whose licence or registration has been suspended or made subject to conditions
- (3) Section 18A(7) and (8)—delete subsections (7) and (8) and substitute:
  - (7) If the reasons of the Commissioner are not given in writing at the time of making the decision and the person (within 1 month of the making of the decision) requires the Commissioner to state the reasons in writing, the time for making an application for review runs from the time at which the person receives the written statement of those reasons.

**134—Amendment of section 18B—Commissioner may cancel, suspend or impose conditions on licence or registration**

- (1) Section 18B(3) and (4)—delete subsections (3) and (4) and substitute:
- (3) A person whose licence or registration is cancelled, suspended or made subject to conditions under this section may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision of the Commissioner to cancel or suspend the licence or registration or to impose the conditions.
  - (4) Subject to subsection (6), an application for review must be made within 1 month of the making of the relevant decision of the Commissioner.
- (2) Section 18B(5)—delete "appellant" and substitute:
- person whose licence or registration has been cancelled or suspended or made subject to conditions
- (3) Section 18B(6) and (7)—delete subsections (6) and (7) and substitute:
- (6) If the reasons of the Commissioner are not given in writing at the time of making the decision and the person (within 1 month of the making of the decision) requires the Commissioner to state the reasons in writing, the time for making an application for review runs from the time at which the person receives the written statement of those reasons.

**135—Amendment of section 21—Complaints**

Section 21—delete "Court" and substitute:

Tribunal

**136—Amendment of section 22—Hearing by Tribunal**

Section 22—delete "Court" wherever occurring and substitute in each case:

Tribunal

**137—Substitution of section 23**

Section 23—delete section 23 and substitute:

**23—Participation of assessors in disciplinary proceedings**

- (1) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be a panel of assessors consisting of—
- (a) persons representative of persons involved in work regulated under this Act; and
  - (b) persons representative of members of the public who deal with persons involved in work regulated under this Act,
- who have expertise that would be of value to the Tribunal in relation to proceedings before the Tribunal under this Part.

- (2) In any proceedings under this Part, the Tribunal will, if the President so determines, sit with 1 or more assessors from the panel.
- (3) In this section—

*President* means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*.

### **138—Amendment of section 24—Disciplinary action**

Section 24—delete "Court" wherever occurring and substitute in each case:

Tribunal

### **139—Amendment of section 25—Contravention of orders**

Section 25—delete "Court" and substitute:

Tribunal

### **140—Amendment of section 31—Commissioner and proceedings before Tribunal**

- (1) Section 31(1)—delete "Court" and substitute:

Tribunal

- (2) Section 31—after subsection (2) insert:

(3) Subsection (1) applies in addition to section 53 of the *South Australian Civil and Administrative Tribunal Act 2013*.

### **141—Repeal of Schedule 1**

Schedule 1—delete the Schedule

### **142—Transitional provisions**

- (1) A right of appeal to the Administrative and Disciplinary Division of the District Court under section 10, 17, 18A or 18B of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) A right to lodge a complaint under Part 4 of the principal Act with respect to a matter in existence before the relevant day, with the effect that the relevant proceedings would have been commenced before the Administrative and Disciplinary Division of the District Court, will be exercised as if this Part had been in operation before the right arose, so that the complaint may be lodged with the Tribunal rather than the District Court.
- (3) A decision or order of the Administrative and Disciplinary Division of District Court under Part 4 of the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision or order of the Tribunal.
- (4) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.

- (5) A member of each panel of persons who may sit as assessors established under Schedule 1 of the principal Act (as in force immediately before the relevant day) will cease to hold office on the commencement of this subsection and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time.
- (6) In this section—
- principal Act* means the *Plumbers, Gas Fitters and Electricians Act 1995*;
- relevant day* means the day on which this Part comes into operation;
- Tribunal* means the South Australian Civil and Administrative Tribunal.

## **Part 22—Amendment of *Research Involving Human Embryos Act 2003***

### **143—Amendment of section 3—Interpretation**

Section 3(1), definition of *District Court*—delete the definition

### **144—Amendment of section 21—Interpretation**

Section 21—after the definition of *reviewable decision* insert:

*SACAT* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### **145—Amendment of section 22—Review of decisions**

- (1) Section 22(1)(b)—delete "appeal to the District Court against" and substitute:
- apply to SACAT under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for the review of
- (2) Section 22(4)—delete subsection (4) and substitute:
- (4) For the purposes of subsection (1)(b), an application for review of a reviewable decision must be made within 28 days after the making of the decision.
- (3) Section 22(5)—delete subsection (5) and substitute:
- (5) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there may be a panel of assessors consisting of persons who have expertise that would be of value to SACAT in relation to proceedings before SACAT on a review under this section.
- (5a) In any proceedings on a review under this section, SACAT may, if the President so determines, sit with 1 or more assessors from the panel.

## **146—Transitional provisions**

- (1) A right of appeal under section 22(1)(b) of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before SACAT rather than the District Court.
- (2) Nothing in this section affects any proceedings before the District Court commenced before the relevant day.
- (3) In this section—

*principal Act* means the *Research Involving Human Embryos Act 2003*;

*relevant day* means the day on which this Part comes into operation;

*SACAT* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 23—Amendment of *Residential Parks Act 2007***

### **147—Repeal of section 121**

Section 121—delete the section

## **Part 24—Amendment of *Retirement Villages Act 2016***

### **148—Amendment of Schedule 1—Proceedings before the Tribunal**

Schedule 1, clause 2—delete clause 2

## **Part 25—Amendment of *Second-hand Vehicle Dealers Act 1995***

### **149—Amendment of section 3—Interpretation**

- (1) Section 3, definition of *District Court*—delete the definition
- (2) Section 3—after the definition of *sell* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **150—Amendment of section 10—Reviews**

- (1) Section 10(1) and (2)—delete subsections (1) and (2) and substitute:
  - (1) An applicant for a licence may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of a decision of the Commissioner refusing the application.
  - (2) Subject to subsection (4), an application for review must be made within 1 month of the making of the Commissioner's decision.
- (2) Section 10(4)—delete "instituting an appeal" and substitute:

making an application for review

**151—Amendment of section 14A—Commissioner may suspend or impose conditions on licence in urgent circumstances**

- (1) Section 14A(4) and (5)—delete subsections (4) and (5) and substitute:
  - (4) A person whose licence has been suspended or made subject to conditions under this section may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision of the Commissioner to suspend the licence or to impose the conditions.
  - (5) Subject to subsection (7), an application for review must be made within 1 month of the making of the Commissioner's decision.
- (2) Section 14A(6)—delete "appellant" and substitute:

person whose licence has been suspended or made subject to conditions
- (3) Section 14A(7) and (8)—delete subsections (7) and (8) and substitute:
  - (7) If the reasons of the Commissioner are not given in writing at the time of making the decision and the person (within 1 month of the making of the decision) requires the Commissioner to state the reasons in writing, the time for making an application for review runs from the time at which the person receives the written statement of those reasons.

**152—Amendment of section 14B—Commissioner may cancel, suspend or impose conditions on licence**

- (1) Section 14B(4) and (5)—delete subsections (4) and (5) and substitute:
  - (4) A person whose licence is cancelled, suspended or made subject to conditions under this section may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision of the Commissioner to cancel or suspend the licence or to impose the conditions.
  - (5) Subject to subsection (7), an application for review must be made within 1 month of the making of the relevant decision of the Commissioner.
- (2) Section 14B(6)—delete "appellant" and substitute:

person whose licence has been cancelled or suspended or made subject to conditions
- (3) Section 14B(7) and (8)—delete subsections (7) and (8) and substitute:
  - (7) If the reasons of the Commissioner are not given in writing at the time of making the decision and the person (within 1 month of the making of the decision) requires the Commissioner to state the reasons in writing, the time for making an application for review runs from the time at which the person receives the written statement of those reasons.



**153—Amendment of section 28—Complaints**

Section 28—delete "District Court" and substitute:

Tribunal

**154—Amendment of section 29—Hearing by Tribunal**

(1) Section 29(1)—delete "District Court" and substitute:

Tribunal

(2) Section 29(2)—delete "Court" wherever occurring and substitute in each case:

Tribunal

**155—Substitution of section 30**

Section 30—delete section 30 and substitute:

**30—Participation of assessors in disciplinary proceedings**

(1) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be a panel of assessors consisting of—

- (a) persons representative of dealers; and
- (b) persons representative of members of the public who deal with dealers,

who have expertise that would be of value to the Tribunal in relation to proceedings before the Tribunal under this Part.

(2) In any proceedings under this Part, the Tribunal will, if the President so determines, sit with 1 or more assessors from the panel.

(3) In this section—

*President* means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*.

**156—Amendment of section 31—Disciplinary action**

(1) Section 31(1)—delete "District Court" and substitute:

Tribunal

(2) Section 31(2)—delete "Court" and substitute:

Tribunal

**157—Amendment of section 32—Contravention of orders**

(1) Section 32(1)—delete "District Court" and substitute:

Tribunal

(2) Section 32(2)—delete "District Court" and substitute:

Tribunal

### 158—Amendment of section 40—Commissioner and proceedings before Tribunal

- (1) Section 40(1)—delete "District Court" and substitute:  
Tribunal
- (2) Section 40—after subsection (2)—insert:
  - (3) Subsection (1) applies in addition to section 53 of the *South Australian Civil and Administrative Tribunal Act 2013*.

### 159—Repeal of Schedule 2

Schedule 2—delete the Schedule

### 160—Transitional provisions

- (1) A right of appeal to the Administrative and Disciplinary Division of the District Court under sections 10, 14A and 14B of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) A right to lodge a complaint under Part 5 of the principal Act with respect to a matter in existence before the relevant day, with the effect that the relevant proceedings would have been commenced before the Administrative and Disciplinary Division of the District Court, will be exercised as if this Part had been in operation before the right arose, so that the complaint may be lodged with the Tribunal rather than the District Court.
- (3) A decision or order of the Administrative and Disciplinary Division of the District Court under Part 5 of the principal Act in force immediately before the relevant day (including a decision or order of the Commercial Tribunal that has effect as if it were an order of the District Court by virtue of the operation of Schedule 4 clause 5 of the principal Act) will, on and from the relevant day, be taken to be a decision or order of the Tribunal.
- (4) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (5) A member of each panel of persons who may sit as assessors established under Schedule 2 of the principal Act (as in force immediately before the relevant day) will cease to hold office on the commencement of this subsection and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time.
- (6) In this section—  
*principal Act* means the *Second-hand Vehicle Dealers Act 1995*;  
*relevant day* means the day on which this Part comes into operation;  
*Tribunal* means the South Australian Civil and Administrative Tribunal.

## **Part 26—Amendment of *South Australian Civil and Administrative Tribunal Act 2013***

### **161—Amendment of section 22—Assessors**

- (1) Section 22(2)—delete "Governor on the recommendation of the Minister" and substitute:

Minister on the recommendation of the President of the Tribunal
- (2) Section 22(3)—delete "An assessor must be a person who, in the opinion of the Minister," and substitute:

Before appointing a person as an assessor under this section, the Minister must be satisfied that the person
- (3) Section 22(4)—delete subsection (4)
- (4) Section 22(9)—delete "Governor may, on the recommendation of the Minister" and substitute:

Minister may, on the recommendation of the President of the Tribunal
- (5) Section 22(11)—delete subsection (11)
- (6) Section 22(12)—delete "Governor" and substitute:

Minister

### **162—Amendment of section 40—Power to require person to give evidence or to produce evidentiary material**

- (1) Section 40(3)(a)—after "produced before it" insert:

(whether in response to a summons or otherwise)
- (2) Section 40(3)(b)—after "a person" insert:

called to give evidence (whether in response to a summons or otherwise)
- (3) Section 40(3)(c)—after "any person" first occurring insert:

called to give evidence (whether in response to a summons or otherwise)
- (4) Section 40(4)—delete "is called to give evidence or to produce evidentiary material before the Tribunal and"
- (5) Section 40(4)(f)—delete paragraph (f)

### **163—Amendment of section 90—Accessibility of evidence**

- (1) Section 90(1)(c)—delete "material admitted into evidence" and substitute:

or other material produced or provided to the Tribunal
- (2) Section 90(2)(a)—delete paragraph (a) and substitute:
  - (a) material that was produced or provided to the Tribunal in a hearing (or part of a hearing) held in private;
- (3) Section 90(2)(c)—delete paragraph (c)

### **164—Amendment of section 93A—Disrupting proceedings of Tribunal**

Section 93A(1)—delete subsection (1) and substitute:

- (1) A person who—
  - (a) wilfully interrupts any proceedings of the Tribunal; or
  - (b) uses offensive language or behaves in a disorderly or offensive manner, towards the Tribunal, members of the Tribunal or officers of the Tribunal, or at a place where proceedings of the Tribunal are being conducted,is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 6 months.

## **Part 27—Amendment of *South Australian Public Health Act 2011***

### **165—Amendment of section 3—Interpretation**

Section 3(1)—after the definition of *State Co-ordinator* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **166—Amendment of section 76—Review by Tribunal**

- (1) Section 76(1)—delete "District Court" and substitute:  
Tribunal
- (2) Section 76(3)—delete "District Court" wherever occurring and substitute in each case:  
Tribunal
- (3) Section 76(4)—delete subsection (4)
- (4) Section 76(5)—delete "District Court" and substitute:  
Tribunal
- (5) Section 76(6)—delete subsection (6)

### **167—Amendment of section 92—Notices**

- (1) Section 92(5)(g)—delete "or institute an appeal against the notice"
- (2) Section 92(7)—delete "appeal to the District Court against the order" and substitute:  
apply to the Tribunal for a review of the order

### **168—Amendment of section 95—Reviews—notices relating to general duty**

Section 95(15)(b)(i)—delete "District Court" and substitute:

Tribunal

### **169—Amendment of section 96—Review by Tribunal**

- (1) Section 96(1)—delete "appeal to the District Court" and substitute:

apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review
- (2) Section 96(1)—delete "against" wherever occurring and substitute in each case:

of
- (3) Section 96(1)(b)—delete "this Division" and substitute:

section 95
- (4) Section 96(2)—delete "institute an appeal under this section without the need to have already applied for a review of the notice under this Division" and substitute:

apply to the Tribunal for a review under this section without the need to have already applied to the Review Panel for review of the notice under section 95
- (5) Section 96(3)—delete subsection (3) and substitute:
  - (3) A council may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for a review of the outcome of review proceedings by the Review Panel under section 95.
- (6) Section 96(4)—delete "appeal must be instituted" and substitute:

application for review must be made
- (7) Section 96(4)—delete "an appeal" wherever occurring and substitute in each case:

a review
- (8) Section 96(4)(b)—after "the review proceedings" insert:

under section 95

### **170—Amendment of section 108—Evidentiary provision**

- (1) Section 108(1)—after "court" first occurring insert:

, Review Panel or Tribunal
- (2) Section 108(1)—after "court" second occurring insert:

, Review Panel or Tribunal (as the case requires)

### **171—Transitional provisions**

- (1) A right of review under section 76 or 96 of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) Nothing in this section affects any proceedings before the District Court commenced before the relevant day.
- (3) In this section—

*principal Act* means the *South Australian Public Health Act 2011*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## Part 28—Amendment of *State Lotteries Act 1966*

### 172—Amendment of section 4—Constitution of Commission

Section 4(4)—after "courts" insert:

, tribunals

### 173—Substitution of section 18AA

Section 18AA—delete the section and substitute:

#### 18AA—Reviews

- (1) A participant in a lottery who is dissatisfied with a decision of the Commission that a ticket in the lottery held by the participant is not a winning ticket may seek a review of the decision by the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*.
- (2) An application for review under this section may be made to the Tribunal within 1 month of—
  - (a) the date on which the Commission's decision is made; or
  - (b) if the Commission's decision is published—the date of publication.
- (3) In this section—

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### 174—Transitional provisions

- (1) A right to appeal to the Administrative and Disciplinary Division of the District Court under section 18AA of the principal Act in relation to a matter in existence (but not yet exercised) before the relevant day, will be exercised as if this Part had been in operation before the right arose, so that proceedings may be commenced instead before the Tribunal.
- (2) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced under the principal Act before the relevant day.
- (3) In this section—

*principal Act* means the *State Lotteries Act 1966*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 29—Amendment of *Tattooing Industry Control Act 2015***

### **175—Amendment of section 3—Interpretation**

Section 3(1)—after the definition of *tattoo* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

### **176—Amendment of section 5—Criminal intelligence**

(1) Section 5(1)—after "court" insert:

, the Tribunal

(2) Section 5(3)—after "court" insert:

or tribunal

### **177—Amendment of section 8—Commissioner for Consumer Affairs may disqualify person from providing tattooing services**

Section 8(5)(b)—delete "appeal against" and substitute:

seek a review of

### **178—Amendment of section 12—Authorised officers may direct persons**

Section 12(2)(g)—delete "appeal against" and substitute:

seek a review of

### **179—Substitution of heading to Part 5**

Heading to Part 5—delete the heading and substitute:

## **Part 5—Review**

### **180—Amendment of section 17—Review**

(1) Section 17(1) and (2)—delete subsections (1) and (2) substitute:

- (1) A person who is dissatisfied with a decision of the Commissioner for Consumer Affairs, or a direction of an authorised officer under section 12, may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision or direction.
- (2) Subject to subsection (3)(b), an application for review must be made within 28 days of the making of the relevant decision or direction.

- (2) Section 17(3)—delete subsection (3) and substitute:
- (3) Subject to section 5—
- (a) the Commissioner for Consumer Affairs or authorised officer (as the case requires) must, if so required by the person seeking review under subsection (1), state in writing the reasons for the decision or direction in relation to which the review is sought; and
- (b) if the reasons of the Commissioner for Consumer Affairs or authorised officer are not given in writing at the time of the decision or direction (as the case requires) and the person (within 1 month of the decision or the direction) requires the Commissioner or authorised officer to state the reasons in writing, the time for making an application for review runs from the time at which the person receives the written statement of those reasons.

### **181—Transitional provisions**

- (1) A right of appeal under section 17 of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Administrative and Disciplinary Division of the District Court.
- (2) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (3) In this section—

*principal Act* means the *Tattooing Industry Control Act 2015*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 30—Amendment of *Training and Skills Development Act 2008***

### **182—Amendment of section 4—Interpretation**

- (1) Section 4(1), definition of *District Court*—delete the definition
- (2) Section 4(1)—after the definition of *training package* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;



### 183—Substitution of heading to Part 3 Division 5

Heading to Part 3 Division 5—delete the heading to Division 5 and substitute:

#### **Division 5—Review by Tribunal**

### 184—Amendment of section 42—Review by Tribunal

- (1) Section 42(1)—delete "appeal to the District Court may be made against" and substitute:

application may be made to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of
- (2) Section 42(2)—delete "appeal must be instituted" and substitute:

application for review must be made
- (3) Section 42(2)—delete "appealed against" and substitute:

the subject of the review application
- (4) Section 42(4)—delete "instituting an appeal" and substitute:

making an application for review

### 185—Amendment of section 61—Review by Tribunal

- (1) Section 61(1)—delete "appeal to the District Court may be made against" and substitute:

application may be made to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of
- (2) Section 61(2)—delete "appeal must be instituted" and substitute:

application for review must be made
- (3) Section 61(2)—delete "appealed against" and substitute:

the subject of the review application
- (4) Section 61(4)—delete "instituting an appeal" and substitute:

making an application for review

### 186—Transitional provisions

- (1) A right of appeal under section 42 or 61 of the principal Act in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the District Court.
- (2) Nothing in this section affects any proceedings before the District Court commenced before the relevant day.
- (3) In this section—

*principal Act* means the *Training and Skills Development Act 2008*;

*relevant day* means the day on which this Part comes into operation;

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

## **Part 31—Amendment of *Veterinary Practice Act 2003***

### **187—Amendment of section 3—Interpretation**

- (1) Section 3(1), definition of *District Court*—delete the definition
- (2) Section 3(1)—after the definition of *specialty* insert:

*Tribunal* means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*;

### **188—Amendment of section 7—Terms and conditions of membership**

Section 7(4)—after "Part 5" insert:

Division 3

### **189—Amendment of section 16—Delegations**

Section 16(1)(b)—delete paragraph (b) and substitute:

- (b) the power of the Board to hear and determine proceedings regarding medical fitness under Part 5 Division 3.

### **190—Amendment of section 17—Procedures**

- (1) Section 17(3)—delete "under Part 5" and substitute:  
regarding medical fitness under Part 5 Division 3
- (2) Section 17(5)—delete "under Part 5" and substitute:  
regarding medical fitness under Part 5 Division 3
- (3) Section 17(8)—delete "under Part 5" and substitute:  
regarding medical fitness under Part 5 Division 3
- (4) Section 17(8)—delete "that Part" and substitute:  
that Division

### **191—Amendment of section 19—Powers in relation to witnesses etc**

Section 19(1)—after "Board" first occurring insert:

regarding medical fitness under Part 5 Division 3

### **192—Amendment of section 30—Provisions of general application to registers**

Section 30(5)—after "legal proceedings" insert:

(including proceedings before the Tribunal)

### **193—Amendment of section 34—Removal from register or specialty**

Section 34(5)—delete "Board" and substitute:

Tribunal

**194—Amendment of section 35—Reinstatement on register or in specialty**

Section 35(1)(d)—delete "Board" and substitute:

Tribunal

**195—Amendment of section 38—Contravention of conditions of registration**

Section 38—after "imposed" insert:

by the Board

**196—Amendment of section 62—Hearing by Tribunal as to matters constituting grounds for disciplinary action**

- (1) Section 62(1)—delete "the Board (in a manner and form approved by the Board)" and substitute:

the Tribunal

- (2) Section 62(2) and (3)—delete subsections (2) and (3)

- (3) Section 62(4)—delete subsection (4) and substitute:

- (4) On the hearing of a complaint, the Tribunal may, if it is satisfied that there is proper cause for taking disciplinary action against the person to whom the complaint relates, by order do 1 or more of the following:

- (a) reprimand the person;
- (b) impose a fine not exceeding \$10 000 on the person;
- (c) if the person is a veterinary surgeon—impose conditions on the person's registration under this Act restricting the person's right to provide veterinary treatment or revoke or vary a waiver or modification that applies in respect of the person's registration under this Act;
- (d) if the person has general registration under this Act but not specialist registration—
  - (i) suspend the person's general registration under this Act for a period not exceeding 1 year;
  - (ii) cancel the person's general registration under this Act;
- (e) if the person has specialist registration under this Act—
  - (i) suspend the person's specialist registration or registration in a particular specialty, or the person's general and specialist registration, under this Act for a period not exceeding 1 year;
  - (ii) cancel the person's specialist registration or registration in a particular specialty, or the person's general and specialist registration, under this Act;

- (f) disqualify the person from general registration, specialist registration or registration in a particular specialty, or both general and specialist registration, under this Act;
  - (g) prohibit the person from carrying on business as a veterinary services provider;
  - (h) prohibit the person from occupying a position of authority in a trust or corporate entity that is a veterinary services provider.
- (4) Section 62(5)—delete "Board" and substitute:  
Tribunal
- (5) Section 62—after subsection (5) insert:
  - (5a) The Tribunal may, on application by a party to the proceedings, vary or revoke a condition imposed by the Tribunal under this section in relation to the person's registration under this Act.
  - (5b) An application under subsection (5a) may not be made—
    - (i) within 1 month of the imposition of the condition to which the application relates by the Tribunal; or
    - (ii) within 12 months of any previous application under subsection (5a) by the party to vary or revoke a condition, unless leave is granted by the Tribunal.
  - (5c) The Board and the Minister are entitled to appear and be heard on an application under subsection (5a).
  - (5d) A fine imposed by the Tribunal under subsection (4) is payable to the Board (and is recoverable by the Board as a debt).
- (6) Section 62(7) and (8)—delete subsections (7) and (8)
- (7) Section 62(10)—after "orders made" insert:  
by the Tribunal
- (8) Section 62(11)—delete "Board may determine" and substitute:  
Tribunal may order
- (9) Section 62(11)—delete "should"
- (10) Section 62(12)(a)—delete "Board" and substitute:  
Tribunal
- (11) Section 62(12)(b)—delete paragraph (b) and substitute:
  - (b) if the Tribunal acts under subsection (11), it must immediately notify the person of the suspension and the reasons for the suspension.

## 197—Substitution of section 63

Section 63—delete the section and substitute:

### 63—Constitution of Tribunal

- (1) For the purposes of section 22 of the *South Australian Civil and Administrative Tribunal Act 2013*, there will be—
  - (a) a panel of assessors consisting of veterinary surgeons with experience or knowledge relating to animals used for primary production or horses; and
  - (b) a panel of assessors consisting of veterinary surgeons with experience or knowledge relating to other animals; and
  - (c) a panel of assessors consisting of persons (not being veterinary surgeons) with experience or knowledge relating to animal health, safety and welfare.
- (2) In exercising its powers for the purposes of this Act, the Tribunal will, subject to subsection (3), and unless the President determines that the Tribunal is to be constituted by fewer than 3 members, be constituted by 3 members of whom—
  - (a) 1 will be selected from the panel of assessors referred to in subsection (1)(a) or (b); and
  - (b) 1 will be selected from the panel of assessors referred to in subsection (1)(c).
- (3) The Tribunal constituted of the presiding member sitting alone may, for the purposes of proceedings under this Act—
  - (a) deal with—
    - (i) preliminary, interlocutory or procedural matters; or
    - (ii) questions of costs; or
    - (iii) questions of law; or
  - (b) enter consent orders; or
  - (c) perform any other function or exercise any other power of a prescribed kind,and may, for that purpose or as a consequence, make any determination or order (including a final order) that the presiding member considers appropriate.
- (4) In this section—

*President* means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*.

## 198—Repeal of Part 5 Division 5

Part 5 Division 5—delete Division 5

## **199—Substitution of heading to Part 6**

Heading to Part 6—delete the heading and substitute:

### **Part 6—Reviews**

## **200—Amendment of section 66—Review by Tribunal**

- (1) Section 66(1)—delete "An appeal lies to the District Court against—" and substitute:

A person may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the following decisions or directions of the Board:

- (2) Section 66(1)(c)—delete "under Part 5" and substitute:

regarding medical fitness under Part 5 Division 3

- (3) Section 66(1)—delete "; or" wherever occurring and substitute in each case:

;

- (4) Section 66(2)—delete subsection (2)

- (5) Section 66(3)—delete subsection (3) and substitute:

(3) Subject to subsection (5), an application for review must be made within 1 month of the date of the making of the relevant decision or direction.

- (6) Section 66(4)—delete "to appeal" and substitute:

review of

- (7) Section 66(5)—delete "instituting an appeal" and substitute:

making an application for review

## **201—Amendment of section 67—Variation or revocation of conditions imposed by Tribunal**

- (1) Section 67(1)—delete "District Court" and substitute:

Tribunal

- (2) Section 67(1)—delete "the Court" and substitute:

the Tribunal

## **202—Amendment of section 76—Evidentiary provision**

Section 76(2)—after "legal proceedings" insert:

(including proceedings before the Tribunal)

## **203—Transitional provisions**

- (1) A right to lay a complaint under section 62 of the principal Act with respect to a matter in existence before the relevant day, with the effect that the relevant proceedings would have been commenced before the Board, will be exercised as if this Part had been in operation before the right arose, so that the complaint may be laid instead before the Tribunal.

- (2) A decision or order of the Board under Part 5 Division 4 of the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision or order of the Tribunal.
- (3) Any proceedings before the Board under Part 5 Division 4 of the principal Act immediately before the relevant day that have proceeded to a listing will, unless the President of the Tribunal and the presiding member of the Board otherwise agree, continue and be determined by the Board under the principal Act as if it had not been amended by this Part.
- (4) Any decisions or orders arising out of any proceedings before the Board referred to in subsection (3) will take effect as if they were a decision or order of the Tribunal (including for the purposes of exercising any rights of review or appeal under the *South Australian Civil and Administrative Tribunal Act 2013*).
- (5) Any proceedings before the Board under Part 5 Division 4 of the principal Act immediately before the relevant day that have not proceeded to a listing will, subject to such directions as the President of the Tribunal thinks fit, be transferred to the Tribunal where they may proceed as if they had been commenced before the Tribunal.
- (6) The Tribunal may take such steps as the Tribunal thinks fit to promote or ensure the smoothest possible transition from 1 jurisdiction to another in connection with the operation of subsection (5).
- (7) A right of appeal under section 66 of the principal Act, other than under section 66(1)(c) in respect of a decision of the Board that relates to proceedings under Part 5 Division 4, in existence before the relevant day (but not exercised before that day) will be exercised as if this Part had been in operation before that right arose, so that the relevant proceedings may be commenced before the Tribunal rather than the Administrative and Disciplinary Division of the District Court.
- (8) Nothing in this section affects a right of appeal to the Administrative and Disciplinary Division of the District Court against a decision of the Board in proceedings under Part 5 Division 4 made or given before the relevant day (as the right existed under section 66(1)(c) of the principal Act before its amendment by this Act).
- (9) Nothing in this section affects any proceedings before the Administrative and Disciplinary Division of the District Court commenced before the relevant day.
- (10) For the purposes of this section, proceedings of the Board, in respect of a matter, have ***proceeded to a listing*** if a hearing (including a directions hearing, interlocutory hearing or other preliminary hearing) has been held by the Board.
- (11) In this section—

***Board*** means the Veterinary Surgeons Board of South Australia within the meaning of the principal Act;

***principal Act*** means the *Veterinary Practice Act 2003*;

***relevant day*** means the day on which this Part comes into operation;

***Tribunal*** means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.