



**THE LAW REFORM COMMISSION
OF WESTERN AUSTRALIA**

Project No 26 – Part I

Review Of Administrative Decisions

WORKING PAPER

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The Law Reform Commission of Western Australia was established by the *Law Reform Commission Act 1972*.

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PREFACE

The Law Reform Commission has been asked to consider and recommend what principles and procedures should apply in Western Australia in relation to the review of administrative decisions by way of the supervisory jurisdiction of the Supreme Court or by way of appeal.

The Commission having completed its first consideration of the matter now issues this working paper and accompanying Survey of the existing appellate arrangements in Western Australia. The paper does not necessarily represent the final views of the Commission. The Commission will later issue a working paper on the principles and procedures which should apply in Western Australia in relation to the review of administrative decisions by way of the supervisory jurisdiction of the Supreme Court.

Comments and criticisms (with reasons where appropriate) on individual issues raised in the working paper, on the paper as a whole or on any other aspect coming within the terms of reference, are invited. The Commission requests that they be submitted by 12 January 1979.

A notice has been placed in *The West Australian* inviting anyone interested to obtain a copy of the working paper and to submit comments.

The research material on which the working paper is based is at the offices of the Commission and will be made available there on request.

CHAPTER 1

TERMS OF REFERENCE

Origin of project

1.1 The Commission has been asked to consider and recommend what principles and procedures should apply in Western Australia in relation to the review, both by way of appeal and by way of the supervisory jurisdiction of the Supreme Court, of administrative decisions.

1.2 The project initially arose out of a submission to the Government by the Law Society of Western Australia. The Society noted that an Administrative Division of the Supreme Court had been established in New Zealand and urged that a similar body be established in this State.

1.3 In its submission, the Law Society expressed concern at what it regarded as a lack of co-ordination in the existing appellate arrangements in the administrative area. It stated:

“At the present time there are many statutes of the State which give to a person or body a right of appeal against the decision of a Board, a corporate body or a Minister to some tribunal but the choice of tribunal varies from statute to statute and often varies in the same statute.”

1.4 Following the Law Society's submission, the Commission was asked to consider the desirability of establishing in Western Australia a body to hear appeals from administrative decisions.

1.5 Since then, on 11 August 1978, the Commission has been asked by the Attorney General to consider also the principles and procedures which should apply in relation to the review of administrative decisions by way of the supervisory jurisdiction of the Supreme Court.¹ The actual terms of reference of the whole project are now as set out in paragraph 1.1 above.

¹ See paragraphs 1.13 and 1.14 below for an outline of the present scope of its jurisdiction.

Administrative appeals

1.6 The Commission has given careful consideration to its approach to this project. As a first step the Commission has carried out a survey of Western Australian legislation in which provision is made for an appeal from the decision of an administrative tribunal.² The results of this survey³ confirm the view of the Law Society of Western Australia as to the range of appeals and the diverse character of the existing statutory provisions in this State.

Other methods of review

1.7 The provision of an appeal is only one way in which an administrative decision can be reviewed. Other ways are –

- (i) Ministerial accountability to Parliament;
- (ii) investigation by the Parliamentary Commissioner for Administrative Investigations (the Ombudsman); and
- (iii) control by the Supreme Court through the prerogative writs.

In order to place the system of appeals in context it seems desirable to indicate briefly the way in which these other methods of review operate, and any limitations associated with them.

- (i) Ministerial accountability

1.8 It is a parliamentary convention that a Minister is accountable to Parliament for all matters within his administrative responsibility. However, as the New South Wales Law Reform Commission stated:⁴

² In this paper, the Commission uses the term "administrative tribunal" in the wide sense to cover not only bodies described as a tribunal in the relevant statute, but also Ministers, departmental officers, local authorities, statutory bodies and others who are empowered by Western Australian statutes to make decisions affecting the rights, duties or interests of persons. Included are ordinary courts where the decision is of an administrative nature, such as the licensing of land agents by the Court of Petty Sessions. However, the paper does not deal with decisions made by domestic bodies such as the Western Australian Turf Club and the Western Australian National Football League.

³ The survey does not cover tribunals established by subordinate legislation: see paragraph 2.2 below.

⁴ Report on *Appeals in Administration* (1973), paragraph 13.

" A Minister in charge of one or more departments and answerable for the actions of a number of public authorities cannot be expected to control personally all things done on his behalf".

1.9 With the dominance of political parties over individual members of Parliament, the use of censure motions to enforce ministerial accountability has lost a great deal of its significance. Furthermore, ministerial accountability does not extend to statutory bodies over which a Minister does not have control. Nevertheless, in the areas in which it operates, it is a significant means of helping to ensure that the power of the executive is not abused.

(ii) The Parliamentary Commissioner for Administrative Investigations

1.10 In 1971 the Western Australian Parliament made provision for the appointment of a Parliamentary Commissioner for Administrative Investigations (commonly known as an "Ombudsman ").⁵ His function is to investigate administrative decisions, recommendations, acts or omissions by government departments and other specified authorities, including local authorities.

1.11 The Commissioner does not have power to substitute his own decision for the decision he is investigating; and in this regard the procedure falls short of a true appeal. His sanction is his power ultimately to report his opinion to Parliament.⁶ Another limitation on his power is that, in general, he cannot conduct an investigation where the aggrieved person has, or had, a right of appeal to a tribunal, or could take proceedings in a court.⁷

1.12 The role of the Commissioner is essentially to investigate complaints in those areas outside the appellate system where there is an allegation of maladministration.

(iii) The prerogative writs

1.13 The prerogative writs (prohibition, mandamus and certiorari)⁸ provide a means by which the Supreme Court can review administrative decisions.⁹ The writ of prohibition is an

⁵ *Parliamentary Commissioner Act 1971*.

⁶ *Ibid.*, s.25.

⁷ *Ibid.*, s.14(4).

⁸ And also the actions for a declaration or injunction.

⁹ The Commission will issue a further paper dealing with the principles and procedure in relation to the review of administrative decisions by the Supreme Court.

order to a body not to do something it had no authority to do. The writ of certiorari, broadly speaking, enables the Supreme Court to quash a decision made without jurisdiction.¹⁰ The writ of mandamus enables the Supreme Court to direct a public official to perform a duty.¹¹

1.14 These writs are of limited application. In particular, although they may be generally effective in ensuring that administrative decisions are lawful so that the executive is kept within lawful bounds, they are not designed to challenge the actual merits of a decision.

Comparison of methods

1.15 None of the other methods of review outlined above can take the place of a full right of appeal. Depending on the ambit of the appeal,¹² an appellate body can review the merits of the decision appealed against, and can substitute its own decision for that of the tribunal below. However, although the other methods of review are more limited, they can be very effective in certain circumstances, and should be borne in mind whenever the question arises as to whether there is a need for a right of appeal in a particular case, and if so, the ambit of that appeal.

¹⁰ The writ of certiorari can also be used to quash a decision if the tribunal has made an error of law which is apparent from the record of its decision.

¹¹ A detailed account of these writs is contained in de Smith, *Judicial Review of Administrative Action* (3rd ed. 1973), 335-505, and Benjafield and Whitmore, *Principles of Australian Administrative Law* (4th ed. 1971), 187-249.

¹² All appeals are creatures of statute and in each case the ambit of the appeal depends on the terms of the particular statute. In some cases the statute provides for the appellate body to rehear the case de novo. In others, the appeal is more limited, the appellate body being generally confined to determining the appeal on the evidence given before the tribunal below and being able to reverse the decision only if it was manifestly wrong: see also paragraph 4.24 below.

CHAPTER 2

ADMINISTRATIVE APPEALS IN WESTERN AUSTRALIA

THE SURVEY

2.1 Accompanying this paper is a Survey of the Western Australian statutes under which administrative decisions are made and which provide for an appeal from that decision. The Survey is in two parts –

(a) Part I contains an account of the constitution and functions of the tribunals from which there is an appeal, and the nature and extent of that appeal. These tribunals are classified under the following headings –

1. Matters affecting public officers;
2. Rating;
3. Licences, authorities, permits, or duties concerning –
 - (a) occupations and commercial activities;
 - (b) premises;
 - (c) the manufacture and control of foodstuffs;
 - (d) (i) land and its use;
(ii) the environment;
 - (e) other matters;
4. Compensation;
5. Industrial;
6. Miscellaneous.

(b) Part II contains a list of tribunals classified in accordance with the nature of the appellate body (whether a court, a Minister, or a statutory body). This part

shows the diversity of the present appellate arrangements and of the seemingly haphazard distribution of rights of appeal.

2.2 The Commission's research has been confined to approximately 237 cases where a right of appeal has been specified by statutes enacted prior to 31 December 1977. Although the Commission's research has been extensive it cannot be certain that all such appeals have been covered. The Survey does not include rights of appeal created by statutory regulation, by-law or rule.¹ One reason for publishing the Survey is to elicit details of rights of appeal which have not been covered and the Commission welcomes information in regard to such appeals.

SUMMARY OF THE SURVEY

2.3 The following general comments may be made with respect to each category.

Category 1 - matters affecting public officers

Included in this category are thirteen tribunals relating to the promotion and discipline of public officers and other matters relating to their conditions of employment (such as the classification or re-classification of a position). There are a number of appellate tribunals relating to specific groups of officials such as the Government School Teachers' Tribunal, the Government Railways Appeal Board and the Police Appeal Board. There are also appellate tribunals with a more general jurisdiction such as the Public Service Appeal Board, the Public Service Arbitrator, and the Public Service Board.² Apart from the Public Service Arbitrator and the Public Service Board, the general pattern is for the appellate body to consist of a legally qualified Chairman together with a representative of the employer and the appellant's union.

¹ The Commission is aware of some administrative appeals created by subordinate legislation. One example is the Mental Health Act Appeal Board set up under regulation 48 of the *Mental Health (Administration) Regulations 1965*. This Tribunal hears appeals in respect of matters concerning staff not employed under the *Public Service Act 1904*. Another example relates to the licensing of electricians: see comments on category 3(a) below.

² This body is both an appellate body and a tribunal of first instance.

Category 2 - rating

This category includes matters relating to the valuation of land for rating purposes and assessment of local authority rates, water, drainage and irrigation rates, exemptions from rating, land tax assessments and exemptions, and levies for controlling pests and noxious weeds. The existing appellate arrangements follow no definite pattern, though often the Local Court is designated as the appellate body. In other cases there are specific appellate tribunals such as the City of Perth Rating Appeal Board, a Valuation Appeal Court, and Ministers of the Crown.³ There are nine tribunals included in this category.

Category 3(a) - licences, authorities, permits or duties concerning occupations and commercial activities

This category includes a large number of occupations and professions (such as architects, builders, chiropodists, hairdressers, nurses, dentists, legal practitioners, medical practitioners, pharmaceutical chemists, psychologists, teachers, veterinary surgeons) and commercial activities (such as those concerned with lodging-houses, the securities industry, taxi-cars, sales of automobiles, auction and land sales, hire-purchase, and primary industries such as dairies, fisheries and pearling) which are subject to control. The Survey covers forty-one tribunals.

The most common method of control of professions and occupations involves the licensing or registration of persons by various specialist tribunals (e.g. the Psychologists Board of Western Australia) coupled with disciplinary powers vested in those tribunals. Appeals from decisions of such tribunals lie variously to the Local Court, the Court of Petty Sessions, the District Court and the Supreme Court. The appellate arrangements do not appear to follow any definite pattern.

³ A Bill (the Valuation of Land Bill) presently before Parliament (1 September 1978) provides for the appointment of a Valuer General who is to be responsible for all land valuations for rating and taxation purposes. The Bill provides that the Valuer General may consider objections to valuations with an appeal to a Land Valuation Appeal Tribunal. The establishment of Land Valuations Appeals Tribunals is provided for in the Land Valuation Tribunals Bill (also presently before Parliament). That Bill also provides for a further appeal from the determination of the Tribunal to the Supreme Court on questions of law.

By contrast, it is to be noted that there is no right of appeal from decisions of bodies responsible for licensing or registering surveyors (*Licensed Surveyors Act 1909*), money lenders (*Money Lenders Act 1912*), and occupational therapists (*Occupational Therapists Act 1957*).⁴ This inconsistency in approach in providing a right of appeal also applies where licensing authorities are established under subordinate legislation. For example, plumbers are licensed by the Metropolitan Water Supply, Sewerage, and Drainage Board under Part IV of the Metropolitan Water Supply, Sewerage, and Drainage Board By-laws. Where the Board refuses to issue or renew a licence or cancels a licence there is no right of appeal. On the other hand, electricians, who are licensed by a Board appointed under Part II of the *Electricity Act Regulations 1947*, have a right of appeal to the State Energy Commission in similar circumstances.⁵

A system of licensing or registration is also a common method of control of commercial activities. Again, no definite pattern appears to have been followed as regards the appellate rights.

Category 3(b) - licences, authorities, permits or duties concerning premises

This category includes eleven tribunals involved in the licensing or registration of the use made of buildings or their physical condition (e.g. whether a building is fit for use or meets certain health standards) or that of mines (e.g. the adequacy or standard of dust control or ventilation). The majority of appeals in this category lie to a stipendiary magistrate. In other cases an appeal lies to the Supreme Court, a Minister or a departmental officer.⁶

Category 3(c) - licences, authorities, permits or duties concerning the manufacture and control of foodstuffs

Included in this category are eight tribunals with power to destroy contaminated or unsound food or which control the marketing of food such as eggs, potatoes, and

⁴ The Appendix to this paper lists a number of the tribunals of which the Commission is aware in respect of which there is no right of appeal from their decisions. The list seems of significance, since in almost every case decisions of other tribunals, dealing with similar sorts of subject matter, are appealable.

⁵ *Electricity Act Regulations 1947*, regulations 33 and 48(d).

⁶ See page 103 of the Survey where an appeal lies to the Senior Inspector of Mines of a district.

veterinary preparations. In the majority of cases the appeal is to either "two justices" or a stipendiary magistrate. In a number of others, the appeal lies to a Minister.

Category 3(d) (i) - licences, authorities, permits or duties concerning land or its use

The thirteen tribunals included in this category deal with matters such as the control of extractive industries, town planning and mining. In this area many appeals lie to the Governor or a Minister. It appears that questions of policy enter here to a larger extent than elsewhere. In the case of certain town planning matters there is provision for a special appeal tribunal as an alternative to appeals to the Minister.

Category 3(d)(ii) - licences, authorities, permits or duties concerning the environment

Tribunals in this category deal with the protection of the environment including underground water, soil (from erosion) and water-ways. In a number of cases there is an appeal to a Minister. In others, there is an appeal to the Local Court or to the Environmental Appeal Board. The Survey covered seven tribunals.

Category 3(e) - licences, authorities, permits or duties concerning other matters

The twenty-one tribunals included in this category deal with such diverse matters as construction and machinery safety, certain powers of local authorities, control of friendly societies, dogs, explosives and licensing of vehicles and drivers. In some cases the appeal lies to a stipendiary magistrate, a Minister or to the Supreme Court, and in other cases, to a Board of Reference.

Category 4 - compensation

This category includes tribunals dealing with compensation for matters such as the resumption of land and losses suffered by people involved in the bee industry. In some cases there is an appeal to a court, in others to a Minister, and in one case there is provision for arbitration.⁷ The Survey covered twenty-five tribunals.

⁷ See pages 175 and 176 of the Survey.

Category 5 - industrial

With the exception of the Medical Board established under the *Mine Workers' Relief Act 1932*, the five tribunals referred to in this category are an integral part of the industrial relations system in Western Australia. For this reason the Commission's proposal in paragraph 4.20 below for the creation of an Administrative Division of the Supreme Court is not intended to apply to appeals from these tribunals.

Category 6 - miscellaneous

There is no common thread running through the various tribunals included in this category. The Survey covered forty-one miscellaneous tribunals.

CHAPTER 3 - REFORMS AND PROPOSALS FOR REFORM ELSEWHERE

INTRODUCTION

3.1 The question of appeals from decisions of administrative tribunals has been considered in several jurisdictions in recent years. Reports in England, New Zealand, Ontario, Victoria, New South Wales and to the Commonwealth Government¹ have stressed the unsatisfactory nature of the appellate structure as it existed in the jurisdiction concerned. Various approaches have been suggested in these jurisdictions and these approaches will be considered under the following headings –

- (a) an administrative division of an established court;
- (b) an administrative court;
- (c) a general appellate tribunal; and
- (d) specific appellate tribunals.

AN ADMINISTRATIVE DIVISION OF AN ESTABLISHED COURT

New Zealand

3.2 The New Zealand Public and Administrative Law Reform Committee favoured the establishment of an Administrative Division of the Supreme Court in which named judges would sit to hear administrative appeals from specified tribunals.² The Committee considered that the creation of an Administrative Division would have the desired attributes of status and specialisation.³ It considered that it would lead to greater public confidence in the administrative appeal system if such appeals were heard by an Administrative Division. It

¹ England: Report of the Committee on *Administrative Tribunals and Enquiries* (the Franks Committee) (Cmnd. 218, 1957).
New Zealand: Reports 1 to 11 of the Public and Administrative Law Reform Committee (1968-1978).
Ontario: Report of the Ontario Royal Commission into *Civil Rights* (1968).
Victoria: Report of the Victorian Statute Law Revision Committee Upon *Appeals from Administrative Decisions and a proposal for an Office of Ombudsman* (1968).
New South Wales: Law Reform Commission of New South Wales, Report on *Appeals in Administration* (1973).
Commonwealth: Report of the Commonwealth Administrative Review Committee (1971) Interim and Final Reports of the Committee on *Administrative Discretions* (1973).

² First report of the Public and Administrative Law Reform Committee (1968), paragraphs 35 and 36.

³ *Ibid.*, paragraph 35.

considered that the arrangement whereby administrative appeals would be heard only by specially designated judges of the Supreme Court would meet the criticism that that Court was an unsuitable body to hear such appeals, because of the lack of specialisation of the judges of that Court.⁴

3.3 One member of the Committee, Mr. G.S. Orr, dissented. Although he agreed with the criticism by the majority of the haphazard appeal arrangements that then existed, he preferred the establishment of a separate Administrative Court. This proposal had been rejected by the majority principally on the grounds that the status of such a Court would in fact be little higher than that of the existing appellate bodies it would replace and that it would also create the risk of conflicting systems of law.

3.4 Mr. Orr gave the following five major reasons for dissenting from the view of the majority -⁵

1. Proceedings in an Administrative Division of the Supreme Court would be assimilated more closely to the adversary system which is not always suitable for the adjudication of matters of social and economic policy.
2. The Court would tend to avoid making controversial decisions by adopting a passive role rather than implement social, economic or industrial policy in a constructive way.
3. The impartiality of the Court would be impaired if it had to make value judgments on matters of social or economic policy.
4. There would be a loss of informality and a likely increase in costs to litigants.
5. Specialisation in particular areas and consistency in approach would be less likely to occur.

3.5 The New Zealand Government accepted the general recommendations of the majority. The *Judicature Amendment Act 1968* established an Administrative Division of the Supreme

⁴ Ibid., paragraph 33.

⁵ Ibid., Appendix.

Court, to consist of not more than four judges assigned from time to time to the Division by the Chief Justice.⁶ In accordance with the Committee's recommendation, the Act permits the appointment of lay members to the Division.⁷ The Act also empowers the Chief Justice to refer to the Division any application for a prerogative writ he thinks suitable for determination by the Division.⁸

3.6 The *Judicature Amendment Act* does not itself bestow any appellate jurisdiction on the Division. Appeals in specific areas are given by amendments to the legislation dealing with each area. In its first and subsequent reports, the Committee recommended areas which it considered to be suitable for appeal to the Administrative Division. In accordance with its recommendations legislation has been enacted providing for appeals to the Division in valuation of land, liquor licensing, town planning (law only), restrictive trade practices, licensing of cinemas, multiple ownership of pharmacies and compensation for personal injury (the latter is a new jurisdiction under which compensation for certain kinds of personal injury is paid by the State irrespective of fault). In some cases (for example, licensing of broadcasting and television stations and war pensions) legislation has been enacted providing for appeals to the Division without a recommendation to that effect first being made by the Committee.

3.7 The Committee did not envisage that all administrative appeals should go to the Administrative Division. It recommended for example that the Division should not have appellate jurisdiction in relation to price control or transport charges,⁹ earthquake damage compensation or exemptions from normal trading hours.¹⁰ Initially the Committee was of the opinion that taxation appeals should be to that Division,¹¹ but has since recommended against it.¹²

⁶ *Judicature Act 1908* (NZ), s.25. In this respect the Government did not follow the Committee's recommendation which had been that judges should be appointed to the Division by the Governor General.

⁷ *Ibid.*, s.26A. This has, in fact, been done on occasions: see s.3 of the *Land Valuation Proceedings Act 1948* (NZ).

⁸ The Committee had recommended that the Administrative Division should, in general, hear applications for prerogative writs. This power was apparently given to the Chief Justice so that prerogative writs relating to administrative matters could be referred to the Administrative Division.

⁹ First report (1968), paragraphs 70 and 82.

¹⁰ Second report (1969), paragraphs 88 and 100.

¹¹ *Ibid.*, paragraph 65.

¹² Fifth report (1972), paragraph 25.

3.8 The Committee has also examined and made recommendations for the reform of a number of other aspects of administrative law, including regulation-making powers and procedures.¹³ The Committee has also considered providing a code of procedure for administrative tribunals.¹⁴

3.9 The Committee also examined the means by which the courts can review administrative action by way of declaration, certiorari, prohibition, mandamus or injunction. It recommended that an additional remedy, to be called an “application for judicial review” be introduced. This remedy would stand alongside and not supersede the existing remedies.¹⁵ On an application for judicial review the Supreme Court would be able to grant any relief which the applicant would be entitled to in any proceeding for mandamus, certiorari, prohibition, declaration, injunction or any combination of them. The Committee envisaged that in time the existing remedies would cease to be used.¹⁶ The Committee's recommendation was implemented by the *Judicature Amendment Act 1972*. The Committee has since kept the operation of the Act under review and has published a summary of the decisions made under it.¹⁷ The Eighth and Eleventh Reports contain recommendations for amending the Act in the light of the experience gained from its operation.¹⁸

England

3.10 In England, amendments to the Rules of the Supreme Court¹⁹ have reformed the procedure for the exercise of the supervisory jurisdiction of the High Court. The amendments are based on a report of the English Law Commission which recommended that there should be a new form of procedure, to be called "an application for judicial review",²⁰ under which a litigant would be able to obtain any of the prerogative orders or, in appropriate circumstances, a declaration or an injunction. All the applications for judicial review are to be heard by a Divisional Court of the Queen's Bench Division.

¹³ Seventh report (1974), paragraphs 30 to 33.

¹⁴ See Third report (1970), paragraphs 63 to 70; Sixth report (1973), paragraphs 15 to 50; Seventh report (1974), paragraphs 27 to 29; Eighth report (1975), paragraphs 32 and 33.

¹⁵ Fourth report (1971), paragraphs 11 to 28. A similar remedy has been recommended by the English Law Commission: The Law Commission, Report on *Remedies in Administrative Law* (No. 73, 1976). This recommendation has been implemented by new rules of court: see paragraphs 3.10 to 3.12 below.

¹⁶ Fourth report (1971), paragraph 26.

¹⁷ Seventh report (1974), paragraphs 19 to 23; Eighth report (1975), paragraphs 14 to 30; Ninth report (1977), paragraphs 7 to 13.

¹⁸ Eighth report (1975), paragraphs 23 to 30; Eleventh report, *Standing in Administrative Law*.

¹⁹ The *Rules of the Supreme Court* (Amendment No.3) 1977 [SI 1977/1955].

²⁰ Report on *Remedies in Administrative Law* (No. 73, 1976), paragraph 43.

3.11 One effect of the new system is that the supervisory jurisdiction of the High Court will be exercised by judges of the one Division.²¹ The appeals which already lie to the High Court from decisions of tribunals and Ministers are also heard by Judges of the Queen's Bench Division. Formerly, such appeals were heard by a Divisional Court. However, under the amendment to the Rules of the Supreme Court referred to above these will be heard by a single Judge of the Queen's Bench Division, unless the appeal is final, in which case it will be heard by a Divisional Court of the Queen's Bench.²²

3.12 H.W.R. Wade says of this new system, whereby applications for judicial review of administrative decisions are made to the Queen's Bench Division that, in substance, "...an administrative division of the High Court is brought into being".²³

New South Wales

3.13 In New South Wales, the Supreme Court sits in a number of divisions, including the Administrative Law Division.²⁴ Under s.53(3B) of the *Supreme Court Act 1970* the Administrative Law Division has jurisdiction to hear a number of appeals and applications to the Court relating to administrative decisions, including those specified in the Rules.²⁵ The Division also has jurisdiction to hear proceedings involving a public body or public officer where mandamus, prohibition, certiorari or a declaration is being sought.

AN ADMINISTRATIVE COURT

3.14 As has been stated in paragraphs 3.3 and 3.4 above, one member of the New Zealand Public and Administrative Law Reform Committee, Mr. G.S. Orr, preferred the establishment of an administrative court. The defects which Mr. Orr saw in the Committee's proposals have already been referred to in paragraph 3.4 above. He expressed the view that these defects would be avoided if an administrative court were established to hear administrative appeals.

²¹ Formerly, applications for an injunction against a public authority were normally heard in the Chancery Division.

²² See also the *Administration of Justice Act 1977* (UK), s .9.

²³ H.W.R.Wade, *Reform of Remedies in Administrative Law*, *The Law Quarterly Review* (Vol. 94, April 1978), at 181.

²⁴ *Supreme Court Act 1970* (NSW), s.38.

²⁵ See Schedule H to the *Supreme Court Rules 1970* for a list of appeals and applications assigned to the Division.

3.15 One argument put forward by the majority against the establishment of an administrative court was the danger that the new court would create a system of jurisprudence parallel to, but conflicting with, that of the Supreme Court and so give rise to the possibility of the two courts giving conflicting and irreconcilable decisions. However, Mr. Orr said that this criticism overlooked that the two systems would be subject to review by the same court (i.e. the Court of Appeal) on questions of law.

3.16 The Commission is not aware of the establishment of a separate administrative court in any jurisdiction comparable to Western Australia.

A GENERAL APPELLATE TRIBUNAL²⁶

Victoria

3.17 The Victorian Statute Law Revision Committee recommended that a general administrative appeal tribunal be established and that, in addition, an Ombudsman should be appointed. The Committee agreed with the opinion of the then Chief Justice of Victoria that it would be undesirable to include an administrative appeals body within the framework of the Supreme Court, because the body would in part be concerned with policy or administration and "confidence in the Judicial arm of government may be threatened if the Judiciary is brought into an area of administration where public controversy often runs high".²⁷

3.18 The Committee recommended that the chairman of the proposed appeals tribunal should not be a judge, but should be qualified for appointment as a judge.²⁸ It made no firm recommendation about the qualifications of the other members of the tribunal, although it

²⁶ There is no clear distinction between a court and a tribunal, and in many ways their functions and powers overlap. All that can be said is that, generally speaking, the procedure of a tribunal is less formal than that of a court, and that judges of a court are usually required to possess legal qualifications, whereas the members of a tribunal need not. Judges of a court are usually appointed on a permanent basis whereas membership of a tribunal is almost invariably for a limited term. Some courts are designated in the statute as "courts of record". This means that they have power to punish for contempt. It would be very unusual to give such a power to a tribunal. In some cases bodies have been labelled by statute as courts in one jurisdiction whereas similar bodies in others have been called tribunals, commissions or boards. Possibly, the decision to establish a court, rather than a tribunal, is due to the desire to associate the body closely with the ordinary courts (i.e. the Supreme, District and Local Court) and so give it the same standing as those courts.

²⁷ Report of the Statute Law Revision Committee Upon *Appeals from Administrative Decisions and a proposal for an Office of Ombudsman* (1968), paragraph 36.

²⁸ *Ibid.*, paragraph 40.

appears to have regarded with favour a suggestion that each appeal should be heard by members chosen from a panel by the chairman.

3.19 The Committee prepared a list of bodies which it thought to be appropriate subjects for review by such a tribunal. It also indicated that some tribunals were not appropriate subjects for review by the proposed tribunal either because of their specialised nature or because the existing appellate provisions were thought to be adequate.²⁹

3.20 The Committee's recommendations regarding the appointment of an Ombudsman were implemented, but those relating to administrative appeals have not been implemented.

Commonwealth

(a) Administrative Review Committee (the Kerr Committee)

3.21 The Kerr Committee pointed out that under the Constitution a Commonwealth court could not be given jurisdiction to review administrative decisions on the merits.³⁰ The Committee proposed the establishment of an Administrative Review Tribunal to hear appeals on the merits from certain administrative decisions, and an Administrative Court to exercise supervisory jurisdiction over both administrative decisions and decisions of the Administrative Review Tribunal. Appeals on questions of law or mixed law and fact from the Administrative Court would be to the High Court.

3.22 The Committee would not have recommended giving a court jurisdiction to hear appeals on the merits from administrative decisions even if there had been no constitutional objections. It stated: ³¹

“...we are satisfied that for Commonwealth purposes a tribunal for review on the merits should not consist of judges alone but should be able to call upon administrative experience within its membership and we are also satisfied that the necessary safeguards can be built in to the system to avoid the problems of such a system as envisaged in the United Kingdom and New Zealand”.

²⁹ Ibid., paragraph 41. For example, the Public Service Board, the Teachers Tribunal and the Workers Compensation Board.

³⁰ Commonwealth Administrative Review Committee Report (1971), at 24.

³¹ Ibid., paragraph 247.

3.23 In paragraph 292 of its report, the Committee discussed the membership of the proposed Administrative Review Tribunal. It recommended that the chairman should be one of a panel of the judges of the proposed Administrative Court allocated to preside over the Tribunal from time to time. There should be two other members, one being an officer of the department or authority responsible for the initial decision, the other being a layman drawn from a panel of persons chosen for their character and experience in practical affairs. There should also be a small research staff to assist the Tribunal.

3.24 The Committee did not think that the involvement of persons who are judges in appeals concerned with the correct application of policy or the making of correct administrative decisions would threaten confidence in the judicial arm of Government.³² In this respect the Committee disagreed with the view of the Victorian Statute Law Revision Committee.³³

3.25 The Committee envisaged that the Administrative Review Tribunal would not be empowered to reverse an administrative decision if the decision was shown to be "properly based on government policy".³⁴ It would, however, be empowered to "transmit to the appropriate Minister an opinion of the Tribunal that although the decision sought to be reviewed was properly based on government policy, government policy as applied in the particular case is operating in an oppressive, discriminatory or otherwise unjust manner".³⁵

3.26 It considered that the selection of those administrative decisions suitable for appeal to the Tribunal would require careful and detailed work. It regarded any administrative decision which affected a person's rights, property, privileges or liberties or denied him some right, property, privilege or liberty which he was claiming, would be a possible candidate.³⁶ Whether or not the initial decision was made after a hearing was not decisive.³⁷

³² Ibid., paragraph 293.

³³ See paragraph 3.17 above.

³⁴ Commonwealth Administrative Review Committee Report (1971), paragraph 297(ii). The *Administrative Appeals Tribunal Act 1975* which followed this Report contains no such limitation on the power of the Administrative Appeals Tribunal (see paragraphs 3.34 to 3.39 below). The Tribunal regards itself as being empowered to review even basic policies in exceptional cases: see *Re Becker and Minister for Immigration and Ethnic Affairs* (1977)15 ALR 696.

³⁵ Commonwealth Administrative Review Committee Report (1971), paragraph 299.

³⁶ Ibid., paragraph 306.

³⁷ Ibid., paragraph 304.

3.27 The Kerr Committee also recommended that an Administrative Review Council should be established to carry out continuous research into discretionary powers, and in particular, to consider which decisions should be subject to review by the proposed Administrative Review Tribunal.³⁸

3.28 Following the Committee's report, the Commonwealth Government set up a further committee, the Committee on Administrative Discretions, to consider, amongst other matters, the types of discretions and decisions which should be subject to review on the merits.

(b) The Committee on Administrative Discretions (the Bland Committee)

3.29 Apart from considering in detail what discretions and decisions should be subject to review, the Bland Committee considered what appellate tribunals should be established, and it recommended that the following tribunals should be established -³⁹

- (i) a General Administrative Tribunal,
- (ii) a Valuation and Compensation Tribunal, and
- (iii) a Medical Appeals Tribunal.

Appendices D to L of the report contain a list of administrative decisions and the Committee's proposals on which of the above tribunals would be an appropriate appellate body.

3.30 The Committee recommended that the General Administrative Tribunal should be headed by a President⁴⁰ and that it should sit in Divisions.⁴¹ The members of the Tribunal would be appointed by the Attorney General either as full-time or part-time members.⁴² When hearing an appeal, the Tribunal would be composed either of a chairman and two members or the chairman solely.⁴³

³⁸ Ibid., paragraph 283.

³⁹ Final Report of the Committee on Administrative Discretions (1973), paragraph 130.

⁴⁰ Ibid., paragraphs 154 to 156.

⁴¹ Ibid., paragraphs 133 and 134.

⁴² Ibid., paragraphs 140 to 147.

⁴³ Ibid., paragraphs 133 and 134.

3.31 The Committee recommended that the Valuation and Compensation Tribunal should be constituted by a chairman and two members with provision for the appointment of assessors.⁴⁴

3.32 The Committee recommended that the Medical Appeals Tribunal should be constituted by a chairman and two members, the appointment of the members being the responsibility of the Minister of Health.⁴⁵

(c) The Administrative Appeals Tribunal Act 1975 (Cwth)

3.33 Following the reports of the Kerr Committee and the Bland Committee, the Commonwealth Government enacted the *Administrative Appeals Tribunal Act 1975*. That Act provides for the establishment of an Administrative Appeals Tribunal and an Administrative Review Council. The establishment of both of these bodies had been recommended by the Kerr Committee.⁴⁶

(i) The Administrative Appeals Tribunal

3.34 In introducing the Bill providing for the establishment of the Administrative Appeals Tribunal, the then Commonwealth Attorney General (Mr. K.E. Enderby, Q.C.) stated:⁴⁷

“The intention of the present Bill is to establish a single independent tribunal with the purpose of dealing with appeals against administrative decisions on as wide a basis as possible”.

3.35 The Administrative Appeals Tribunal established under the Act consists of a President and such Deputy Presidents and other members as are appointed.⁴⁸ A person cannot be appointed as a presidential member unless he is or has been a Judge, or is enrolled as a legal practitioner of the High Court, another federal court, or the Supreme Court of a State or

⁴⁴ Ibid., paragraph 162.

⁴⁵ Ibid., paragraphs 168 to 170.

⁴⁶ See paragraphs 3.21 and 3.27 above.

⁴⁷ Cwth *Parl. Deb.* (Representatives) Vol. 93 at 1187.

⁴⁸ *Administrative Appeals Tribunal Act 1975* (Cwth), s .5.

Territory for not less than five years.⁴⁹ It was intended that the presidential members would have the status of judges. In introducing the Bill the Attorney General stated:⁵⁰

"The Bill accords them this status because it is considered by the Government to be essential to the successful operation of the Tribunal that it should enjoy a high standing in the Australian community. It will be called upon to review decisions by Ministers and of the most senior officials of Government. In the words of the Franks Committee on Tribunals and Enquiries, the Tribunal is not to be an appendage of Government departments. The Tribunal is to be regarded as machinery provided by Parliament for adjudication rather than as part of the machinery of departmental administration. Nothing less than a tribunal of full judicial status would be satisfactory for these purposes."

There is also provision for the appointment of non-presidential members who must have certain special qualifications.⁵¹ It was considered that these members would bring to the Tribunal professional and technical expertise in various fields.

3.36 The Tribunal exercises the powers conferred on it in the following divisions –

- (a) a General Administrative Division;
- (b) a Medical Appeals Division;
- (c) a Valuation and Compensation Division;
- (d) such other Divisions as are prescribed.⁵²

It was envisaged that the first three Divisions would be the main areas of operation of the Tribunal. On the appointment of a non-presidential member, that member is assigned to a particular division or divisions by the Governor General.⁵³

3.37 The following decisions are subject to review –

1. Those which are listed in the Schedule to the *Administrative Appeals Tribunal Act 1975*.⁵⁴

⁴⁹ Ibid., s.7(1).

⁵⁰ Cwth *Parl. Deb.* (Representatives) Vol. 93 at 1187.

⁵¹ *Administrative Appeals Tribunal Act 1975* (Cwth), s.7(2).

⁵² Ibid., s.19(1) and (2).

⁵³ Ibid., s.19(3).

⁵⁴ Ibid., ss.25(4) and 26(2). For example, certain decisions made under the Air Navigation Regulations, the *Australian Film Commission Act*, the *Coal Excise Act* and the *Migration Act*.

2. Those which another enactment provides may be subject to review.⁵⁵

Many of the decisions which may at present be reviewed by the Tribunal are decisions which the Bland Committee recommended should be subject to review.⁵⁶

3.38 The Tribunal may exercise all the powers and discretions which are conferred by any relevant enactment on the person who made the decision under review, and may –

- (a) affirm it;
- (b) vary it; or
- (c) set it aside and -
 - (i) make a decision in substitution for the decision so set aside; or
 - (ii) remit the matter for reconsideration in accordance with any directions or recommendations of the Tribunal.⁵⁷

3.39 A party to a proceeding before the Tribunal may appeal on a question of law to the Federal Court of Australia from any decision of the Tribunal in that proceeding.⁵⁸ The Tribunal may, either on its own motion or at the request of a party, refer a question of law arising in a proceeding before the Tribunal to the Federal Court for determination.⁵⁹

(ii) The Administrative Review Council

3.40 The Administrative Review Council which the Kerr Committee recommended should be established⁶⁰ was established by the *Administrative Appeals Tribunal Act 1975*. The Council consists of –

- (a) the President of the Administrative Appeals Tribunal;
- (b) the Commonwealth Ombudsman;
- (c) the Chairman of the Commonwealth Law Reform Commission;

⁵⁵ Ibid., s.25(1). For example, s.116 of the *Trade Marks Act 1955* and s.151 of the *Patents Act 1952*.

⁵⁶ See Administrative Review Council, *First Annual Report 1977*, Appendix I.

⁵⁷ *Administrative Appeals Tribunal Act 1975* (Cwth), s.43(1).

⁵⁸ Ibid., s.44(1).

⁵⁹ Ibid., s.45(1).

⁶⁰ See paragraph 3.27 above.

- (d) not less than three nor more than ten other members appointed by the Governor General.⁶¹

3.41 The functions of the Council are:⁶²

- "(a) to ascertain, and keep under review, the classes of administrative decisions that are not the subject of review by a court, tribunal or other body;
- (b) to make recommendations to the Minister as to whether any of those classes of decisions should be the subject of review by a court, tribunal or other body and, if so, as to the appropriate court, tribunal or other body to make that review;
- (c) to inquire into the adequacy of the law and practice relating to the review by courts of administrative decisions and to make recommendations to the Minister as to any improvements that might be made in that law or practice;
- (d) to inquire into the adequacy of the procedures in use by tribunals or other bodies engaged in the review of administrative decisions and to make recommendations to the Minister as to any improvements that might be made in those proceedings;
- (e) to make recommendations to the Minister as to the manner in which tribunals engaged in the review of administrative decisions should be constituted;
- (f) to make recommendations to the Minister as to the desirability of administrative decisions that are the subject of review by tribunals other than the Administrative Appeals Tribunal being made the subject of review by the Administrative Appeals Tribunal; and
- (g) to make recommendations to the Minister as to ways and means of improving the procedures for the exercise of administrative discretions for the purpose of ensuring that those discretions are exercised in a just and equitable manner".

⁶¹ *Administrative Appeals Tribunal Act 1975* (Cwth), s.49(1) and (2).

⁶² *Ibid.*, s.51(1).

(d) Administrative Decisions (Judicial Review) Act 1977 (Cwth)

3.42 Another significant legislative measure of the Commonwealth Government is the *Administrative Decisions (Judicial Review) Act 1977*. This Act provides a procedure whereby the Federal Court of Australia can review decisions of an administrative character, including those involving the exercise of a discretion, made or proposed or required to be made under any enactment (but not decisions made by the Governor General).⁶³ In introducing the Bill, the then Attorney General (Mr. R.J. Ellicott, Q.C.) stated:⁶⁴

“Judicial review by the Federal Court of Australia will not be concerned at all with the merits of the decision or action under review. The only question for the Court will be whether the action is lawful, in the sense that it is within the power conferred on the relevant Minister or official or body that prescribed procedures have been followed and that general rules of law, such as conformity to the principles of natural justice, have been observed. The Court will not be able to substitute its own decision for that of the person or body whose action is challenged in the Court. It will be empowered to enjoin action or to quash a decision it finds unlawful and to direct action to be taken in accordance with the law. It will also be able to compel action by a person or body who has not acted, but who ought to have done so”.

New South Wales

3.43 The New South Wales Law Reform Commission recommended that a Public Administration Tribunal should be established to hear appeals. The areas to be subject to appeal would depend on the recommendations of a Commissioner for Public Administration⁶⁵ whom the Committee recommended should be appointed to review and keep under review all powers exercised by public authorities.⁶⁶

3.44 The President of the Tribunal would be a Judge of the Supreme Court, but other members would be selected from persons having special knowledge or experience in Government, administration, the law, trade, commerce or industry, or a branch of the social sciences or any other science.

⁶³ *Administrative Decisions (Judicial Review) Act 1977 (Cwth)*, s.3(1).

⁶⁴ *Cwth Parl. Deb. (Representatives)* 28 April 1977, at 1394-1395.

⁶⁵ *Report on Appeals in Administration (1973)*, paragraph 157.

⁶⁶ *Ibid.*, paragraphs 134 and 136.

3.45 The Commission referred to the existing appellate system in New South Wales which it considered to be undesirable because it was fragmented. There was no apparent system in selecting the bodies which could hear appeals against official actions.⁶⁷ The Commission recommended that there should be only two classes of bodies dealing with appeals against official actions -

- (i) the proposed Public Administration Tribunal; and
- (ii) a limited number of specialist bodies.⁶⁸

The Commission recommended that the jurisdiction of the Supreme Court and the District Court to hear certain appeals should be transferred to the Tribunal.⁶⁹

3.46 The Commission also recommended that a person who is "adversely and substantially affected by an official action" should, as of right in some cases and with leave of the Tribunal in other cases, have the Tribunal inquire into that action.⁷⁰ However, this would be subject to the power of the Governor to preclude any inquiry into a particular official action.⁷¹

3.47 The recommendations of the Commission, apart from those dealing with the appointment of an ombudsman, have not been implemented.

SPECIFIC APPELLATE TRIBUNALS

3.48 In England the Franks Committee, which reported in 1957, recommended that, generally speaking, the appropriate appeal structure should be a general appeal from a tribunal of first instance to an appellate tribunal dealing with a specific area, followed by an appeal to a court on a point of law.⁷² The Committee considered that the establishment of an appellate

⁶⁷ Ibid., paragraph 155.

⁶⁸ Ibid.

⁶⁹ Ibid., paragraph 156.

⁷⁰ Ibid., paragraph 148.

⁷¹ Ibid., Clause 26(1) of a draft bill accompanying the Commission's report (page 101), provides:

"At any time after the taking of any official action, the Governor may, by order published in the Gazette, direct that the Tribunal shall not inquire, or continue inquiring, into the official action".

The Commission's view (at paragraph 148) was that:

"This power, although seemingly severe, recognizes that Government must have ultimate control of official actions. The doctrine of collective ministerial responsibility provides, in our view, a proper and sufficient safeguard against any unreasonable use of the power".

⁷² Report of the Committee on *Administrative Tribunals and Enquiries* (Cmnd. 218, 1957), paragraph 126.

tribunal was unnecessary where the tribunal of first instance was exceptionally well qualified.⁷³

3.49 The Committee was of the view that an appeal to the ordinary courts on matters of fact was undesirable since "it would constitute an appeal from a body expert in the particular subject to a relatively inexpert body".⁷⁴

3.50 In paragraphs 120 to 123 of the report, the Committee also rejected a proposal for the establishment of a general administrative appeal tribunal outside the framework of the ordinary courts for the following reasons. First, a general tribunal could not have the required experience and expertise in particular fields. Secondly, it would involve the creation of an adjudicating body not subject in matters of jurisdiction to the control of the superior courts. Thirdly, conflicting systems of law would inevitably arise, since final determinations on points of law would be made by the general administrative tribunal in relation to tribunals, but by the superior courts in relation to matters decided by the courts.⁷⁵

3.51 The Committee also did not favour the establishment of an Administrative Division of the High Court to hear appeals from administrative tribunals. It was of the view that although conflicting systems of law would not arise, the proposal suffered from the defect that appeals would lie from expert tribunals to an inexpert general appellate body.⁷⁶

3.52 These recommendations of the Committee have been adopted in England. Several statutes dealing with specific areas, such as national insurance, give an appeal from the tribunal of first instance to a specialist appellate body. The *Tribunals and Inquiries Act*, first enacted in 1958 and consolidated in 1971, gives a right of appeal on questions of law from certain named tribunals to the High Court.

3.53 The recommendations of the Law Commission for a form of procedure entitled an application for judicial review have also been adopted.⁷⁷

⁷³ Ibid., paragraph 106.

⁷⁴ Ibid., paragraph 105.

⁷⁵ The Committee apparently assumed that there would be no appeal on a point of law from the general administrative tribunal to the Court of Appeal and ultimately to the House of Lords.

⁷⁶ Report of the Committee on *Administrative Tribunals and Enquiries* (Cmnd. 218, 1957), paragraph 125.

⁷⁷ See paragraphs 3.10 to 3.12 above.

CHAPTER 4 - DISCUSSION

INTRODUCTION

4.1 From the Survey it will be seen that there is a multiplicity of kinds of appellate tribunals. The present system of administrative appeals is the result of ad hoc decision making over a long period of time without an apparent overall plan or scheme. As a result, the present arrangements incorporate inconsistencies. For example, while appeals on matters relating to legal and medical practitioners lie to the Supreme Court, architects may appeal only to a Local Court.¹ It is the Commission's view that there is no justification for such inconsistencies, and that the present system of appeals should be rationalised. Rationalisation should be regarded as the first step in any reform in this area.

THE COMMISSION'S TENTATIVE VIEWS

A number of specialist appellate bodies?

4.2 One means of rationalising the present system would be to create a number of special appellate tribunals dealing with specific areas, from which there would be a further appeal to the Supreme Court on questions of law. This was the approach recommended by the Franks Committee.² For example, special appellate tribunals could be established to hear appeals relating to town planning, occupations, public servants, rating, compensation, environmental matters, and the manufacture and control of the supply of food.

4.3 Such an approach would enable the members of the appellate tribunal to be selected on the basis of specialist knowledge and expertise on matters of fact or discretion which might arise on an initial appeal. This would avoid the criticism of appeals from expert tribunals of first instance lying to a comparatively inexpert appellate tribunal.

4.4 One difficulty with such an approach is that the decisions of some administrative tribunals would not fall within any of the categories of special appellate tribunals (for

¹ The District Court is substituted for the Local Court in a Bill to amend the *Architects Act 1921* introduced into Parliament during 1978.

² See paragraphs 3.48 to 3.52 above.

example, the refusal by the Registrar to extend the time for the registration of a bill of sale³). The Franks Committee approach was criticised by the Commonwealth Administrative Review Committee because it considered that it would lead to a proliferation of specialised tribunals to cover all cases.⁴ The English Council on Tribunals has in fact expressed concern about this matter and emphasised the need to avoid an undue proliferation of tribunals.⁵

4.5 The Commission tentatively agrees with the criticism by the Commonwealth Administrative Review Committee of the approach of the Franks Committee and for this reason does not favour it.

A general appellate body?

4.6 The Commission shares the concern of the English Council on Tribunals at the need to avoid an undue proliferation of tribunals. It is the Commission's tentative view that this can best be achieved by the establishment of a general appellate body either as an administrative division of the District or Supreme Court, an administrative court, or a general appellate tribunal.

4.7 The Franks Committee saw three disadvantages in a general appellate body. First, appeals would lie from an expert tribunal to a comparatively inexpert body.⁶ Secondly, the appellate body would not be subject to the supervision of the superior courts,⁷ and thirdly, as it would make final determinations on points of law, two systems of law would arise "...with all the evils attendant on this dichotomy".

4.8 The Commission does not agree with the first criticism, and considers that the other two would only be justified if the appellate body were completely independent of the ordinary court system. As to the first criticism; the Commission agrees with the New South Wales Law Reform Commission which said of a general appellate body:⁸

³ See page 203 of the survey.

⁴ Report of the Commonwealth Administrative Review Committee (1971), paragraph 233.

⁵ The Annual Report of the Council on Tribunals for 1970-71, paragraph 15. The Council was established under s. 1 of the *Tribunals and Inquiries Act 1958*: see now *Tribunals and Inquiries Act 1971*. One function of the Council is to keep under review the operation of a wide range of tribunals including a number of special appellate tribunals.

⁶ Report of the Committee on *Administrative Tribunals and Enquiries* (Cmnd. 218, 1957), paragraph 121.

⁷ *Ibid.*, paragraph 122.

⁸ Report on *Appeals in Administration* (1973), paragraph 151.

"While it might not have expert knowledge of the technical details of every field of administration it should have experience in, and understanding of, the nature of the administrative process and the basic problems of those who take official actions and those who are affected by them".

If the appellate body were itself a division of the Supreme Court, the other two criticisms would not apply, particularly if there were a right of appeal on a question of law to the Full Court. Even if the appellate body were separate from the Supreme Court, the criticisms of the Frank Committee could be overcome by providing for a right of appeal on a question of law to the Full Court.⁹

4.9 Although the Commission favours the establishment of a general appellate body, it does not necessarily consider that the general appellate body would be appropriate to hear all administrative appeals. For example, it would be an inappropriate body to hear appeals in the case of industrial matters,¹⁰ because the tribunals in this area are an integral part of the industrial relations framework which has developed highly individual and specialised techniques in connection with conciliation and arbitration procedures.¹¹ The Commission, therefore, tentatively favours a system with a general appellate body and a limited number of specialist appellate bodies.¹²

What form should the general appellate body take?

4.10 The Commission is aware of proposals for three forms of general appellate body –

- (i) a general appellate tribunal;
- (ii) an administrative court;¹³ and
- (iii) an administrative division of an established superior court.

⁹ If such a right of appeal were given, the absence of any supervisory jurisdiction by the Supreme Court by way of the prerogative writs would not matter.

¹⁰ See pages 192 to 198 of the Survey.

¹¹ In the industrial relations framework which presently exists in Western Australia, the ultimate appellate body is the Western Australian Industrial Appeal Court, which is composed of three Judges of the Supreme Court, one of whom is the President. The Court hears appeals on questions of law from the Western Australian Industrial Commission and from decisions of Industrial Magistrates, who are appointed from among the magistracy.

¹² The Commission considers that because legal practitioners are officers of the Supreme Court it would also be appropriate for the Full Court of the Supreme Court to continue to control matters relating to them.

¹³ See paragraphs 3.14 and 3.15 above.

The first and third approaches have been adopted elsewhere. In New Zealand there is an Administrative Division of the Supreme Court,¹⁴ and in Australia the Commonwealth has established an Administrative Appeals Tribunal.¹⁵

4.11 The arguments in favour of setting up a general appellate tribunal or an administrative court¹⁶ appear to be mainly of the negative sort. Although the established courts are seen as being appropriate to determine issues within the private sphere, they are considered to be inappropriate to determine disputes which have a public or administrative element, particularly in matters involving discretion. Those who argue in favour of a general appellate tribunal or an administrative court tend to claim that the established courts are too formal in their procedure, too rigid in their approach and generally ill-equipped to determine matters involving economic or social policy.

4.12 However, the Commission is not at present satisfied that the existing courts are not suitable bodies to deal with administrative appeals. It is also not satisfied that the creation in Western Australia of a general appellate body outside the ordinary court system would in fact have the advantages claimed for it and would not bring with it disadvantages of its own.

4.13 In this connection, it is to be noted that in Western Australia, the existing courts already play an important role in the determination of administrative appeals. An analysis of Part II of the Survey accompanying this paper shows that about 62% of appeals lie to one or other of the existing courts.¹⁷ The use of the courts as appellate bodies in the administrative sphere is accordingly well established in this State and there seems much to be said for retaining this use, while instituting reform by way of rationalisation.

4.14 The arguments against using an existing court, and in particular, the Supreme Court, as an appellate body to hear administrative appeals have been set out in detail above,¹⁸ in the course of giving the reasons of the dissenting member of the New Zealand Public and Administrative Law Reform Committee against the establishment of an administrative

¹⁴ See paragraphs 3.2 to 3.9 above.

¹⁵ See paragraphs 3.33 to 3.39 above.

¹⁶ The difference in these two concepts does not appear to be great: see footnote 26 in Chapter 3. Those who advocate an administrative court rather than a general appellate tribunal seem to have in mind the higher status which would be a consequence of designating a body as a "court" rather than a "tribunal". In the Commonwealth sphere there are constitutional limitations on setting up a court to hear administrative appeals: see paragraph 3.21 above.

¹⁷ About 18% of appeals lie to a Minister and only 20% to a separate appellate tribunal.

¹⁸ See paragraph 3.4 above.

division of the Supreme Court. Several reasons were advanced, which are examined below. It should be borne in mind that the dissenting view was against an administrative division of an existing court, and in favour of a separate administrative court.

4.15 First, it was said that the proceedings would be assimilated to the adversary system which was not always suitable for the adjudication of matters of social and economic policy. There would be a loss of informality and a likely increase in expenses. The Commission, however, regards the adversary system as fundamental to the determination of disputes, whether in the administrative area or not. The system is one of the great strengths of the Anglo-Australian system of jurisprudence. This, of course, is not to say that the role of the adjudicator should be an entirely passive one. Further, he could also possibly be aided in certain areas by the development of the *amicus curiae* system, whereby counsel could be appointed to argue the opposing case where otherwise only one side would be represented.¹⁹ A court need not necessarily be an unduly formal place, nor need its procedure involve the litigant in increased costs (the cost of legal representation will be the same whether the appeal is to a tribunal or court). The courts have demonstrated a flexibility in relation to the matter of formality. Whether the appeal is heard by a court or a tribunal some degree of formality in the sense of observance of a regular procedure is necessary.

4.16 Secondly, it was argued that the Supreme Court would tend to avoid controversial decisions by adopting a passive role rather than implementing social, economic or industrial policy in a constructive way. The Commission does not accept this argument. In this connection it is assumed that the functions of an administrative appeal body, whether a court or not, include the review of policy as well as its interpretation and application in particular cases. The view that an established court would be less likely than a separate tribunal or administrative court to make controversial decisions seems to have no application in Western Australia.

4.17 Thirdly, it was said that the impartiality of the Court would be impaired if the Court had to make value judgments on matters of social and economic policy. This argument is somewhat inconsistent with the earlier argument that a court would tend to avoid controversial decisions. It can not be envisaged that administrative appeals would involve value judgments any less susceptible of impartial decision than value judgments about

¹⁹ This could happen, for example, in licensing appeals: cf. paragraph 33 of the Second report of the New Zealand Public and Administrative Law Reform Committee (1969).

conduct such as fraud or negligence. The question in most appeals is whether statutory criteria or government policy has been properly applied to a given set of facts. The Commission sees no threat to judicial impartiality in the determination of such questions.

4.18 Fourthly, it was alleged that specialisation and consistency in approach would be less likely to occur if the established courts were involved in administrative appeals. The Commission does not accept this argument. An administrative division of an established court with specially assigned judges acting as a general appellate body would develop special expertise and a consistent approach to a wide range of appeals.

4.19 Having weighed the arguments and the experience elsewhere the Commission is not convinced that it would be desirable to set up a completely new appellate body, with the attendant difficulties of defining its relationship to the ordinary court system. There would be a danger of the growth of conflicting systems of jurisprudence. This may be to some extent limited if an appeal on questions of law were provided to the Full Court from the appellate body's decisions, but ultimate reconciliation in any case would depend on whether a party wished to incur the expense of appealing to the Full Court.

4.20 The Commission accordingly favours the third possibility in paragraph 4.10 above, namely, the creation of an administrative division of either the Supreme Court or the District Court. The Commission prefers the former alternative.²⁰ This is because the Commission regards the Supreme Court as the appropriate level in the judicial hierarchy to deal with the general body of administrative appeals. The present distribution of jurisdiction among the Supreme Court, the District Court and the Family Court, together with the creation of the Federal Court, has created a situation in which additional jurisdiction could appropriately be vested in the Supreme Court. Judges of that Court could be appointed or assigned to the administrative division.²¹ A further advantage of creating the administrative division in the Supreme Court is that it would thereby be possible to provide for prerogative writ applications involving administrative decisions to be heard in that division.²² The way would also be left open for the introduction of a general review by way of "application for judicial review" if

²⁰ In this respect, following New Zealand and New South Wales. See paragraphs 3.2 to 3.9 and 3.13 above.

²¹ The Public and Administrative Law Reform Committee of New Zealand recommended that they should be appointed to the Division by the Governor General. However, the enactment provides for the Chief Justice to assign Judges to the Division: see footnote 6 in Chapter 3 above.

²² See paragraph 3.13 above.

such a reform were introduced in the future.²³ Provision would be made for appeals to the Full Court from decisions of the Administrative Division on questions of law arising from the Division sitting as an appellate tribunal.

4.21 If it is considered that it is preferable to create the administrative division in the District Court, an appeal on a question of law to the Full Court should be provided.

What jurisdiction should the appellate body have?

4.22 The creation of an Administrative Division of either the Supreme Court or the District Court would not of itself determine which administrative appeals should lie to it. Each class of appeal should be studied separately. It may be considered that some decisions are of such a local or minor nature that they should be determined at the local level, for example by the Local Court. Other decisions may involve specialised knowledge to such an extent that it would be more appropriate that an appeal should lie to a special appeal tribunal. Other decisions may necessarily involve questions of the formulation and implementation of policy to such an extent that it may be desirable to make specific provision for them. The Commission welcomes comment on which appeals should lie to an administrative division of the Supreme Court or the District Court, should it be decided to establish it. The Commission's present approach is that an appeal should lie to the Administrative Division unless there are good reasons for providing for an appeal to some other tribunal.²⁴

4.23 In New Zealand the Public and Administrative Law Reform Committee has been charged with responsibility for considering what administrative decisions should be subject to appeal to the administrative division of the Supreme Court. In the case of the Commonwealth Government, an Administrative Review Council has been established to carry out a similar function.²⁵ The Commission would welcome comment on the question whether a permanent body similar to the Administrative Review Council should be established in Western Australia to consider what decisions should be subject to appeal and to which appellate body. If established, it would also be able to make recommendations as to the appropriate procedure for tribunals of first instance.

²³ See paragraphs 3.9, and 3.10 to 3.12 above.

²⁴ The Commission has suggested earlier that an Administrative Division of the Supreme Court would not in general be an appropriate body to hear appeals in the industrial sphere: see paragraph 4.9 above.

²⁵ See paragraphs 3.40 and 3.41 above.

Scope of the appeal and procedure

4.24 In the above discussion, the Commission has not specifically discussed the question of the scope of any appeal that would lie to whatever appellate body was set up. In general, apart from appeals which are expressly restricted to questions of law, administrative appeals are by way of rehearing. This does not necessarily mean that the appellate body must hear the evidence all over again, but it does mean that it has the power to do so. In the case of administrative appeals, the appellate body usually has power to form its own opinion of the matter, though it must have due regard to the opinion of the tribunal below.²⁶

4.25 The Commission suggests that, in general, administrative appeals should be by way of rehearing and that the appellate body should have powers along the lines of those given in Order 65 rule 10 of the Western Australian *Supreme Court Rules 1971*. This rule, which covers those administrative appeals which at present lie to the Supreme Court,²⁷ is as follows-

"10. (1) Subject to paragraphs (2) and (3),²⁸ the appeal shall be in the nature of a rehearing, and the Judge hearing the appeal may confirm, quash or vary the decision of the tribunal against which the appeal is made or remit the matter to the tribunal for rehearing, with or without directions.

(2) The Judge may determine the appeal on the material that was before the tribunal when it gave its decision or, by special order given before or at the hearing, on such additional or fresh evidence, either oral or by affidavit, as may be allowed, or partly in the one way and partly in the other, and the Judge may rehear the testimony of any witness, whether by way of examination or cross-examination, and any party to the appeal may be represented by counsel".

4.26 Order 65 of the *Supreme Court Rules 1971* also sets out the procedure to be followed in the case of those administrative appeals which lie to the Supreme Court. This Order could form the basis of the appellate procedure of the proposed Administrative Division of the Supreme Court, or other appellate body it is decided ultimately to set up.

4.27 If, as the Commission favours, the Administrative Division were established in the Supreme Court, provision could be made in certain cases for the presiding Judge to be

²⁶ See *Sagnata Investments Ltd. v Norwich Corporation* [1971] 2. All ER 1441. See also de Smith, *Judicial Review of Administrative Law* (3rd ed. 1973), 249-251.

²⁷ For example, an appeal from a decision of the Medical Board under the *Medical Act 1894* and the other appeals referred to in Order 65 rule 2.

²⁸ This paragraph provides that the rule does not apply to appeals from decisions of the Licensing Court, which are restricted to questions of law.

assisted by lay assessors²⁹ as is already the case where the Supreme Court sits as a Compensation Court to determine a claim for compensation under the *Public Works Act*.

²⁹ In New Zealand there is provision for the appointment of lay members: see paragraph 3.5 above.

CHAPTER 5 - SUMMARY OF QUESTIONS FOR DISCUSSION

5.1 The Commission welcomes comment (with reasons where appropriate) on any matter arising out of this paper, and in particular on the following –

1. Should the existing appellate arrangements be rationalised by the creation of a number of specialist appellate bodies?
(paragraphs 4.2 to 4.5)
2. If not, should a general appellate body be created?
(paragraphs 4.6 to 4.8)
3. If so, should the general appellate body be –
 - (a) a general appellate tribunal;
 - (b) an administrative court; or
 - (c) an administrative division of an established superior court?
(paragraphs 4.10 to 4.19)
4. If the creation of an administrative division of an established superior court is considered to be desirable, should that division be created in the Supreme Court or the District Court?
(paragraphs 4.20 and 4.21)
5. Which appeals should lie to an administrative division of the Supreme Court or the District Court, should it be decided to establish it?
(paragraph 4.22)
6. Should a permanent body similar to the Administrative Review Council be established in Western Australia?
(paragraph 4.23)
7. What powers should the appellate body have on hearing and determining an appeal?
(paragraphs 4.24 and 4.25)

8. What procedure should be provided for the appellate body?
(paragraph 4.26)

9. Should provision be made for the appointment of lay assessors?
(paragraph 4.27)

APPENDIX

List of tribunals from which there is no appeal

Act	Section	Tribunal
Rating		
Agriculture and Related Resources Protection Act 1976	60, 61	The Agriculture Protection Board
Occupations and commercial activities		
Factories and Shops Act 1963	41	The Chief Inspector of Factories and Shops
Health Act 1911	326	The Commissioner of Public Health
Licensed Surveyors Act 1909	7, 14, 21	The Land Surveyors' Licensing Board
Marketing of Eggs Act 1945	20-24	The Western Australian Egg Marketing Board
Mental Health Act 1962	89	The Medical Board
Money Lenders Act 1912	6	A stipendiary magistrate
Occupational Therapists Act 1957	8	The Occupational Therapists Registration Board of Western Australia
Oyster Fisheries Act 1881	6	The Governor
Physiotherapists Act 1950	10	The Physiotherapists Registration Board
Workers' Compensation Act 1912	21A	The Medical Board
Premises		
Dairy Industry Act 1973	60	The Dairy Industry Authority of Western Australia
Local Government Act 1960	415	The Minister for Local Government
Mental Health Act 1962	21, 22	The Minister for Health
Land		

Country Areas Water Supply Act 1947	14, 15	The Minister for Water Supplies
Land Act 1933	102, 103, 122, 123	Pastoral Appraisal Board Land Purchase Board
Environment		
Environmental Protection Act 1971	60	The Environmental Protection Authority
Rights in Water and Irrigation Act 1914	27B-27E	The Minister for Water Supplies
Soil Conservation Act 1945	38	The Commissioner for Soil Conservation
	41	The Minister for Agriculture
Other Matters		
Explosives and Dangerous Goods Act 1961	19	The Minister for Mines
Transport Commission Act 1966	16	The Commissioner for Transport
Compensation		
Banana Industry Compensation Fund Act 1961	25-29	The Banana Industry Compensation Committee
Cattle Industry Compensation Act 1965	15-20A	The Director of Agriculture
Local Government Act 1960	296, 378	The council of a municipality
Workers' Compensation Act 1912	29	The Workers' Compensation Board
Miscellaneous		
Associations Incorporation Act 1895	2	The Attorney General
Business Names Act 1962	7	The Commissioner for Corporate Affairs
Pearling Act 1912	106	An inspector
Workers' Compensation Act 1912	30	The Premium Rates Committee

Survey of
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in
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Category 3 - Tribunals dealing with granting of licences, authorities, permits or imposition of duties concerning –

- (a) occupations and commercial activities;
- (b) premises;
- (c) the manufacture and control of foodstuffs;
- (d) (i) land and its use;
(ii) the environment;
- (e) other matters.

Category 4 - Tribunals dealing with compensation

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PART II THE ORDINARY COURTS, MINISTERS, AND OTHER PERSONS OR BODIES ACTING AS ADMINISTRATIVE APPEAL AUTHORITIES

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The Local Court

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Agricultural Areas, Great Southern Towns, and Goldfields Water Supply Act 1947
Agriculture and Related Resources Protection Act 1976
Albany Port Authority Act 1926
Architects Act 1921
Auction Sales Act 1973
Audit Act 1904

Bee Industry Compensation Act 1953
Bills of Sale Act 1899
Bread Act 1903
Builders' Registration Act 1939
Building Societies Act 1976
Bunbury Port Authority Act 1909
Business Franchise (Tobacco) Act 1975
Business Names Act 1962

Cemeteries Act 1897
Censorship of Films Act 1947
Child Welfare Act 1947
Chiropodists Act 1957
City of Perth Parking Facilities Act 1956
City of Perth (Rating Appeals) Act 1940
Clean Air Act 1964
Closer Settlement Act 1927
Coal Mines Regulation Act 1946
Community Welfare Act 1972
Companies Act 1961
Companies (Co-operative) Act 1943
Construction Safety Act 1972
Co-Operative and Provident Societies Act 1903

Country Areas Water Supply Act 1947

Country Towns Sewerage Act 1948

Cremation Act 1929

Dairy Industry Act 1973

Death Duty Assessment Act 1973

Debt Collectors Licensing Act 1964

Dental Act 1939

Dog Act 1976

Education Act 1928

Electricity Act 1945

Employment Agents Act 1976

Environmental Protection Act 1971

Esperance Port Authority Act 1968

Explosives and Dangerous Goods Act 1961

Factories and Shops Act 1963

Fertilizers Act 1977

Filled Milk Act 1959

Finance Brokers Control Act 1975

Firearms Act 1973

Fire Brigades Act 1942

Fisheries Act 1905

Forests Act 1918

Fremantle Port Authority Act 1902

Friendly Societies Act 1894

Fuel, Energy and Power Resources Act 1972

Geraldton Port Authority Act 1968

Government Employees' Pensions Act 1948

Government Employees (Promotions Appeal Board) Act 1945

Government Railways Act 1904

Hairdressers Registration Act 1946

Health Act 1911

Hire-Purchase Act 1959

Income Tax Assessment Act 1937

Indecent Publications and Articles Act 1902

Industrial Arbitration Act 1912

Industrial Development (Kwinana Area) Act 1952

Industrial Development (Resumption of Land) Act 1945

Inquiry Agents Licensing Act 1954

Jetties Act 1926

Joondalup Centre Act 1976

Land Act 1933

Land Agents Act 1921

Land Drainage Act 1925

Land Tax Assessment Act 1976

Legal Aid Commission Act 1976

Legal Contribution Trust Act 1967

Legal Practitioners Act 1893

Liquor Act 1970

Local Government Act 1960

Long Service Leave Act 1958

Machinery Safety Act 1974

Main Roads Act 1930

Marine Stores Act 1902

Maritime Archaeology Act 1973

Marketing of Eggs Act 1945

Marketing of Onions Act 1938

Marketing of Potatoes Act 1946

Medical Act 1894

Mental Health Act 1962

Metropolitan Market Act 1926
Metropolitan (Perth) Passenger Transport Trust Act 1957
Metropolitan Region Town Planning Scheme Act 1959
Metropolitan Water Supply, Sewerage, and Drainage Act 1909
Miner's Phthisis Act 1922
Mines Regulation Act 1946
Mine Workers' Relief Act 1932
Mining Act 1904
Motor Vehicle Dealers Act 1973
Motor Vehicle Drivers Instructors Act 1963

Noise Abatement Act 1972
Nurses Act 1968

Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act 1952
Optical Dispensers Act 1966
Optometrists Act 1940

Painters' Registration Act 1961
Pawnbrokers Act 1860
Pay-roll Tax Assessment Act 1971
Pearling Act 1912
Petroleum Act 1967
Petroleum Pipelines Act 1969
Petroleum (Submerged Lands) Act 1967
Pharmacy Act 1964
Pig Industry Compensation Act 1942
Plant Diseases Act 1914
Poisons Act 1964
Police Act 1892
Port Hedland Port Authority Act 1970
Prevention of Cruelty to Animals Act 1920
Psychologists Registration Act 1976
Public Service Act 1904

Public Service Arbitration Act 1966

Public Trustee Act 1941

Public Works Act 1902

Radiation Safety Act 1975

Railways Classification Board Act 1920

Registration of Births, Deaths and Marriages Act 1961

Registration of Identity of Persons Act 1975

Rights in Water and Irrigation Act 1914

Road Traffic Act 1974

Second-hand Dealers Act 1906

Securities Industry Act 1975

Security Agents Act 1976

Soil Conservation Act 1945

Stallions Act 1921

Stamp Act 1921

State Energy Commission Act 1945

State Housing Act 1946

Superannuation & Family Benefits Act 1938

Taxi Cars (Co-ordination and Control) Act 1963

Teachers' Registration Act 1976

Town Planning and Development Act 1928

Transport Commission Act 1966

Veterinary Preparations and Animal Feeding Stuffs Act 1976

Veterinary Surgeons Act 1960

Water Boards Act 1904

Waterways Conservation Act 1976

Western Australian Marine Act 1948

Western Australian Meat Industry Authority Act 1976

Wheat Marketing Act 1947

TABLE OF ADMINISTRATIVE TRIBUNALS

Tribunal

Agriculture Protection Board

Air Pollution Control Council

Albany Port Authority

Architects' Board of Western Australia

Attorney General

Auditor General

Barristers' Board

Beekeepers' Compensation Fund Committee

Board of Reference (Industrial Arbitration Act 1912)

Board of Reference (Long Service Leave Act 1958)

Board of Visitors (Mental Health Act 1962)

Builders' Registration Board of Western Australia

Bunbury Port Authority

Censor

Chief Inspector of Construction Safety

Chief Inspector of Explosives

Chief Inspector of Factories and Shops

Chief Inspector of Machinery

Chief Secretary

Children's (Suspended Proceedings) Panel

Chiropodists' Registration Board,

City of Perth Council

City of Perth Parking Inspector

Closer Settlement Committee (Closer Settlement Act 1927, s.6A)

Commissioner for Corporate Affairs

Commissioner of Main Roads

Commissioner of Police

Commissioner of Public Health

Commissioner of Soil Conservation

Commissioner of State Taxation

Commissioner of Transport

Companies Auditors Board

Court of Petty Sessions

Cremation Act Medical Referee

Dairy Industry Authority of Western Australia

Dental Board of Western Australia

Department of Lands and Surveys Officers

Designated Authority (Petroleum (Submerged Lands) Act 1967)

Director-General of Education

Director of Agriculture

Director of Community Welfare

Director of Fisheries

Director of Legal Aid (or a member of the staff)

Director of Mental Health Services

Drainage Board of a District (Land Drainage Act 1925)

Environmental Protection Authority

Esperance Port Authority

Examining Authority (Stallions Act 1921)

Finance Brokers Supervisory Board

Fremantle Port Authority

Fuel, Energy and Power Resources Act decision-makers

Geraldton Port Authority

Governor

Hairdressers Registration Board of Western Australia

Harbour and Light Department

Health Surveyors (under authority of Commissioner of Public Health)

Hire-Purchase Licensing Tribunal

Industrial Magistrate

Inspector (appointed under Electricity Act 1945)

Inspector (appointed under Filled Milk Act 1959)

Inspector (appointed under Plant Diseases Act 1914)

Inspector (appointed under Veterinary Preparations and Animal Feeding Stuffs Act 1976)

Inspector of Machinery (Machinery Safety Act 1974)

Inspector of Mines

Irrigation Board (Rights in Water and Irrigation Act 1914)

Joondalup Development Corporation

Land Acquisitions (Closer Settlement) Board

Land Agents Supervisory Committee of Western Australia

Land Resumptions for Industries Committee

Legal Aid Commission of Western Australia

Legal Aid Committee

Legal Contribution Trust

Licensing Court of Western Australia

Licensing Officer (Fisheries Act 1905)

Licensing Officer (Pearling Act 1912)

Local Authority (council of a municipality)

Local Court

Medical Board

Medical officers of health

Metropolitan Market Trust

Metropolitan (Perth) Passenger Transport Trust

Metropolitan Region Planning Authority

Metropolitan Water Supply, Sewerage, and Drainage Board

Mines Medical Officer (Mine Workers' Relief Act 1932)

Minister for Community Welfare

Minister for Conservation and the Environment

Minister for Education

Minister for Fisheries and Wildlife

Minister for Health
Minister for Fuel and Energy
Minister for Lands
Minister for Mines
Minister for Urban Development and Town Planning
Minister for Water Supplies
Minister for Works
Motor Vehicle Dealers Licensing Board
Museum Trustees

Nurses Board of Western Australia

Optometrists Registration Board

Painters' Registration Board
Pearling Inspectors
Permanent Head of a Department
Petroleum (Submerged Lands) Act designated authority
Pharmaceutical Council of Western Australia
Police Constable or Officer of a Society (Prevention of Cruelty to Animals Act 1920)
Police Force, member of
Port Hedland Port Authority
Principal Registrar (Department of Mines)
Psychologists Board of Western Australia
Public Service Arbitrator
Public Service Board
Public Service Employers
Public Trustee

Radiation Safety Act authorised officers
Radiological Council
Railways Classification Board
Registrar General
Registrar of Bills of Sale

Registrar of Building Societies

Registrar of Companies

Registrar of Fertilizers

Registrar of Friendly Societies

Registrar of Veterinary Preparations and Animal Feeding Stuffs

Road Traffic Authority

Shipping Master

State Energy Commission

State Housing Commission

Stipendiary Magistrate

Superannuation Board

Superintendent of Horticulture (Department of Agriculture)

Superintendent of approved hospital under the Mental Health Act

Supervisor of licensed premises (or health surveyor of local authority) (Liquor Act 1970)

Supply authority (Electricity Act 1945)

Taxi Control Board (or its Chairman)

Town Planning decision-making bodies

Treasurer

Trustee of a cemetery

Under Secretary of the Public Works Department

Veterinary Surgeons' Board

Warden or Warden's Court (Mining)

Water Boards

Waterways Commission

Western Australian Egg Marketing Board

Western Australian Fire Brigades Board

Western Australian Government Railways Commission

Western Australian Industrial Commission

Western Australian Meat Industry Authority

Western Australian Onion Marketing Board

Western Australian Potato Marketing Board

Western Australian Teachers' Registration Board

Western Australian Wheat Marketing Board

TRIBUNALS DEALING WITH MATTERS

AFFECTING PUBLIC OFFICERS

(Category 1)

EDUCATION ACT 1928-1977

BODY MAKING INITIAL DECISION:	The Minister for Education or the Director-General of Education when exercising various powers relating to the employment of teachers including the disciplining of teachers.
APPELLATE BODY:	The Government School Teachers' Tribunal (s.37).
Jurisdiction:	To hear an appeal by any teacher against the promotion of some other teacher (s.37AE(3)(d)); against a fine, transfer, reduction to lower class or to position with lower salary and suspension or dismissal for misconduct, gross inefficiency or breach of regulations (s.37AE (3)(h)); and other matters referred to in s.37AE.
Membership:	<p>The Tribunal consists of three members appointed by the Governor (s.37) -</p> <ol style="list-style-type: none">1. a chairman, being a legal practitioner of not less than seven years practice and standing (s.37(3) & (4));2. a nominee member, nominated by the Minister to act as his representative (s.37(3) & (6); and3. an elected member, elected by the members of the State School Teachers' Union of W.A. (Inc.), to act as their representative (s.37(3) & (7)).
FURTHER APPEAL:	None,* the action or decision of the Tribunal is final and conclusive (s.37AE(1)).

* However, the Tribunal may reconsider any matter that it has dealt with, and may rescind, alter or amend any decision or order previously given (s.37AE(2)).

GOVERNMENT EMPLOYEES' PENSIONS ACT 1948-1967*

BODY MAKING INITIAL DECISION:	The Superannuation Board in the exercise of its various powers under the Act.
APPELLATE BODY:	The Public Service Appeal Board (s.10(1)).
Jurisdiction:	To hear an appeal by any person aggrieved by a decision of the Superannuation Board under the Act (s.10(1)).
Membership:	It is not clear how the Public Service Appeal Board would be constituted in the case of an appeal under s.10(1). Section 33(1) of the <i>Public Service Arbitration Act 1966</i> makes provision for the constitution of the Board, but it does not appear to apply to appeals under s.10(1).
FURTHER APPEAL:	None, the decision of the Public Service Appeal Board is final and conclusive and without further appeal (s.10(2)).

* This Act may no longer have any practical application as it was intended to apply only to a group of Government employees permanently employed prior to 1905 who were refused a pension under the *Superannuation Act 1871* and who were not eligible to contribute under the *Superannuation Act 1938* (see page 71 below).

GOVERNMENT EMPLOYEES (PROMOTIONS APPEAL BOARD) ACT 1945-1977

**BODY MAKING
INITIAL
DECISION:** The “Recommending Authority”, i.e. the Public Service Board or other person or persons who is vested by law with authority to recommend or direct an “Appointing Authority” (see s .3) to appoint or employ an employee by way of promotion (see ss .3 and 5).

**APPELLATE
BODY:** The Promotions Appeal Board (s.6).

Jurisdiction: To hear appeals by permanent employees of State Government departments against the promotion of another to a vacancy or a new office in any department (s.5).*

Membership: The Board consists of three members –

1. the Public Service Arbitrator appointed under the *Public Service Arbitration Act 1966*, who is chairman (s.6(2)(a));
2. a nominee of the Minister, representing the “Recommending Authority” and appointed by the Governor (s.6(2)(b)); and
3. a representative of the appellant's union (s.6(2)(c)).

**FURTHER
APPEAL:** None, the decision of the Board is final (ss.18(3) & 19).

* An appeal cannot be made unless the office is specified as an appealable office in the Second Schedule to the Act (s.5(1)(a)(i)).

GOVERNMENT RAILWAYS ACT 1904-1977

BODY MAKING INITIAL DECISION: The Western Australian Government Railways Commission in the exercise of its powers to -

- (a) suspend, dismiss, fine, transfer without payment of transfer expenses, or reduce to a lower class or grade any officer or servant of the Railways Department (s.73); or
- (b) deduct loss occasioned by an employee's wrongdoing or neglect from his salary or wages (s.52).

APPELLATE BODY: An Appeal Board constituted under the Act (ss .77 & 78).*

Jurisdiction: To hear appeals from permanent officers or servants who are aggrieved by a decision of the Commission under ss.73 or 52.

Membership: The Board consists of three members –

1. a stipendiary magistrate as chairman, appointed by the Governor;
2. an appointee of the Commission; and
3. one person to be appointed by the industrial union, or if there is no such union, or no person appointed by the union, a person appointed by the appellant (s.78(1) & (3)).

FURTHER APPEAL: None, the Board's decision is final (s.83).

* Where a person is the occupant of an office prescribed under s .73 (see the Schedule to the Government Railways Act Regulations for these offices), the person does not have a right of appeal to an Appeal Board, but may instead appeal to a stipendiary magistrate (s.77).

LOCAL GOVERNMENT ACT 1960-1977

**BODY MAKING
INITIAL
DECISION:** The council of a municipality, in the exercise of its power to terminate the services of its clerk, engineer, treasurer, traffic inspector or building surveyor (s.158(5)).

**APPELLATE
BODY:** A person appointed by the Governor (s.158(6)(b)).

Jurisdiction: To report in writing on the matters enquired into as a result of the officer's appeal and to send copies of the report to the council, the Minister for Local Government and the aggrieved officer (s.158(6)(c) & (d)).

Membership: The person appointed by the Governor.

**FURTHER
APPEAL:** None.*

* The Act provides that the report of the enquiring officer must be read in open council before the council can take a decision for or against the appellant (s.158(6)(e)). If the council terminates the officer's services in spite of a report substantially favourable to him, he may apply to the Minister, who, after enquiry, can direct the council to pay the officer compensation as prescribed (s.158(11)).

POLICE ACT 1892-1977

BODY MAKING INITIAL DECISION:	The Commissioner of Police, or other officer appointed by the Commissioner, in the exercise of his power to discipline a non - commissioned officer or constable of the Police Force.
APPELLATE BODY:	The Police Appeal Board (s.33B).
Jurisdiction:	To hear an appeal from any non-commissioned officer or constable convicted on summary investigation by the Commissioner or his delegate of insubordination, neglect of duty or misconduct against discipline, and punished by being discharged or dismissed from the Force, suspended from duty, reduced in rank, fined or transferred (s.33E).
Membership:	<p>The Board consists of three members –</p> <ol style="list-style-type: none">1. a stipendiary magistrate as chairman, appointed by the Governor;2. an appointee of the Commissioner; and3. a member of the Police Force elected by the members of the Police Force (s.33B(2)).
FURTHER APPEAL:	None, the decision of the Board is final (s.33H(1)).

PUBLIC SERVICE ACT 1904-1977

BODY MAKING INITIAL DECISION:	The Public Service Board (s.7) in the exercise of its power to appoint a person who has been in temporary employment for at least five years, and whose duties are similar to those of an officer of the permanent staff of the Public Service, to the permanent staff (s.31(7) & (8)).
APPELLATE BODY:	The Public Service Appeal Board (s.31(8)).
Jurisdiction:	To hear an appeal by a person whose application for permanent employment is refused (s.31(8)).
Membership:	The Appeal Board consists of three members – <ol style="list-style-type: none">1. the Public Service Arbitrator, who is chairman;2. an employer's representative; and3. an employee's representative (s.33(1) & (3) of the <i>Public Service Arbitration Act 1966-1977</i>).
FURTHER APPEAL:	None, the decision of the Board is final (s.38 of the <i>Public Service Arbitration Act 1966-1977</i>).

PUBLIC SERVICE ACT 1904-1977

BODY MAKING INITIAL DECISION:	The Public Service Board (s.7) in the exercise of its powers to take disciplinary action against officers of the Public Service under ss.42 and 44.*
APPELLATE BODY:	The Public Service Appeal Board (s.45).
Jurisdiction:	To hear the appeal by the officer.
Membership:	The Board consists of three members – In the case of an officer of the Special Division – <ol style="list-style-type: none">1. a Judge of the Supreme Court, who is chairman;2. an employer's representative; and3. an employee's representative (s.33(1) & (2) of the <i>Public Service Arbitration Act 1966-1977</i>). In the case of any other officer – <ol style="list-style-type: none">1. the Public Service Arbitrator, who is chairman;2. an employer's representative; and3. an employee's representative (s.33(1) & (3) of the <i>Public Service Arbitration Act 1966-1977</i>).
FURTHER APPEAL:	None, the decision of the Board is final (s.38 of the <i>Public Service Arbitration Act 1966-1977</i>).

* Section 44 relates to officers of the Special Division; section 42 relates to other officers.

PUBLIC SERVICE ACT 1904-1977

BODY MAKING INITIAL DECISION:	The Permanent Head of a Department in the exercise of his power to fine an officer who is guilty of a breach of the provisions of the Act or any regulations thereunder (s.42(3)).
APPELLATE BODY:	The Public Service Board (s.43).
Jurisdiction:	To hear an appeal by the officer fined. The Board may confirm, reverse, or vary the decision of the Permanent Head (s.43).
Membership:	The Board consists of three Commissioners appointed by the Governor (s.7).
FURTHER APPEAL:	None.

PUBLIC SERVICE ACT 1904-1977

BODY MAKING INITIAL DECISION:	The Public Service Board (s .7) in the exercise of its powers under the Act which involve an interpretation of the Act or the regulations made thereunder.
APPELLATE BODY:	The Public Service Appeal Board (s.32(2)(a) of the <i>Public Service Arbitration Act 1966-1977</i>).
Jurisdiction:	To hear an appeal by any public servant or the Civil Service Association of Western Australia (Inc) against any interpretation which involves the conditions of service (other than salaries and allowances) of public servants (s.32(2)(a) of the <i>Public Service Arbitration Act 1966-1977</i>).
Membership:	The Board consists of three members – <ol style="list-style-type: none">1. a Judge of the Supreme Court, who is chairman;2. an employer's representative; and3. an employee's representative (s.33(1) and (2) of the <i>Public Service Arbitration Act 1966-1977</i>).
FURTHER APPEAL:	None, the decision of the Board is final (s .38 of the <i>Public Service Arbitration Act 1966-1977</i>).

PUBLIC SERVICE ARBITRATION ACT 1966-1977

BODY MAKING INITIAL DECISION:	The Public Service Arbitrator (s.5) in the exercise of his power to make awards, orders or decisions relating to the matters referred to in paragraphs (a), (b), (c), (ca), (d), (e), or (ea) of s.11(1), such as a claim on behalf of any occupational group concerning salaries, or ranges of salaries.
APPELLATE BODY:	The Western Australian Industrial Appeal Court (s26(1)).
Jurisdiction:	To hear an appeal made on the ground that the award, order or decision is erroneous in law or is in excess of jurisdiction, but upon no other ground (s.26(1) & s.26(2)).
Membership:	The Court consists of three members, who are Judges nominated by the Chief Justice of Western Australia (<i>Industrial Arbitration Act 1912</i> , s.108A).
FURTHER APPEAL:	None (<i>Industrial Arbitration Act 1912</i> , s.108B(4)).

PUBLIC SERVICE ARBITRATION ACT 1966-1977

BODY MAKING INITIAL DECISION:	An employer (see s .3) in the exercise of his powers, whenever a new award is made by the Arbitrator or a new agreement is entered into between an employer and the Civil Service Association of Western Australia (Inc.) concerning salaries or salary ranges, to review the offices to which that award or agreement applies; to allocate titles to those offices; to allocate to those offices such of the salaries or salary ranges contained in the award or agreement and to allocate a particular salary in any case where a range of salaries is allocated (s.12).
APPELLATE BODY:	The Public Service Arbitrator (s.16(1)).
Jurisdiction:	To hear an appeal by a Government officer in respect of the salary, range of salary or title allocated by an employer, or by the Civil Service Association of Western Australia (Inc.) in respect of the salary, range of salary or title allocated by an employer, or in respect of the salary, range of salary or title allocated by an employer to an office which became vacant after the date on which the award or agreement took effect, or against the failure by an employer to include an office or a group of offices in a determination made by him , or against a decision of an employer to down grade any office that is vacant (s.16(1) and s.11(1)(g), (h), (ha), (hb) and (i)).
Membership:	The Public Service Arbitrator.
FURTHER APPEAL:	None.

PUBLIC SERVICE ARBITRATION ACT 1966-1977

BODY MAKING INITIAL DECISION: An employer (see s.3) of any Government officer, who is not a public servant, in the exercise of his power to decide or recommend that the officer be dismissed (s.32(2)(c) or (e)).

APPELLATE BODY: The Public Service Appeal Board (s.32(2)(c) or (e)).

Jurisdiction: To hear an appeal by the officer, or the Civil Service Association of Western Australia (Inc.) on his behalf, against the decision or recommendation.

Membership: The Board consists of three members –

Where the officer's position carries a salary in excess of the prescribed salary* -

1. a Judge of the Supreme Court, who is chairman,
2. an employer's representative; and
3. an employee's representative (s.33(2)).

Where the officer's position carries a salary less than the prescribed salary* -

1. the Public Service Arbitrator, who is chairman;
2. an employer's representative; and
3. an employee's representative (s.33(3)).

FURTHER APPEAL: None, the decision of the Board is final (s.38).

* The "prescribed salary" means "...the lowest salary for the time being payable in respect of a position included in the Special Division of the Public Service" (s.32(4)).

RAILWAYS CLASSIFICATION BOARD ACT 1920-1977

BODY MAKING INITIAL DECISION:	The Railways Classification Board (s.3) in the exercise of its power to classify or reclassify a salaried position or office (s.15(1)).
APPELLATE BODY:	The Promotions Appeal Board established under the <i>Government Employees (Promotions Appeal Board) Act 1945</i> (s.15(lb)(a)(i))* see page 4 above.

* Section 15(lb)(a)(i) provides: "When and as often as a salaried position or office is classified or reclassified, as the case may be, pursuant to the provisions of this section, the position or office shall thereupon by force of this Act be regarded as vacant for the purposes of the *Government Employees (Promotions Appeal Board) Act, 1945 ...*".

STATE ENERGY COMMISSION ACT 1945-1975

BODY MAKING INITIAL DECISION:	The State Energy Commission of Western Australia (s.8), when fining, reducing to a lower class or grade or dismissing a permanent appointee or employee of the Commission (s.36(2)).
APPELLATE BODY:	An Appeal Board constituted under the Act (s.36(2)).
Jurisdiction:	The Board may confirm, modify or reverse any decision of the Commission appealed against (s.36(2) & (8)).
Membership:	The Board consists of three members – <ol style="list-style-type: none">1. a stipendiary magistrate, who is chairman, appointed by the Governor;2. an appointee of the Commission; and3. an elected member of the salaried or wage-earning staff, according to the group to which the appellant belongs (s.36(3)(a)).
FURTHER APPEAL:	None, the decision of the Board is final (s.36(8)(a)).

SUPERANNUATION AND FAMILY BENEFITS ACT 1938

BODY MAKING INITIAL DECISION:	The Superannuation Board (s.9) in the exercise of its various powers under the Act.
APPELLATE BODY:	The Supreme Court (s.85(1)).
Jurisdiction:	To hear an appeal by any person aggrieved by a decision of the Board on a dispute under the Act (s.85(1)).
Membership:	A Judge sitting in Chambers (s.85(1)).
FURTHER APPEAL:	None, the decision of the Judge is final and conclusive and without further appeal (s.85(2)).

**TRIBUNALS DEALING WITH
RATING**

(Category 2)

**AGRICULTURAL AREAS, GREAT SOUTHERN TOWNS
AND GOLDFIELDS WATER SUPPLY ACT 1947**

BODY MAKING The Minister for Water Supplies when levying water rates.*
INITIAL
DECISION:

* The Act has effect as if the provisions of the Act were incorporated in and formed part of the *Country Areas Water Supply Act 1947* (s.2) - see page 22 below.

**AGRICULTURE AND RELATED RESOURCES
PROTECTION ACT 1976**

BODY MAKING INITIAL DECISION:	The Agriculture Protection Board in the exercise of its power to determine the proportions of the expense of controlling declared plants or declared animals (in compliance with a direction contained in a notice served under s.50 of the Act) to be borne by the owner and occupier or successive owners and occupiers of private land (s.54(1)).
APPELLATE BODY:	The Local Court having jurisdiction where the land is situated (s.54(2)).
Jurisdiction:	A party dissatisfied with the decision of the Protection Board may appeal to the Court. The Court may modify or otherwise vary the decision and may make such order as to costs as it thinks fit (s.54(2)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

CITY OF PERTH (RATING APPEALS) ACT 1940-1954

BODY MAKING INITIAL DECISION:	The Municipal Council of the City of Perth (s.4).
APPELLATE BODY:	The City of Perth Rating Appeal Board (s.5).
Jurisdiction:	To hear an appeal by a ratepayer concerning the valuation of rateable land or the amount of municipal rates assessed (ss.7 and 9).
Membership:	The Board consists of three members – <ol style="list-style-type: none">1. a legal practitioner of at least 10 years' standing, who is chairman;2. a member of the Commonwealth Institute of Valuers; and3. a ratepayer nominated by the Minister for Local Government (s.5).
FURTHER APPEAL:	The Local Court at Perth (s.11).
Scope of further appeal:	On appeal, no point not raised, no evidence not led, no witness not called before the Rating Appeal Board, may be raised, led or called (s.14) .The decision of the Local Court is final and conclusive, and not subject to appeal (s.13(1)).*

* The Local Court may, of its own volition, and must, if so requested by any party, state a case to the Supreme Court for its decision (s.13(2)).

COUNTRY AREAS WATER SUPPLY ACT 1947-1977

**BODY MAKING
INITIAL
DECISION:** The Minister for Water Supplies when levying water rates (s.26) by assessment made through rate books and based on area or estimated net annual value (s .47).

**APPELLATE
BODY:** The Local Court having jurisdiction within the country water area* (ss.59 & 61).

Jurisdiction: To hear an appeal by a ratepayer against the net annual value placed on land or the area set out in the rate book (s.58).

Membership: A stipendiary magistrate.

**FURTHER
APPEAL:** None, the decision of the Local Court is final (s.62(3)).

* Section 59 is so worded that it appears that there is an appeal first to the Minister and, from his decision, a further appeal to the Local Court. The "appeal" to the Minister is in fact a misnomer, as he is himself the party appealed against, and it amounts really to a request to the Minister to reconsider his decision.

COUNTRY TOWNS SEWERAGE ACT 1948-1977

BODY MAKING INITIAL DECISION:	The Minister for Water Supplies in the exercise of his power to set the estimated net annual value (s.49) or, as the case may be, the unimproved capital value of any land (s.50) for rating purposes, or to amend the estimated net annual value (s.72).
APPELLATE BODY:	The Local Court having jurisdiction within the area (s.62).*
Jurisdiction:	To hear an appeal by a ratepayer against the estimated net annual value or amendment thereof or the unimproved capital value (s.61).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the decision of the Local Court is final (s.65(3)).

* Section 62 is so worded that it appears that there is an appeal first to the Minister and, from his decision, a further appeal to the Local Court. The “appeal” to the Minister is in fact a misnomer, as he is himself the party appealed against, and it amounts really to a request to the Minister to reconsider his decision.

LAND DRAINAGE ACT 1925-1977

BODY MAKING INITIAL DECISION:	The Drainage Board of a drainage district (s.15), in the exercise of its powers with regard to rating, including the valuation of rateable land for levying rates (s.74), altering or amending the rate book (s.85) or imposing differential ratings (s.89).
APPELLATE BODY:	The Local Court nearest the Board's office (s.98).*
Jurisdiction:	To hear an appeal by a person aggrieved by an entry in the rate book (s.97).**
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the decision of the Local Court is final and conclusive (s.99, which incorporates s.257 of the <i>Road Districts Act 1919</i> - see Reprinted Acts, vol. 4, p.141).

* Section 98 is so worded to make it appear that an aggrieved land owner may first appeal to the Board and then to the Local Court. The first "appeal" is simply an application to the Board to reconsider the applicant's case.

** The magistrate before making a decision may state a case to the Supreme Court, setting out the facts and any question of law on which he wants guidance (s.257 [proviso (1)] of the *Road Districts Act 1919*).

LAND DRAINAGE ACT 1925-1977

BODY MAKING INITIAL DECISION:	The Minister for Water Supplies in the exercise of his power to declare certain land exempt from rating (s.72(1)).
APPELLATE BODY:	The Drainage Board of the drainage district (s.98(1)).
Jurisdiction:	To hear an appeal by a land owner aggrieved by the Minister's refusal to declare his land exempt from rating (ss.97(5) & 98(1)).
Membership:	Elected members (three, or multiples of three), elected from amongst the owners or occupiers of land in the drainage district liable to be rated (s.17).
FURTHER APPEAL:	The Local Court nearest the Board's office (s.98).
Scope of further appeal:	To adjudicate between the Board and the appellant. The decision of the Court is final and conclusive (s.99, which brings in s.257 of the <i>Road Districts Act 1919</i> at p.141 of Vol. 4 of the Reprinted Acts).*

* The stipendiary magistrate may, before making a decision, state a case to the Supreme Court, setting out the facts and any question of law (proviso (1) of s.257 of the *Road Districts Act 1919*).

LAND TAX ASSESSMENT ACT 1976

**BODY MAKING
INITIAL
DECISION:** The Commissioner of State Taxation in the exercise of his power to exempt all or any part of a parcel or lot of land from assessment and taxation under the Act (s.22(1)).

**APPELLATE
BODY:** The Treasurer (s.22(2)).

Jurisdiction: To hear an appeal by a person who is dissatisfied with the Commissioner's decision (s.22(2)). The Treasurer may disallow the appeal, or if reasonable cause is shown, allow it, either wholly or in part (s.22(4)).

Membership: The Treasurer.

**FURTHER
APPEAL:** None.

LAND TAX ASSESSMENT ACT 1976

BODY MAKING INITIAL DECISION:	The Commissioner of State Taxation in the exercise of his power to determine an objection by a taxpayer who is dissatisfied with an assessment made by the Commissioner under the Act (s.35).
APPELLATE BODY:	The Supreme Court, or a Court of Review constituted in accordance with s.37 of the Act (s.36(1)).
Jurisdiction:	To hear an appeal by the taxpayer. The Supreme Court or the Court of Review may make an order affirming, varying, or quashing the decision appealed against, and may make any decision that should have been made in the first instance, and make any further or other order as to costs or any other matter that the case requires (s.36(5)).*
Membership:	If the appeal is to the Supreme Court, a single Judge sitting in Court or in Chambers (s.36(4)); and if to a Court of Review, a stipendiary magistrate of a Local Court declared by the Governor to be the Court (s.37(1)).
FURTHER APPEAL:	None, the order is final and conclusive (s.36(6)).

* On the hearing of the appeal the Judge of the Supreme Court may, and the Court of Review shall, on the request of a party, state a case in writing for the opinion of the Full Court of the Supreme Court upon any question arising in the appeal which in the opinion of the Judge or the Court of Review, as the case may be, is a question of law (s.36(7)).

LOCAL GOVERNMENT ACT 1960-1977

**BODY MAKING
INITIAL
DECISION:** The council of a municipality, in the exercise of its powers to compile a rate book (ss.540-546).

**APPELLATE
BODY:** A Valuation Appeal Court (s.556).

Jurisdiction: To hear an appeal in respect of rateable property (s.556(2)); or where the complainant avers that he is not the owner of the property rated (s.555(a)(i)); or that his property (or part of it) is not rateable (s.555(a)(ii)); or that a rateable property or a person owning rateable property is not recorded in the rate book (s.555(b)(i)); or that the value recorded for a rateable property is not the proper value (s.555(b)(ii)).*

Membership: Such person or persons or the holder of an office as specified by the Governor by Order (s.556(1)(b)).

**FURTHER
APPEAL:** None, the decision is final and conclusive (s .556(4a)).

* The Court must, if so required by a party, state a case for determination by the Supreme Court (s.556(3) & (4)).

LOCAL GOVERNMENT ACT 1960-1977

BODY MAKING INITIAL DECISION:	The council of a municipality in the exercise of its power to refuse to declare rateable property to be urban farm land (s.533A(3)), or to revoke such a declaration (s.533A(6)).
APPELLATE BODY:	A Valuation Appeal Court (s.558A(1)).
Jurisdiction:	To hear an appeal by the owner of the property. The Court may dismiss the appeal or allow it and declare the rateable property to be urban farm land or set aside a revocation (s.558A(3)).*
Membership:	Such person or persons or the holder of an office as specified by the Governor by Order (s.556 (1)(b)).
FURTHER APPEAL:	None, the decision is final and conclusive (s.556(4a)).

* The Court must, if so required by a party, state a case for determination by the Supreme Court (s.556(3)&(4)).

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT 1909-1977

BODY MAKING INITIAL DECISION:	<p>The Metropolitan Water Supply, Sewerage, and Drainage Board (s.8), in the exercise of its powers to –</p> <ul style="list-style-type: none">A. value rateable land, make entries in the rate book and amend the rate book (ss.73, 81, 82, 84, & 97A);B. refuse to classify rated land as land being used for residential purposes (s.89A).
APPELLATE BODY:	<ul style="list-style-type: none">A. The Appeal Board (s.86).B. The Appeal Board (s.89A).
Jurisdiction:	To hear an appeal by an aggrieved ratepayer (ss.85 or 89A).
Membership:	<p>The Appeal Board comprises three persons appointed by the Governor–</p> <ul style="list-style-type: none">1. a person nominated by the Minister, who is chairman;2. an officer of the Metropolitan Water Supply, Sewerage, and Drainage Board; and3. a ratepayer, who is not subject to the provisions of the <i>Public Service Act 1904</i> (s.86A(1)).
FURTHER APPEAL:	<ul style="list-style-type: none">A. The Local Court (s.86). The decision of the Local Court is final (s.89(3)).B. None, the decision of the Appeal Board is final and conclusive (s.89A(2)).
Scope of further appeal:	<ul style="list-style-type: none">A. The Local Court may make such order as shall be just, and is required to direct any alterations or additions occasioned by such order to be made in the rate book (s.89(1)).

RIGHTS IN WATER AND IRRIGATION ACT 1914-1976

BODY MAKING INITIAL DECISION:	An Irrigation Board (s.30) in the exercise of its powers to make and levy irrigation rates (s.40).
APPELLATE BODY:	The Local Court (s.40(2), which incorporates s.88 of the <i>Water Boards Act 1904</i> in the Act. [See page 32 below on the <i>Water Boards Act</i>]).
Jurisdiction:	A person whose land is rated for an irrigation rate may appeal on the ground that the land rated is not irrigable (s.40(2)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the decision of the Local Court is final (s.91 of the <i>Water Boards Act 1904</i> , incorporated by s.40(2) of the Act).

WATER BOARDS ACT 1904-1973

BODY MAKING INITIAL DECISION:	Water Boards (s.6) in the exercise of their power to prepare a rate book and to value land (ss.77 and 78).
APPELLATE BODY:	The Local Court (s.88).*
Jurisdiction:	To hear an appeal by a ratepayer concerning valuations in the rate book or alterations or additions to such valuations (s.87).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the decision of the Local Court is final (s.91(3)).

* Section 88 is so worded that it appears that there is an appeal in the first instance to the Water Board itself and a further appeal to the Local Court. The “appeal” to the Board is in fact a misnomer, and amounts to a request to the Board to reconsider its earlier decision.

**TRIBUNALS DEALING WITH
GRANTING OF LICENCES, AUTHORITIES OR PERMITS
OR IMPOSITION OF DUTIES
CONCERNING
OCCUPATIONS AND COMMERCIAL ACTIVITIES**

(Category 3(a))

AERIAL SPRAYING CONTROL ACT 1966-1973

BODY MAKING INITIAL DECISION:	The Director of Agriculture (s.3) in the exercise of his power to refuse an application for or renewal of a chemical rating certificate,* or to vary, suspend or cancel the certificate (s.7).
APPELLATE BODY:	A Court of Petty Sessions (s.8(1)).
Jurisdiction:	To hear an appeal by a person whose application for a certificate or renewal thereof is refused, or whose certificate is varied, suspended or cancelled (s.8(1)).
Membership:	A stipendiary magistrate (s.8(1)).
FURTHER APPEAL:	None, the decision of the Court is final (s.8(3)).

* A pilot cannot carry out aerial spraying of chemicals unless he is the holder of a certificate (s.6).

ARCHITECTS ACT 1921-1969

BODY MAKING INITIAL DECISION:	The Architects' Board of Western Australia (s.5) in the exercise of its powers to register a person as an architect (s.14), and to discipline architects for misconduct (s.22A) (e.g. by reprimand, suspension or cancellation of registration) (s.22A(5)).
APPELLATE BODY:	The Local Court at Perth (ss.16(1) and 22A(8)).*
Jurisdiction:	To hear an appeal by a person who has been refused registration (s.16) or any person who is dissatisfied with an order or decision of the Board at a hearing of an allegation of misconduct by an architect (s.22A(8)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See Note 1 of the <i>Notes on the Survey</i> below.]

* This survey states the position as at 31 December 1977. Since that date an amendment to the Architects Act has been passed which substitutes the District Court for the Local Court as the appellate body.

AUCTION SALES ACT 1973-1975

BODY MAKING INITIAL DECISION:	A stipendiary magistrate* when exercising his power to grant or renew an auctioneer's licence (s.16) (a general licence, a restricted licence, an occasional licence, an interim licence, a provisional licence (s.7)), or impose conditions, limitations or restrictions on a licence (s.16 (7)), or grant a restricted licence where an application for the grant or renewal of a general licence has been made (s.16(7)).
APPELLATE BODY:	The Supreme Court (under s.20, the provisions of the <i>Justices Act 1902</i> apply).
Jurisdiction:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the body exceeded its jurisdiction (<i>Justices Act 1902</i> , s .197(1) (a)).
Membership:	Either a single Judge or the Full Court of the Supreme Court (<i>Justices Act 1902</i> , ss.198(1) or 206A).
FURTHER APPEAL:	There is no appeal from a decision of a single Judge to the Full Court (<i>Justices Act 1902</i> , s. 206A).

* The proceedings before the stipendiary magistrate are judicial proceedings (s.16(1)), apparently in a Court of Petty Sessions: see ss.11 & 20.

BUILDERS' REGISTRATION ACT 1939-1975

BODY MAKING INITIAL DECISION:	<p>The Builders' Registration Board of Western Australia in the exercise of its powers concerning –</p> <ul style="list-style-type: none">A. applications for registration as a builder (s.10);B. cancellation or suspension of registration (s.13);C. orders to a builder to remedy faulty or unsatisfactory work (s.12A(1)(a)) or work not carried out in a proper and workmanlike manner (s.12A(1a)), or to pay the owner of the building the costs of remedying the faulty or unsatisfactory work (s.12A (1)(b)) or work not carried out in a proper and workmanlike manner (s.12A(1a)).
APPELLATE BODY:	<ul style="list-style-type: none">A. A Local Court (s.11(2)).B. A stipendiary magistrate (s.14(1)).C. A Local Court (s.12A(2)).
Jurisdiction:	<ul style="list-style-type: none">A. To allow or refuse the appeal, and if the appeal is allowed, direct the Board to register the appellant (s.11(3)).B. To hear an appeal by a builder who is aggrieved by a decision of the Board to suspend or cancel his registration (s.14(1)).C. To hear an appeal by a person on whom an order has been served (s.12A(2)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	<ul style="list-style-type: none">A. & C. [See note 1 of the <i>Notes on the Survey</i>, below.]B. None, the decision of the magistrate is final and conclusive (s.14(2)).

CHILD WELFARE ACT 1947-1977

BODY MAKING INITIAL DECISION:	The Director of Community Welfare in the exercise of his power under s.112(3) to cancel the licence of a person whereby he may have the care, charge or custody of any child under the age of six years.
APPELLATE BODY:	The Minister for Community Welfare (s.112(4)).
Jurisdiction:	The Minister may reverse or confirm the cancellation, and may restore the licence (s.112(4)).
Membership:	The Minister.
FURTHER APPEAL:	None.

CHIROPODISTS ACT 1957-1967

BODY MAKING INITIAL DECISION:	The Chiropodists' Registration Board (s.6), in the exercise of its power to refuse to register a person as a chiropodist, remove a name from the register, refuse to restore a name to the register, or refuse to issue, or to cancel a licence to practise chiropody.
APPELLATE BODY:	A Court of Petty Sessions (s.10(2)).
Jurisdiction:	To hear an appeal by a person aggrieved by the Board's decision. The Court may affirm the decision or allow the appeal.
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

COAL MINES REGULATION ACT 1946-1976

**BODY MAKING
INITIAL
DECISION:** A Court of Petty Sessions in the exercise of its power to order the removal of a check-weigher (s.31(5)) or a weigher (s.31(9)).

**APPELLATE
BODY:** The Supreme Court (*Justices Act 1902*, s.197(1)(a)).

Jurisdiction: It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (*Justices Act 1902*, s.197(1)(a)).

Membership: Either a single Judge or the Full Court of the Supreme Court (*Justices Act 1902*, ss.198(1) or 206A).

**FURTHER
APPEAL:** There is no appeal from a decision of a single Judge to the Full Court (*Justices Act 1902*, s.206A).

COMPANIES ACT 1961-1975

BODY MAKING INITIAL DECISION:	The Companies Auditors Board (s.8) in the exercise of powers under s.9 with respect to the registration of company auditors (s.9(1)) or liquidators (s.9(3)) and the disciplining of auditors or liquidators (s.9(11)).
APPELLATE BODY:	The Supreme Court (s.9(16)).
Jurisdiction:	To hear an appeal by a person aggrieved by a decision of the Board. The Court may confirm, vary or reverse the decision, and if it thinks fit, direct the board to register or renew the registration of a person (s.9(16)).
Membership:	A Judge (s.5).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

DAIRY INDUSTRY ACT 1973

**BODY MAKING
INITIAL
DECISION:**

The Dairy Industry Authority of Western Australia (s.10) in the exercise of its power to –

- A. refuse to grant a quota (s.28(1)), or to fix the quantity of milk set forth in a quota (s.28(2)(b)), impose terms, conditions and limitations on a quota (s.28(2)(c));
- B. refuse an application for a transfer of a quota or a part of a quota (s.30(4)(a));
- C. cancel or vary a quota (s.39).

**APPELLATE
BODY:**

The Quota Appeals Committee (s.32).

Jurisdiction:

- A. To hear an appeal by an applicant and consider whether the Authority complied with or gave effect to the directions given to it by the Minister for Agriculture under s.27(2)(s.31(1)).
- B. To hear an appeal by an applicant and consider whether the Authority complied with or gave effect to the directions given to it by the Minister for Agriculture under s.30(2)(s.30(8)).
- C. To hear an appeal by a quota holder (s.39(3)).

Membership:

The Committee consists of three members –

- 1. a legal practitioner of at least five years standing, or a stipendiary magistrate, or a person who has been a stipendiary magistrate, that person being the Chairman;
- 2. a person nominated by the Minister for Agriculture; and

3. a person nominated by the Authority (s.32(3)).

FURTHER
APPEAL:

A. None, the decision is final and not subject to appeal (s.31(2)).

B. None, the decision is final and not subject to appeal (s.30(9)).

C. None.

DAIRY INDUSTRY ACT 1973

BODY MAKING INITIAL DECISION:	The Dairy Industry Authority of Western Australia (s.10) in the exercise of its power to refuse to issue a licence under s.52 (e.g. to act as a dairyman in any dairy area) or to cancel any licence which has been issued (s.57).
APPELLATE BODY:	A Court of Petty Sessions (s.57(4)(a)).
Jurisdiction:	To hear an appeal by the applicant for or holder of a licence (s.57(4)).
Membership:	A stipendiary magistrate (s.57(4)(a)).
FURTHER APPEAL:	None, the Court's decision is final (s.57(4)(b)).

DEBT COLLECTORS LICENSING ACT 1964-1966

BODY MAKING INITIAL DECISION:	A Local Court exercising its power to refuse an application for the grant or renewal of a licence (ss.8 & 9) or to cancel a licence and order that the licensee be disqualified either permanently or temporarily from holding a licence (s.10).
APPELLATE BODY:	The Supreme Court (s.11(1)).
Jurisdiction:	To rehear the matter and to confirm or reverse the refusal to grant the application or confirm or cancel the order appealed against or make such order in the case as may seem just (s.11(2)).
Membership:	A Judge (s.11(3)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

DENTAL ACT 1939-1975

BODY MAKING INITIAL DECISION:	The Dental Board of Western Australia (s.5) in the exercise of its power to refuse to register any person as a dentist or dental therapist (ss.44 & 44B), or to strike the name of any person off the register, or refuse to re-enter in the register the name of any person whose name has been withdrawn from or struck off the register, or suspend any dentist or dental therapist (s.30) or impose any penalty or make any order as to costs in disciplinary proceedings (ss.30 & 30A).
APPELLATE BODY:	The Supreme Court (s.33(2)).
Jurisdiction:	To hear an appeal by a person aggrieved by a decision referred to above (s.33(2)). The appeal may be in the nature of a rehearing (s.33(3) Proviso).
Membership:	A Judge (s.33(3) Proviso).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and questions incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

EMPLOYMENT AGENTS ACT 1976

BODY MAKING
INITIAL
DECISION:

A Court of Petty Sessions in the exercise of its power to –

- (a) hear an application for an employment agents licence or renewal thereof where an objection to the grant or renewal has been lodged or the licensing officer has refused to issue or renew a licence (s.22(2) and (3), and s.24(1));
- (b) suspend or cancel a licence (s.25).

APPELLATE
BODY:

The Supreme Court (*Justices Act 1902*, s.197(1)(a)).*

Jurisdiction:

It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (*Justices Act 1902*, s.197(1)(a)).

Membership:

Either a single Judge or the Full Court of the Supreme Court (*Justices Act 1902*, ss.198(1) or 206A).

FURTHER
APPEAL:

There is no appeal from a decision of a single Judge to the Full Court (*Justices Act 1902*, 206A).

* Section 28 provides that the provisions of the *Justices Act 1902* have effect in relation to proceedings under the Act in so far as they are applicable.

FINANCE BROKERS CONTROL ACT 1975

BODY MAKING INITIAL DECISION:	<p>The Finance Brokers Supervisory Board (s.6) –</p> <p>A. In the exercise of its various powers under the Act to make decisions or orders, for example to determine an application for a licence (ss.27-29), to renew a licence (s.32), or to discipline a finance broker (s.83).</p> <p>B. In the exercise of its powers under Part IV, Division 2 which relates to trust accounts.</p>
APPELLATE BODY:	<p>A. The District Court of Western Australia (s.23(1)).</p> <p>B. The District Court of Western Australia (s.56(3)).</p>
Jurisdiction:	<p>A. To hear an appeal by any person aggrieved by a decision or order of the Board (s.23(1)).</p> <p>B. To hear an appeal by any person aggrieved by a decision or determination of the Board (s.56(2)).*</p>
Membership:	<p>A District Court Judge.</p>
FURTHER APPEAL:	<p>A. The Full Court of the Supreme Court (<i>District Court of Western Australia Act 1969</i>, s.79(1)(a)).</p> <p>B. None, the decision of the Court is final (s.56(3)).</p>
Scope of further appeal:	<p>A. To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i>, s.58(2)).</p>

* The aggrieved person may apply to the Board to refer the decision or determination to the District Court for review, in which case the Board must submit the facts to that Court for its opinion (s.56(2) & (3)).

FIREARMS ACT 1973-1976

BODY MAKING INITIAL DECISION:	The Commissioner of Police (s.5), or a member of the Police Force acting on his behalf, in the exercise of his powers under the Act, including his power to refuse to grant or issue a Firearm Licence, Firearm Curio Licence, Corporate Licence, Dealer's Licence, Repairer's Licence, Manufacturer's Licence, Shooting Gallery Licence (s.16), Temporary permits (s.17), Interstate Group permits (s.17A), or to revoke any licence, permit or approval, or impose restrictions conditions or limitations on a licence or permit (s .20).
APPELLATE BODY:	A stipendiary magistrate (s.22(1)).*
Jurisdiction:	To hear an appeal by a person aggrieved by a decision made by or on behalf of the Commissioner (s. 22(1)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

* The venue appears to be a Court of Petty Sessions - see Form 19, *Firearms Regulations 1974*. However, the *Local Court Rules 1961* apply insofar as they are applicable and not inconsistent with the regulations (*Firearms Regulations 1974*, regulation 14(7)).

FISHERIES ACT 1905-1975

BODY MAKING INITIAL DECISION:	The Licensing Officer (s.17(1)) in the exercise of his powers with respect to the issue of licences under the Act* and the renewal, removal, suspension, cancellation or transfer of such licences, and the imposition of conditions on licences.
APPELLATE BODY:	The Minister for Fisheries and Wildlife (s.17(4)).
Jurisdiction:	To hear an appeal by any aggrieved person (s.17(4)).
Membership:	The Minister.
FURTHER APPEAL:	None.

* Examples of such licences are a fishing boat licence and a professional fisherman's licence: see the *Fisheries Act Regulations*, regulations 2 and 3 respectively.

FISHERIES ACT 1905-1975

BODY MAKING INITIAL DECISION:	The Minister for Fisheries (s.4A) or the Director of Fisheries (s.5) in the exercise of his powers under Part IIIB of the Act, such as the issue of a processor's licence (s.35B).*
APPELLATE BODY:	A Court of Petty Sessions (s.35K).
Jurisdiction:	To hear an appeal by any person aggrieved by an order or decision (except a decision made under s.35J which relates to the assessment of fees).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the order of the magistrate is conclusive and binding on all parties (s.35K(3)).

* It is also necessary to obtain a permit to construct a processing plant: see page 94 below.

HAIRDRESSERS REGISTRATION ACT 1946-1975

BODY MAKING INITIAL DECISION:	The Hairdressers Registration Board of Western Australia (s.5) in the exercise of its powers as regards the granting of registration (s.12) or the cancellation or suspension of registration (s.16) of a hairdresser.
APPELLATE BODY:	A stipendiary magistrate (s.16(5)).
Jurisdiction:	To hear an appeal by any person who feels aggrieved by a decision of the Board under ss.12 & 16 (s.16(5)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the magistrate's decision is final and conclusive (s.16(6)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	Local authorities, as authorities for health districts (s.18), in the exercise of their powers under the Act to register persons as keepers of lodging-houses (s.148) or eating-houses (s.166).*
APPELLATE BODY:	The Commissioner of Public Health (s.37).
Jurisdiction:	To hear an appeal by any person aggrieved by a decision of the authority (s.37).
Membership:	The Commissioner of Public Health.
FURTHER APPEAL:	None, subject to the Minister's control under s .39, the Commissioner's decision is binding and conclusive (s.37(4)).

* See page 96 below for the registration of the lodging-house or eating-house itself.

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	The Nurses Board of Western Australia in the exercise of its disciplinary powers under Part XIII of the <i>Health Act</i> relating to child health and preventive medicine. (See also the control under the <i>Nurses Act 1968</i> below.)
APPELLATE BODY:	The Supreme Court (s.334(2)).
Jurisdiction:	To hear an appeal by any nurse dissatisfied with the decision of the Board (s.334(2)).
Membership:	A Judge (s.334(2)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

HIRE-PURCHASE ACT 1959-1976

BODY MAKING INITIAL DECISION:	The Hire- Purchase Licensing Tribunal (s.23A)* in the exercise of its powers under the Act, including the issue or renewal of a licence of a credit provider (ss.23M & 23N), or to discipline persons licensed under the Act (s.23S).
APPELLATE BODY:	The Full Court of the Supreme Court (s.23H(1) & (4)).
Jurisdiction:	To hear an appeal by a party to proceedings before the Tribunal who is aggrieved by its decision or order (s.23H(1)).
Membership:	Two or more Judges of the Supreme Court sitting together (<i>Supreme Court Act 1935</i> , s.57).

* The Tribunal is constituted by a District Court Judge nominated to be the Tribunal by the Chairman of Judges of the District Court (s.23A(2)).

INQUIRY AGENTS LICENSING ACT 1954-1964

**BODY MAKING
INITIAL
DECISION:** A Court of Petty Sessions constituted by a stipendiary magistrate (s.2) in the exercise of its powers under the Act to issue, renew (s.4(3)), or cancel the licence of an inquiry agent (s.4).

**APPELLATE
BODY:** The Supreme Court (*Justices Act 1902*, s.197(1)).*

Jurisdiction: It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (*Justices Act 1902*, s.197 (1)(a)).

Membership: A Judge or the Full Court (see *Justices Act 1902*, ss.198(1) or 206A).

**FURTHER
APPEAL:** There is no further appeal to the Full Court from the decision of a single Judge (*Justices Act 1902*, s. 206A).

* Under s.6(1) of the *Inquiry Agents Licensing Act 1954*, the provisions of the *Justices Act 1902* apply *mutatis mutandis*.

LAND AGENTS ACT 1921-1974*

- | | |
|-------------------------------------|---|
| BODY MAKING
INITIAL
DECISION: | <ul style="list-style-type: none"> A. A Court of Petty Sessions in the exercise of its powers with respect to the licensing of land agents (s.4(3)), the renewal (s.5A) or transfer of licences (s.6(1)). B. The Land Agents Supervisory Committee of Western Australia (s.14A) in the exercise of its power to cancel the certificate of registration of a land salesman (s.15G). |
| APPELLATE
BODY: | <ul style="list-style-type: none"> A. The Supreme Court (<i>Justices Act 1902</i>, s.197(1)). B. The Court of Petty Sessions at Perth (s.15H(1)). |
| Jurisdiction: | <ul style="list-style-type: none"> A. It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i>, s.197(1) (a)). B. The appeal is in the nature of a rehearing and the Court may confirm, vary or cancel the order appealed against or make such order as it thinks fit (s.15H(2)). |
| Membership: | <ul style="list-style-type: none"> A. A Judge or the Full Court (<i>Justices Act 1902</i>, ss.198(1) or 206A). B. A stipendiary magistrate or two or more justices. |
| FURTHER
APPEAL: | <ul style="list-style-type: none"> A. There is no appeal to the Full Court from a decision of a single Judge (<i>Justices Act 1902</i>, s. 206A). B. None, the decision of the Court is final and conclusive (s.15H(3)). |

* The Real Estate and Business Agents Bill, now before Parliament (1 September 1978) repeals this Act. The Bill is broadly based on recommendations of the Law Reform Commission of Western Australia concerning land agents and business agents in its Report, *Review of the Land Agents Act* (1974). It replaces the Land Agents Supervisory committee With a Real Estate and Business Agents Supervisory Board which will have power to license agents (Part III) and register sales representatives (Part IV). The Bill gives an aggrieved party a general right of appeal to the District Court.

LEGAL AID COMMISSION ACT 1976-1977

BODY MAKING INITIAL DECISION:	The Legal Aid Commission of Western Australia (s.6(1)) in the exercise of its power to exclude or remove the name of a private practitioner from the panels of names prepared pursuant to s.40 from which a person to be granted assistance may select a practitioner or to include a practitioner's name in a panel but with limitations as to the nature of the legal aid that the practitioner is permitted to give.*
APPELLATE BODY:	The Supreme Court (s.40(8)).
Jurisdiction:	To hear an appeal by a private practitioner aggrieved by such an exclusion, removal or limitation (s.40(8)).
Membership:	A Judge.
FURTHER APPEAL:	None, the decision of the Supreme Court is final and conclusive (s.40(8)).

* Before the Commission makes an exclusion, removal or limitation in relation to a private practitioner it is required to give him a written notice with reasons and afford him a reasonable opportunity to be heard and to show cause why the exclusion, removal or limitation should not be made (s.40(7)).

LEGAL PRACTITIONERS ACT 1893-1977

**BODY MAKING
INITIAL
DECISION:**

The Barristers' Board (s.4) in the exercise of its power to –

- (a) cancel the articles of a clerk (s.14C);
- (b) grant a certificate under s.16(b) (to the effect that the applicant is possessed of certain qualifications and is a fit and proper person to be admitted as a practitioner);
- (c) grant a certificate under s.20(b) (to the effect that the applicant is of good fame and character and fit and proper to be admitted);
- (d) discipline a practitioner guilty of any illegal or unprofessional conduct (s.29(1));
- (e) grant a certificate under s.33 (to the effect that a person is a fit and proper person to be re-admitted).

**APPELLATE
BODY:**

The Full Court of the Supreme Court.

Jurisdiction:

To hear an appeal by a person who is refused a certificate under (b), (c), (e) above (s.83) or a person aggrieved by a decision of the Board under (a)(s.14C) or an order made under (d)(s.29(4)).

Membership:

Two or more Judges of the Supreme Court sitting together (*Supreme Court Act 1935*, s.57).

MARINE STORES ACT 1902-1963

BODY MAKING INITIAL DECISION:	A Court of Petty Sessions in the exercise of its powers to grant a dealer's licence or a transfer thereof (s.9), or to revoke such a licence (s.22).
APPELLATE BODY:	The Supreme Court.
Jurisdiction:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).
Membership:	Either a single Judge or the Full Court of the Supreme Court (<i>Justices Act 1902</i> , ss.198(1) or 206A).
FURTHER APPEAL:	There is no appeal from a decision of a single Judge to the Full Court (<i>Justices Act 1902</i> , s.206A).

MEDICAL ACT 1894-1976

**BODY MAKING
INITIAL
DECISION:**

The Medical Board (s.4) in the exercise of its power to –

- A. register a person for the practice of medicine and surgery in certain areas (s.12) or to provide an auxiliary service (s.12A);
- B. discipline a medical practitioner by removing his name from the register, suspending his registration, or fining or reprimanding him (s.13).

**APPELLATE
BODY:**

- A. The Supreme Court (s.12(8) and s.12A(3)(a)).
- B. The Supreme Court (s.13(8)).

Jurisdiction:

- A. To hear an appeal by a local authority or the Minister where the Board has decided that none of the applicants is suitable to be the holder of a certificate under s.12 or s.12A (s.12(8) and see s.12A(3)(a)).
- B. To hear an appeal by any person who is or was registered as a medical practitioner and who is aggrieved by any decision of the Board (s.13(8)).

Membership:

- A. A Judge sitting in Chambers (s.12(8)).
- B. A Judge (s.13(8)).

**FURTHER
APPEAL:**

- A. None, the decision of the Judge is final and conclusive (s.12(8)).
- B. None, the decision of the Judge is final (s.13 (8)(c)).

MINER'S PHTHISIS ACT 1922-1929*

BODY MAKING INITIAL DECISION:	The Minister for Mines in the exercise of his power to prohibit the employment of a person in or about a mine, or a part of a mine, where a medical officer or practitioner appointed under the Act reports to the Minister that the person is suffering from tuberculosis and is engaged in mining operations (s.8(1)).
APPELLATE BODY:	A Board (s.8(3)).
Jurisdiction:	To determine whether or not the appellant is suffering from tuberculosis (s.8(4)).
Membership:	The Principal Medical Officer (or a deputy appointed by him) and two medical practitioners, one to be nominated by the appellant and the other by the Minister (s.8(3)).
FURTHER APPEAL:	None, the decision of the Board upon any question of fact is final and not subject to appeal to or review by any court of law (s.8(4)).

* As a result of the *Mine Workers' Relief Act 1932*, the *Miner's Phthisis Act 1922* may no longer have any practical application (see *Mine Workers' Relief Act 1932*, s.3).

MOTOR VEHICLE DEALERS ACT 1973-1976

BODY MAKING INITIAL DECISION:	The Motor Vehicle Dealers Licensing Board (s.7) in the exercise of its powers to refuse an application by a person for a licence, such as a vehicle dealer's licence (s.15), yard manager's licence (s.16), salesman's licence (s.17), or to refuse to issue a certificate under s.21, or to refuse to approve a change in the membership of a firm or the persons concerned in the management and conduct of any corporate member of the firm under s. 23, or to disqualify a person from holding or obtaining a licence (s.22(1)).
APPELLATE BODY:	A Local Court (s.22(1)).
Jurisdiction:	To hear an appeal by any aggrieved person (s .22(2)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

MOTOR VEHICLE DRIVERS INSTRUCTORS ACT 1963-1974

BODY MAKING INITIAL DECISION:	The Road Traffic Authority in the exercise of its power to refuse an application for a motor vehicle drivers instructors licence, cancel or suspend such a licence, issue such a licence subject to conditions, or revoke or vary any conditions attached to a licence or to attach new conditions to a licence (ss.7 & 9).
APPELLATE BODY:	A Court of Petty Sessions (s.10(2)).
Jurisdiction:	To hear an appeal by the applicant or person to whom the licence was issued (s.10(2)).
Membership:	A stipendiary magistrate (s .10(5)).
FURTHER APPEAL:	None, the decision of the Court of Petty Sessions is final and conclusive (s.10(4)).

NURSES ACT 1968-1976

BODY MAKING INITIAL DECISION:	The Nurses Board of Western Australia (s.7) in the exercise of its powers concerning the discipline and registration of nurses. (See also control under <i>Health Act 1911</i> , s.334, on page 52 above.)
APPELLATE BODY:	The Local Court at Perth (s.33(1)).
Jurisdiction:	To hear an appeal by any person aggrieved by an order of the Board to remove his or her name from the register or to suspend the registration, or any decision to refuse to register or restore his or her name in the register or renew his or her certificate of registration (s.33(1)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

OPTICAL DISPENSERS ACT 1966

BODY MAKING INITIAL DECISION:	The Commissioner of Public Health (s.3) in the exercise of his power to refuse to issue a licence to an optical dispenser (s.5(3)).
APPELLATE BODY:	The Minister for Health (s.5(4)).
Jurisdiction:	A person aggrieved by the refusal may appeal to the Minister, who may confirm the refusal or direct the Commissioner to issue a licence to that person (s.5(4)).
Membership:	The Minister.
FURTHER APPEAL:	None.

OPTOMETRISTS ACT 1940-1966

BODY MAKING INITIAL DECISION:	The Optometrists Registration Board (s.5) in the exercise of its powers to refuse to register a person as an optometrist (s.34), or to remove the name of any person from the Register, or to discipline an optometrist (s.26), or to refuse to annul the suspension or to re-enter in the Register the name of an optometrist disciplined under s .26 (s.28).
APPELLATE BODY:	The Supreme Court (s.31(2)).
Jurisdiction:	To hear an appeal by a person affected by the decision of the Board (s.31(1) and (2)). The hearing and determination of the appeal is in the nature of a re-hearing (s.31(4)).
Membership:	A Judge (s.31(2)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	The appeal is limited to a question of law (s.31(4)).

PAINTERS' REGISTRATION ACT 1961-1976

BODY MAKING INITIAL DECISION:	The Painters' Registration Board (s.5), in the exercise of its powers under the Act including its disciplinary powers (ss.16 and 17) and its powers of registration (s.12).
APPELLATE BODY:	The Local Court (s.18).
Jurisdiction:	To hear an appeal by any person who feels aggrieved by any decision of the Board (s.18).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

PAWNBROKERS ACT 1860-1973

BODY MAKING INITIAL DECISION:	A Court of Petty Sessions in the exercise of its power to grant a licence to carry on the business of a pawn-broker (s.3).
APPELLATE BODY:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)).
Jurisdiction:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1) (a)).
Membership:	Either a single Judge or the Full Court of the Supreme Court (<i>Justices Act 1902</i> , ss.198(1) or 206A).
FURTHER APPEAL:	There is no further appeal to the Full Court from any determination of a single Judge (<i>Justices Act 1902</i> , s.206A).

PEARLING ACT 1912-1975

BODY MAKING INITIAL DECISION:	A stipendiary magistrate in the exercise of his power to grant or refuse to grant licences under the Act, including a pearl dealer's licence (s.61), a pearl-cleaner's licence (s.110), or to order the forfeiture of a ship to Her Majesty (s.33).
APPELLATE BODY:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)).
Jurisdiction:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the body exceeded its jurisdiction, or that the penalty imposed was excessive or inadequate (<i>Justices Act 1902</i> , s.197(1)).
Membership:	A single Judge or the Full Court of the Supreme Court (<i>Justices Act 1902</i> , ss.198(1) or 206A).
FURTHER APPEAL:	There is no further appeal from the decision of a single Judge to the Full Court (<i>Justices Act 1902</i> , s.206A).

PEARLING ACT 1912-1975

BODY MAKING INITIAL DECISION:	The Minister for Fisheries and Wildlife in the exercise of his power to re-assess rent when an exclusive licence (to propagate pearl oyster and collect pearl shell and pearls within a specific area) is renewed (ss.38-42).
APPELLATE BODY:	The Supreme Court (s.42(3)).
Jurisdiction:	To hear an appeal by the holder of an exclusive licence who is dissatisfied with a re-assessment of rent by the Minister on the renewal of the licence (s.42(3)).
Membership:	A Judge (s.42(3)).
FURTHER APPEAL:	None, the decision of the Judge is final (s.42(4)).

PEARLING ACT 1912-1975

BODY MAKING INITIAL DECISION:	A. A Licensing officer in the exercise of his licensing powers under the Act, including the power to grant or refuse to grant a ship's licence to aliens (s.22), any other sort of ship's licence (s.25), a transfer of a ship's licence (ss.27 & 29), a pearl diver's licence and a diver's tenders' licence (s.57), a revocable licence (s.58), a beachcomber's licence (s.109), or a shell buyer's licence (s.111).
	B. Pearling Inspectors (s.9) in the exercise of their power to forbid the further use of any gear, tackle or other article (s.101(1)(i)), to forbid the employment of any ship in pearling or the taking of any ship to sea to be employed in pearling (s.101(1)(e)).
APPELLATE BODY:	A. The Minister of Fisheries and Wildlife (s.16(3)).
	B. A stipendiary magistrate (s.102).
Jurisdiction:	A. To hear an appeal by any person aggrieved by a refusal to grant, renew, remove or transfer any licence (s.16(3)).
	B. To hear an appeal by the owner, master or any person aggrieved by the decision of the inspector (s.102(1) and (2)).
Membership:	A. The Minister.
	B. A magistrate.
FURTHER APPEAL:	A. None.
	B. The Supreme Court (<i>Justices Act 1902</i> , s.197 (1)(a)).
Scope of further appeal:	B. It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the magistrate exceeded his jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

PHARMACY ACT 1964-1977

BODY MAKING INITIAL DECISION:	<p>The Pharmaceutical Council of Western Australia (s.7) in the exercise of its power to –</p> <ul style="list-style-type: none">(a) register pharmaceutical chemists (s.22);(b) register a pharmacy (s.23);(c) issue a licence to practise as a pharmaceutical chemist (s.26);(d) discipline a pharmaceutical chemist or any company or friendly society engaged in or carrying on the practice of a pharmaceutical chemist (s.32);(e) to peremptorily suspend any licence or registration granted under the Act (s.32A).
APPELLATE BODY:	<p>The Supreme Court ((a) s.22(3); (b) s.23(4); (c) s.26(3); (d) and (e) s.32B).</p>
Jurisdiction:	<p>To hear an appeal by a person aggrieved by a decision of the Council. The appeal is by way of rehearing, and the Court may confirm, quash or vary the decision of the Council (s.27).</p>
Membership:	<p>A Judge (s.27(1)).</p>
FURTHER APPEAL:	<p>None, the decision of the Judge is final (s.27(4)).</p>

PSYCHOLOGISTS REGISTRATION ACT 1976

- BODY MAKING INITIAL DECISION:**
- A. The Psychologists Board of Western Australia (s.7) in the exercise of its various powers under the Act, including the registration of psychologists (ss.22-27), the imposition of conditions on registration (s.28) and the disciplining of psychologists (s.39).
 - B. The Board in the exercise of its power to determine whether it is in the public interest that proceedings and inquiries under s.42 of the Act should be heard *in camera* (s.42(5)).
- APPELLATE BODY:**
- A. The Supreme Court (s.44(2)).
 - B. The Supreme Court (s.42(6)).
- Jurisdiction:**
- A. To hear an appeal by any person aggrieved by an order of the Board or by the refusal of an application to the Board for registration or restoration to the Register or as to any limitation, restriction or condition imposed by the Board (s.44(1)). The Court may confirm, quash or vary the decision of the Board, remit the matter to the Board for rehearing, with or without directions, or make such other order as it thinks fit (s.44(4)).
 - B. To hear an appeal by any person aggrieved by a decision of the Board. The Court may reverse the decision of the Board or may confirm it absolutely or upon conditions which may include conditions intended to protect a business or interest of any person (s.42(6)).
- Membership:**
- A Judge (A, s.44(3); B, s.42(6)).
- FURTHER APPEAL:**
- The Full Court of the Supreme Court (*Supreme Court Act 1935*, s.58(1)(b)).

Scope of further
appeal:

To hear and determine the appeal and matters incidental thereto
(*Supreme Court Act 1935*, s.58(2)).

RADIATION SAFETY ACT 1975

BODY MAKING INITIAL DECISION:	The Radiological Council (s.13) in the exercise of its power with regard to licences, for example, licensing persons to operate or use radiological substances (s.26).
APPELLATE BODY:	The Supreme Court (s.12(1)).
Jurisdiction:	To hear an appeal by any person who is aggrieved by- (a) a refusal of an application for a licence ; (b) the revocation or suspension of a licence; (c) the imposition of one or more conditions, restrictions or limitations on a licence.
Membership:	A Judge (s.12(3)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

SECOND-HAND DEALERS ACT 1906-1948

BODY MAKING INITIAL DECISION:	A stipendiary magistrate sitting in a Court of Petty Sessions in the exercise of his power to grant a second-hand dealer's licence under the Act (s.4).*
APPELLATE BODY:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)).
Jurisdiction:	To hear an appeal where a person is aggrieved by a decision of a magistrate on the ground of an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).
Membership:	A single Judge or the Full Court of the Supreme Court (<i>Justices Act 1902</i> , s.198(1) or s.206A).
FURTHER APPEAL:	There is no further appeal to the Full Court from any determination of a single Judge (<i>Justices Act 1902</i> , s.206A).

* If a person who holds a licence granted under the Act is convicted of an offence against the Act the Court convicting him may, in addition to imposing a penalty, cancel the licence. It would appear that he could appeal to the Supreme Court against the cancellation under s.197 of the *Justices Act 1902*.

SECURITIES INDUSTRY ACT 1975

BODY MAKING INITIAL DECISION:	The Commissioner for Corporate Affairs (see the <i>Companies Act 1961</i>) in the exercise of his powers under the Act, including the power to grant licences to dealers and investment advisers (s.36), or to revoke or suspend any licence (ss.46 & 47).
APPELLATE BODY:	The District Court of Western Australia (s.118).
Jurisdiction:	To hear an appeal by any person aggrieved by the Commissioner's refusal to grant a licence, a decision to revoke a licence or by any other act or decision of the Commissioner. The District Court may confirm the refusal, revocation, act or decision or give such directions in the matter as seem proper or otherwise determine the matter (s.118).
Membership:	A District Court Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>District Court of Western Australia Act 1969</i> , s.79(1)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

SECURITY AGENTS ACT 1976

**BODY MAKING
INITIAL
DECISION:**

A Court of Petty Sessions constituted by a stipendiary magistrate in the exercise of its power to hear an application for the grant or renewal of a licence under the Act where there has been an objection to the grant or renewal or where the licensing officer proposes not to grant or renew a licence (s.17(4) and ss.18-19), or to suspend or cancel a licence and disqualify a licensee, either temporarily or permanently, from holding or taking the benefit of a licence (s.20).

**APPELLATE
BODY:**

The Supreme Court (*Justices Act 1902*, s.197(1)(a)).

Jurisdiction:

A person aggrieved by a decision may appeal on the ground of an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (*Justices Act 1902*, s.197(1)(a)).

Membership:

A single Judge or the Full Court of the Supreme Court (*Justices Act 1902*, s.198(1) or s.206A).

**FURTHER
APPEAL:**

There is no further appeal to the Full Court from any determination of a single Judge (*Justices Act 1902*, s.206A).

TAXI CARS (CO-ORDINATION AND CONTROL) ACT 1963-1977

- BODY MAKING INITIAL DECISION:**
- A. The Taxi Control Board (s.5) (or any person to whom the Board's powers are delegated (s.11A)) when exercising its powers in respect of the issue or renewal of a taxi-car licence (see ss.14, 15, 15A and 16).
 - B. The Chairman of the Board exercising the disciplinary powers of the Board (s.23E).
- APPELLATE BODY:**
- A. The Local Court nearest the residence of the aggrieved person (s.16(3)).
 - B. The Local Court nearest the residence of the aggrieved person (s.23E(4)).
- Jurisdiction:**
- A. To hear an appeal by any person aggrieved by the Board's decision (s.16(3)).
 - B. To hear an appeal by any person aggrieved by the Chairman's decision (s.23E(4)).
- Membership:** A stipendiary magistrate.
- FURTHER APPEAL:** [See note 1 of the *Notes on the Survey*, below.]

TEACHERS' REGISTRATION ACT 1976*

BODY MAKING INITIAL DECISION:	The Western Australian Teachers' Registration Board (s.5) in the exercise of its various powers under the Act including the registration of teachers (s.13), the provisional registration of teachers (s.14), the authorisation of teaching by unregistered persons (s.22), and the cancellation or suspension of the registration of a teacher (s.17).
APPELLATE BODY:	The Local Court (s.27(1)).
Jurisdiction:	The Local Court has jurisdiction to hear and determine the appeal and may affirm, vary or quash the decision or order appealed against, or substitute any decision or order that should have been made in the first instance, or remit the subject matter of the appeal to the Board for further hearing or consideration, or make any other order as to costs or any other matter that the case requires (s.27(3)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> , below.]

* The Teachers' Registration Act Repeal Bill, now before Parliament (1 September 1978) provides for the repeal of this Act.

TRANSPORT COMMISSION ACT 1966-1977

**BODY MAKING
INITIAL
DECISION:** The Commissioner of Transport (s.7) in the exercise of his power to
revoke or suspend a licence issued under the Act.

**APPELLATE
BODY:** A stipendiary magistrate (s.57(3)).

Jurisdiction: To hear an appeal by any licensee who is aggrieved by the
Commissioner's decision to revoke or suspend a licence (s.57).

Membership: A magistrate.

**FURTHER
APPEAL:** None, the decision of the magistrate is final (s.57(6)).

VETERINARY SURGEONS ACT 1960-1977

BODY MAKING INITIAL DECISION:	<p>The Veterinary Surgeons' Board (s.4) in the exercise of its power to –</p> <ul style="list-style-type: none">A. register veterinary surgeons (s.20);B. remove the name of a person from the register who has been adjudged to have been guilty of unprofessional conduct, or otherwise discipline him (s.23);C. register or renew the registration of any veterinary clinic or hospital or to cancel such registration (s.24A).
APPELLATE BODY:	<ul style="list-style-type: none">A. The District Court (s.22(1)).B. The District Court (s.23(12)).C. The District Court (s.24B(1)).
Jurisdiction:	<ul style="list-style-type: none">A. To hear an appeal by any person who is refused registration upon any ground other than that he does not possess any of the qualifications referred to in s.20(1) (s.22(1)). The appeal is in the nature of a rehearing (s.22(2)).B. To hear an appeal by any person aggrieved by a decision or order of the Board (s.23(12)).C. To hear an appeal by any person aggrieved by the refusal of the Board to grant or renew the registration of a veterinary clinic or hospital or a decision of the Board to cancel such registration (s.24B(1)).
Membership:	A. B. & C. A District Court Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>District Court of Western Australia Act 1969</i> , s.79(1)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

VETERINARY SURGEONS ACT 1960-1977

BODY MAKING INITIAL DECISION:	The Veterinary Surgeons' Board (s.4) in the exercise of its power to license animal welfare societies or other bodies to carry out treatment on sick or injured animals (s.26F(1)).
APPELLATE BODY:	The Minister for Agriculture (s.26F(2)).
Jurisdiction:	To hear an appeal by any society or body aggrieved by the Board's refusal to issue or renew a licence, the conditions attached to any licence, or the prospective or actual revocation or variation of such a licence (s.26F(2)).
Membership:	The Minister.
FURTHER APPEAL:	None.

WESTERN AUSTRALIAN MARINE ACT 1948-1977

BODY MAKING INITIAL DECISION:	A Shipping Master in the exercise of his power to refuse to approve the engagement of a person under Part VII Division 3a - <i>Approval of Engagements of Seamen</i> - (ss.120A-120G). A Shipping Master may refuse to approve the engagement of a seaman if his conduct or character is "bad" (s.120B).
APPELLATE BODY:	A Court of Petty Sessions (s.120F(1)).
Jurisdiction:	To hear an appeal by a person whom the Shipping Master refuses to approve for engagement. The Court may order the Shipping Master to approve an engagement of that person (s.120F(1)). The provision does not apply where a person has been refused engagement under s.120C(c) because he does not possess a knowledge of the English language sufficient to enable him to understand fully orders that may be given to him in the performance of his duty.
Membership:	A stipendiary magistrate (s.120F(1)).
FURTHER APPEAL:	Either to a single Judge or the Full Court of the Supreme Court (<i>Justices Act 1902</i> , s.198(1) or s.206A).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

**TRIBUNALS DEALING WITH GRANTING OF
LICENCES, AUTHORITIES OR PERMITS OR
IMPOSITION OF DUTIES
CONCERNING
PREMISES**

(Category 3(b))

BREAD ACT 1903-1973

BODY MAKING INITIAL DECISION:	The Chief Inspector of Factories and Shops in the exercise of his power to license bakehouses (s.3B).
APPELLATE BODY:	A stipendiary magistrate (s.3B(7)).
Jurisdiction:	To hear an appeal by a person refused a licence. The magistrate may confirm the refusal or may order the Chief Inspector to grant the licence (s.3B(7)).*
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

* On the hearing of an appeal the *Local Court Act 1904* and Rules apply in so far as they are applicable: *Bread Act Regulations 1939*, regulation 8(2).

CITY OF PERTH PARKING FACILITIES ACT 1956-1976

BODY MAKING INITIAL DECISION:	The Council of the City of Perth in the exercise of its powers to grant or renew a licence for a parking station or facility (s.15).
APPELLATE BODY:	The Minister for Transport (s.15D(1)).
Jurisdiction:	To hear an appeal by an applicant where the Council has refused to grant him a licence or renewal of a licence, or grants it for a term or on any condition that is unsatisfactory to him (s.15D(1)).
Membership:	The Minister.
FURTHER APPEAL:	None, the decision of the Minister is final and conclusive (s.15D(2)).

DOG ACT 1976-1977

BODY MAKING INITIAL DECISION:	The council of a municipality in the exercise of its power to grant an exemption from any limitation on the number of dogs that may be kept on any premises and to impose conditions in relation to any exemption or to revoke any exemption (s.26(3)).
APPELLATE BODY:	The Minister for Local Government (s.26(5)).
Jurisdiction:	To hear an appeal by a person aggrieved by a refusal to grant an exemption, or by any conditions imposed on an exemption, or the revocation of an exemption (s.26(5)).
Membership:	The Minister.
FURTHER APPEAL:	None.

DOG ACT 1976-1977

BODY MAKING INITIAL DECISION:	The council of a municipality in the exercise of its powers to license approved kennels or to give a notice of intention to cancel a licence (s.27).
APPELLATE BODY:	The Local Court held nearest to the office of the council (s.27(7)).
Jurisdiction:	To affirm or quash the decision of the council and direct the licensing of the kennel (s.27(7)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

FACTORIES AND SHOPS ACT 1963-1976

BODY MAKING INITIAL DECISION:	<p>The Chief Inspector of Factories and Shops (s.12), in the exercise of his powers to refuse to –</p> <ul style="list-style-type: none">(a) register a place as a factory, shop or warehouse;(b) renew such registration;(c) grant a permit to an occupier of premises to use the premises as a factory, shop or warehouse pending registration (s.23(1); or(d) cancel a registration or prohibit the use of a place as a factory, shop or warehouse under s.29.
APPELLATE BODY:	<p>The Local Court nearest the premises ((a), (b) or (c), s.23(4); and (d), s.29(3)).</p>
Jurisdiction:	<p>To hear an appeal by an applicant (s.23(4)), or a person aggrieved by a cancellation or prohibition under s.29 (s.29(3)).</p>
Membership:	<p>A stipendiary magistrate.</p>
FURTHER APPEAL:	<p>None, the order of the Local Court is final and binding (s.23(6)).</p>

FIRE BRIGADES ACT 1942-1975

BODY MAKING INITIAL DECISION:	The Western Australian Fire Brigades Board (s.6) in the exercise of its power to direct the owner or occupier of any premises to install and provide certain equipment in or upon the premises (s.25A(1)).
APPELLATE BODY:	A. The Supreme Court; OR B. The Court of Petty Sessions held nearest to the premises referred to in the direction (s.25A(4)).*
Jurisdiction:	To hear an appeal by any person aggrieved by a direction of the Board on the ground that the things directed to be installed or provided are not reasonably required (s.25A(4)).
Membership:	A. A Judge (s.25A(4)). B. A stipendiary magistrate (s.25A(4)(c)).
FURTHER APPEAL:	A. The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)). B. The Supreme Court by way of an order to review under s.197 of the <i>Justices Act 1902</i> .
Scope of further appeal:	A. To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)). B. It is necessary to establish an error or mistake of law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

* The choice of the appellate court appears to be that of the appellant.

FISHERIES ACT 1905-1975

BODY MAKING INITIAL DECISION:	The Director of Fisheries (s.5) in the exercise of his powers under Part IIIB of the Act (Processing Establishments) to grant or refuse a permit to construct or establish a processing plant (s.35C).
APPELLATE BODY:	A Court of Petty Sessions (s.35K).
Jurisdiction:	To hear an appeal by any person aggrieved by a decision of the Director (s.35K).*
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the order of the magistrate is conclusive and binding on all parties (s.35K(3)).

* Under s.35K(1a), a "person aggrieved" includes a licensee and a person to whom any other permit has been granted under s.35C.

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	A local authority in the exercise of its power to declare that any house, or part thereof, is unfit for human habitation and to require the owner to mend it in some specified manner or to take it down and remove it (ss.135(1) and 137).
APPELLATE BODY:	A Court of Petty Sessions (s.137, Proviso (ii)).
Jurisdiction:	Any person aggrieved by the order may appeal in accordance with s.36 of the Act (s.137, Proviso (ii)).
Membership:	A stipendiary magistrate (s.36(1)).
FURTHER APPEAL:	None, the magistrate's decision is binding and conclusive on all parties (s.36(3)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	Local authorities, as authorities for health districts (s.18), in the exercise of their powers under the Act to register lodging-houses (s.147) and eating-houses (s.165).
APPELLATE BODY:	The Commissioner of Public Health (s.37).
Jurisdiction:	To hear an appeal by any person aggrieved by a decision of the local authority.
Membership:	The Commissioner of Public Health.
FURTHER APPEAL:	None, subject to the Minister's control under s.39, the Commissioner's decision is binding and conclusive (s.37(4)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	The Commissioner of Public Health in the exercise of his power to license premises for the purpose of the manufacture for sale of therapeutic substances (ss.241F and 241G).
APPELLATE BODY:	The Supreme Court (s.241H(1)).
Jurisdiction:	To hear an appeal from a person aggrieved by a decision of the Commissioner refusing to grant or renew a licence, or revoking or suspending a licence (s.241H(1)).
Membership:	A Judge of the Supreme Court sitting in open Court or in Chambers (s.241H(1)).
FURTHER APPEAL:	None, the decision of the Judge is final (s.241H(2)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	A local authority in the exercise of its power to refuse to register or to renew the registration of any house or premises used for an offensive trade unless it is constructed and maintained in accordance with its by-laws (ss.191 and 192(1)).
APPELLATE BODY:	The Commissioner of Public Health (s.192(2)).
Jurisdiction:	To hear an appeal by any person aggrieved by the decision (s.192(2)). The Commissioner may affirm, vary, or rescind the refusal or registration, or renew the registration (s.192(2)).
Membership:	The Commissioner of Public Health.
FURTHER APPEAL:	None, subject to the Minister's control under s.39, the decision of the Commissioner is final (s.192(3)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	A local authority in the exercise of its power to grant a licence for any place as a morgue (s.133).
APPELLATE BODY:	The Commissioner of Public Health (s.37).
Jurisdiction:	To hear an appeal by any person aggrieved by an order or decision of the authority (s.37(1)).
Membership:	The Commissioner of Public Health.
FURTHER APPEAL:	None, subject to the Minister's control under s.39, an order of the Commissioner is binding and conclusive on all parties (s.37(4)).

LIQUOR ACT 1970-1977

BODY MAKING INITIAL DECISION:	The Licensing Court of Western Australia (s.8) in the exercise of its various powers under the Act, including the granting of licences (e.g. hotel licences (s.24) and canteen licences (s.28)).
APPELLATE BODY:	The Supreme Court (s.15(1)).
Jurisdiction:	To hear appeals against a direction, determination or order of the Licensing Court on a question of law (s.15).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

LIQUOR ACT 1970-1977

BODY MAKING INITIAL DECISION:	A supervisor of licensed premises (s.19), or a health surveyor of a local authority or of the Department of Public Health, in the exercise of his power to require a licensee to carry out minor repairs to licensed premises (s.99(1)).
APPELLATE BODY:	The Licensing Court of Western Australia (s.99(3)).
Jurisdiction:	A licensee who is aggrieved by the direction may appeal to the Court, which may uphold, vary or set aside the direction (s.99(3)).
Membership:	Two members of the Court (s.9).
FURTHER APPEAL:	The decision of the Court is final and conclusive (s.99(3)).

LOCAL GOVERNMENT ACT 1960-1977

BODY MAKING INITIAL DECISION:	The council of a municipality, in the exercise of its powers to refuse to grant a licence under Part VIII (By-laws) of the Act (e.g. licences for bazaars, bee-keeping, dog breeding, brick-making and the use of caravans).
APPELLATE BODY:	A Court of Summary Jurisdiction (s.222(3)(d)).
Jurisdiction:	To hear an appeal by an aggrieved applicant.
Membership:	A stipendiary magistrate (s.222(3)(g)).
FURTHER APPEAL:	A single Judge or the Full Court of the Supreme Court (s.222(3)(h) and <i>Justices Act 1902</i> , ss.198(1) or 206A).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

MINES REGULATION ACT 1946-1974

BODY MAKING INITIAL DECISION:	An Inspector of Mines in the exercise of his power to make a decision with regard to the adequacy or standard of dust control or ventilation on or in a mine.
APPELLATE BODY:	The Senior Inspector for the district (s.23E(1)).
Jurisdiction:	To hear an appeal by the manager of the mine or other party concerned by the decision (s.23E(1)).
Membership:	The Senior Inspector for the district.
FURTHER APPEAL:	The Ventilation Board established under s.23D of the Act (s.23E(2)).
Scope of further appeal:	To adjudicate between the Senior Inspector and a person aggrieved by his decision (s.23E(2)).

RADIATION SAFETY ACT 1975

BODY MAKING INITIAL DECISION:	The Radiological Council (s.13) in the exercise of its power to grant an exemption or to register premises, apparatus, or a product (s.28) and to impose conditions, restrictions or limitations on an exemption granted or registration effected under the Act (s.36).
APPELLATE BODY:	The Supreme Court (s.12(1)).
Jurisdiction:	To hear an appeal by any person who is aggrieved by- (a) a refusal of an application for registration, either generally or in relation to any particular kind or class; (b) the revocation or suspension of an exemption of which he is a holder or a registration effected in his name ; (c) the imposition of one or more conditions, restrictions or limitations in relation to any exemption or registration; or (d) any order or direction given pursuant to the Act (s.12(1)).
Membership:	A Judge (s.12(3)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

**WESTERN AUSTRALIAN MEAT INDUSTRY
AUTHORITY ACT 1976**

BODY MAKING INITIAL DECISION:	The Western Australian Meat Industry Authority (s.7) in the exercise of its power to refuse an application for approval for the construction or operation of an abattoir (ss.17 and 19), or an application for approval of structural alterations or additions to an abattoir which may affect its throughput or capacity (s.21), or to impose conditions or restrictions in respect of an approval.
APPELLATE BODY:	The Minister for Agriculture (s.22).
Jurisdiction:	To hear an appeal by an applicant. The Minister may confirm, revoke or vary the decision of the Authority (s.22(2)).
Membership:	The Minister.
FURTHER APPEAL:	None.

**TRIBUNALS DEALING WITH GRANTING OF
LICENCES, AUTHORITIES OR PERMITS OR
IMPOSITION OF DUTIES
CONCERNING
THE MANUFACTURE AND CONTROL OF FOODSTUFFS**

(Category 3(c))

FILLED MILK ACT 1959

BODY MAKING INITIAL DECISION:	An inspector in the exercise of his power to seize, detain or remove any filled milk which he has reason to believe has been manufactured or packed in contravention of the Act or in respect of which he has reason to believe an offence against the Act has been committed (s.12(1)).
APPELLATE BODY:	A stipendiary magistrate (s.12(3)(b)).
Jurisdiction:	To hear and determine the appeal, which is by way of complaint (s.12(3)(a)). He may either confirm (wholly or in part) or disallow the seizure, detention or removal (s.12(3)(b)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	Any health surveyor, or other officer acting under the authority of the Commissioner of Public Health (s.9), in the exercise of his powers under the Act with regard to the destruction of imported food found to be unfit for human consumption (s.205).
APPELLATE BODY:	Two Justices of the Peace (s.205 Proviso, which provides that s.202(2) applies).
Jurisdiction:	The Justices may determine whether the food is unfit for human consumption and, if so, condemn it and direct it to be destroyed or, if not, order that it be restored to the complainant (s.202(2)(c) and (d)).
Membership:	Two Justices (s.202(2)(b)), or a stipendiary magistrate (see s.9 of the <i>Stipendiary Magistrates Act 1957</i>).
FURTHER APPEAL:	Either a single Judge or the Full Court of the Supreme Court (<i>Justices Act 1902</i> , ss.197, 198(1) or 206A).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1) (a)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	A medical officer of health or health surveyor (ss.12 & 27) in the exercise of his powers under the Act to inspect food offered for sale (s.201) and to seize and destroy diseased or unsound food (s.202).
APPELLATE BODY:	Two Justices of the Peace (s.202(2)).
Jurisdiction:	To hear an appeal by any aggrieved person.
Membership:	Two Justices (s.202(2)(b)) or a stipendiary magistrate (see s.9 of the <i>Stipendiary Magistrates Act 1957</i>).
FURTHER APPEAL:	Either a single Judge or the Full Court of the Supreme Court (<i>Justices Act 1902</i> , ss.197 and 198(1) or 206A).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

MARKETING OF EGGS ACT 1945-1977

BODY MAKING INITIAL DECISION:	<p>The Western Australian Egg Marketing Board (s.7) in the exercise of its power to –</p> <ul style="list-style-type: none">A. issue licences, including producers licences (ss.32C-32E) and supplementary licences (s.32F);B. cancel or vary licences (s.32J).
APPELLATE BODY:	<p>A. & B. The Minister for Agriculture (s.32H(1) and s.32J(3)).</p>
Jurisdiction:	<ul style="list-style-type: none">A. A person may appeal to the Minister against the refusal of the Board to grant him a licence or against the number of fowls endorsed on the licence granted by the Board if he considers that the Board, in considering his application, failed to comply with, or give effect to the directions of the Minister given under s.32D(2): s.32H(I). The Minister may confirm, vary or set aside the decision of the Board (s.32H(2)).B. To hear an appeal by a person whose licence or supplementary licence has been cancelled or varied (s.32J(3)).
Membership:	<p>The Minister.</p>
FURTHER APPEAL:	<ul style="list-style-type: none">A. None, the Minister's decision is final and not subject to any appeal (s.32H(2)).B. None.

MARKETING OF POTATOES ACT 1946-1974

BODY MAKING INITIAL DECISION:	The Western Australian Potato Marketing Board (s.7) in the exercise of its power to grant a licence to permit a person to produce potatoes for sale.
APPELLATE BODY:	The Minister for Agriculture (s.19A(1)).
Jurisdiction:	To hear an appeal by an applicant for a licence who, at any time in the two years immediately prior to the commencement of the proposed month of planting, has held a licence issued by the Board permitting him to produce potatoes for sale planted during that month of the year, if that person is either refused a licence to plant in that month, or is granted a licence in respect of a reduced area to that previously permitted to be planted in that month (s.19A(1)).
Membership:	The Minister.
FURTHER APPEAL:	None, the decision of the Minister is final and not subject to any appeal (s.19A(2)).

**VETERINARY PREPARATIONS AND ANIMAL FEEDING
STUFFS ACT 1976**

BODY MAKING INITIAL DECISION:	The Registrar of Veterinary Preparations and Animal Feeding Stuffs (s.24) in the exercise of his power to register products (ss.26-28), renew registrations (s.30), or to cancel the registration of a product (s.33).
APPELLATE BODY:	The Minister for Agriculture (s.35).
Jurisdiction:	To hear an appeal by a person aggrieved by the decision of a Registrar to refuse to grant, amend or renew the registration of any product, or his decision to amend or cancel any registration (s.35).
Membership:	The Minister.
FURTHER APPEAL:	None, the decision of the Minister is final and conclusive (s .35).

VETERINARY PREPARATIONS AND ANIMAL FEEDING STUFFS ACT 1976

BODY MAKING INITIAL DECISION:	An inspector (s.37) in the exercise of his power to seize and detain any prohibited substance or product, or any ingredient or packaging or related matter, which he has reasonable grounds to believe does not comply with all the requirements of the Act (s.40(1)).
APPELLATE BODY:	A Court of Summary Jurisdiction (s.40(3)).
Jurisdiction:	To hear and determine an appeal by a person who is aggrieved by the seizure or detention of any matter or thing under s.40 (s.40(3)).
Membership:	A stipendiary magistrate (s.40(3)).
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error or mistake of law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

WHEAT MARKETING ACT 1947-1974

BODY MAKING INITIAL DECISION:	The Western Australian Wheat Marketing Board (s.7) in the exercise of its power to refuse to accept wheat on the ground of inferior quality (s.22(5)).
APPELLATE BODY:	An officer of the Department of Agriculture nominated by the Minister (s.22(5)).
Jurisdiction:	The officer is required to determine whether or not the Board must accept or reject the wheat (s.22(5)).
Membership:	An officer of the Department of Agriculture nominated by the Minister.
FURTHER APPEAL:	None.

**TRIBUNALS DEALING WITH GRANTING OF
LICENCES, AUTHORITIES OR PERMITS OR
IMPOSITION OF DUTIES
CONCERNING
LAND AND ITS USE**

(Category 3(d)(i))

CLOSER SETTLEMENT ACT 1927-1953

BODY MAKING INITIAL DECISION:	<p>The Land Acquisition (Closer Settlement) Board (s.2) in the exercise of its power to –</p> <p>A. report to the Minister for Lands that any land is unutilised within the meaning of the Act and has been so unutilised for at least two years and should be made available for closer settlement (s.4(1));*</p> <p>B. serve a notice of default under s.8 on the owner of land.</p>
APPELLATE BODY:	<p>A. The Supreme Court (s.4(4)).</p> <p>B. The Supreme Court (s.8).</p>
Jurisdiction:	<p>A. To hear an appeal by a person having an estate or interest in the land. The Court may confirm, vary or annul the report (s.4(4)).</p> <p>B. To hear an appeal by the owner of the land. The Court may either confirm the action of the Board, or direct the withdrawal of the notice of default (s.8).</p>
Membership:	<p>A. A Judge.</p> <p>B. A Judge.</p>
FURTHER APPEAL:	<p>A. None, the decision of the Judge is final (s.4(4)).</p> <p>B. None, the decision of the Judge is final (s.8).</p>

* Ultimately, the Governor may declare that the land has been taken under the Act for the purpose of closer settlement: see ss.5, 6 and 7.

CLOSER SETTLEMENT ACT 1927-1953

BODY MAKING INITIAL DECISION:	A Committee appointed under s.6A of the Act in the exercise of its power to report to the Minister for Lands as to the suitability of land for closer settlement (s.6B(1)).*
APPELLATE BODY:	The Supreme Court (s.6B(3)(a)).
Jurisdiction:	To hear an appeal by the owner or occupier of land. If the Judge is of the opinion that the land is not unutilised and that the taking of the land would not result in any substantial increase in production together with a reasonable increase in the number of persons normally resident on the land he shall make an order annulling the report (s.6B(3)(b)).
Membership:	A Judge.
FURTHER APPEAL:	None, the order is final and not subject to any further appeal (s.6B(3)(b)).

* Ultimately, the Governor may declare that the land has been taken under the Act for the purpose of closer settlement: see s.7.

**INDUSTRIAL DEVELOPMENT (RESUMPTION OF LAND)
ACT 1945-1960**

BODY MAKING INITIAL DECISION:	The Land Resumptions for Industries Committee (s.4) in the exercise of its power to recommend that an application by a person, engaged in or about to engage in any industry within the State who requires land to establish or carry on his business in such industry, be approved (ss.6 & 7).*
APPELLATE BODY:	The Local Court (s.7(5)(d)).
Jurisdiction:	The registered proprietor of the land mentioned in the application may appeal against the decision of the Committee to recommend the approval of the application (s.7(5)(d)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the decision of the magistrate is final (s.7(5)(f)).

* Where an application has been approved the land may ultimately be resumed subject to the *Public Works Act 1902* (s.9(2)).

LAND ACT 1933-1977

BODY MAKING INITIAL DECISION:	The Minister for Lands or any officer of the Department of Lands and Surveys in the exercise of his various powers under the Act (e.g. grant an exemption from fencing of agricultural or grazing land, s.59).
APPELLATE BODY:	The Governor (s.27).
Jurisdiction:	Any person aggrieved by any act or thing done or omitted to be done by the Minister or any officer of the Department, or by the exercise of any of the discretionary powers and authorities conferred on the Minister by the Act may appeal to the Governor against such act or omission or the exercise of the power or authority (s.27).
Membership:	The Governor.
FURTHER APPEAL:	None.

LOCAL GOVERNMENT ACT 1960-1977

BODY MAKING INITIAL DECISION:	<p>The council of a municipality in the exercise of its powers to –</p> <ul style="list-style-type: none">A. refuse to license an "extractive industry" (s.235(4));B. attach requirements to the approval of a subdivision which contains provision for streets for use by the public (s.295(3)(b) & (d));C. refuse to consent to the disposal of sub divisional lots before all roads and drains are constructed (s.295(4)(c) & (d)).
APPELLATE BODY:	<p>The Minister for Local Government (see sections quoted above).</p>
Jurisdiction:	<p>To hear an appeal by any aggrieved person.</p>
Membership:	<p>The Minister.</p>
FURTHER APPEAL:	<p>None.</p> <p>For A. - the Minister decides as he "thinks fit" (s.235(5)).</p> <p>For B. - the Minister's decision is "final and is not subject to appeal" (s.295(3)(e)).</p> <p>For C. - The Minister's decision is final (s.295(4)(d)).</p>

**METROPOLITAN REGION TOWN PLANNING SCHEME
ACT 1959-1976**

**BODY MAKING
INITIAL
DECISION:** The Metropolitan Region Planning Authority in the exercise of its power to propose an amendment to a Metropolitan Region Scheme* under s.33(1) of the Act.

**APPELLATE
BODY:** The Minister for Urban Development and Town Planning (s.33(la)(c)).

Jurisdiction: To hear an appeal by any person who feels aggrieved by the proposed amendment (s.33(la)(c)).

Membership: The Minister.

**FURTHER
APPEAL:** None.

* A Scheme may provide for planning, replanning or reconstructing the whole or a part of the metropolitan region.

MINING ACT 1904-1973*

BODY MAKING INITIAL DECISION:	A Warden in the exercise of his power to refuse to grant a permit to enter upon land to mark out a mining lease or claim for gold or any other mineral (ss.145-148).
APPELLATE BODY:	The Minister for Mines (s.152).
Jurisdiction:	To hear an appeal by an applicant who has been refused such a permit (s.152).
Membership:	The Minister.
FURTHER APPEAL:	None.

* This Act is repealed by the Mining Bill which is presently before Parliament (1 September 1978).

MINING ACT 1904-1973*

BODY MAKING INITIAL DECISION: The Warden's Court (s.226).

APPELLATE BODY: The Supreme Court (s.257).

Jurisdiction: A party aggrieved by a final judgment or order of the Warden's Court may appeal on a matter of fact alone, or of law alone, or of both fact and law (ss.257 to 258). (An appeal on a matter of fact from any summary conviction imposing a penalty must be made under the *Justices Act 1902* (s.258)).

There is no appeal where –

- (a) the parties agreed that the decision of the Warden's Court would be final;
- (b) from any judgment or order of the Warden's Court where the value of the subject matter or interest in dispute does not exceed \$400, except by leave of the Supreme Court or a Judge; or
- (c) from any decision, order or recommendation of the Warden upon any application for a mining tenement, the forfeiture thereof or exemption from labour or other conditions (s.266).

Membership: A Judge (s.265(3)).

FURTHER APPEAL: The Full Court of the Supreme Court (s.265(3)).

* This Act is repealed by the Mining Bill which is presently before Parliament (1 September 1978).

Scope of further appeal:

The decision of a Judge is final and conclusive, except where the appeal is on a question of law, in which case there is a further right of appeal to the Full Court, whose decision is final and conclusive (s.265(3)).

PLANT DISEASES ACT 1914-1974

BODY MAKING INITIAL DECISION:	An inspector (s.7(1)) in the exercise of his power to require the occupier and/or owner of an orchard or place where any plant is growing to take any measures or do any acts which the inspector deems necessary to prevent the spread of any disease (s.18(1)).
APPELLATE BODY:	The Minister for Agriculture (s.18(1)).
Jurisdiction:	To hear an appeal by any owner and/or occupier dissatisfied with the direction.
Membership:	The Minister.
FURTHER APPEAL:	None.

PLANT DISEASES ACT 1914-1974

BODY MAKING INITIAL DECISION:	The Superintendent of Horticulture in the Department of Agriculture in the exercise of his power to certify that plants growing in an orchard or part of an orchard have not been cultivated or cared for in a <i>bona fide</i> and husband-like manner for a period of twelve months (s.22(4)).
APPELLATE BODY:	The Minister for Agriculture (s.22(4)).
Jurisdiction:	To hear an appeal by the owner or occupier of the orchard (s.22(4)).
Membership:	The Minister.
FURTHER APPEAL:	None.

TOWN PLANNING AND DEVELOPMENT ACT 1928-1976

BODY MAKING INITIAL DECISION:	The Metropolitan Region Planning Authority (see s.2) in the exercise of its power to give permission (subject to such conditions as the Authority deems necessary) to a person to carry out development in a metropolitan region which is subject to an interim development order (s.7A(1)-(5)).
APPELLATE BODY:	The Minister for Urban Development and Town Planning (s.7A(6)(a)).
Jurisdiction:	To hear an appeal by any person aggrieved by the refusal of a permit or by the conditions subject to which a permit is granted (s.7A(6)(a)).
Membership:	The Minister.
FURTHER APPEAL:	None, the Minister's decision is final (s.7A(6)(a)).

TOWN PLANNING AND DEVELOPMENT ACT 1928-1976

BODY MAKING INITIAL DECISION:	The Metropolitan Region Planning Authority (see s.2) (or a local authority exercising its powers) in the exercise of its power to require the owner of any land in a metropolitan region subject to an interim development order to remove, pull down, take up or alter any building or work or cease any development commenced, continued or carried out in contravention of the provisions of the order (s.7A(8)(a)).
APPELLATE BODY:	The Minister for Urban Development and Town Planning (s.7A(8)(b)).
Jurisdiction:	To hear an appeal by the owner, and to confirm or vary the direction (s.7A(8)(b)).
Membership:	The Minister.
FURTHER APPEAL:	None.

TOWN PLANNING AND DEVELOPMENT ACT 1928-1976

BODY MAKING INITIAL DECISION:	The council of a municipality in the exercise of its power to give permission (subject to such conditions as it deems necessary) to a person to carry out development in a region outside the metropolitan region which is subject to an interim development order (s.7B(1)- (5)).
APPELLATE BODY:	The Minister for Urban Development and Town Planning (s.7B(6)(a)).
Jurisdiction:	Any person aggrieved by the refusal of a permit or by the conditions subject to which a permit is granted may appeal (s.7B(6)(a)).
Membership:	The Minister.
FURTHER APPEAL:	None, the Minister's decision is final (s.7B(6)(b)).

TOWN PLANNING AND DEVELOPMENT ACT 1928-1976

BODY MAKING INITIAL DECISION:	The council of a municipality administering an interim development order for a region outside the metropolitan region, in the exercise of its power to require the owner of any land subject to the order to remove, pull down, take up or alter any building or work or cease any development commenced, continued or carried out in contravention of the order (s.7B(8)(a)).
APPELLATE BODY:	The Minister for Urban Development and Town Planning (s.7B(8)(b)).
Jurisdiction:	To hear the appeal, and confirm or vary the direction (s.7B(8)(b)).
Membership:	The Minister.
FURTHER APPEAL:	None.

TOWN PLANNING AND DEVELOPMENT ACT 1928-1976

BODY MAKING INITIAL DECISION:	The Minister for Urban Development and Town Planning in the exercise of his power to order a local authority to pay any part of the expenses incurred by another local authority under the Act or under any scheme made under the Act (s.17(1)).
APPELLATE BODY:	The Supreme Court (s.17(3)).
Jurisdiction:	To hear an appeal by any local authority dissatisfied with any decision of the Minister (s.17(3)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope to further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

TOWN PLANNING AND DEVELOPMENT ACT 1928-1976

BODY MAKING INITIAL DECISION:	The Minister for Urban Development and Town Planning in the exercise of his power to order a local authority to do all things necessary for enforcing the observance of a scheme or any provision thereof (s.18(1) and (2)).
APPELLATE BODY:	The Supreme Court (s.18(3)).
Jurisdiction:	To hear and determine the appeal, and to confirm, vary or annul the Minister's order (s.18(3)).
Membership:	A Judge.
FURTHER APPEAL:	None, the decision of the Judge is final (s.18(3)).

TOWN PLANNING AND DEVELOPMENT ACT 1928-1976

BODY MAKING INITIAL DECISION:	Various decision making bodies where there is - <ul style="list-style-type: none">(a) an appeal to the Minister under a town planning scheme which has effect under s.7 (if the appeal is in respect of the exercise of a discretionary power by the responsible authority under the scheme) or under ss.26(1) (relating to the refusal by the Town Planning Board to approve a plan, transfer or lease for land) and 28A(6) (relating to a demand by a municipality on a subdivider for part of the cost of a road);(b) a reference to the Minister under s.10(3) (relating to whether any building or work contravenes a town planning scheme);(c) an appeal to the Minister under clause 33 of the Metropolitan Region Scheme.
APPELLATE BODY:	A. The Minister for Urban Development and Town Planning (s.39(1)); <p style="text-align: center;">OR</p> B. The Town Planning Appeal Tribunal (s.39(1)).*
Jurisdiction:	A. To hear and determine the appeal. Before determining the appeal, the Minister may require any person on the Town Planning Appeal Committee to report and make a recommendation to him on the appeal (s.40). B. To hear and determine all appeals referred to it and to allow or dismiss the appeal either in whole or in part (s.44).
Membership:	A. The Minister. B. The Town Planning Appeal Tribunal (s.42) consists of three members appointed by the Governor – <ul style="list-style-type: none">1. one must be a legal practitioner of not less than eight

* The commencement of an appeal to either the Minister or to the Appeal Tribunal extinguishes any right of appeal to the other (s.39(1)).

years practice and standing;

2. one must be a person having knowledge of and experience in town planning; and
3. one must be a person having knowledge of and experience in public administration, commerce, or industry.

FURTHER
APPEAL:

- A. None.
- B. The Supreme Court (s.54B(1)).

Scope of further
appeal:

- B. The appeal must involve a question of law (s.54B(2)).

WATER BOARDS ACT 1904-1973

BODY MAKING INITIAL DECISION:	A Water Board (s.6) exercising its power to construct waterworks for the purposes of the Act (s.40).
APPELLATE BODY:	The Minister for Water Supplies (s.44).
Jurisdiction:	To adjudicate on disputes between a local authority, a corporation or interested person on the one hand, and a Water Board on the other, relating to the construction of a waterworks proposed by the Water Board (s.44).
Membership:	The Minister.
FURTHER APPEAL:	None (an inference from s.45).

**TRIBUNALS DEALING WITH GRANTING OF
LICENCES, AUTHORITIES OR PERMITS OR
IMPOSITION OF DUTIES
CONCERNING
THE ENVIRONMENT**

(Category 3(d)(ii))

CLEAN AIR ACT 1964-1971

BODY MAKING INITIAL DECISION:	<p>The Air Pollution Control Council (s.7) in the exercise of its powers –</p> <ul style="list-style-type: none">(a) in relation to the granting, renewal or transfer of a licence: e .g. for "scheduled" premises (premises capable of producing air pollution and listed in a schedule to the Act - s.17(1)(h));(b) in relation to the approval of certain work on scheduled premises likely to cause or increase air pollution (s.34);(c) to issue a notice for abatement work to be done on scheduled premises (ss.33 and 35) or premises other than scheduled premises (ss.38 and 39);(d) to issue, cancel or revoke a permit to carry out sandblasting operations (s.39B).
APPELLATE BODY:	<p>The Local Court nearest to the relevant premises (s.45).</p>
Jurisdiction:	<p>To hear an appeal by any person aggrieved by the decision of the Council on any of the above matters (s.45).</p>
Membership:	<p>A stipendiary magistrate.</p>
FURTHER APPEAL:	<p>[See note 1 of the <i>Notes on the Survey</i> below.]</p>

COUNTRY AREAS WATER SUPPLY ACT 1947-1977

BODY MAKING INITIAL DECISION:	The Under Secretary of the Public Works Department, who may refuse to grant, renew or transfer a licence to clear land of vegetation, or impose conditions on such a licence which has been granted, or revoke a licence or suspend the operation of a licence (s.12C).
APPELLATE BODY:	The Minister for Water Supplies (s.12D).
Jurisdiction:	To hear and determine an appeal by any person aggrieved by the decision of the Under Secretary (s.12D).
Membership:	The Minister.
FURTHER APPEAL:	None.

ENVIRONMENTAL PROTECTION ACT 1971-1975

BODY MAKING INITIAL DECISION:	The Environmental Protection Authority (s.9) under its power to publish proposals on the policy to be followed with respect to any particular aspect or aspects of environmental protection or enhancement or to revise such proposals (ss.36 and 38).*
APPELLATE BODY:	The Environmental Appeal Board (s.43(2)).
Jurisdiction:	To hear an appeal by any person or body aggrieved by a proposal published under s.38 (s.43(2) and (3)).** The Board may confirm, set aside or vary the proposal (s.47(1)).
Membership:	A President and two other members appointed by the Governor, one of whom must be a legal practitioner of not less than seven years standing who is President of the Board (s.44(3)).
FURTHER APPEAL:	None (s.47(2)).

* The Minister may order a public inquiry into the proposals made under s.36 before they are submitted to the Governor for approval under s.39 (s.37) .No appeal lies against a proposal submitted to the Governor following a public inquiry to the extent to which such proposal is consistent with the findings of that inquiry (s.43(1)).

** The President of the Board may on his own motion, or on the application of any party, state a case for the decision of the Full Court of the Supreme Court on any question of law arising on the appeal (s.49).

FISHERIES ACT 1905-1975

BODY MAKING INITIAL DECISION:	The Minister for Fisheries and Wildlife in the exercise of his power to prohibit any person from undertaking, or continuing to undertake, any activity which is or would be likely to pollute adjacent aquatic environments, plant, fish or animal life (s.26A(1)).
APPELLATE BODY:	The Director of Environmental Protection (s .26A(3)).
Jurisdiction:	To hear and determine an appeal by any person who is aggrieved by an order of the Minister. The Minister is required to have regard to any recommendations made to him by the Director (s.26A(3)).
Membership:	The Director.
FURTHER APPEAL:	None.

**METROPOLITAN WATER SUPPLY, SEWERAGE,
& DRAINAGE ACT 1909-1977**

BODY MAKING INITIAL DECISION:	<p>The Metropolitan Water Supply, Sewerage, and Drainage Board (s.8) in the exercise of its powers to –</p> <ul style="list-style-type: none">(a) refuse to grant an application for dispensation from observance of any by-laws to protect underground water from pollution (s.57C);(b) impose terms and conditions on any dispensation granted by the Board, or to cancel or alter such dispensation or to alter any terms and conditions of such dispensation (s.57C(2));(c) grant, refuse, suspend, revoke or amend a licence for a well within a Public Water Supply Area (ss.57G and 57I) or to direct a licensee to comply with all or such of the terms, conditions or limits of a licence (s.57H(1)).
APPELLATE BODY:	<p>A Local Court (s.57D).</p>
Jurisdiction:	<p>To hear an appeal by any person aggrieved by the Board's decision (ss.57D(1) and 57G(7)).</p>
Membership:	<p>A stipendiary magistrate.</p>
FURTHER APPEAL:	<p>None, the decision of the Local Court is final (s.57D(5)).</p>

SOIL CONSERVATION ACT 1945-1974

BODY MAKING INITIAL DECISION:	The Commissioner of Soil Conservation (s.7), with the approval of the Soil Conservation Advisory Committee, in the exercise of his power to issue a soil conservation order (s.31), or before seeking approval, to issue an interim order (s.33).
APPELLATE BODY:	The Minister for Agriculture (s.34).
Jurisdiction:	An owner or occupier of land may appeal to the Minister who may confirm, vary or quash the order (s.34(1)).
Membership:	The Minister.
FURTHER APPEAL:	None, the decision of the Minister is final (s.34(2)).

WATERWAYS CONSERVATION ACT 1976

BODY MAKING INITIAL DECISION:	The Waterways Commission (s.11) in the exercise of its power to refuse to grant or renew a licence under the Act or to revoke or suspend such a licence or to impose conditions on a licence granted under the Act. Such a licence would be one to do or omit to do anything the doing or omission of which would otherwise constitute an offence against the Act (s.46(3)).
APPELLATE BODY:	The Minister for Conservation and the Environment (s.46(11)).
Jurisdiction:	To hear an appeal by any person aggrieved by a decision of the Commission. The Minister may uphold, reverse or vary the decision of the Commission (s.46(11)).
Membership:	The Minister.
FURTHER APPEAL:	The Supreme Court. Unless a Judge otherwise directs the appeal is to be heard and dealt with by a Judge sitting in Chambers (s.46(12)).
Scope of further appeal:	To adjudicate between the Minister and a person who is aggrieved by his decision (s.46(12)).

**TRIBUNALS DEALING WITH GRANTING OF
LICENCES, AUTHORITIES, PERMITS OR
IMPOSITION OF DUTIES
CONCERNING
OTHER MATTERS**

(Category 3(e))

CONSTRUCTION SAFETY ACT 1972-1977

BODY MAKING INITIAL DECISION: The Chief Inspector of Construction Safety, or other inspector of construction safety (s.9), in the exercise of his powers to give directions or make orders in respect of any work to which the Act applies: e.g. directions to prevent accidents (s.28).

APPELLATE BODY: The Minister for Labour and Industry* (s.18) who is required to refer the appeal to either -

- A. a Board of Reference (s.17(1)); or
- B. an arbitrator (s.17(1)).

Jurisdiction: To hear an appeal by any person aggrieved by a direction or order of an inspector in respect of any work to which the Act applies (s.18(1)), and by order to confirm, vary or set aside the direction or order (s.17(4)).

Membership:

- A. The Board consists of three members appointed by the Minister –
 - 1. a chairman appointed by the Minister ;
 - 2. a person nominated by the employers carrying out the work; and
 - 3. a person nominated by the workers engaged on the work (s.17(2)).
- B. An arbitrator appointed by the Minister (s.17(1)).

FURTHER APPEAL: To a Magistrate of the Local Court at Perth (s.17(5)).

* In the case of an applicant aggrieved by a decision of the Chief Inspector with respect to an application for prior approval of a method of work, the Minister is required to refer the appeal to an arbitrator (s.34).

Scope of further appeal:

The appeal lies on a question of law from any decision of a Board of Reference or an arbitrator, but in other respects the decision is final (s.17(5)). The decision of the Magistrate is final (s.17(5)).

DOG ACT 1976-1977

BODY MAKING INITIAL DECISION:	<p>The council of a municipality in the exercise of its powers to-</p> <ul style="list-style-type: none">A. effect or renew the registration of a dog, or cancel a registration (ss.14-16);B. record the change of ownership of a dog (s.24);C. destroy a dog which is considered to be a danger to health (s.36(3)).
APPELLATE BODY:	<p>The Local Court held nearest to the office of the council (ss.17(1), 24(3), 36(3) respectively).</p>
Jurisdiction:	<ul style="list-style-type: none">A. To affirm the decision of the council or quash its decision and direct the registration of the dog (s.17(2)). Where the decision of the council is affirmed the Court may order the seizure of the dog and its detention, destruction or disposal (s.17(3)).B. To hear an appeal by any person aggrieved by any entry in the register. The Court may direct the council to rectify the register (s.24(3)).C. To affirm or quash the decision of the council (s.36(3)).
Membership:	<p>A stipendiary magistrate.</p>
FURTHER APPEAL:	<p>[See note 1 of the <i>Notes on the Survey</i> below.]</p>

ENVIRONMENTAL PROTECTION ACT 1971-1975

BODY MAKING INITIAL DECISION:	The Minister for Conservation and the Environment in the exercise of his power to exempt a person from an obligation to supply information to the Environmental Protection Authority, a member thereof, or any inspector where compliance with the obligation would result in the disclosure of a trade secret (s.71(1) and (2)).
APPELLATE BODY:	The Supreme Court (s.71(3)).
Jurisdiction:	To hear and determine an appeal against a decision of the Minister. The Court may confirm, alter or reverse the decision (s.71(4)).
Membership:	A Judge in Chambers (s.71(4)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

EXPLOSIVES AND DANGEROUS GOODS ACT 1961-1974

BODY MAKING INITIAL DECISION:	<p>The Chief Inspector of Explosives (s.9) in the exercise of his power to grant, issue, amend, renew (s.50), suspend or cancel (s.51) a licence or permit required by the Act, including –</p> <ul style="list-style-type: none">(a) a permit to import, manufacture, store, convey, sell or use in the State an unauthorised explosive (s.15(2));(b) a licence to store explosives in private magazines (s.26);(c) a permit to purchase manufactured fireworks (s.30A);(d) a shot-firer's permit (s.34(4));(e) a licence to convey explosives on a vehicle or vessel (s.38); or(f) a licence for the storage of dangerous goods (s.45).
APPELLATE BODY:	<p>A Court of Petty Sessions (s.52(1)).</p>
Jurisdiction:	<p>To hear an appeal by any person aggrieved by the decision relating to the granting, issue, amendment, renewal, suspension or cancellation of a licence or permit (s.52(1)).</p>
Membership:	<p>A stipendiary magistrate (s.52(1)).</p>
FURTHER APPEAL:	<p>None, the order of the Court is final (s.52(1)).</p>

FERTILIZERS ACT 1977

BODY MAKING INITIAL DECISION:	The Registrar of Fertilizers (s.11) in the exercise of his power to grant, amend or renew the registration of a fertilizer under the Act (ss.13-16), or to cancel any registration or to give a notification to a dealer under s.13(2).
APPELLATE BODY:	The Minister (s.18).
Jurisdiction:	To hear an appeal by any person aggrieved by the Registrar's decision (s.18).
Membership:	The Minister.
FURTHER APPEAL:	None, the Minister's decision is final and conclusive (s.18).

FRIENDLY SOCIETIES ACT 1894-1975

BODY MAKING INITIAL DECISION:	A. The Registrar of Friendly Societies (s.5) in the exercise of his power to refuse to register a society or any of its rules (s.9), or to cancel or suspend the registration of a society (s.10). B. The Minister for Health in the exercise of his power to refuse to approve the amendment of the rules of a society (s .11(2)).
APPELLATE BODY:	The Supreme Court (ss.9(8), 10(4), 11(5)).
Jurisdiction:	To hear an appeal by a society with regard to a decision referred to above (ss.9(8), 10(4), 11(5)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	Local authorities, as authorities for health districts (s.18), in the exercise of their powers under the Act to consent or to refuse to consent to the establishment of an offensive trade (s.187).
APPELLATE BODY:	The Commissioner of Public Health (s.187(2)).
Jurisdiction:	To hear an appeal by any person aggrieved by the refusal or the granting of such consent (s.187(2)).
Membership:	The Commissioner of Public Health.
FURTHER APPEAL:	None, subject to the control of the Minister under s.39.

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	Local authorities, as authorities for health districts (s.18), in the exercise of their powers under the Act to suspend or cancel any licence issued to or registration of any person under the Act after conviction for any offence against the Act (s.357).
APPELLATE BODY:	The Commissioner of Public Health (s.37).
Jurisdiction:	To hear an appeal by any person aggrieved by the decision of the local authority (s.37).
Membership:	The Commissioner of Public Health.
FURTHER APPEAL:	None, subject to control of the Minister (s.39), an order of the Commissioner is binding and conclusive on all parties (s.37(4)).

LOCAL GOVERNMENT ACT 1960-1977

**BODY MAKING
INITIAL
DECISION:**

The council of a municipality in the exercise of its powers to –

- (a) require an owner to fence off unsightly land (s.340A(1) & (2));
- (b) decide if and what value accrues to land owners because of drainage works done by it (s.369(1) & (2));
- (c) refuse to approve a plan and specifications for a proposed building (s.374);
- (d) include conditions in a demolition licence (s.374A); (e) refuse to license or consent to the construction of buildings consisting of inflammable materials (s .399 (4) & (5));
- (f) require the pulling down or alteration of a building (s.401(1) & (3));
- (g) stop building work which is in contravention of the Act (s.401(1)-(6));
- (h) order the demolition and removal of a building not completed within time (s.409A);
- (i) require the provision of fire escapes (s.413);
- (j) require the owner to render a tree, which in the council's opinion constitutes a danger to persons or property, safe (s.516A).

**APPELLATE
BODY:**

The Minister for Local Government (see sections quoted above).

Jurisdiction:

To hear an appeal by the owner, occupier or any aggrieved person, as the case may be.

Membership:

The Minister. For items (c) & (f) the Minister may, before considering the appeal, refer the appeal to two or more persons for consideration and report (s.421A(1)).

**FURTHER
APPEAL:**

None, except for item (b). For items (a) & (g) the Minister decides "as he thinks fit". For items (c) & (d) the Minister's decision is "final and not subject to appeal". For items (e), (f) & (i) the Minister's decision is "not subject to appeal".

**Scope of further
appeal:**

For item (b), if either party is dissatisfied with the Minister's decision, he may require the question to be determined by reference to arbitration (s.369(2)(b)).

LOCAL GOVERNMENT ACT 1960-1977

BODY MAKING INITIAL DECISION:	The Commissioner of Main Roads in the exercise of his power to refuse to approve the construction of crossings for vehicles over a footpath into a main road from land on which premises other than premises used primarily for residential purposes are constructed (s.359(2)).
APPELLATE BODY:	The Minister for Local Government (s.359(3)).
Jurisdiction:	To hear an appeal by any person aggrieved by the decision of the Commissioner. The Minister may uphold, reverse or vary the decision (s.359(3)).
Membership:	The Minister.
FURTHER APPEAL:	None, the order of the Minister on the appeal is final and is not subject to appeal (s.359(3)).

LOCAL GOVERNMENT ACT 1960-1977

**BODY MAKING
INITIAL
DECISION:**

The council of a municipality (sometimes in the person of its building surveyor) in relation to the following matters under Part XV of the Act—

- (a) the refusal of a licence or the granting of a licence with conditions imposed to deposit materials in a street (s.377(5));
- (b) the amount realised from the sale of a complainant's materials (sold by council because in a street without a licence) (s.378(3));
- (c) a requisition of a building surveyor as to protective covering for a footpath whilst building work is in progress (s.380(3));
- (d) a notice to pull down or alter a building (s.401(2));
- (e) a notice to take down, secure or repair a dangerous building (s.403(6));
- (f) a notice to cause the appearance of a building to be brought into conformity with the general standard of buildings in the district or locality (s.409(3));
- (g) an order to remove inflammable materials from a building or remove a building (s.417(3));
- (h) the assessment of compensation for damage resulting from an order referred to in item (g) above (s.417(4)).

**APPELLATE
BODY:**

Two referees appointed under Division 19 of Part XV of the Act.

Jurisdiction:

To determine matters arising between the council and any aggrieved

person empowered to appeal under Part XV of the Act, exercising powers of arbitrators under the *Arbitration Act 1895* (ss.422 & 425).

Membership: Two referees (being architects, engineers, surveyors, or a council member or officer). One referee is appointed by the Governor, and the other by the council concerned (ss.422 & 423).

FURTHER APPEAL: None, the determination of the referees is "final and conclusive" (s.426(1)).*

* If the referees differ they are required to refer the matter for final determination to an umpire (who must be eligible for appointment as a referee) appointed by them (s.426(1)).

LOCAL GOVERNMENT ACT 1960-1977

BODY MAKING INITIAL DECISION:	The council of a municipality, in the exercise of its powers to fix the levels of a street or way (s.350(1)).
APPELLATE BODY:	The Local Court held nearest the offices of the council (s.350(5)).
Jurisdiction:	The Court has jurisdiction to hear and determine appeals from persons dissatisfied with the level fixed by the council, and may quash, vary or confirm the decision of the council (s.350(6)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the orders made by the Local Court are "not subject to appeal" (s.350(6)).

MACHINERY SAFETY ACT 1974

BODY MAKING INITIAL DECISION:	An inspector (s.23) in the exercise of his powers to give directions or orders under the Act, including an order for the cancellation or suspension of a certificate of competency (s.51).
APPELLATE BODY:	The Minister for Labour and Industry, who is required to refer the appeal to either a Board of Reference or an arbitrator (s.53(1) & (5)).*
Jurisdiction:	To hear an appeal by any person aggrieved by any direction or order (s.53(2)). The appellate body may confirm, vary or set aside the direction or order (s.53(6)(b)).
Membership:	<p>The <i>Board of Reference</i> must consist of three persons –</p> <ol style="list-style-type: none">1. one appointed by the Minister, who is chairman;2. one person nominated by the Western Australian Employers' Federation (Inc); and3. one person nominated by the Trades and Labour Council of Western Australia (s.54(1)). <p>The <i>arbitrator</i> must be a person who is technically qualified in relation to the matter the subject of the direction or order appealed against (s.54(4)).</p>
FURTHER APPEAL:	The Local Court at Perth (s.53(7)).
Scope of further appeal:	The appeal must be on a question of law, and the decision of the Court is final (s.53(8)).

* The Minister must refer an appeal against an order for the cancellation or suspension of a certificate of competency to a Board of Reference (s.53(5)(a)). In other cases, if the parties to the appeal so request, to an arbitrator (s.53(5)(b)).

NOISE ABATEMENT ACT 1972

BODY MAKING INITIAL DECISION:	The Minister for Health in the exercise of his power to exempt a person from an obligation to supply information which will result in a disclosure of a trade secret either generally in relation to the trade secret alleged or to such an extent as he may specify (s.40(2)).*
APPELLATE BODY:	The Supreme Court (s.40(3)).
Jurisdiction:	The Judge may confirm, alter or reverse the decision of the Minister and may make such order as to the costs of, and incidental to, the appeal as the Judge thinks fit (s.40(4)).
Membership:	A Judge of the Supreme Court sitting in Chambers (s.40(4)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

* The Commissioner of Public Health, a member of the Noise and Vibration Control Council or the Noise Abatement Advisory Committee or any inspector appointed under the Act may require a person to supply information which will result in the disclosure of a trade secret (see ss.35, 36 and 38). Where such information is required, the owner or occupier may object to the Minister, and where such an objection is made, the Minister may grant the exemption (s.40(1) and (2)).

PETROLEUM ACT 1967-1972

BODY MAKING INITIAL DECISION:	The Minister for Mines in the performance of his duty to keep a Register of permits, licences and access authorities granted by him (s.70(1)).
APPELLATE BODY:	The Supreme Court (s.82(1)).
Jurisdiction:	To hear an appeal by any person aggrieved by the omission of an entry from the Register, an entry made in the Register without sufficient cause, an entry wrongly existing in the Register or an error or defect in an entry in the Register (s.82(1)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

PETROLEUM PIPELINES ACT 1969-1975

BODY MAKING INITIAL DECISION:	The Principal Registrar in the Department of Mines in the performance of his duty to keep a Register of licences (s.43).
APPELLATE BODY:	The Supreme Court (s.54(1)).
Jurisdiction:	A person aggrieved by the omission of an entry from the Register, an entry made in the Register without sufficient cause, an entry wrongly existing in the Register, or an error or defect in an entry in the Register may seek an order of rectification (s.54(1)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

PETROLEUM (SUBMERGED LANDS) ACT 1967-1970

BODY MAKING INITIAL DECISION:	The Designated Authority (see s.16(1)) in the performance of his duty to keep a Register of permits, licences, pipeline licences and access authorities granted by him (s.76(1)).
APPELLATE BODY:	The Supreme Court (s.88(1)).
Jurisdiction:	To hear an appeal by any person aggrieved by the omission of an entry from the Register, an entry made in the Register without sufficient cause, an entry wrongly existing in the Register or an error or defect in an entry in the Register (s.88(1)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

PHARMACY ACT 1964-1977

BODY MAKING INITIAL DECISION:	The Pharmaceutical Council of Western Australia (s.7) in the exercise of its powers under s.40A(1)(a) and s.40A(1)(b).*
APPELLATE BODY:	The Minister for Health (s.40A(3)).
Jurisdiction:	To hear an appeal by any person aggrieved by a determination of the Council (s.40A(3)).
Membership:	The Minister.
FURTHER APPEAL:	None.

* Under s.40A(1) a pharmaceutical chemist, company or friendly society carrying on the practice of a pharmaceutical chemist cannot supply goods or services, other than medicines or drugs, unless those goods and services are of a kind supplied prior to 1 July 1975 (s.40A(1)(a)) or are approved by the Council from time to time as goods and services which may be supplied by a pharmacy (s.40A(1)(b)).

POISONS ACT 1964-1970

BODY MAKING INITIAL DECISION:	The Commissioner of Public Health in the exercise of his powers to grant or renew (s.24), cancel, suspend or revoke (s.28) any licence or permit under the Act concerning the manufacture, distribution, sale or purchase of any "poison" (s.24) or concerning the cultivation, possession, sale or purchase of "prohibited " plants (s.41A).
APPELLATE BODY:	A stipendiary magistrate sitting as a Court of Summary Jurisdiction (s.29(1)).
Jurisdiction:	To hear an appeal by any person aggrieved by the decision (s.29(1)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the magistrate's decision is final and conclusive (s.29(2)).

PREVENTION OF CRUELTY TO ANIMALS ACT 1920-1976

BODY MAKING INITIAL DECISION:	Any constable, or officer of a Society (including the Royal Society for the Prevention of Cruelty to Animals, Western Australia (Inc) - see s.3(i)) in the exercise of his power to direct that an animal not be used in work or labour for any period, not exceeding twenty-one days, if it is unfit to be so used (s.7(1)). The period of the prohibition may be extended (s.7(3)).
APPELLATE BODY:	A Court of Summary Jurisdiction (s.7(4)).
Jurisdiction:	A person in receipt of a direction who is injured or aggrieved by it may apply to have it annulled or varied (s.7(4)).
Membership:	Justices of the peace or a stipendiary magistrate.
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error, or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

ROAD TRAFFIC ACT 1974-1977

BODY MAKING INITIAL DECISION:	The Road Traffic Authority (s.6) in the exercise of its power to refuse to issue various licences and transfers of those licences under Part III of the Act (which relates to the licensing of vehicles).
APPELLATE BODY:	A Court of Petty Sessions (s.25(1)).
Jurisdiction:	To hear an appeal by an applicant. The Court may order that the licence be granted or it may dismiss the appeal (s.25(2)).
Membership:	A stipendiary magistrate or justices of the peace.
FURTHER APPEAL:	None, the decision of the Court is final (s.25(1)).

ROAD TRAFFIC ACT 1974-1977

BODY MAKING INITIAL DECISION:	The Road Traffic Authority (s.6) in the exercise of its power to refuse to issue a driver's licence, or to cancel, suspend or refuse to renew such a licence (s.48(1), (2), or (3)).
APPELLATE BODY:	A Court of Petty Sessions (s.48(4)).
Jurisdiction:	To hear an appeal by any person affected by the decision. The Court may grant or dismiss the application and may make such order, including an order for the issue of a driver's licence, with or without conditions and limitations, as it thinks fit (s.48(5)).
Membership:	A stipendiary magistrate (s.48(5)).
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or excess of jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

STALLIONS ACT 1921-1947

BODY MAKING INITIAL DECISION:	The Examining Authority (see s.5) in the exercise of its power to report to the Chief Inspector of Stock of its approval of a stallion and its allowance of a certificate to be issued with respect to it (s.5). A uncertificated stallion, generally, must not be used for stud purposes (s.10).
APPELLATE BODY:	An Appeal Board (s.11(1)).
Jurisdiction:	The owner of a stallion whose application for a certificate has been refused may appeal. The Appeal Board may examine the stallion and report on the result of the examination to the Minister for Agriculture (s.11(2)). The Minister may either allow or dismiss the appeal (s.11(2)).
Membership:	The Board consists of three members – <ol style="list-style-type: none">1. the Chief Inspector of Stock; and2. two members of a panel of referees constituted under the Act, selected by the Minister (s.11(1)).
FURTHER APPEAL:	None (see s.11(2)).

STATE ENERGY COMMISSION ACT 1945-1975

BODY MAKING INITIAL DECISION:	The Minister for Fuel and Energy in the exercise of his power to exempt a person from an obligation under the Act to supply information either generally or in relation to a trade secret (s.59F(3)).
APPELLATE BODY:	The Supreme Court (s.59F(4)).
Jurisdiction:	To hear and determine the appeal of any person who is refused an exemption. The Court may reverse it or confirm it absolutely or conditionally (s.59F(5)). The Court may also make ancillary orders (s.59F(6)).
Membership:	A Judge sitting in Chambers (s.59F(5)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

WESTERN AUSTRALIAN MARINE ACT 1948-1977

BODY MAKING INITIAL DECISION:	The Harbour and Light Department (see s.8(1)) in the exercise of its power to refuse to grant a boat licence or a transfer thereof (s.186), or to refuse to grant a permit to operate a vessel under s.192, or to revoke or suspend a boat licence or permit on the ground that any of the conditions of or relating to the boat licence or permit, or that the requirements of Part VIII of the Act or any regulations applicable to the vessel have not been complied with (s.195).
APPELLATE BODY:	A stipendiary magistrate (s.196).
Jurisdiction:	To hear an appeal where a licence or transfer or permit is refused, or a licence or permit is suspended or revoked (s.196).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the order of the stipendiary magistrate is final (s.196).

**TRIBUNALS DEALING WITH
COMPENSATION**

(Category 4)

BEE INDUSTRY COMPENSATION ACT 1953-1972

BODY MAKING INITIAL DECISION:	The Beekeepers' Compensation Fund Committee (s.4) in the exercise of its power to pay compensation to a bee-keeper (ss.12-13), whose bees, bee-combs, honey, hives etc. are destroyed or disinfected in accordance with the <i>Beekeepers Act 1963</i> .
APPELLATE BODY:	The Minister for Agriculture (s.14(g)).
Jurisdiction:	To adjudicate between the Committee and a claimant where the Committee rejects the claim, or admits liability and the Committee and the claimant are unable to agree on the amount of compensation (s.14(g)).
Membership:	The Minister for Agriculture.
FURTHER APPEAL:	None, the Minister's decision is final and conclusive (s.14(g)).

LOCAL GOVERNMENT ACT 1960-1977

BODY MAKING INITIAL DECISION:	The council of a municipality in the exercise of its power to assess the contribution towards road making and maintenance to be made by Co-operative Bulk Handling Ltd. (a grain storage firm) (s.532(3a)).
APPELLATE BODY:	The Minister for Local Government (s.532(3b)(b)).
Jurisdiction:	To hear an appeal by Co-operative Bulk Handling Ltd.
Membership:	The Minister.
FURTHER APPEAL:	None, the Minister decides "as he thinks fit" (s.532(3b)).

LOCAL GOVERNMENT ACT 1960-1977

**BODY MAKING
INITIAL
DECISION:**

The council of a municipality in the exercise of its powers or obligations to –

- (a) pay compensation for damage done or materials taken for road making (s.281(6));
- (b) pay compensation for damage done by providing or altering a street (s.287(4)(b));
- (c) pay compensation for loss of improvements caused by land being dedicated as a street (s.288(8));
- (d) provide fencing in lieu of fencing lost by land being taken for a street (s.291(5)(b));
- (e) compensate an owner for damage by land being taken for a temporary street, whilst repairs are in progress on an actual street (s.305(2));
- (f) pay compensation for damage sustained in making drains and watercourses (s.315(a));
- (g) pay compensation for altering fixed street levels (s.351(4)(b));
- (h) pay compensation for damage caused to things lawfully laid in or under a street, the level of which is altered (s.352(2));
- (i) pay compensation for damage caused by street widening (s.363(6));
- (j) pay compensation for depreciation of balance of land by dedication and reversioning of a portion of it (s.364(8));

- (k) pay compensation for damage caused by the exercise of its powers under Part XXII relating to trading undertakings (s.508);
- (l) pay compensation for loss or damage in exercise of flood control powers (s.521(2)).

APPELLATE
BODY:

Two arbitrators (s.684).*

Jurisdiction:

To arbitrate between the council and aggrieved parties in accordance with the provisions of the *Arbitration Act 1895* (s.684).

Membership:

Two arbitrators, one appointed by each party; or under the *Arbitration Act*, in default of appointment, by a party (s.684(b)).

FURTHER
APPEAL:

None (see paragraph 8 of the First Schedule to the *Arbitration Act 1895*) unless the parties "submission" shows an intention contrary to paragraph 8 (s.4 of the *Arbitration Act 1895*).

* It may be more correct to describe the role of the arbitrators in these instances as that of determining a dispute between the council and the owner rather than that of an appellate body reviewing the decision of the council. The instances have been included in this survey because they illustrate a not uncommon method adopted in legislation of providing a forum for dealing with disputes, particularly in the local government area.

PIG INDUSTRY COMPENSATION ACT 1942-1972

BODY MAKING INITIAL DECISION:	The Director of Agriculture in the exercise of his power under the Act to pay compensation to the owner of a pig destroyed in accordance with the Act (ss.6-9).*
APPELLATE BODY:	The Minister for Agriculture (s.8(3)).
Jurisdiction:	An owner aggrieved by the value placed on a pig destroyed or dying of a prescribed disease or the carcass of a pig which died of a prescribed disease may appeal against the valuation to the Minister (s.8(3)).
Membership:	The Minister .
FURTHER APPEAL:	None.**

* The value of the pig is determined by the Chief Veterinary Surgeon or an approved person (s.8(2)).

** The Minister may appoint a person to determine the value and that person's determination is final and conclusive (s.8(3)).

PUBLIC WORKS ACT 1902-1974

BODY MAKING INITIAL DECISION:	The Minister for Works, the Governor or other specified bodies in the exercise of his duty to determine compensation for land or water taken or for damage done under the <i>Public Works Act 1902</i> (see ss.34 & 97(b)). The Table immediately following lists other relevant bodies and the enactment under which a duty is imposed.
APPELLATE BODY:	The Compensation Court (s.47A(c)).*
Jurisdiction:	The Court has jurisdiction to determine the amount of compensation which is payable (s.63) where an offer or amended offer for compensation is rejected (s.47A).
Membership:	The Court may consist of – I. Three members – (i) a President, who is either a Judge of the Supreme Court (where the amount claimed exceeds \$1,000), or a stipendiary magistrate (where the amount claimed does not exceed \$1,000 or if a Judge so orders and the parties consent (s.51)); (ii) an assessor appointed by the claimant; and (iii) an assessor appointed by the respondent (s.50). OR II. Any person acting alone if agreed upon by the parties (s.52).
FURTHER APPEAL:	None, the award is final as regards the amount awarded. (It is not final as regards the right or title of the claimant or any other person to receive the amount, or any part thereof (s.71(2)).

* The compensation payable may also be determined by agreement between the respondent and the claimant, or by an action for compensation by the claimant against the respondent in a court of competent jurisdiction (s.47A(a) and (b)).

PUBLIC WORKS ACT 1902-1974**TABLE**

Authorising Act	Body making initial decision	Comment
<i>Aboriginal Heritage Act 1972</i>	The Governor, by Order in Council, may declare an Aboriginal site to be a protected area (where the Trustees of the Museum recommend that it is of outstanding importance) (s.19(1)), in which case the exclusive right to the occupation and use of the protected area is vested in the Museum on behalf of the Crown (s.22(1)). The Trustees of the Museum are required to pay compensation to any person who, immediately prior to the vesting of any right in the Museum, was the holder of any interest in or relating to the land (s.22(2)). If agreement cannot be reached on compensation the land may be resumed as though it were an acquisition made for the purposes of the protection and preservation of a place of scientific or historical interest under the <i>Public Works Act 1902</i> .	The power must be exercised under and subject to the <i>Public Works Act 1902</i> .
<i>Albany Port Authority Act 1926-1976</i>	The Albany Port Authority (s.3) in the exercise of its power to take or resume land for the purposes of the Act (s.26A).	The power must be exercised under and subject to the <i>Public Works Act 1902</i> .
<i>Bunbury Port Authority Act 1909-1976</i>	The Bunbury Port Authority (s.3) in the exercise of its power to take or resume land for the purposes of Act (s.26A).	The power must be exercised under and subject to the <i>Public Works Act 1902</i> .
<i>City of Perth Parking Facilities Act 1965-1976</i>	The Council of the City of Perth in the exercise of its power to take land for the purpose of establishing a parking station or providing a parking facility (s.14).	The power must be exercised subject to the provisions of the <i>Public Works Act 1902</i> .
<i>Closer Settlement Act 1927-1953</i>	The Governor in the exercise of his power to declare that land, or a defined portion thereof, has been taken under the Act for the	Subject to the provisions of the Act, the provisions of Part III of the <i>Public</i>

	purpose of closer settlement (s.7(1)).	<i>Works Act 1902</i> apply.
<i>Country Areas Water Supply Act 1947-1977</i>	The Minister for Water Supplies, or other persons acting with his authority, is required to pay compensation to every person interested for damage actually sustained in the exercise of the Minister's power to construct waterworks (s.19 Proviso (i)).	The compensation must be determined in the manner provided in the <i>Public Works Act 1902</i> .
	The Minister for Water Supplies in the exercise of his power to take and acquire land for any of the purposes of the Act (s.20).	The power must be exercised under and subject to the <i>Public Works Act 1902</i> .
	The Minister for Water Supplies in the exercise of his power to take or resume land where a person claims compensation for injurious affection where a clearing licence is refused or is granted subject to conditions that are unacceptable to the applicant (s.12E(3)).	The land must be taken pursuant to the <i>Public Works Act 1902</i> .
<i>Country Towns Sewerage Act 1948-1977</i>	The Minister for Water Supplies in the exercise of his power to assess compensation payable to persons interested for any actionable damage actually sustained in carrying out works under the Act (s.16).	The Compensation Court determines disputes as to the right of any person to receive compensation or the amount thereof (s.16).
	The Minister for Water Supplies in the exercise of his power to take and acquire land for the purposes of the Act (s.17).	The power must be exercised under and subject to the <i>Public Works Act 1902</i> .
<i>Electricity Act 1945-1973</i>	A local authority taking land for the purpose of exercising its powers under the Act (s.10(1)).	The power must be exercised in accordance with the powers and procedure prescribed by the <i>Public Works Act 1902</i> .
<i>Esperance Port Authority Act 1968-1976</i>	The Esperance Port Authority (s.6) in the exercise of its power to take land for the purposes of the Act (s.28).	The power must be exercised in accordance with the powers and procedure prescribed by the <i>Public</i>

Works Act 1902.

<i>Forests Act 1918-1976</i>	The Governor, subject to the consent of Parliament, may resume or appropriate land for the purpose of a State forest or to provide access thereto (s.22(1)).	The power must be exercised under the <i>Public Works Act 1902</i> .
<i>Fremantle Port Authority Act 1902-1976</i>	The Fremantle Port Authority (s.3) in the exercise of its power to take land for the purposes of the Act (s.27A).	The power must be exercised in accordance with the procedure prescribed by the <i>Public Works Act 1902</i> .
<i>Geraldton Port Authority Act 1968-1976</i>	The Geraldton Port Authority (s.6) in the exercise of its power to take land for the purposes of the Act (s.28).	The power must be exercised in accordance with the procedure prescribed by the <i>Public Works Act 1902</i> .
<i>Health Act 1911-1976</i>	<p>Local authorities, as authorities for health districts –</p> <p>(a) in the exercise of a duty to pay compensation to individuals or bodies that suffer damage as a result of health works (e.g. ss.62 & 83(c)) or,</p> <p>(b) to take land for the purpose of Part IV of the Act (Sanitary Provisions) (s.65).</p>	<p>(a) Appeal to Compensation Court (ss.62 & 83(c)).</p> <p>(b) The power must be exercised under and subject to the <i>Public Works Act 1902</i> (s.65).</p>
	The Minister for Health, with the consent of the Governor, in the exercise of his power to acquire land for the purpose of establishing community health centres, child health centres, clinics for the treatment of venereal and other diseases, immunisation clinics, community health services clinics, and children's assessment centres and for purposes associated therewith (s.330A(1)).	The power must be exercised in the manner provided by the <i>Public Works Act 1902</i> .

<i>Industrial Development (Kwinana Area) Act 1952- 1959</i>	The Governor in the exercise of his power to take land to which the Act applies which may be required for an industry, a public work, or for a purpose mentioned in the First Schedule to the <i>Town Planning and Development Act 1928</i> (s.5(1)).	The provisions of the <i>Public Works Act 1902</i> , as modified by the Act, apply (s.5(2)(a)).
<i>Industrial Development (Resumption of Land) Act 1945-1960</i>	<p>The Governor in the exercise of his power to resume land mentioned in an application under s.6 of the Act. (s.9(2)).</p> <p>The Governor in the exercise of his power to resume land which in the opinion of the Minister it is desirable to acquire and make available to persons engaged in or about to engage in industries in the interests of the industrial development of the State (s.11(2)).</p>	<p>The land must be resumed under the <i>Public Works Act 1902</i>.</p> <p>The land must be acquired under and subject to the provisions of the <i>Public Works Act 1902</i>.</p>
<i>Jetties Act 1926-1976</i>	The Minister for Works in the exercise of his power to compulsorily acquire any private jetty (s.6(2)).	The provisions of the <i>Public Works Act 1902</i> apply as if it were land acquired for a public work.
<i>Joondalup Centre Act 1976</i>	The Joondalup Development Corporation (s.9) in the exercise of its power to compulsorily acquire any part of the land described in the Schedule to the Act (s.29).	The land must be acquired under the powers contained in and in accordance with the procedure prescribed by the <i>Public Works Act 1902</i> .
<i>Land Act 1933-1977</i>	The Governor in the exercise of his power to resume land which is a conditional purchase lease or a homestead farm for the purpose of disposal as town or suburban allotments (s.11).	If the amount of compensation is not agreed to it must be assessed under and subject to the provisions of the <i>Public Works Act 1902</i> .
<i>Land Drainage Act 1925-1977</i>	A drainage board (s.15) in the exercise of its power to take any lands which are required for the purposes of any works or of the Act (s.65(2)).	The power must be exercised subject to the provisions of the <i>Public Works Act 1902</i> .
<i>Local Government Act 1960-1977</i>	The council of a municipality in the exercise of its power to take	The power must be exercised under and

land within its district for carrying out a work or undertaking which it is authorised by law to carry out (s.282). See also s.21(7) of the *State Housing Act 1946*. subject to the *Public Works Act 1902*.

Main Roads Act 1930-1977

The Governor, on the recommendation of the Commissioner of Main Roads, in the exercise of his power to declare that a section or part of a road is subject to control of access (s.28A(I)). Where such a declaration is made, any person, the market value of whose estate or interest in adjoining land is depreciated by the extinguishment of the right of access, is entitled to compensation for such depreciation (s.28A(2)(b)). Where there is no agreement between the Commissioner and the person entitled to compensation, it may be determined in accordance with Part III of the *Public Works Act 1902*.

The Commissioner of Main Roads in the exercise of his power to compulsorily acquire land for the purposes of the Act (s.29(1)(b)). The power must be exercised under the powers contained in and in accordance with the procedure prescribed in the *Public Works Act 1902*.

Metropolitan Market Act 1926-1977

The Metropolitan Market Trust (s.3) in the exercise of its power to take land for the purposes of the Act (s.11 (3)). The land must be taken in accordance with the *Public Works Act 1902*, as if the Trust were a local authority.

Metropolitan (Perth) Passenger Transport Trust 1957-1973

The Metropolitan (Perth) Passenger Transport Trust (s.6) in the exercise of its power to acquire land under s.25 (6)(a) for the purpose of carrying out any of its functions. The land may be acquired under the provisions of the *Public Works Act 1902*.

Metropolitan Region Town Planning Scheme Act 1959-1976

The Metropolitan Region Planning Authority (s.7) in the exercise of its power to take any land included in an improvement plan (s.37A(2)). The land must be acquired under and subject to the *Public Works Act 1902*, as modified by the section.

Metropolitan Water Supply, Sewerage, and Drainage Act 1909-1977

The Metropolitan Water Supply, Sewerage, and Drainage Board (s.8) in the exercise of its power to take any alienated land within the boundaries of any water reserve or catchment area (s.15), or for The power must be exercised subject to of the provisions the *Public Works Act 1902*.

any purposes of the Act (s .25).

*Metropolitan Water Supply,
Sewerage, and Drainage Act
1909-1977*

The Metropolitan Water Supply, Sewerage, and Drainage Board (s.8), which is required to pay compensation to every person interested for any accountable damage sustained by him through the exercise of the powers conferred by the Act (s.24(1)).

Any dispute as to the right of such a person to receive compensation, or the amount thereof, must be heard and determined by a Compensation Court under the provisions of the *Public Works Act 1902*.

The Metropolitan Water Supply, Sewerage, and Drainage Board, which is obliged to pay compensation for the depreciation in value of an estate or interest in land caused by the prescription of a building line (s.71D).

Part III of the *Public Works Act 1902* as modified by s.71D(7)(b)-(d) & (g) applies *mutatis mutandis* (s.71D(f)).

*Oil Refinery Industry (Anglo-
Iranian Oil Company Limited) Act
1952-1959*

The Treasurer in the exercise of his power to take land to enable the State to carry out its obligations under the agreement ratified by the Act (s.4(1)).

The provisions of the *Public Works Act 1902* apply.

Petroleum Act 1967-1972

The Minister for Mines by his officers, agents or workmen in the exercise of power to enter upon and occupy land to search for petroleum, and conduct operations necessary for or incidental to searching for, obtaining, refining or disposing of petroleum (s.11(1)).

An occupier of land or any person having an estate or interest therein may claim compensation for any interference with the use of the land, or any damage to or interference with operations carried out thereon or with any improvements on the land as if the claim were a claim for compensation made originally under the *Public Works Act 1902* (s.11(2) and (3)).

The Governor, in the exercise of his power to resume land for the purposes of the Act or land which it is intended to be used in conjunction with the land so resumed or intended to be resumed (s.12).

The land must be taken under and subject to the *Public Works Act 1902*.

<i>Petroleum Pipelines Act 1969-1975</i>	The Minister for Mines in the exercise of his power to take land as if for a public work for the purpose of carrying out any function authorised by a licence or any other function necessary for the efficient operation of a pipeline (s.19(1)).	The power is exercised under the <i>Public Works Act 1902</i> . The proceedings for compensation must be taken against the licensee, who is deemed to be the respondent and is liable in respect of the taking to the same extent as the Minister for Works would have been liable if the taking had been for the purposes of a public work (s.19 (3)).
<i>Port Hedland Port Authority Act 1970-1976</i>	The Port Hedland Port Authority in the exercise of its power to take land for the purposes of the Act (s.26).	The power must be exercised under the powers contained in and in accordance with the procedure prescribed by the <i>Public Works Act 1902</i> .
<i>Rights in Water and Irrigation Act 1914-1976</i>	The Governor, in the exercise of his power to take, acquire or resume land at the site of an artesian well (s.23(1)).	The power must be exercised under the provisions of the <i>Public Works Act 1902</i> .
	The Minister for Water Supplies in the exercise of his power to acquire land for the purposes of the Act (s.62).	Every claim for compensation, if disputed, must be determined by the Compensation Court under and subject to the <i>Public Works Act 1902</i> (s.62(7)).
<i>Soil Conservation Act 1945-1974</i>	The Governor (after the Commissioner of Soil Conservation has made a recommendation to the Minister) may by Proclamation declare lands to be a soil conservation reserve (s.26).	Where land proclaimed to be a soil conservation reserve is private land it may be taken or otherwise acquired as if for a public work under the <i>Public Works Act 1902</i> (s.26(3)).

*State Energy Commission Act
1945-1975*

The State Energy Commission of Western Australia (s.8(1)) in the exercise of its power –

(i) to take land for the purposes of the Act (s.31(1));

or

(ii) to take over the undertaking of any supply authority (s.32(1)).

The power must be exercised in accordance with the procedure prescribed in the *Public Works Act 1902* (s.31(1) or or s.32(2)).

State Housing Act 1946-1975

The State Housing Commission (s.8(1)) in the exercise of its power to take and compulsorily acquire land (s.21(1)(b)). (See also page 187 below.)

The exercise of this power is subject to the consent of the Minister and must be exercised under the powers contained in and in accordance with the procedure prescribed by the *Public Works Act 1902*.

PUBLIC WORKS ACT 1902-1974

**BODY MAKING
INITIAL
DECISION:**

The Minister for Works in the exercise of his power to –

- A. refuse to grant to a person, who immediately prior to the taking or resumption of land had an estate in fee simple in the land, an option to purchase the land where it is no longer required for the purpose for which it was taken (s.29(3)(a) to (ca));
- B. fix the purchase price of land for which an option is granted (s.29B(3)).

**APPELLATE
BODY:**

- A. The Supreme Court (s.29(3)(cb)).
- B. The Supreme Court (if the amount of the purchase price in the option exceeds \$1,000). The Local Court (if the amount of the purchase price in the option is less than \$1,000) (s.29B(3)).

Jurisdiction:

- A. To hear and determine the appeal and to make such order as appears to the Court just (s.29(3)(cb)).
- B. To hear and determine the appeal and to make such order as appears to the Court just, including an order for the extension of the period of the option to purchase (s.29B(3)).

Membership:

In the case of the Supreme Court - a Judge.
In the case of the Local Court - a stipendiary magistrate.

**FURTHER
APPEAL:**

- A. None, the decision of the Court is final and conclusive (s.29(3)(cb)).
- B. In the case of a Judge of the Supreme Court - the Full Court of the Supreme Court (*Supreme Court Act 1935*, s.58(1)(b)). In the case of the Local Court see note 1 of the *Notes on the Survey*, below.

Scope of further appeal: To hear and determine the appeal and matters incidental thereto
(*Supreme Court Act 1935*, s.58(2)).

STATE HOUSING ACT 1946-1975

BODY MAKING INITIAL DECISION:	The State Housing Commission (s.8) in the exercise of its power to - (a) take and compulsorily acquire any land (s.21 (1)(b)); or (b) compulsorily acquire land for purposes such as gardens, parks, open spaces, places of recreation, and sites for shops, religious buildings, infant health and pre-school child centres and libraries (s.70(1)).
APPELLATE BODY:	The Minister for Housing (s.21(2)(a) or s.70(2)(b)).
Jurisdiction:	The owner (at law or in equity) of land sought to be acquired may appeal* on the ground that the land is – (a) being used by the appellant as his principal place of residence, or that he intends to use it as his or his child or near dependant relative's principal place of residence and neither he nor his child or near dependant relative (as the case may be) owns any other land suitable for that purpose; or (b) being used for commercial, manufacturing or primary producing purposes, and its acquisition would impose great hardship on the owner (s.21(2)(a) or s.70(2)(a)). The Minister may allow or dismiss the appeal, either wholly or in part, subject to such terms and conditions as he thinks fit (s.21(2)(b) or s.70(2)(b)).
Membership:	The Minister.
FURTHER APPEAL:	A Judge of the Supreme Court (s .21(2)(c) or s.70(2)(c)).

* There is no right of appeal in the circumstances referred to in s.21(2)(d) or s.70(2)(d), but the Commission is required to make a suitable block available to an owner.

Scope of further appeal:

Any appellant who feels aggrieved by the decision of the Minister may appeal against the decision. After hearing the parties, and after considering public and community interests, the Judge may allow or dismiss the appeal. The decision of the Judge is final and conclusive (s.21(2)(c) or s.70(2)(c)).

**TRIBUNALS DEALING WITH
INDUSTRIAL MATTERS**

(Category 5)

INDUSTRIAL ARBITRATION ACT 1912-1976

BODY MAKING INITIAL DECISION:	An Industrial Magistrate in the exercise of his various powers under the Act, including the enforcement of awards and industrial agreements (s.99).
APPELLATE BODY:	The Western Australian Industrial Appeal Court (s.103A(2)).
Jurisdiction:	A party to proceedings before an Industrial Magistrate may appeal in respect of the whole or part of his decision (s.103A(1) and (2)).
Membership:	Three Judges of the Supreme Court, one of whom is President (s.108A(1) and (2)).
FURTHER APPEAL:	None (s.108B(4)).

INDUSTRIAL ARBITRATION ACT 1912-1976

BODY MAKING INITIAL DECISION:	The Western Australian Industrial Commission constituted by a Commissioner in the exercise of his various powers under the Act.
APPELLATE BODY:	A. The Commission in Court Session (s.108C(2)). OR B. The Western Australian Industrial Appeal Court (s.108D(1)).
Jurisdiction:	A. An appeal lies against any decision, order or award of the Commissioner (s.108C(2)). B. An appeal lies against any decision, order, award or proceeding on the ground that the decision, order, award or proceeding was erroneous in law or in excess of jurisdiction (s.108D(1)).
Membership:	A. At least three Commissioners sitting or acting together (s.6). B. Three Judges of the Supreme Court, one of whom is President (s.108A(1) and (2)).
FURTHER APPEAL:	A. The Western Australian Industrial Appeal Court (s.108D(1)). B. None (s.108B(4)).
Scope of further appeal:	A. An appeal lies against any decision, order, award or proceeding on the ground that the decision, order, award or proceeding was erroneous in law or in excess of jurisdiction (s.108D(1)).

INDUSTRIAL ARBITRATION ACT 1912-1976

BODY MAKING INITIAL DECISION:	A Board of Reference, appointed by The Western Australian Industrial Commission, which has power to allow, approve, fix, determine or deal with conditions specified in an award or agreement (s.89(1)).
APPELLATE BODY:	The Commission in Court Session (s.89(2)).
Jurisdiction:	An appeal lies against any determination, decision or finding of the Board (s.89(2)).
Membership:	At least three Commissioners sitting or acting together (s.6).
FURTHER APPEAL:	The Western Australian Industrial Appeal Court (s.108D(1)).
Scope of further appeal:	An appeal lies against any decision, order, award or proceeding on the ground that the decision, order, award or proceeding was erroneous in law or in excess of jurisdiction (s.108D(1)).

INDUSTRIAL ARBITRATION ACT 1912-1976

BODY MAKING INITIAL DECISION:	The Western Australian Industrial Commission or the Western Australian Industrial Commission in Court Session exercising its various powers under the Act.
APPELLATE BODY:	The Western Australian Industrial Appeal Court (s.108D(1)).
Jurisdiction:	An appeal lies on the ground that any decision, order, award or proceeding was erroneous in law or in excess of jurisdiction (s.108D(1)).
Membership:	Three Judges of the Supreme Court, one of whom is President (s.108A(1) and (2)).
FURTHER APPEAL:	None (s.108B(4)).

LONG SERVICE LEAVE ACT 1958-1973

BODY MAKING INITIAL DECISION:	The Board of Reference (ss.11-13) in the exercise of its powers to make determinations under the Act (e.g. to exempt an employer from the operation of the Act, s.5(1)) and other functions referred to in s.14.
APPELLATE BODY:	The Western Australian Industrial Commission in Court Session (s.18).
Jurisdiction:	To hear an appeal by any party to a question or dispute on which the Board has made a determination under the Act (s.18).
Membership:	Not less than three Commissioners appointed under the <i>Industrial Arbitration Act 1912</i> sitting or acting together (see s.6 of the <i>Industrial Arbitration Act 1912</i>).
FURTHER APPEAL:	The Western Australian Industrial Appeal Court (<i>Industrial Arbitration Act 1912</i> , s.108D(1)).
Scope of further appeal:	On the ground that the decision or proceeding was erroneous in law or in excess of jurisdiction (<i>Industrial Arbitration Act 1912</i> , s.108D(1)).

MINE WORKERS' RELIEF ACT 1932-1977

BODY MAKING INITIAL DECISION:	The Mines Medical Officer, making a diagnosis of an illness of a person who has been examined under the Act.
APPELLATE BODY:	A Medical Board (s .14).
Jurisdiction:	To hear and determine an appeal by a person who has been examined under the Act, against any diagnosis referred to above and to determine for the purposes of the Act whether tuberculosis found in a person at any time during the second year of his ceasing to carry on operations in a mining industry, resulted from his employment in that industry (s.14(4)).
Membership:	A Medical Board, comprised of three persons – <ol style="list-style-type: none">1. the Mines Medical Officer;2. a medical practitioner nominated by the Commissioner of Public Health; and3. a medical practitioner nominated by the appellant (s.14(2)).
FURTHER APPEAL:	None, the decision of the Medical Board is final and conclusive (s.14(4)).

**TRIBUNALS DEALING WITH
MISCELLANEOUS MATTERS**

(Category 6)

ABORIGINAL HERITAGE ACT 1972

BODY MAKING INITIAL DECISION:	The vesting in the Museum of objects classified as Aboriginal cultural material where the Trustees of the Museum are of opinion that it has been obtained in a manner contrary to the Act (s.46(1)).
APPELLATE BODY:	The Local Court (s.46(3)).
Jurisdiction:	To hear an appeal by a person on whom a notice vesting property in the Museum has been served or a person aggrieved by the notice (s.46(3)). The Court may set aside the notice, decline to set it aside or make such other order as it thinks fit (s.46(4)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the decision of the Court is final and is not subject to appeal (s.46(4)).

Another relevant provision of the Act is s.43 which places restrictions on dealing with Aboriginal cultural material. Where the Trustees of the Museum wish to purchase such material and are of opinion that the price offered is excessive they may apply to the Local Court at Perth which may determine a reasonable price for the object (s.43(3)).

ABORIGINAL HERITAGE ACT 1972

BODY MAKING INITIAL DECISION:	The Trustees of the Museum in the exercise of their power to make a recommendation for the declaration of an Aboriginal site as a protected area or to give notice to the owner of land of their consent to the use of his land for the purpose required where the owner has given notice to the Trustees that he requires the land for a purpose which would be likely to have a deleterious effect on the preservation of the site (s.18(1) and (2)).
APPELLATE BODY:	At the option of the owner, either the Local Court at Perth or the Local Court nearest to the place where the Aboriginal site is located (s.18(3)).
Jurisdiction:	The Court may issue an order requiring consent to be granted, without condition (s.18(3)). It may also make an order for expenses incurred by the owner (s.18(4)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

AUDIT ACT 1904-1966

BODY MAKING
INITIAL
DECISION:

- A. The Treasurer, after receiving a report from the Auditor General, in the exercise of his power to send a notice to any accounting officer or any other person in the public service of any surcharge* for any deficiency or loss or any expenditure that has not been duly authorised, vouched or certified (ss.42 and 43(1)).
- B. The Auditor General in the exercise of his power to make a disallowance** where an accounting officer has paid money without written voucher or upon an imperfect voucher or incorrect certificate or in the absence of a certificate (s .47).

APPELLATE
BODY:

The Governor (s.43(1)).

Jurisdiction:

To hear an appeal by an accounting officer or public officer against a surcharge or disallowance. The Governor may make an order directing the relief of the appellant (wholly or in part) from the disallowance or surcharge (s.43(2)).

Membership:

The Governor.

FURTHER
APPEAL:

None.

* The amount of a surcharge may be sued for as money paid by Her Majesty to the use of such person at his request (s.42).

** The amount of a disallowance is deemed to be money paid by Her Majesty to the use of the accounting officer and, in addition to any other means of recovering the money, it may be recovered by retaining or stopping any moneys then or thereafter payable to him (s.47).

BILLS OF SALE ACT 1899-1973

BODY MAKING INITIAL DECISION:	The Registrar in the exercise of his discretion to refuse to extend the time for registration of a bill of sale (s.13A(1)) or debenture (see s.52(1)).
APPELLATE BODY:	The Supreme Court (s.13A(2)).
Jurisdiction:	The time may be extended if the omission to present the bill for registration was unavoidable, accidental or due to inadvertance (s.13A(3)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

BUILDING SOCIETIES ACT 1976-1977

BODY MAKING INITIAL DECISION:	The Registrar of Building Societies (s.6) in the exercise of his power to refuse to consent to the removal or resignation of an auditor of a society (s.68).
APPELLATE BODY:	The District Court of Western Australia (s.68(24)).
Jurisdiction:	To hear an appeal by any person aggrieved by the decision. The Court may confirm or reverse the refusal and make such further order as seems proper (s.68(24)).
Membership:	A District Court Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>District Court of Western Australia Act 1969</i> , s.79(1)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

BUILDING SOCIETIES ACT 1976-1977

BODY MAKING INITIAL DECISION:	The Registrar of Building Societies (s.6) in the exercise of his various powers under the Act.
APPELLATE BODY:	The District Court of Western Australia* (s.87(2)).*
Jurisdiction:	To hear an appeal by any society or person aggrieved by a decision made by the Registrar under the Act (other than a decision to consent to or refuse to consent to the registration or removal of an auditor) (s.87(1)).
Membership:	A District Court Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>District Court of Western Australia Act 1969</i> , s.79(1)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

* Before any appeal can be lodged the applicant must request the Registrar to review the decision. Where the society or person concerned is still aggrieved it or he may appeal to the District Court (s.87(1) and (2)).

BUSINESS FRANCHISE (TOBACCO) ACT 1975

BODY MAKING INITIAL DECISION:	The Commissioner of State Taxation in the exercise of his power to assess the fee for a licence under the Act (s.10).
APPELLATE BODY:	The Supreme Court (s.17(1)).
Jurisdiction:	To hear an appeal by a person who is dissatisfied with a decision of the Commissioner on an objection* made under s.16 of the Act relating to the assessment of any fee by the Commissioner (s.17(1)).
Membership:	The jurisdiction of the Supreme Court may be exercised by a Judge sitting in chambers (s.17(2)(a)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and questions incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

* The appeal can only be instituted if a person has lodged an objection with the Commissioner under s.16 and is dissatisfied with the Commissioner's decision. If he is so dissatisfied, he is required to request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court (s.17(1)). On the hearing of the appeal the appellant is limited to the grounds stated in his objection (s.17(3)).

BUSINESS NAMES ACT 1962-1976

BODY MAKING INITIAL DECISION:	The Commissioner for Corporate Affairs exercising his power to cancel the registration of a business name (ss.18 and 19).
APPELLATE BODY:	The Supreme Court (s.19(3)).
Jurisdiction:	To determine whether the applicant is carrying on business under the business name and whether it is just and equitable to make an order directing the commissioner to restore the registration of the business name (s.19(4)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

CEMETERIES ACT 1897-1972

BODY MAKING INITIAL DECISION:	The Trustees of a cemetery (s .10) in the exercise of their power to set apart a portion of a cemetery for the burial of persons of the same religious denomination and to enter into an agreement with a religious denomination for such apportionment (s.13(1) & (2)).
APPELLATE BODY:	The Minister for Local Government (s.13(3)).
Jurisdiction:	To adjudicate where there is a disagreement between the parties to an agreement (s.13(3)).
Membership:	The Minister.
FURTHER APPEAL:	None, the decision of the Minister is final and binding upon the parties (s .13(3)).

CENSORSHIP OF FILMS ACT 1947-1976

BODY MAKING INITIAL DECISION:	The Censor (s.4) in the exercise of various powers under the Act, including approving a film for exhibition either unconditionally or subject to conditions (s.12(1)).*
APPELLATE BODY:	The Chief Secretary or any person authorised in writing by him (s.22(1)).
Jurisdiction:	To determine an appeal by a person aggrieved by any decision of the Censor (s.22(1)). The Chief Secretary may allow or disallow the appeal, direct the Censor to refuse to approve the film, or allow the appeal conditionally subject to excision or alteration (s.22(8)).
Membership:	The Chief Secretary, or any person authorised in writing by him (s.22(1)).
FURTHER APPEAL:	None, the decision is final (s.22(9)).

* Part IV of the Act enables the Governor to arrange with the Governor-General of the Commonwealth to discharge the functions of censorship of films in Western Australia, and for the hearing of any appeals by officers and authorities of the Commonwealth on behalf of the Government of Western Australia. Such an agreement has been entered into, and the Chief Commonwealth Censor censors films in this State on behalf of the Western Australian Government. However, the Chief Secretary may declare that a classification assigned to a film is ineffective and reclassify the film or refrain from so reclassifying it, in which case, it is deemed to be an unapproved film (s.12B).

CHILD WELFARE ACT 1947-1977

BODY MAKING INITIAL DECISION:	The Minister for Community Welfare, who may order the release of a child committed to the care of the Department for Community Welfare or placed under the control of the Department (s.47(1)).
APPELLATE BODY:	The Children's Court (s.47(2)).
Jurisdiction:	Where the Minister declines to make an order a parent of the child, or a near relative or guardian of the child, may apply to the Children's Court for the release of the child (s.47(2)).
Membership:	A special magistrate (s.19).
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

CHILD WELFARE ACT 1947-1977

**BODY MAKING
INITIAL
DECISION:**

The Minister for Community Welfare in the exercise of his power to commit a child to the care of the Department for Community Welfare where it appears to the Minister that –

- (a) a person has placed a child in the care of another person or of a body but that maintenance for the child is not being paid to that person or body by the person responsible for payment of the maintenance (s.47A(1));
- (b) a child is left without a parent or guardian, or their whereabouts or that of any near relative is not readily ascertainable, and the child is not a child in need of care and protection within the meaning of the Act (s.47B(1));
- (c) it is in the best interests of the child (s.47C(1));
- (d) a child has been given up for adoption by one of the parents or guardians of the child and the time for revocation of consent has expired and the consent of another parent or guardian of the child must be given or dispensed with before an order of adoption can be made (s.47D(1)).

**APPELLATE
BODY:**

The Children's Court (ss.47A(5), 47B(2), 47C(3), 47D(2) respectively).

Jurisdiction:

The Court has jurisdiction to cancel the order made by the Minister and order the release of the child (ss.47A(5), 47B(2), 47C(3), 47D(2) respectively).

Membership:

A special magistrate (s.19).

**FURTHER
APPEAL:**

The Supreme Court (*Justices Act 1902*, s.197(1)(a)).

Scope of further
appeal:

It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (*Justices Act 1902*, s.197(1)(a)).

CHILD WELFARE ACT 1947-1977

BODY MAKING INITIAL DECISION:	The Children's (Suspended Proceedings) Panel in the exercise of its various powers. The Panel has jurisdiction to deal with certain first offenders (s.70).
APPELLATE BODY:	A Children's Court (s.76).
Jurisdiction:	To hear an appeal where it is alleged that an admission recorded by a Children's Panel was improperly obtained or was incorrectly recorded, or where a child, the parent of the child or a person standing in loco parentis is aggrieved by a determination or order made by a Children's Panel (s.76).
Membership:	A special magistrate (s.76).
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error or mistake of law or fact, or an excess or want of jurisdiction, or that the penalty was excessive or inadequate (<i>Justices Act 1902</i> , s.197(1)(a)).

CITY OF PERTH PARKING FACILITIES ACT 1956-1976

**BODY MAKING
INITIAL
DECISION:** A parking inspector in the exercise of his various powers under the Act.

**APPELLATE
BODY:** The Council of the City of Perth (s.17(3)).

Jurisdiction: The Council may review any action or decision of an inspector (s.17(3)).

Membership: The Council.

**FURTHER
APPEAL:** None.

COMMUNITY WELFARE ACT 1972

BODY MAKING INITIAL DECISION:	The Director of the Department for Community Welfare (s.7) in the exercise of his power to require access to an individual who is disadvantaged (s.13), or to undertake the general care, protection and management of the property of any person who, in the opinion of the Director, is disadvantaged (s.14).
APPELLATE BODY:	The Minister for Community Welfare (s.17).
Jurisdiction:	To hear an appeal by any person who is dissatisfied with any decision to exercise or the exercise or purported exercise of the powers conferred on the Director by ss.13 and 14 (s.17).
Membership:	The Minister.
FURTHER APPEAL:	None.

COMPANIES ACT 1961-1975

BODY MAKING INITIAL DECISION:	<p>The Commissioner for Corporate Affairs (s.7) in the exercise of his power to –</p> <ul style="list-style-type: none">A. refuse to register any corporation or to register or receive any document, or perform any act or make any decision;B. direct payment of money to a claimant from the Companies Liquidation Account under s. 286(6).
APPELLATE BODY:	<ul style="list-style-type: none">A. The Supreme Court (s.12(6)).B. The Supreme Court (s.286(7)).
Jurisdiction:	<ul style="list-style-type: none">A. To hear an appeal by any person aggrieved by a decision or act of the Commissioner. This provision does not apply where an appeal or review is expressly provided in the Act, or to any act or decision declared by the Act to be conclusive or final (s.12(6)).B. To hear an appeal by any person dissatisfied with the decision. The Court may confirm, disallow or vary the decision of the Commissioner (s.286(7)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

COMPANIES (CO-OPERATIVE) ACT 1943-1976

BODY MAKING INITIAL DECISION:	The Registrar of Companies in the exercise of his various powers under the Act.
APPELLATE BODY:	The Supreme Court (s.400(1)).
Jurisdiction:	To hear an appeal by any person aggrieved by any act or decision of the Registrar. The Court may confirm, reverse or modify the act or decision (s.400(1)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

CO-OPERATIVE AND PROVIDENT SOCIETIES ACT 1903-1973

BODY MAKING INITIAL DECISION:	The Registrar of Friendly Societies appointed under the <i>Friendly Societies Act 1894</i> (s.2) in the exercise of his power to refuse to register a society or any rules or amendments of rules (ss.5 and 9) or, with the approval of the Minister, to cancel or suspend the registration of a society (s.8).
APPELLATE BODY:	The Supreme Court (ss.6(1) and 8(4)).
Jurisdiction:	To hear an appeal by a society against a decision referred to above (ss.6(1) and 8(4)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

CREMATION ACT 1929-1968

BODY MAKING INITIAL DECISION:	A medical referee (s.8(1)) in the exercise of his power to grant a permit for the cremation of a dead human body (s.8(2)).
APPELLATE BODY:	The Commissioner of Public Health (s.8(6)).
Jurisdiction:	To hear an appeal by an applicant for a permit where the medical referee refuses to issue a permit. The Commissioner may uphold the decision of the medical referee or direct him to issue a permit (s.8(6)).
Membership:	The Commissioner of Public Health.
FURTHER APPEAL:	None.

DEATH DUTY ASSESSMENT ACT 1973-1977

BODY MAKING INITIAL DECISION:	The Commissioner of State Taxation in the exercise of his power to assess the duty payable on and in relation to the estate of a deceased person (s.17).
APPELLATE BODY:	The Supreme Court* (s.58(1)).
Jurisdiction:	To hear and determine an appeal by any administrator or other person liable to pay duty who is dissatisfied with the decision of the Commissioner (s.58(1)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

* Before appealing, the appellant must lodge an objection against the assessment with the Commissioner (ss.57(1) and 58(1)).

EDUCATION ACT 1928-1977

BODY MAKING INITIAL DECISION:	<p>The Minister for Education in the exercise of his power to –</p> <ul style="list-style-type: none">(a) require a child in need of special education to attend a specified school (s.20A);(b) refuse to permit a child with severe disorders to attend any Government school (s.20B);(c) confirm a direction given under ss.20A and 20B (s.20C).
APPELLATE BODY:	<p>A Children's Court (s.20E).</p>
Jurisdiction:	<p>To hear the appeal by the parent of a the child concerned. The Court may order the cancellation of the direction or may confirm the direction (s.20E(4)).</p>
Membership:	<p>A special magistrate (<i>Child Welfare Act 1947</i>, s.19(1)).</p>
FURTHER APPEAL:	<p>The Supreme Court under s.197(1) of the <i>Justices Act 1902</i>. (Subject to the <i>Child Welfare Act 1947</i>, the <i>Justices Act 1902</i> applies to the proceedings, orders and convictions of a Children's Court: <i>Child Welfare Act 1947</i>, s.19(6)).</p>
Scope of further appeal:	<p>Under s.197(1)(a) of the <i>Justices Act 1902</i> it is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction.</p>

ELECTRICITY ACT 1945-1973

BODY MAKING INITIAL DECISION:	A supply authority, which is required to meet certain specific obligations imposed on it under s .25(1) of the Act.
APPELLATE BODY:	The State Energy Commission (s.25(2)(a)).
Jurisdiction:	Any person aggrieved by the default of a supply authority in complying with any of the obligations imposed on it may complain to the Minister. The Minister may refer the complaint to the State Energy Commission for inquiry and determination (s.25(2)(a)).
Membership:	The State Energy Commission* consists of a Commissioner, two Associate Commissioners, and two Assistant Commissioners (<i>State Energy Commission Act 1945</i> , s.8A).
FURTHER APPEAL:	None.

* If the Commission is satisfied as to the truth of the complaint it may assess an amount to be paid to the aggrieved person by the supply authority for any damage suffered by him (s.25(2)(b)).

ELECTRICITY ACT 1945-1973

BODY MAKING INITIAL DECISION:	An inspector (s.26(1)) in the exercise of his power to forbid the use of any electric works or service apparatus belonging to a supply authority, or electric installations or electric fittings belonging to a consumer (s.28).
APPELLATE BODY:	The State Energy Commission of Western Australia (see <i>State Energy Commission Act 1945</i> , s.29(1)).
Jurisdiction:	To hear an appeal by any authority or a person aggrieved by the decision (s.29(1)).
Membership:	The Commissioners of the State Energy Commission (see <i>State Energy Commission Act 1945</i> , s.8A(2)).
FURTHER APPEAL:	None, the decision of the Commission is final (s.29(2)).

FIRE BRIGADES ACT 1942-1975

BODY MAKING INITIAL DECISION:	The Western Australian Fire Brigades Board (s.6) in the exercise of its power to determine the class of brigade and method of fire protection to be established in each fire district (s.27(1)).
APPELLATE BODY:	The Chief Secretary (s.27(2)).
Jurisdiction:	To hear an appeal from any local authority which is dissatisfied with the action of the Board in regard to the class of brigade and method of fire protection in its district (s.27(2)).
Membership:	The Chief Secretary.
FURTHER APPEAL:	None.

FIRE BRIGADES ACT 1942-1975

BODY MAKING INITIAL DECISION:	The Western Australian Fire Brigades Board (s.6) in the exercise of its power to serve a written notice on a local authority demanding the provision of a fire hydrant at a specified location. The local authority is required to provide the fire hydrant within two months of receipt of the demand (s.54(2)).
APPELLATE BODY:	A stipendiary magistrate (s.54(2)).
Jurisdiction:	To hear an appeal by a local authority against a demand for the provision of a fire hydrant (s.54(2)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)).
Scope of further appeal:	It is necessary to establish an error or mistake of law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197 (1)(a)).

FUEL, ENERGY AND POWER RESOURCES ACT 1972-1975

BODY MAKING INITIAL DECISION:	The various bodies and persons who may act or make decisions or orders or give directions under Part III (Emergency Provisions) of the Act.
APPELLATE BODY:	The Minister for Fuel and Energy (s.58).
Jurisdiction:	To hear an appeal by any person aggrieved by any act done or omitted, or any decision or order made, or any direction given (s.58).
Membership:	The Minister (s.58).
FURTHER APPEAL:	None.

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	Local authorities, in their function as authorities for a health district (s.18), in the exercise of their powers to recover expenses incurred for work done under the Act (see, as an example, s.81 which provides that an owner may be required to connect premises with a public sewer).
APPELLATE BODY:	A stipendiary magistrate sitting as a Court of Petty Sessions (s.36(1)).
Jurisdiction:	To hear an appeal by any person aggrieved by the attempt of the local authority to recover expenses for work done under the Act (s.36).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	None, the order made by the stipendiary magistrate is binding and conclusive on all parties (s.36(3)).

HEALTH ACT 1911-1976

BODY MAKING INITIAL DECISION:	A local authority in the exercise of its various powers under the Act which do not involve the recovery of any expenses incurred by it.
APPELLATE BODY:	The Commissioner of Public Health (s.37(1)).
Jurisdiction:	To hear and determine the appeal of any person who is aggrieved by an order or decision of the local authority (s.36(1) and s.37(1)).
Membership:	The Commissioner.
FURTHER APPEAL:	None, the decision of the Commissioner is binding and conclusive on all parties (s.37(4)).

INCOME TAX ASSESSMENT ACT 1937-1940*

BODY MAKING INITIAL DECISION:	The Commissioner of Taxation in the exercise of his power to assess income tax under the Act.
APPELLATE BODY:	Either the Supreme Court or a Board of Review (s.172(1)).**
Jurisdiction:	On an appeal the Board or Court may make such order as it thinks fit (s.173(1)). The taxpayer is limited to the grounds as stated in his objection (s.172(3)(a)).
Membership:	An appeal to the Supreme Court is heard and determined by a single Judge sitting in Court or in Chambers (s.172(4)). A Board of Review consists of a Chairman and two other members appointed by the Governor (s.169(1)).
FURTHER APPEAL:	The Full Court of the Supreme Court (s.173(5)).
Scope of further appeal:	An appeal lies from any order made under s.173(1).

* The Government of Western Australia does not, at present, impose income tax under the Act.

** A taxpayer dissatisfied with any assessment may lodge an objection with the Commissioner (s.170). If the taxpayer is dissatisfied with the decision of the Commissioner on the objection he may request the Commissioner to treat the objection as an appeal and forward it to either the Board or the Court (s.172(1) and (2)).

INDECENT PUBLICATIONS AND ARTICLES ACT 1902-1974

BODY MAKING INITIAL DECISION:	The Chief Secretary in the exercise of his power to classify a publication or class of publication as a restricted publication or class of publication (s.10(1)).
APPELLATE BODY:	The District Court of Western Australia (s.10(4) and (8)).
Jurisdiction:	To hear an appeal by any person aggrieved by a determination made by the Minister (s.10(4) and (8)).*
Membership:	A District Court Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>District Court of Western Australia Act 1969</i> , s.79(1)(a)).
Scope of further appeal:	To hear and determine the appeal and questions incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

* A person cannot appeal against a determination made by the Minister upon the consideration of a report made by the National Literature Board of Review (s.10(4)).

INDECENT PUBLICATIONS AND ARTICLES ACT 1902-1974

BODY MAKING INITIAL DECISION:	A member of the Police Force in the exercise of his power to enter premises and search for and seize any publications which appear to him to be indecent or obscene (s.12A).
APPELLATE BODY:	A Court of Petty Sessions (s.12A(6)).
Jurisdiction:	The Court is required to consider whether the publication concerned* is indecent or obscene. If not, it is required to order the Commissioner of Police to return all copies of the publication to the person from whom they were seized. If so, it is required to order that all copies of the publication be forfeited to and destroyed by the Commissioner of Police (s.12A(9)).
Membership:	A stipendiary magistrate (s.12A(8)).
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

* Before the proceedings can be instituted -

1. The publication must have been referred to the State Advisory Committee on Publications (s.12A(3)).
2. That Committee must have reported that the publication should be the subject of proceedings under s.2 of the Act.
3. Proceedings under s.2 must not have been commenced within two months after the Committee reported (s.12A(6)).

LAND AGENTS ACT 1921-1974

BODY MAKING INITIAL DECISION:	The Attorney General in the exercise of the discretions conferred by s.14G: e.g. to vary the date of an audit (s.14G(5)(a)).*
APPELLATE BODY:	The Supreme Court (s.14G(10)).
Jurisdiction:	To hear an appeal by any person aggrieved by the decision or determination under s.14G.
Membership:	A Judge (s.14G(10)(b)).
FURTHER APPEAL:	None, the decision of the Judge is final (s.14G (10)(c)).

* In its Report, *Review of the Land Agents Act* (Project No. 37, 1974) the Commission recommended that only auditors registered under the *Companies Act 1961* should be entitled to audit a land agent's accounts, with provisions for the appointment by the Supervisory Authority of other persons in districts where no such auditor is available (paragraph 58). The Commission also recommended that all decisions of the Supervisory Authority should be subject to a right of appeal to the Supreme Court (paragraph 19). The Real Estate and Business Agents Bill presently before Parliament (1 September 1978) implements the Commission's recommendations with respect to auditors. It also provides a general right of appeal to the District Court against decisions or orders of the Real Estate and Business Agents Supervisory Board.

LEGAL AID COMMISSION ACT 1976-1977

BODY MAKING INITIAL DECISION:	The Director of Legal Aid (s.18), a member of the staff or a Legal Aid Committee (Part IV), as the case may be, in the exercise of power to refuse to provide legal aid, or to refuse to provide legal aid of the nature or to the extent applied for, or to alter adversely the nature or extent of legal aid provided, or to impose a condition on its provision or adversely vary a condition so imposed, or terminate the provision of legal aid, or to make a determination under section 44 of the Act (see the definition of “decision” and “responsible authority” in s.46).
APPELLATE BODY:	A Review Committee established under s.50 of the Act (s.49(1)).*
Jurisdiction:	To hear an appeal by the applicant. The Review Committee may confirm, vary or reverse any decision referred to above (s.49(2)).
Membership:	Three members, of whom one must be a private practitioner who is not a member of the Commission, one a practitioner who is a member of the Commission, and one a person whom the Commission considers to be suitable for membership of the Committee and who is not a practitioner (s.50(2)).
FURTHER APPEAL:	None, the decision of a Review Committee is final and conclusive (s.49(3)).

* A person affected by a decision of the Director, or a member of the staff, or the Legal Aid Committee, as the case may be, may request that body to reconsider the decision (s.48(1)). If he is dissatisfied with the result of the reconsideration he may then apply to a Review Committee for a review of the matter.

LEGAL AID COMMISSION ACT 1976-1977

BODY MAKING INITIAL DECISION:	A Legal Aid Committee, or an officer of the Commission, in the exercise of its power under s.14(1)(a)(ii) to determine, with respect to a private practitioner who has performed services by way of legal assistance under Division 3 of Part V (where no lump sum fee is prescribed for those services), what prescribed percentage of the fees that would be payable to him in the ordinary course of practice should be paid to him.
APPELLATE BODY:	A Review Committee established under s.50 of the Act (s.49(2a)).
Jurisdiction:	The Committee may review the matter, and confirm, vary or reverse any such decision (s.49(2b)(a)).
Membership:	Three members, of whom one must be a private practitioner who is not a member of the Commission, one a practitioner who is a member of the Commission, and one a person whom the Commission considers to be suitable for membership of the Committee and who is not a practitioner (s.50(2)).
FURTHER APPEAL:	None, the decision of a Review Committee is final and conclusive (s.49(3)).

LEGAL CONTRIBUTION TRUST ACT 1967-1976

BODY MAKING INITIAL DECISION:	The Legal Contribution Trust (s.5) in the exercise of its power to refuse to accept and deal with a claim made pursuant to s.28(1) of the Act by a practitioner in a partnership who has suffered pecuniary loss by reason of the professional defalcation of another partner.
APPELLATE BODY:	The Supreme Court (s.28(2)).
Jurisdiction:	To hear an appeal by a practitioner aggrieved by a refusal of the Trust to accept and deal with the claim (s.28(2)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

MACHINERY SAFETY ACT 1974

BODY MAKING INITIAL DECISION:	The Chief Inspector of Machinery (s.23) in the exercise of his power to determine whether an inquiry, or any part of an inquiry, under s.47 of the Act (which relates to the exercise of the disciplinary powers conferred by the Act) should be heard <i>in camera</i> (s.50(1)).
APPELLATE BODY:	The Supreme Court (s.50(2)).
Jurisdiction:	The Court may reverse or confirm the decision or confirm it upon conditions which may include conditions intended to protect the business or interest of any person (s.50(2)).
Membership:	A Judge sitting in Chambers (s.50(2)).
FURTHER APPEAL:	None, the decision of the Court is final (s.50(3)).

MAIN ROADS ACT 1930-1977

BODY MAKING INITIAL DECISION:	The Commissioner of Main Roads in the exercise of his power to recommend to the Governor that any road be declared to be a highway or main road or that plans of any proposed new highway or main road or deviation from an existing highway or main road be approved (s.13A(2)).
APPELLATE BODY:	The Minister for Transport (s.13A(3)).
Jurisdiction:	Any local authority which feels aggrieved by any recommendation may appeal to the Minister, who may vary or disallow the proposed recommendation (s.13A(3)).
Membership:	The Minister.
FURTHER APPEAL:	None.

MAIN ROADS ACT 1930-1977

BODY MAKING INITIAL DECISION:	The Commissioner of Main Roads in the exercise of his power to give directions under a regulation made under s.33B with regard to the control of advertisements.*
APPELLATE BODY:	The Minister for Transport (s.33B(2)(a)).
Jurisdiction:	To hear and determine an appeal by any person dissatisfied with any direction given by the Commissioner (s.33B(2)(a)).
Membership:	The Minister.
FURTHER APPEAL:	None, the decision of the Minister is final (s.33B(2)(c)).

* See the *Main Roads (Control of Advertisements) Regulations 1973*.

MARITIME ARCHAEOLOGY ACT 1973

BODY MAKING INITIAL DECISION:	The Trustees of the Museum appointed pursuant to the <i>Museum Act 1969</i> in the exercise of their power to reward a person who first notifies the Director of the Museum of the position of a ship that was, or appears likely to have been, lost before the year 1900, or of any relic, the position of which was not previously known to the Trustees (s.18(1)).
APPELLATE BODY:	The Supreme Court.
Jurisdiction:	To hear an appeal by a person who is aggrieved by the decision of the Trustees or the failure of the Trustees to notify him, within the period or further period specified in s.18(5), whether a reward will be paid (s.18(6)).
Membership:	A Judge in Chambers (s.18(6)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

MARKETING OF EGGS ACT 1945-1977

BODY MAKING INITIAL DECISION:	The Western Australian Egg Marketing Board (s.7) in the exercise of its power to make payments to producers of eggs delivered to the Board (s.32(1)). The Board has power to settle and adjust all conflicting claims (s.32(3)).
APPELLATE BODY:	The Local Court held nearest to the office of the Board (s.32(3)).
Jurisdiction:	To hear an appeal by any party to a dispute regarding the settlement and adjustment of conflicting claims (s.32(3)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

MARKETING OF ONIONS ACT 1938-1965

BODY MAKING INITIAL DECISION:	The Western Australian Onion Marketing Board in the exercise of its power to settle and adjust all conflicting claims in respect to payments to be made to growers of onions under s.15 of the Act.
APPELLATE BODY:	The Local Court held nearest to the office of the Board (s.15(2)).
Jurisdiction:	To hear an appeal by any party to a dispute regarding a claim for payment (s.15(2)).
Membership:	A stipendiary magistrate.
FURTHER APPEAL:	[See note 1 of the <i>Notes on the Survey</i> below.]

MENTAL HEALTH ACT 1962-1976

BODY MAKING INITIAL DECISION:	The superintendent of an approved hospital having the supervision of a patient discharged to after-care, in the exercise of his power to extend the period of his after-care (s.45).
APPELLATE BODY:	A stipendiary magistrate (s.46(1)).
Jurisdiction:	Any patient aggrieved by the extension may appeal. The magistrate may decide whether or not the period of after-care should be extended, and if extended, for what period (s.46(1) and (2)).
Membership:	A magistrate.
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the magistrate exceeded his jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

MENTAL HEALTH ACT 1962-1976

BODY MAKING INITIAL DECISION:	The Director of Mental Health Services, the superintendent of an approved hospital, or a Board of Visitors in the exercise of power under Part IV, Division 7 to order that a person be discharged from status as a patient.
APPELLATE BODY:	The Supreme Court (s.55(1) and (3)).
Jurisdiction:	Any person may make an application to the Supreme Court by way of appeal for the discharge of a person from the status of a patient on the ground that the patient is not suffering from mental disorder or that, in all the circumstances of the case, it is in the patient's interest and proper that he be discharged (s.55(1)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

PAY-ROLL TAX ASSESSMENT ACT 1971-1977

BODY MAKING INITIAL DECISION:	The Commissioner of State Taxation in the exercise of his power to determine liability to pay tax or to assess or determine the tax payable.
APPELLATE BODY:	The Supreme Court (s.33(1)).*
Jurisdiction:	To hear and determine the appeal. The appellant is limited, on the hearing of the appeal, to the grounds stated in his objection (s.33(2) and (3)).
Membership:	A Judge, who may sit in Chambers (s.33(2)(a)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

* A person who is dissatisfied with a decision, assessment or determination of the Commissioner must first lodge an objection with the Commissioner (s.32). If the person is dissatisfied with a decision of the Commissioner on the objection he may then appeal to the Supreme Court.

PETROLEUM ACT 1967-1972

BODY MAKING INITIAL DECISION:	The Minister for Mines in the exercise of his power to determine the amount of the fee payable under the <i>Petroleum (Registration Fees) Act 1967</i> in respect of any memorandum (e.g. a memorandum of transfer of a permit, licence or access authority: see s.72) (s.85(1)).
APPELLATE BODY:	The Supreme Court (s.85(2)).
Jurisdiction:	To hear an appeal by any person dissatisfied with a determination of the Minister (s.85(2)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

PETROLEUM (SUBMERGED LANDS) ACT 1967-1970

BODY MAKING INITIAL DECISION:	The Designated Authority (see s.16(1)) in the exercise of his power to determine the amount of the fee payable in respect of any memorandum (e.g. a memorandum of transfer of a permit, licence, pipeline licence or access authority: see s.78) (s.91(1)).
APPELLATE BODY:	The Supreme Court (s.91(2)).
Jurisdiction:	To hear an appeal by a person dissatisfied with a determination with respect to the fee payable (s.91(2)).
Membership:	A Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

PUBLIC TRUSTEE ACT 1941-1975

BODY MAKING INITIAL DECISION:	The Public Trustee (s.4) in the exercise of his power to sign and seal a certificate in the form of the Second Schedule to the Act that a person is incapable of managing his affairs and is an infirm person (s.35(1)), or to refuse to or fail to sign and seal a certificate in the form of the Fifth Schedule to the Act that a person is no longer incapable of managing his affairs (s.36(1)).
APPELLATE BODY:	The Supreme Court (ss.35(5) or 36(2)).
Jurisdiction:	The infirm person or one of his next of kin may apply for an order directing the Public Trustee to sign and seal a certificate in the form of the Fifth Schedule to the Act (ss.35(5)(a) or 36(2)(a)). The Judge may make the order or refuse to make it, or make such other order, as he thinks fit (ss.35(5)(c) or 36(2)(b)).
Membership:	A Judge in Chambers (ss.35(5)(a) or 36(2)(a)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

RADIATION SAFETY ACT 1975

BODY MAKING INITIAL DECISION:	An "authorized officer" (see s.4(1)), who may seize and detain any radioactive substance, irradiating apparatus or electronic product which he has reasonable grounds for believing constitutes a danger to the life or health of any person (s.54(1)).
APPELLATE BODY:	A Court of Petty Sessions (s.54(3)).
Jurisdiction:	Any person aggrieved by the seizure or detention of any item may appeal. It may be dealt with as a substance, apparatus or product liable to be ordered to be forfeited to Her Majesty (s.54(3)).*
Membership:	A stipendiary magistrate (s.54(3)).
FURTHER APPEAL:	The Supreme Court (<i>Justices Act 1902</i> , s.197(1)(a)).
Scope of further appeal:	It is necessary to establish an error or mistake in law or fact, or absence of jurisdiction, or that the Court exceeded its jurisdiction (<i>Justices Act 1902</i> , s.197(1)(a)).

* Any person claiming any financial or other interest in the item is entitled to be heard before an order for forfeiture is made (s.53(3)).

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES ACT 1961-1975

BODY MAKING INITIAL DECISION:	The Registrar General in the exercise of his power to – A. Refuse to cause any search to be made or to issue any certified copy or extract, whether in the first instance or after a refusal by a district registrar (s.18). B. Authorise or refuse to authorise the registration of a birth under s.24 (where the birth of a child born in the State has not been registered within twelve months of its birth) or s.28 (relating to the registration of the birth of a child born outside the State) (s.25(1) and s.28(3), respectively).
APPELLATE BODY:	A. The Chief Secretary (s.18(5)). B. The Supreme Court (s.25(1)).
Jurisdiction:	A. To hear an appeal by the applicant. The Minister may direct the Registrar General to allow the search to be made or the certified copy or extract to be issued (s.18(5)). B. To hear an appeal by any person aggrieved by the decision (s.25(1)).
Membership:	A. The Minister (s.18(5)). B. A Judge (s.25(1)).
FURTHER APPEAL:	A. None. B. The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	B. To hear and determine the appeal and matters incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

REGISTRATION OF IDENTITY OF PERSONS ACT 1975*

BODY MAKING INITIAL DECISION:	The Registrar General in the exercise of his power to refuse to cause a search to be made or to issue a certified copy of an entry in the register (s.6).
APPELLATE BODY:	The Chief Secretary (s.6(3)).
Jurisdiction:	To hear an appeal by the applicant. The Minister may direct the Registrar General to cause the search to be made or the certified copy to be issued (s.6(3)).
Membership:	The Minister (s.6(3)).
FURTHER APPEAL:	None.

* This Act enables a person to have his identity entered in a register by the Registrar General.

SECURITIES INDUSTRY ACT 1975

BODY MAKING INITIAL DECISION:	The Commissioner for Corporate Affairs (see s.4(1)), whose consent is required to the removal of an auditor of a dealer (s.62(1)) or to the resignation of an auditor (s.62(3)).
APPELLATE BODY:	The District Court (s.62(8)).
Jurisdiction:	A person aggrieved by the refusal of consent to the removal or resignation may appeal. The Court may confirm or reverse the refusal and may make such further order in the matter as to it seems proper (s.62(8)).
Membership:	A District Court Judge.
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>District Court of Western Australia Act 1969</i> , s.79(1)).
Scope of further appeal:	To hear and determine the appeal and questions incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

STAMP ACT 1921-1977

BODY MAKING INITIAL DECISION:	The Commissioner of State Taxation, who is required to assess the duty payable following a reference to him under ss.23, 28 or 31.
APPELLATE BODY:	The Supreme Court (s.32(1)).*
Jurisdiction:	The appellant may require the Commissioner to state and sign a case setting forth the question upon which his opinion was required and the assessment of duty made by him (s.32(4)). Upon the hearing of the case the Supreme Court must determine the question submitted to it and assess the duty, if any, chargeable under the Act (s.32(6)).
Membership:	The jurisdiction of the Supreme Court may be exercised by a Judge sitting in Chambers (s.32(9)).
FURTHER APPEAL:	The Full Court of the Supreme Court (<i>Supreme Court Act 1935</i> , s.58(1)(b)).
Scope of further appeal:	To hear and determine the appeal and questions incidental thereto (<i>Supreme Court Act 1935</i> , s.58(2)).

* Before appealing, a person dissatisfied with the assessment of duty may forward to the Commissioner a statement of the grounds of his objection to the assessment (s.32(1)(a)). If, upon the confirmation or modification by the Commissioner of the assessment of duty, the person remains dissatisfied he may also appeal to the Supreme Court (s.32(3)).

STATE HOUSING ACT 1946-1975

BODY MAKING INITIAL DECISION:	The State Housing Commission (s.8(1)) in the exercise of its power to— A. allocate a worker's dwelling (s.29(1)); B. fix a value for the purchase of an interest in a worker's dwelling (s.35(2)).
APPELLATE BODY:	A. and B. The Minister for Housing (ss.29(2) and 35(3), respectively).
Jurisdiction:	A. To determine whether a ballot of the applicants should be held (s.29(2)). B. To hear an appeal by a lessee, or any person lawfully claiming under a deceased lessee as to the amount to be paid by the Commission (s.35(3)).*
Membership:	The Minister.
FURTHER APPEAL:	None.

* The Minister may appoint a valuer to act with a valuer nominated by the applicant. If they are unable to agree, they are mutually to appoint an arbitrator whose decision is final (s.35(3)).

WESTERN AUSTRALIAN MARINE ACT 1948-1977

BODY MAKING INITIAL DECISION:	The Harbour and Light Department (see s.8(1)) in the exercise of its power, if in its opinion a ship is unsafe , to order it to be detained, either absolutely or until conditions with respect to the execution of repairs or alteration or the unloading or reloading of cargo, or the manning of the ship, as the Department thinks necessary for the protection of a human life are fulfilled (s.58(1)(c)).
APPELLATE BODY:	The Court of Survey (s.58(1)(d)).
Jurisdiction:	To hear an appeal by the owner or master of a ship on which it is proposed to make an order for detention (s.58(1)(d)).
Membership:	A Local Court Magistrate (see s.60 and ss.99 and 100) and any assessors of nautical or engineering or other special skill and experience which the Department determines are required to sit on the Court (s.60(1)).
FURTHER APPEAL:	None.

PART II

THE ORDINARY COURTS, MINISTERS, AND OTHER PERSONS OR BODIES ACTING AS ADMINISTRATIVE APPEAL AUTHORITIES*

* This Part lists the tribunals included in Part I in accordance with the nature of the relevant appeal authority.

THE SUPREME COURT AS AN ADMINISTRATIVE APPEAL AUTHORITY

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	FURTHER APPEAL
1. Matters affecting public officers			
Superannuation and Family Benefits Act 1938	The Superannuation Board	To hear and determine appeals from any persons aggrieved by a decision of the Board on a dispute under the Act.	None
2. Rating			
Land Tax Assessment Act 1976	The Commissioner of State Taxation	Assessment of land tax	None
3. Licences, authorities, permits or duties concerning -			
(a) Occupations and commercial activities			
Auction Sales Act 1973	A stipendiary magistrate	Licensing of auctioneers	None
Coal Mines Regulation Act 1946	A Court of Petty Sessions	Removal of a check-weigher or weigher.	None
Companies Act 1961	The Companies Auditors Board	Registration and disciplining of auditors and liquidators	Full Court
Debt Collectors Licensing Act 1964	A Local Court	Refusal to grant or renew a licence or to cancel a licence or order that a licensee be disqualified from holding a licence	Full Court

Dental Act 1939	The Dental Board of Western Australia	Registration and disciplining of dentists or dental therapists	Full Court
Employment Agents Act 1976	A Court of Petty Sessions	Licensing and disciplining of employment agents	None
Health Act 1911	The Nurses Board of Western Australia	Exercise of disciplinary powers under Part XIII	Full Court
Hire-Purchase Act 1959	The Hire-Purchase Licensing Tribunal	Issue and renew a licence of a credit provider and to discipline licensees	(The Full Court is the appellate court of first instance)
Inquiry Agents Licensing Act 1954	A Court of Petty Sessions	Issue, renew or cancel the licence of an inquiry agent	None
Land Agents Act 1921	A Court of Petty Sessions	Licensing of a land agent or transfer of a licence	None
Legal Aid Commission Act 1976	The Legal Aid Commission of Western Australia	Exclusion or removal of name of practitioner from a legal aid panel or inclusion of a name but with limitations	None
Legal Practitioners Act 1893	The Barristers' Board	Cancellation of articles, granting of certificates under ss.16(b), 20(b) and 33, disciplining a practitioner	(The Full Court is the appellate court of first instance)
Marine Stores Act 1902	A Court of Petty Sessions	Licensing of dealers under the Act	None

Medical Act 1894	The Medical Board	Registration of persons for the practice of medicine and surgery in certain areas and removal of medical practitioner from the register	None
Optometrists Act 1940	The Optometrists Registration Board	Registration or disciplining of optometrists	Full Court (on a question of law)
Pawnbrokers Act 1860	A Court of Petty Sessions	Licensing of pawnbrokers	None
Pearling Act 1912	A stipendiary magistrate	Granting or refusing various licenses under the Act	None
	The Minister for Fisheries and Wildlife	Re-assessment of rent when an exclusive licence is renewed	None
Pharmacy Act 1964	The Pharmaceutical Council of Western Australia	Registration of pharmaceutical chemists, a pharmacy, issue of licences, discipline of chemist, company or friendly society	None
Psychologists Registration Act 1976	The Psychologists Board of Western Australia	Registration and disciplining of psychologists and decisions under s.42(5)	Full Court
Radiation Safety Act 1975	The Radiological Council	Exercise of licensing powers under the Act	Full Court
Second-hand Dealers Act 1906	A Court of Petty Sessions	Granting second-hand dealer's licences	None

Security Agents Act 1976	A Court of Petty Sessions	Application for licence or renewal where there has been an objection or where licensing officer proposes not to grant a licence or renewal thereof. Disciplining the holder of a licence issued under the Act	None
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(b) Premises

Fire Brigades Act 1942	The Western Australian Fire Brigades Board	Direction to owner or occupier of premises to install and provide certain equipment	Full Court
Health Act 1911	The Commissioner of Public Health	Licensing of premises for the purpose of the manufacture for sale of therapeutic substances	None
Liquor Act 1970	The Licensing Court of Western Australia	Exercise of various powers under the Act including granting licences such as hotel licences	Full Court
Radiation Safety Act 1975	The Radiological Council	Exercise of various powers including granting of exemption or registration of premises or apparatus or product and imposition of conditions	Full Court

(c) Manufacture and control of foodstuffs

None.

(d) (i) Land and its use

Closer Settlement Act 1927	The Land Acquisition (Closer Settlement) Board	To report to the Minister for Lands that any land is unutilised within the meaning of the Act or serve a notice of default under s.8	None
	A Committee appointed under s.6A	To report to the Minister for Lands as to the suitability of land for closer settlement	None
Mining Act 1904	The Warden's Court	Final judgment or order of a Warden's Court	Full Court
Town Planning and Development Act 1928	The Minister for Urban Development and Town Planning	Order to a local authority to pay part of expenses incurred by another local authority under the Act or a scheme	Full Court
	The Minister for Urban Development and Town Planning	Order to a local authority to do all things necessary for enforcing the observance of a scheme or provision thereof	None
(d) (ii) The environment			
None.			
(e) Other matters			
Environmental Protection Act 1971	The Minister for Conservation and the Environment	Exemption of a person from an obligation to supply information which would result in the disclosure of a trade secret	Full Court

Friendly Societies Act 1894	The Registrar of Friendly Societies	Refusal to register society or rules or cancel or suspend registration of a society	Full Court
	The Minister for Health	Refuse to approve an amendment of the rules of a society	Full Court
Noise Abatement Act 1972	The Minister for Health	Exemption of a person from an obligation to supply information which will result in the disclosure of a trade secret	Full Court
Petroleum Act 1967	The Minister for Mines	Keeping register of permits, licences and access authorities	Full Court
Petroleum Pipelines Act 1969	The Principal Registrar in the Department of Mines	Keeping register of licences	Full Court
Petroleum (Submerged Lands) Act 1967	The Designated Authority	Keeping register of permits, licences, pipeline licences and access authorities	Full Court
State Energy Commission Act 1945	The Minister for Fuel and Energy	Exemption of person from obligation to supply information either generally or in relation to a trade secret	Full Court

4. Compensation

Public Works Act 1902	The Minister for Works	Refusal to grant option to purchase resumed land to former owner where land no longer required or fix price where option granted	Full Court
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5. Industrial

None.

6. Miscellaneous

Bills of Sale Act 1899	The Registrar	Refusal to extend time for registration of a bill of sale or debenture	Full Court
Business Franchise (Tobacco) Act 1975	The Commissioner of State Taxation	Assessment of fee for a licence	Full Court
Business Names Act 1962	Commissioner for Corporate Affairs	Cancelling the registration of a business name	Full Court
Companies Act 1961	Commissioner for Corporate Affairs	Refusal to register a corporation or to register or receive any document or perform any act or make any decision, and direct payment of money to a claimant under s.286(6)	Full Court
Companies (Co-operative) Act 1943	The Registrar of Companies	Exercise of various powers under the Act	Full Court
Co-operative and Provident Societies Act 1903	The Registrar of Friendly Societies	Refusal to register a society or any rules or amendments, and with approval of the Minister, to cancel or suspend the registration of a society	Full Court
Death Duty Assessment Act 1973	The Commissioner of State Taxation	Assessment of duty payable on the estate of a deceased person	Full Court

Income Tax Assessment Act 1937	The Commissioner of Taxation	Assessment of income tax	Full Court
Land Agents Act 1921	The Attorney General	Exercise of his discretions with regard to audits	None
Legal Contribution Trust Act 1967	The Legal Contribution Trust	Refusal to accept or deal with a claim pursuant to s.28	Full Court
Machinery Safety Act 1974	The Chief Inspector of Machinery	Determination of whether an inquiry under s.47 should be <i>in camera</i>	None
Maritime Archaeology Act 1973	The Trustees of the Museum	Rewarding a person who first notifies the Director of the position of a ship that was, or appears likely to have been, lost before the year 1900, or of any relic the position of which was not previously known	Full Court
Mental Health Act 1962	The Director of Mental Health Services or the superintendent of an approved hospital or a Board of Visitors	Determine whether a person should be discharged from status as a patient	Full Court
Pay- Roll Tax Assessment Act 1971	The Commissioner of State Taxation	Determine liability to pay tax and assess tax payable	Full Court
Petroleum Act 1967	The Minister for Mines	Assessment of fees in respect of a memorandum	Full Court
Petroleum (Submerged Lands) Act 1967	The Designated Authority	Determining the amount of fee payable in respect of any memorandum	Full Court

Public Trustee Act 1941	The Public Trustee	Exercise of certain powers with respect to infirm persons	Full Court
Registration of Births, Deaths and Marriages Act 1961	The Registrar General	Authorise or refuse to register a birth under ss.24 or 28	Full Court
Stamp Act 1921	The Commissioner of State Taxation	Assessment of stamp duty payable	Full Court

THE DISTRICT COURT AS AN ADMINISTRATIVE APPEAL AUTHORITY

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	FURTHER APPEAL
1. Matters affecting public officers			
None.			
2. Rating			
None.			
3. Licences, authorities, permits or duties concerning –			
(a) Occupations and commercial activities			
Finance Brokers Control Act 1975	The Finance Brokers Supervisory Board	Licensing and disciplining of finance brokers.	Full Court of the Supreme Court
		Exercise of powers relating to Trust Accounts	None
Securities Industry Act 1975	The Commissioner for Corporate Affairs	Licensing, and revocation or suspension of licences of dealers investment advisers	Full Court of the Supreme Court
Veterinary Surgeons Act 1960	The Veterinary Surgeons' Board	Registration and disciplining of veterinary surgeons, or registration of veterinary clinics and hospitals	Full Court of the Supreme Court

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	FURTHER APPEAL
(b) Premises			
			None.
(c) Manufacture and control of foodstuffs			
			None.
(d) (i) Land and its use			
			None.
(d) (ii) The environment			
			None.
(e) Other matters			
			None.
4. Compensation			
			None.
5. Industrial			
			None.

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	FURTHER APPEAL
6. Miscellaneous			
Building Societies Act 1976	The Registrar of Building Societies	Refusal to consent to the removal or resignation of an auditor of a society	Full Court of the Supreme Court
Building Societies Act 1976	The Registrar of Building Societies	Exercise of various powers given by the Act	Full Court of the Supreme Court
Indecent Publications and Articles Act 1902	The Chief Secretary	Determining whether a publication should be classified as a restricted publication or class of publication	Full Court of the Supreme Court
Securities Industry Act 1975	The Commissioner for Corporate Affairs	Refusal of consent to removal or resignation of an auditor	Full Court of the Supreme Court

THE LOCAL COURT AS AN ADMINISTRATIVE APPEAL AUTHORITY

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	FURTHER APPEAL
1. Matters affecting public officers			
None.			
2. Rating			
Agricultural Areas, Great Southern Towns and Goldfields Water Supply Act 1947	The Minister for Water Supplies	Levying water rates	None
Agriculture and Related Resources Protection Act 1976	The Agriculture Protection Board	Determining the proportion of expenses to be borne by owners and occupiers for controlling declared plants or animals	[See <i>Notes on the Survey</i> below]
Country Areas Water Supply Act 1947	The Minister for Water Supplies	Assessment of water rates	None
Country Towns Sewerage Act 1948	The Minister for Water Supplies	Setting or amending the estimated net annual value or setting the unimproved capital value of land	None
Land Drainage Act 1925	The Drainage Board of a drainage district	Levying rates and ancillary matters	None
Rights in Water and Irrigation Act 1914	An Irrigation Board	Making and levying irrigation rates	None

Water Boards Act 1904	A Water Board	Preparation of rate book and valuation of land	None
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3. Licences, authorities, permits or duties concerning –

(a) Occupations and commercial activities

Architects Act 1921	The Architects' Board of Western Australia	Registration and disciplining of architects	[See <i>Notes on the Survey</i> below]
Builders' Registration Act 1939	The Builders' Registration Board of Western Australia	Registration of builders, or orders relating to unsatisfactory work	[See <i>Notes on the Survey</i> below]
Motor Vehicle Dealers Act 1973	The Motor Vehicle Dealers Licensing Board	Issue of vehicle dealer's, yard manager's or salesman's licences, or disqualify a person from obtaining a licence	[See <i>Notes on the Survey</i> below]
Nurses Act 1968	The Nurses Board of Western Australia	Registration and disciplining of nurses	[See <i>Notes on the Survey</i> below]
Painters' Registration Act 1961	The Painters' Registration Board	Registration and disciplining of painters	[See <i>Notes on the Survey</i> below]
Taxi Cars (Co-ordination and Control) Act 1963	The Taxi Control Board	Issue or refusal to renew a taxi car licence	[See <i>Notes on the Survey</i> below]
Taxi Cars (Co-ordination and Control) Act 1963	The Chairman of the Board	Exercising disciplinary powers	[See <i>Notes on the Survey</i> below]
Teachers' Registration Act 1976	The Western Australian Teachers' Registration Board	Registration of teachers and authorisation of teaching by unregistered persons or disciplining teachers	[See <i>Notes on the Survey</i> below]

(b) Premises

Bread Act 1903	The Chief Inspector of Factories and Shops	Licensing of bakehouses	[See <i>Notes on the Survey</i> below]
Dog Act 1976	The council of a municipality	Licensing of kennels and cancellation of licence	[See <i>Notes on the Survey</i> below]
Factories and Shops Act 1963	The Chief Inspector of Factories and Shops	Registration or renewal of registration of factory, shop or warehouse, and to grant permit to use premises pending registration or cancel registration	None

(c) Manufacture and control of foodstuffs

None.

(d) (i) Land and its use

Industrial Development (Resumption of Land) Act 1945	The Land Resumptions for Industries Committee	Approval of an application which requires land to establish an industry	None
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(d) (ii) The environment

Clean Air Act 1964	The Air Pollution Control Council	Exercise of powers relating to premises capable of producing air pollution, and to issue, cancel or revoke a permit to carry out sandblasting operations	[See <i>Notes on the Survey</i> below]
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Metropolitan Water Supply, Sewerage, & Drainage Act 1909	The Metropolitan Water Supply, Sewerage, & Drainage Board	To grant or refuse dispensation from by-laws protecting under-ground water from pollution, to grant, refuse, suspend, revoke or amend a licence for a well	None
(e) Other matters			
Dog Act 1976	The council of a municipality	Effect or renew the registration of a dog or cancel registration, or record the ownership of a dog, or destroy a dog which is considered to be a danger to health	[See <i>Notes on the Survey</i> below]
Local Government Act 1960	The council of a municipality	In the exercise of power to fix the levels of a street or way	None
4. Compensation			
Public Works Act 1902	The Minister for Works	Fixing price of land where option to purchase granted to person from whom land resumed.	[See <i>Notes on the Survey</i> below]
5. Industrial			
None.			
6. Miscellaneous			
Aboriginal Heritage Act 1972	The Trustees of the Museum	Vesting of certain objects classified as Aboriginal culture in the Museum	None
	The Trustees of the Museum	Declaration of an Aboriginal site as a protected area or consent to use of such a site by the owner of the land	[See <i>Notes on the Survey</i> below]

Marketing of Eggs Act 1945	The Western Australian Egg Marketing Board	Making of payments to producers of eggs delivered to the Board	[See <i>Notes on the Survey</i> below]
Marketing of Onions Act 1938	The Western Australian Onion Marketing Board	Settle and adjust conflicting claims with respect to payments to be made to growers of onions	[See <i>Notes on the Survey</i> below]

THE COURT OF PETTY SESSIONS AS AN ADMINISTRATIVE APPEAL AUTHORITY

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	FURTHER APPEAL
1. Matters affecting public officers			
None.			
2. Rating			
None.			
3. Licences, authorities, permits or duties concerning –			
(a) Occupations and commercial activities			
Aerial Spraying Control Act 1966	The Director of Agriculture	Refusal to grant or renew a chemical rating certificate	None
Builders' Registration Act 1939	The Builders' Registration Board of Western Australia	Cancellation or suspension registration of a builder	None
Chiropodists Act 1957	The Chiropodists' Registration Board	Registration or cancellation of licences to practise chiropody	Supreme Court
Dairy Industry Act 1973	The Dairy Industry Authority of Western Australia	To issue or cancel a licence issued under s.52	None

Firearms Act 1973	The Commissioner of Police (or a member of the Police Force acting on his behalf)	Issue of licences to corporations, dealers, repairers, manufacturers, shooting galleries, etc.	Supreme Court
Fisheries Act 1905	The Minister for Fisheries or the Director of Fisheries	Powers relating to processing establishments, including suspension or cancellation of processor's licence	None
Hairdressers Registration Act 1946	The Hairdressers Registration Board of Western Australia	Granting, cancelling or suspending the registration of hairdressers	None
Land Agents Act 1921	The Land Agents Supervisory Committee of Western Australia	Cancellation of registration of a land salesman	None
Motor Vehicle Drivers Instructors Act 1963	The Road Traffic Authority	Cancellation, suspension or - issue of a motor vehicle drivers instructors licence	None
Pearling Act 1912	Pearling Inspectors	Forbidding the use of gear or a ship	Supreme Court
Transport Commission Act 1966	The Commissioner of Transport	Revocation or suspension of licences granted under the Act	None
Western Australian Marine Act 1948	A Shipping Master	Refusal to approve the engagement of a person under Division 3a	Supreme Court
(b) Premises			
Fire Brigades Act 1942	The Western Australian Fire Brigades Board	Direction to owner or occupier of premises to install and provide certain equipment	Supreme Court

Fisheries Act 1905	The Director of Fisheries	Grant or refuse a permit to construct or establish a processing plant	None
Health Act 1911	Local authority	Declaration that house is unfit for human habitation	None
Local Government Act 1960	The council of a municipality	Refusal to grant a licence under Part VIII of the Act; e.g. bazaars, brick making, using caravans	Supreme Court
(c) Manufacture and control of foodstuffs			
Filled Milk Act 1959	An inspector	Seizure, detention or removal of filled milk which he has reason to believe was manufactured or packed in contravention of the Act	Supreme Court
Health Act 1911	A health surveyor, or other officer acting under the authority of the Commissioner of Public Health	Exercise of power to destroy imported food found to be unfit for human consumption	Supreme Court
	Medical officers of health or health surveyors	Exercise of powers to seize and destroy unsound food	Supreme Court
Veterinary Preparations and Animal Feeding Stuffs Act 1976	An inspector	Seizure and detention of any prohibited substance or product, ingredient, packaging or related matter which does not comply with the requirements of the Act	Supreme Court

(d) (i) Land and its use

None.

(d) (ii) The environment

None.

(e) Other matters

Explosives and Dangerous Goods Act 1961	The Chief Inspector of Explosives	Grant, issue, renew, suspend or cancel licences or permits such as a licence to store explosives	None
Poisons Act 1964	The Commissioner of Public Health	Licensing or permitting manufacture or sale of a poison or a prohibited plant	None
Prevention of Cruelty to Animals Act 1920	Any constable, or officer of a society	Direction to a person not to use an animal for work or labour if it is unfit to be so used	Supreme Court
Road Traffic Act 1974	The Road Traffic Authority	Refusal of various vehicle licences and transfers of those licences	None
	The Road Traffic Authority	Refusal to issue a driver's licence, or cancel, suspend or refuse to renew a driver's licence	Supreme Court
Western Australian Marine Act 1948	The Harbour and Light Department	Refusal to grant a boat licence, transfer thereof, or permit under s.192, or revocation or suspension of a licence or permit	None

4. Compensation

None.

5. Industrial

None.

6. Miscellaneous

Fire Brigades Act 1942	The Western Australian Fire Brigades Board	Demand for provision of a fire hydrant at a specified location	Supreme Court
Health Act 1911	Local authority	Recovery of expenses incurred for work done under the Act	None
Indecent Publications and Articles Act 1902	A member of the Police Force	Seizure of publication appearing to be indecent or obscene	Supreme Court
Mental Health Act 1962	The superintendent of an approved hospital	Extension of period of after-care of a patient	Supreme Court
Radiation Safety Act 1975	An authorized officer	Seizure and detention of any radioactive substance or product which may be a danger to the life or health of any person	Supreme Court

OTHER COURTS AS ADMINISTRATIVE APPEAL AUTHORITIES

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	APPELLATE COURT	FURTHER APPEAL
1. Matters affecting public officers				
Public Service Arbitration Act 1966	The Public Service Arbitrator	The making of certain awards, orders or decisions	The Western Australian Industrial Appeal Court	None
2. Rating				
Land Tax Assessment Act 1976	The Commissioner of State Taxation	Assessment of land tax	Court of Review	None
Local Government Act 1960	The council of a municipality	Exercise of powers to compile a rate book	Valuation Appeal Court	None
	The council of a municipality	Declaration of rateable land to be urban farm land or revocation of such a declaration	Valuation Appeal Court	None
3. Licences, authorities, permits or duties concerning –				
(a) Occupations and commercial activities				
None.				
(b) Premises				

Liquor Act 1970	A supervisor of licensed premises or a health surveyor	Requirement that licensee carry out minor repairs	The Licensing Court of Western Australia	None
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(c) Manufacture and control of foodstuffs

None.

(d) (i) Land and its use

None.

(d) (ii) The environment

None.

(e) Other matters

None.

4. Compensation

Public Works Act 1902	The Minister for Public Works or other authorised bodies	Payment of compensation for land taken under the Act, for water taken under s.13 etc.	Compensation Court	None
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5. Industrial

Industrial Arbitration Act 1912	An Industrial Magistrate	Exercise of various powers under the Act including enforcement of awards and industrial agreements	The Western Australian Industrial Appeal Court	None
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Industrial Arbitration Act 1912	The Western Australian Industrial Commission	Exercise of various powers under the Act	Commission in Court Session	The Western Australian Appeal Court
			OR	
	A Board of Reference	Allow, approve, fix, determine or deal with conditions under an award or agreement	Commission in Court Session	The Western Australian Industrial Appeal Court
	The Western Australian Industrial Commission or the Western Australian Industrial Commission in Court Session	Exercise of various powers under the Act	The Western Australian Industrial Appeal Court	None
Long Service Leave Act 1958	The Board of Reference	Exercise of various powers under the Act	The Western Australian Industrial Commission in Court Session	The Western Australian Industrial Appeal Court

6. Miscellaneous

Child Welfare Act 1947	The Minister for Community Welfare	Refusal to order release of a child from the care or control of the Department for Community Welfare	The Children's Court	Supreme Court
	The Minister for Community Welfare	Committal of child to the care of the Department for Community Welfare	The Children's Court	Supreme Court
	The Children's (Suspended Proceedings) Panel	Exercise of powers for which it has jurisdiction	The Children's Court	Supreme Court
Education Act 1928	The Minister for Education	Exercise of powers relating to children requiring special education, or having severe disorders	The Children's Court	Supreme Court
Western Australian Marine Act 1948	The Harbour and Light Department	Order unsafe ship to be detained	The Court of Survey	None

MINISTERS AS ADMINISTRATIVE APPEAL AUTHORITIES

The following show the cases where a Minister is designated as an appellate authority –

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	FURTHER APPEAL
1. Matters affecting public officers			
None.			
2. Rating			
Land Tax Assessment Act 1976	The Commissioner of State Taxation	Power to exempt all or any part of land from assessment	None
3. Licences, authorities, permits or duties concerning –			
(a) Occupations and commercial activities			
Child Welfare Act 1947	The Director of Community Welfare	Licensing of persons to have care, charge or custody of any child under six years	None
Fisheries Act 1905	The Licensing Officer	Issue, renewal, transfer or cancellation of licences under the Act	None
Optical Dispensers Act 1966	The Commissioner of Public Health	Licensing of optical dispensers	None
Pearling Act 1912	Licensing Officers	Licensing ships, pearl divers, diver's tenders, beachcombers or shell buyers	None
Veterinary Surgeons Act 1960	The Veterinary Surgeon's Board	Licensing of animal welfare societies or	None

other bodies to treat sick or injured animals

(b) Premises

City of Perth Parking Facilities Act 1956	The Council of the City of Perth	Licensing of a parking station or facility	None
Dog Act 1976	The council of a municipality	Exemption on limitation on the number of dogs that may be kept on premises	None
Western Australian Meat Industry Authority Act 1976	The Western Australian Meat Industry Authority	Approval of construction or operation of an abattoir or structural alterations or additions to an abattoir which affects its throughput or capacity	None

(c) Manufacture and control of foodstuffs

Marketing of Eggs Act 1945	The Western Australian Egg Marketing Board	Licensing of producers and cancellation or variation of licences	None
Marketing of Potatoes Act 1946	The Western Australian Potato Marketing Board	Licence for production of potatoes for sale	None
Veterinary Preparations and Animal Feeding Stuffs Act 1976	The Registrar of Veterinary Preparations and Animal Feeding Stuffs	Registration of products or cancellation of registration of products	None

(d) (i) Land and its use

Local Government Act 1960	Council of a municipality	Licensing an extractive industry, approval of a subdivision featuring streets for use by the public, refusal to consent to disposal of subdivisional lots before roads etc. constructed	None
Metropolitan Region Town Planning Scheme Act 1959	The Metropolitan Region Planning Authority	Proposal to amend a Metropolitan Region Scheme	None
Mining Act 1904	A Warden	Permit to enter upon land to mark out a mining lease or claim for gold or any mineral	None
Plant Diseases Act 1914	An inspector	Require owner or occupier of an orchard to take measures to prevent the spread of any disease	None
	The Superintendent of Horticulture in the Department of Agriculture	Certify that plants growing in an orchard have not been cultivated or cared for in a <i>bona fide</i> and husband-like manner for twelve months	None

Town Planning and Development Act 1928	The Metropolitan Region Planning Authority	Grant of permission to a person to carry out development in a metropolitan region which is subject to an interim development order	None
	The Metropolitan Region Planning Authority	Requiring owner of land to remove or pull down any building or work or to cease any development which is in contravention of an interim development order	None
	The council of a municipality	Grant of permission to a person to carry out development in a region outside the metropolitan region which is subject to an interim development order	None
	The council of a municipality	Requiring owner of land to remove or pull down any building or work or to cease any development which is, in contravention of an interim development order	None
	Various bodies responsible for town planning decisions	Various town planning decisions	None
Water Boards Act 1904	A Water Board	Construction of waterworks	None
(d) (ii) The environment			
Country Areas Water Supply Act 1947	The Under Secretary of the Public Works Department	Issue or cancellation of a clearing licence	None
Soil Conservation Act 1945	The Commissioner of Soil Conservation	Issue of soil conservation order or issue of an interim order	None

Waterways Conservation Act 1976	The Waterways Commission	Issue of licence under the Act or revoke or suspend any licence	Supreme Court
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(e) Other matters

Fertilizers Act 1977	The Registrar of Fertilizers	Registration or cancellation of registration of fertilizers	None
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Local Government Act 1960	Council of a municipality	Exercise of various powers including requiring owner to fence land, ordering demolition of building, requesting provision of fire escape	None
	The Commissioner of Main Roads	Refusal to approve construction of a cross-over	None

Pharmacy Act 1964	The Pharmaceutical Council of Western Australia	Exercise of power under s.40A (1)(a) and s.40A(1)(b)	None
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4. Compensation

Bee Industry Compensation Act 1953	The Beekeepers' Compensation Fund Committee	Payment of compensation	None
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Local Government Act 1960	Council of a municipality	Assessment of contribution towards road making and maintenance by Co-Operative Bulk Handling Ltd.	None
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Pig Industry Compensation Act 1942	The Director of Agriculture	Payment of compensation	None
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State Housing Act 1946	The State Housing Commission	Power to take and compulsorily acquire land	Supreme Court
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5. Industrial

None.

6. Miscellaneous

Cemeteries Act 1897	The Trustees of a cemetery	Apportionment of cemetery for burial of persons of same religious denomination	None
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Censorship of Films Act 1947	The Censor	Exercise of various censorship powers under the Act	None
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Community Welfare Act 1972	The Director of the Department for Community Welfare	Protection and management of affairs of person who is disadvantaged	None
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Fire Brigades Act 1942	The Western Australian Fire Brigades Board	Classification of a brigade and method of fire protection to be established in a fire district	None
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Fuel, Energy and Power Resources Act 1972	The various bodies or persons who may act or make decisions or give directions under Part III (Emergency Provisions) of the Act	Actions, orders, decisions or directions given under Part III of the Act	None
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Main Roads Act 1930	Commissioner of Main Roads	Recommendation that a road be declared a highway or main road or that plans for a new highway or main road be approved	None
	Commissioner of Main Roads	Control of advertisements near roads	None
Registration of Births, Deaths and Marriages Act 1961	The Registrar General	Refusal to allow a search to be made or to issue a certified copy or extract	None
Registration of Identity of Persons Act 1975	The Registrar General	Refusal to allow a search to be made or to issue a certified copy of an entry in the register	None
State Housing Act 1946	The State Housing Commission	Allocation of a worker's dwelling or to fix a value for the purchase of an interest in a worker's dwelling	None

OTHER PERSONS OR BODIES AS ADMINISTRATIVE APPEAL AUTHORITIES

The following show the cases where some other person or body is designated as an appellate authority –

STATUTE	APPEALS ORIGINATING FROM	SUBJECT MATTER	APPELLATE BODY	FURTHER APPEAL
1. Matters affecting public officers				
Education Act 1928	The Minister for Education or Director-General of Education	Promoting, transferring or disciplining teachers	The Government School Teachers' Tribunal	None
Government Employees Pensions Act 1948	The Superannuation Board	Exercise of various powers under the Act	The Public Service Appeal Board	None
Government Employees (Promotions Appeal Board) Act 1945	The "Recommending Authority"	Appoint or employ a person by way of promotion	The Promotions Appeal Board	None
Government Railways Act 1904	The Western Australian Government Railways Commission	Disciplining of officers or servants	An Appeal Board constituted under the Act	None
Local Government Act 1960	The council of a municipality	Termination of the services of certain officers	A person appointed by the Governor	None
Police Act 1892	The Commissioner of Police or other officer appointed by the Commissioner	Disciplinary action	The Police Appeal Board	None

Public Service Act 1904	The Public Service Board	Refusal to appoint temporary employee to permanent staff	The Public Service Appeal Board	None
	The Public Service Board	Disciplining officers of the Public Service	The Public Service Appeal Board	None
	The Permanent Head of a Department	Fining an officer who is guilty of a breach of the provisions of the Act	The Public Service Board	None
	The Public Service Board	Exercise of powers which involve an interpretation of the Act or regulations	The Public Service Appeal Board	None
Public Service Arbitration Act 1966	An employer	Review of salaries whenever a new award is made by the Arbitrator	The Public Service Arbitrator	None
	An employer	To recommend that an officer who is not a public servant be dismissed	The Public Service Appeal Board	None
Railways Classification Board Act 1920	The Railways Classification Board	Classification or re-classification of position or office	The Promotions Appeal Board	None
State Energy Commission Act 1945	The State Energy Commission of Western Australia	Fining, reducing to a lower class or grade or dismissing a permanent appointee or employee of the Commission	An Appeal Board constituted under the Act	None

2. Rating

City of Perth (Rating Appeals) Act 1940	The Municipal Council of the City of Perth	Valuation of land and rate assessment	The City of Perth Rating Appeal Board	The Local Court
Land Drainage Act 1925	The Minister for Water Supplies	Exemption of land from rating	The Drainage Board of the drainage district	The Local Court
Metropolitan Water Supply, Sewerage, & Drainage Act 1909	The Metropolitan Water Supply, Sewerage, & Drainage Board	Valuation and entry in rate book	The Appeal Board	The Local Court
		Refusal to classify land as residential	The Appeal Board	None

3. Licences, authorities, permits or duties concerning –**(a) Occupations and commercial activities**

Dairy Industry Act 1973	The Dairy Industry Authority of Western Australia	Setting quotas for the production of milk, transfers of quotas, cancellation and variation	The Quota Appeals Committee	None
Health Act 1911	Local authorities	Registration of persons as keepers of lodging houses or eating-houses	The Commissioner of Public Health	None
Miner's Phthisis Act 1922	The Minister for Mines	Prohibition on employment of a person in a mine who is suffering from tuberculosis	A Board	None

(b) Premises

Health Act 1911	Local authorities	Registration of lodging-houses and eating-houses	The Commissioner of Public Health	None
	Local authorities	Registration of premises for use for an offensive trade	The Commissioner of Public Health	None
	Local authorities	Licensing of a place as a morgue	The Commissioner of Public Health	None
Mines Regulations Act 1946	An Inspector of Mines	Adequacy or standard of dust control or ventilation on or in a mine	The Senior Inspector for the district	The Ventilation Board

(c) Manufacture and control of foodstuffs

Wheat Marketing Act 1947	The Western Australian Wheat Marketing Board	Refusal to accept wheat on the ground of inferior quality	An officer of the Department of Agriculture nominated by the Minister	None
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(d) (i) Land and its use

Land Act 1933	The Minister or a departmental officer	Exercise of various powers under the Act	The Governor	None
Town Planning and Development Act 1928	Various bodies responsible for town planning decisions	Various town planning decisions	The Town Planning Appeal Tribunal	Supreme Court (on a question of law)

(d) (ii) The environment

Environmental Protection Act 1971	The Environmental Protection Authority	Publication of proposals for environmental protection or enhancement	Environmental Appeal Board	None
Fisheries Act 1905	The Minister for Fisheries and Wildlife	Prohibit activities which are or would be likely to pollute adjacent aquatic environments, plant, fish or animal life	The Director of Environmental Protection	None

(e) Other matters

Construction Safety Act 1972	The Chief Inspector of Construction Safety or other inspectors of construction safety	Directions or orders in respect of work to which the Act applies	A Board of Reference OR an Arbitrator	Local Court (on a question of law)
Health Act 1911	Local authorities	Authorisation of the establishment of an offensive trade	The Commissioner of Public Health	None
	Local authorities	Suspend or cancel any licence issued under the Act or registration after conviction for offence against the Act	The Commissioner of Public Health	None
Local Government Act 1960	The council of a municipality	Exercise of powers in relation to buildings	Referees appointed under the Act	None

Machinery Safety Act 1974	An inspector	Giving of directions or orders under the Act	Board of Reference OR An Arbitrator	Local Court (on a question of law)
Stallions Act 1921	The Examining Authority	Approval of a stallion and issue of a certificate	An Appeal Board	None
4. Compensation				
Local Government Act 1960	The council of a municipality	Compensation and valuation	Two Arbitrators	None
5. Industrial				
Mine Workers' Relief Act 1932	The Mines Medical Officer	Diagnosis of an illness of a person who has been examined under the Act	A Medical Board	None
6. Miscellaneous				
Audit Act 1904	The Treasurer	Surcharge of an officer of the public service for any deficiency or loss	The Governor	None
Audit Act 1904	The Auditor General	Making of a disallowance for money paid without proper authority	The Governor	None
City of Perth Parking Facilities Act 1956	A parking inspector	Exercise of various powers under the Act	Council of the City of Perth	None

Cremation Act 1929	A medical referee	Grant of permit for cremation of a dead human body	Commissioner of Public Health	None
Electricity Act 1945	A supply authority	Requirement to meet certain specific obligations under s.25	The State Energy Commission	None
	An Inspector	Forbid the use of electrical works, apparatus, installations or fittings	The State Energy Commission	None
Health Act 1911	A local authority	Exercise of powers under the Act which do not involve the recovery of expenses	Commissioner of Public Health	None
Income Tax Assessment Act 1937	The Commissioner of Taxation	Assessment of income tax	Board of Review	Full Court of Supreme Court
Legal Aid Commission Act 1976	The Director or a member of the staff or a Legal Aid Committee	Provision of legal aid	A Review Committee	None
	A Legal Aid Committee or an officer of the Commission	Determination of certain fees payable to a private practitioner	A Review Committee	None

NOTES ON THE SURVEY

Note 1 - appeals from Local Courts

1.1 It is not clear whether there would be a right of further appeal in such a case. Under s.107 of the *Local Courts Act 1904*, a party to an “action” or “matter” in a Local Court may appeal to the District Court from a final judgment of the Court and, with the leave of the District Court, from a judgment which is not final. The question whether a decision by a Local Court on an administrative appeal is one from which an appeal would lie under s.107 was considered by the State Full Court in *Dickie v Commonwealth of Australia* (1933) 35 WALR 79 in the context of an appeal to the Local Court from a determination of the Commissioner for Employees' Compensation.

1.2 Section 3 of the *Local Courts Act 1904* provides the following definitions –

“Action” includes suit, and means a civil proceeding commenced as prescribed by plaint;

“Judgment” includes a judgment, order, or other decision or determination of a magistrate;

“Matter” means a proceeding in the court which is commenced as prescribed otherwise than by plaint;

“Prescribed” means as prescribed by this Act [i.e. the *Local Courts Act*], or the rules of court.

1.3 In *Dickie v Commonwealth of Australia* the Court held that the decision of the Local Court on the appeal was not a “judgment ... in [an] action or matter” for the purposes of s.107 of the *Local Courts Act*, and consequently that the appeal decision was not itself subject to appeal under that section. Unfortunately, the reported judgment of the Full Court is very brief. It is difficult to assess whether the basis for the decision was that the procedure for appealing to the Local Court in that case was prescribed by regulations under the *Commonwealth Employees' Compensation Act 1930*, or whether some wider principle was involved.

1.4 The effect of the judgment in Dickie's case may in any event have been limited by the recent decision of the State Full Court in *Las Vegas Motors v McClements* (unreported,

judgment delivered on 12 May 1977). The case involved the question whether an appeal lay against an order of a magistrate in a Local Court exercising a special jurisdiction under the *Motor Vehicle Dealers' Act 1973*. The Court, by a majority, held that it did. Dickie's case was adverted to in argument at the Full Court hearing but not in the majority judgment.

Note 2 - Appeals to the High Court and to the Privy Council

2.1 A person who is dissatisfied with a decision of the Supreme Court may in some circumstances appeal to either the High Court or the Judicial Committee of the Privy Council. Appeals to the Privy Council arise partly from the statute law of the United Kingdom and partly from the royal prerogative. Appeals to the High Court arise from the Constitution of the Commonwealth (s.73) and the *Judiciary Act 1903* (Cwth).

2.2 The Survey has been restricted to appeal provisions in State legislation and consequently does not refer to the possibility of an appeal to the High Court or the Judicial Committee of the Privy Council. Such appeals should, however, be borne in mind.