
Chapter 4

Investigation and enforcement

Outline of chapter

4.1 Division 606 of Item 18 of this Bill amends Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953) to establish a framework for the conduct of investigations by the Tax Practitioners Board (the Board) and for enforcement of registered entities' compliance with the provisions of Part 5-90 of Schedule 1 to the TAA 1953.

4.2 This chapter deals with:

- the procedure for investigations relating to registration of tax agents, BAS service providers and nominees of tax agents and BAS service providers (collectively termed 'tax practitioners');
- the Board's powers to obtain evidence, including by compelling witnesses to appear before it; and
- certain procedures and time limits in which the Board or the Commissioner of Taxation (the Commissioner) may apply to the Federal Court of Australia (the Federal Court) for a civil penalty and/or injunction.

4.3 Division 610 of Item 18 of this Bill amends Schedule 1 to the TAA 1953 to provide for investigation decisions of the Board to be reviewable by the Administrative Appeals Tribunal (AAT).

Context of amendments

Operation of current provisions

4.4 Currently, the Tax Agents' Boards are state-based and operate independently of one another and, as a result, the handling and resolution of complaints about tax agents has not been uniform or consistent.

4.5 Under the existing framework, both the number of tax agents subject to regulation and the number of disciplinary cases that each Board is required to investigate vary widely. Furthermore, the current law does not provide adequate direction for the conduct of investigations and disciplinary proceedings by the Boards. These factors have led to tax agents' standards varying across jurisdictions.

Rationale for major changes

4.6 The new framework replaces the state Boards with a national Board and makes explicit the roles and responsibilities of the Board for investigation and enforcement of the new regulatory system. Chapter 5 of this explanatory memorandum describes the composition, powers and functions of the Board.

4.7 An important function of the Board is to hear and decide on complaints against tax practitioners, by collecting evidence using witnesses and other means. The investigation and enforcement role of the Board aims to ensure that tax practitioners comply with their obligations to their clients and the broader community.

Summary of new law

4.8 Division 606 of this Bill provides for:

- the investigation of matters related to applications for registration;
- the investigation of tax practitioners; and
- in conjunction with the provisions of Part 5-90 of Schedule 1 to the TAA 1953, the enforcement of any decisions made as a result of an investigation.

4.9 The investigation procedures apply to all tax practitioners and applicants for registration.

4.10 The Board may investigate matters relating to tax practitioners' registration, including aspects and elements of the application for registration, and tax practitioners' compliance with the Code of Professional Conduct (the Code). In order to carry out this function, the Board may engage a committee of one or more individuals to perform an investigation on its behalf.

4.11 The Board or investigating committee may summon witnesses, including Australian Taxation Office (Tax Office) officials, and compel them to provide information for the purposes of the investigation.

4.12 Following an investigation, the Board must decide what action (if any) to take.

4.13 The Board (or the Commissioner) may apply to the Federal Court if a tax practitioner has breached a provision imposing a civil penalty.

4.14 The Board (or the Commissioner) may apply to the Federal Court for an injunction to restrain or require certain conduct, if the Board is satisfied that an entity is engaging in conduct that is prohibited without registration or an entity is liable to pay a civil penalty.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The Board's power to summon witnesses and compel persons to supply information to the Board for the purposes of its investigation is contained in the Bill.	The Board's power to summon witnesses and compel persons to supply information to the Board for the purposes of its investigation is contained in the regulations.
The Board may appoint a committee to investigate, examine witnesses and compel the giving of evidence. The Board may review, reconsider and endorse or override the recommendations made by the committee.	No equivalent.
If no decision is made within six months (or a period extended by the Board in specified circumstances) the Board is taken to have decided to take no further action on the complaint.	No equivalent.
The Board or the Commissioner may apply to the Federal Court for an order for a pecuniary penalty if a tax practitioner has breached a provision of the Bill imposing a civil penalty.	Breach of certain provisions amounts to a strict liability offence imposing a criminal penalty. No equivalent with general application.
The Board or the Commissioner may apply to the Federal Court for an injunction to restrain or require certain conduct.	No equivalent.

Detailed explanation of new law

Investigation procedures

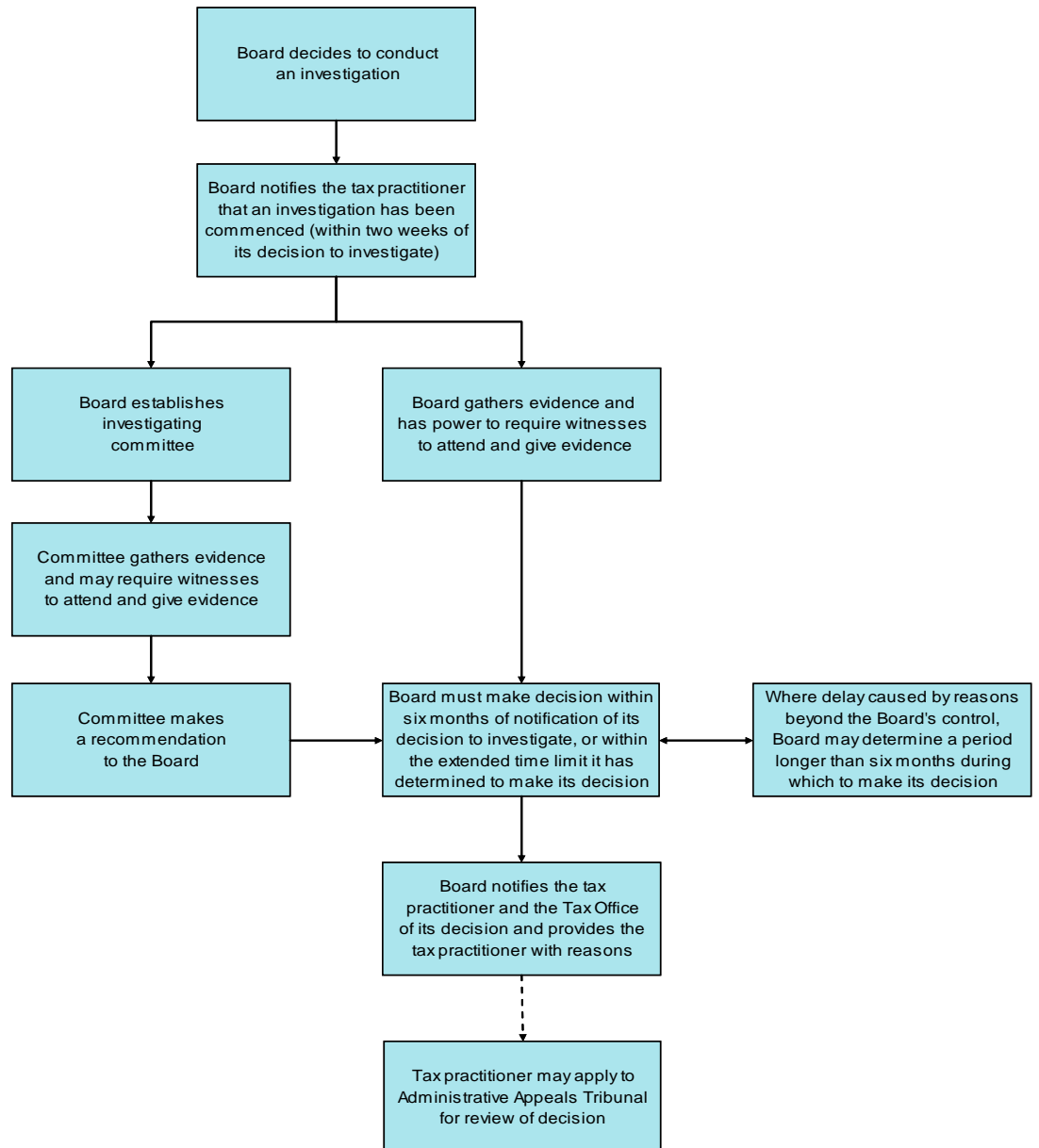
4.15 A primary function of the Board is to investigate matters related to registration applications and tax practitioners' conduct in providing tax agent services. The investigation procedures outlined in the Bill ensure that the Board will make considered decisions, provide a mechanism for grievances to be heard and allow for sanctions or penalties to be imposed where appropriate.

4.16 The Board has the power to investigate matters relating to any aspect of its responsibilities, in particular:

- an application for registration as a tax practitioner;
- any conduct that may be considered to be a breach of the Code or any other section of this Bill; and
- any other matter prescribed by the Regulations.

[Schedule 1, Item 18, Division 606, subsection 606-5(1) of Schedule 1 to the TAA 1953]

4.17 The flowchart below illustrates the processes that the Board follows in carrying out investigations.



Commencing an investigation

4.18 An investigation may arise as a result of a complaint made by a third party (such as a client, an employee of a tax agent or BAS service provider, a member of the public or the Commissioner) about a tax practitioner's conduct, or the Board may decide to initiate an investigation of its own accord.

4.19 When a complaint is made to the Board, the Board will determine whether the complaint is one of substance and whether an investigation is warranted. To do this, the Board may need to gather preliminary information. It may do this by any means it sees fit, for example, by inquiry of the complainant and/or the tax practitioner to whom the complaint pertains or by requesting and reviewing documentation provided by the complainant, the taxpayer, or obtained from the Tax Office.

4.20 If, following its preliminary inquiry, the Board decides to investigate a matter, it must notify the tax practitioner or applicant for registration, as appropriate, in writing, within two weeks of the decision to investigate. The Board is not required to notify the complainant (if any) of its commencement of an investigation, however it may choose to do so. *[Schedule 1, Item 18, Division 606, subsection 606-5(3) of Schedule 1 to the TAA 1953]*

Example 4.1

Allister is unhappy with the services provided to him by his tax agent Ms Fish, a partner [and nominee] of the registered tax agent Fish & Associates. He raises his concerns with Ms Fish but is not satisfied with Ms Fish's response and decides to make a complaint to the Tax Practitioners Board.

Leo, an employee of the Board Secretariat, receives Allister's letter of complaint. He commences gathering preliminary information by contacting Ms Fish to discuss Allister's claim. Leo requests a copy of all relevant documentation from Ms Fish and seeks her view on the complaint. Leo also contacts Allister to advise him that the Board is reviewing his complaint and requests that he provide copies of documentation held by him.

After gathering preliminary information, Leo presents this information to the Board. The Board decides to investigate the matter further as there appear to be some irregularities. The Board notifies Ms Fish formally of its decision to investigate. This notification is made in writing within two weeks of the Board deciding to commence an investigation.

4.21 An investigation is taken to have commenced on the date on which the formal commencement notice is issued by the Board to the subject of the investigation. [*Schedule 1, Item 18, Division 606, subsection 606-5(4) of Schedule 1 to the TAA 1953*]

Example 4.2

Over the course of several months, the Board Secretariat undertakes preliminary inquiries in relation to WWW Co, a registered BAS service provider, and recommends to the Board that an investigation be undertaken. The Board considers the recommendation and decides that an investigation is warranted. The Board notifies WWW Co accordingly, one week after the Board's decision to commence a formal investigation (that is, within the required time limit of two weeks). The investigation commences on the date on which the Board issues its notice of commencement to WWW Co.

Constitution of investigating committees

4.22 The Board may establish a committee of one or more individuals to undertake an investigation on its behalf. [*Schedule 1, Item 18, Division 606, subsection 606-5(2) of Schedule 1 to the TAA 1953*]

4.23 The Board may determine the membership of committees in any way it chooses. For example, the Board may seek nominations for membership of committees at a time prior to the commencement of an investigation, thereby establishing a pool of people from which the Board may draw a committee when necessary. Alternatively, the Board may choose to establish committees as and when required, or to establish standing committees for certain matters.

4.24 Having regard to the fact that most investigations will relate to breaches of the Code, the Board will select people with a sound reputation and qualifications and experience relevant to the matters dealt with by the Code. Experienced tax agents may often be appointed to a committee. Similarly, Tax Office officials, members of recognised professional associations (RPAs), members of the legal profession or professional investigators could be appointed to a committee. There may also be occasions where a person with special qualifications but no knowledge of taxation issues will be appointed to a committee.

4.25 A committee may be made up of one person or as many persons as the Board determines necessary or appropriate. Where a complaint refers to a relatively minor issue, the Board may choose to investigate the complaint through an individual. On the other hand, where the complaint is of a more complex or serious nature, the Board may choose to appoint a committee with multiple members. [*Schedule 1, Item 18, Division 606, subsection 606-5(2) of Schedule 1 to the TAA 1953*]

Referral of complaints

4.26 Where the Board receives a complaint concerning an unregistered entity providing tax agent services or BAS services for a fee, the Board may conduct an investigation or it may choose to forward the complaint to the Tax Office. Either the Board or the Commissioner may seek to apply to the Federal Court for a civil penalty order or an injunction if the investigation uncovers that the unregistered entity was operating unlawfully.

4.27 The Board may also choose to refer complaints about registered tax practitioners to the Tax Office, where it considers that the case involves breaches of taxation law over which the Board has no jurisdiction. This is explained in Chapter 5 of this explanatory memorandum.

4.28 An exemption from the secrecy provisions in the taxation law is also provided for disclosure of information acquired by the Board under the Bill to law enforcement agencies. Referral of complaints in this case is permitted where the information is relevant to the enforcement of the criminal law. This is outlined in Chapter 5 of this explanatory memorandum.

Conducting an investigation

4.29 The Board, or a committee that the Board has appointed to investigate on its behalf, may determine its own procedures for the conduct of investigations. This flexibility allows the Board or investigating committee to conduct the investigation in a way that is the most efficient and appropriate given the individual circumstances. *[Schedule 1, Item 18, Division 606, paragraph 606-5(5)(a) of Schedule 1 to the TAA 1953]*

4.30 The Board may choose to issue or publish guidelines on the conduct of investigations for the information of committee members or tax practitioners. The procedures may include (but are not limited to) such actions as:

- writing to the tax practitioner to request the production of documents as evidence;
- requesting permission to inspect documents at the tax practitioner's premises;
- making inquiries or interviewing the tax practitioner or other parties; and

- requesting the production of evidence from other parties (described below).

4.31 The Board or investigating committee is not bound by the rules of evidence. Normally, the rules of evidence apply to judicial decision making processes, not administrative decision making processes. The Board may therefore conduct its investigation with as little formality as feasible and as expeditiously as a proper consideration of the matters of the investigation permits. The investigation process should therefore not be prolonged or overly onerous on the tax practitioner being investigated. *[Schedule 1, Item 18, Division 606, paragraphs 606-5(5)(b) and (5)(c) of Schedule 1 to the TAA 1953]*

4.32 The administrative law principles of natural justice (which includes procedural fairness) apply to the Board's investigations. This would involve, among other things, giving the tax practitioner in question the right to be informed of the detail of the complaint and the opportunity – including sufficient time – to be heard in response.

Obtaining evidence

4.33 For the purposes of conducting an investigation, the Board or investigating committee has the power to require a person to appear before it to:

- give evidence; and/or
- produce documents, articles or other information relating to the subject of the investigation.

[Schedule 1, Item 18, Division 606, subsection 606-10(1) of Schedule 1 to the TAA 1953]

Note: Secrecy provisions in the taxation laws allow information sharing by the Commissioner of Taxation with the Board.

4.34 The Board or investigating committee must give witnesses notice in writing of the requirement to attend. The notice must refer to any document, article or other information that is to be produced, if applicable. *[Schedule 1, Item 18, Division 606, subsection 606-10(1) of Schedule 1 to the TAA 1953]*

4.35 The evidence given may be sworn or unsworn evidence. The Board or investigating committee has the power to take evidence on oath or affirmation, where the oath or affirmation to be taken or made is an undertaking that the evidence to be given will be true. For this purpose, the Chair of the Board, or a person acting on behalf of the Chair, may administer the oath or affirmation. *[Schedule 1, Item 18, Division 606, subsections 606-20(1) and (2) of Schedule 1 to the TAA 1953]*

Note: Part IV of the *Evidence Act 1958* provides for the making of oaths and affirmations.

4.36 Persons who are required to attend an investigation are entitled to be paid an allowance (as prescribed by the Regulations) and expenses, if any, to compensate them for the time and expenses incurred in carrying out their role.

4.37 The entity that is liable to pay the allowance and expenses (if any) in various circumstances is set out in the table below.

<i>If the person attends at the request of ...</i>	<i>then the allowance and expenses (if any) must be paid by ...</i>
a registered entity who is the subject of the investigation	that registered entity.
an entity that has applied for registration under Part 5-90 and who is the subject of the investigation	that entity.
any other entity	the Commonwealth.

[Schedule 1, Item 18, Division 606, subsection 606-10(2) of Schedule 1 to the TAA 1953]

Note: sections 8C and 8D of the TAA 1953 provide for offences relating to failure to attend, failure to produce records, failure to answer questions and other matters.

4.38 A witness may be allowed to give evidence by tendering a written statement rather than appearing in person before the Board or investigating committee. In this case, the statement must be verified by oath or affirmation. An oath or affirmation in the form of an affidavit would satisfy the requirements of this provision of the Bill. *[Schedule 1, Item 18, Division 606, subsection 606-20(3) of Schedule 1 to the TAA 1953]*

Self incrimination

4.39 A person required to attend or provide evidence to an investigation must do so even if doing so might incriminate the person or otherwise expose them to a penalty or other liability. This requirement prevents self-incrimination privileges from being used by tax practitioners and taxpayers to obstruct the Board from obtaining information for the proper conduct of its investigations. *[Schedule 1, Item 18, Division 606, subsection 606-15(1) of Schedule 1 to the TAA 1953]*

4.40 Although persons required to attend or provide evidence to an investigation must do so even if doing so may incriminate them, in the case of natural persons there are limitations on the subsequent use of the information, answer, document or thing given or obtained during the course of an investigation.

4.41 The information or answer given or the document produced, or any information, document or thing obtained as a result – direct or indirect – of giving the information or answer or producing the document, may only be used as evidence against the natural person in certain proceedings. These are:

- proceedings for an offence against section 8C or 8D of the TAA 1953. These sections refer to failure to comply with requirements under taxation law and failure to answer questions when attending before the Commissioner, etc., respectively; or
- proceedings for an offence against section 137.1, 137.2 or 149.1 of the *Criminal Code Act 1995* that relates to the TAA 1953. These sections refer to false or misleading information, false or misleading documents and obstruction of Commonwealth public officials respectively.

[Schedule 1, Item 18, Division 606, subsection 606-15(2) of Schedule 1 to the TAA 1953]

4.42 Evidence given by a witness who is a natural person is not admissible in evidence against the person in any other circumstance. *[Schedule 1, Item 18, Division 606, subsection 606-15(2) of Schedule 1 to the TAA 1953]*

Legal professional privilege

4.43 Part 5-90 does not affect the law relating to legal professional privilege. That is, the investigations powers established by this Part do not override the principle of confidentiality of communications between clients and solicitors. *[Schedule 1, Item 18, Division 606, section 606-30 of Schedule 1 to the TAA 1953]*

Decision following investigation

Nature of the decision

4.44 The Board must make a decision following an investigation. The courses of action available to the Board in making its decision are as follows:

- If the investigation relates to an application for registration, the Board must make a decision in accordance with section 602-60. That is, the Board must grant registration if the applicant is eligible for registration of the type applied for, or decline to register the applicant – details are provided in Chapter 2 of this explanatory memorandum.

- In any other case, the Board must either:
 - make a decision that no further action will be taken in relation to the investigation [*Schedule 1, Item 18, Division 606, subparagraph 606-25(1)(b)(i) of Schedule 1 to the TAA 1953*]; or
 - do one or more of the following:
 - : impose one or more sanctions under Subdivision 604-B (administrative sanctions are discussed in Chapter 3 of this explanatory memorandum) [*Schedule 1, Item 18, Division 606, subparagraph 606-25(1)(b)(ii) of Schedule 1 to the TAA 1953*];
 - : apply to the Federal Court for a civil penalty order under Subdivision 606-B [*Schedule 1, Item 18, Division 606, subparagraph 606-25(1)(b)(iii) of Schedule 1 to the TAA 1953*]; or
 - : apply to the Federal Court for an injunction under Subdivision 606-C [*Schedule 1, Item 18, Division 606, subparagraph 606-25(1)(b)(iv) of Schedule 1 to the TAA 1953*].

4.45 If a committee is appointed to conduct an investigation, then on finalisation of its investigation, the committee will make one of the recommendations outlined above to the Board. The Board may either endorse the recommendation of the committee, or reject the committee's recommendation and make its own decision.

Time frame for the making of a decision

4.46 The Board has six months from the date on which it issues the formal commencement notice to the subject of the investigation to make its decision, although the Board may extend the period for reasons beyond its control. This limitation on the time allowed for investigations minimises uncertainty for the applicant or registered tax practitioner who is the subject of the investigation. [*Schedule 1, Item 18, Division 606, subsection 606-25(2) of Schedule 1 to the TAA 1953*]

4.47 In some cases, six months will be insufficient time to finalise an investigation. Where a delay in the conduct of an investigation is caused by reasons beyond the control of the Board (or the committee appointed to investigate on behalf of the Board), the Board has the discretion to determine a longer period within which to make its decision. This discretion must be exercised at least two weeks before the expiry of the

initial six month period. *[Schedule 1, Item 18, Division 606, subsections 606-25(3) and (4) of Schedule 1 to the TAA 1953]*

Example 4.3

The Board receives a complaint about Pru, a registered tax agent. After conducting preliminary inquiries, the Board decides to investigate the matter. The Board refers the complaint to an investigating committee and issues a commencement notice to Pru within two weeks of its decision to investigate.

During the investigation, Pru notifies the Board that her home and office have been severely damaged in a tropical cyclone and that, as a result, she will have trouble producing the documentation by the deadline that the investigating committee originally set. Given this information, the Board decides to extend the investigation period by six months. The Board then notifies Pru of its decision.

4.48 ‘Reasons beyond the control of the Board’ may include, but are not limited to, the following:

- where delay is caused by the subject of the investigation;
- where the complexity of the investigation is such that it is not feasible to complete the investigation thoroughly and with due regard to the requirements of legislation in the allocated time frame; and
- where delay is caused by a person giving evidence.

[Schedule 1, Item 18, Division 606, subsection 606-25(5) of Schedule 1 to the TAA 1953]

4.49 The Board’s decision to extend the period of time within which an investigation is to be completed is reviewable by the AAT. The right to review allows those persons whose interests have been affected by the decision (this may include the tax practitioner, a complainant or the Tax Office) to question the validity of the Board’s exercise of its power. A request for the review of a Board decision must be lodged directly with the AAT within 28 days of the notification of the decision. *[Schedule 1, Item 18, Division 610, paragraph 610-5(i) of Schedule 1 to the TAA 1953]*

Example 4.4

The Board gathers preliminary information in relation to a complaint that it received about Daniel, a registered nominee of a BAS service provider, and notifies Daniel on 13 March that it has commenced an investigation into the matter. The Board appoints a committee to perform the investigation on its behalf, and the committee proceeds to gather evidence and hold interviews with relevant persons.

Five months after commencing the investigation into Daniel's conduct, the investigating committee informs the Board that it will not be able to make a decision on the case within the six month timeframe. The reasons for the delay are that the committee has had trouble contacting a key witness, Daniel has not been cooperative and the issues under consideration are of a very complex nature. The committee recommends that the investigation period be extended by three months.

Because of the time limit on investigations and the availability of the discretion to extend the time limit, on 28 August the Board accepts the committee's recommendation and decides to extend the deadline for a further three months, to 13 December. It notifies Daniel of its decision and advises him that this decision is reviewable by the AAT. Daniel disagrees with the Board's reasons and seeks a review by the AAT.

4.50 If the Board does not make a decision within the six month period or the longer time frame determined by the Board, then its decision is taken to be that no further action is warranted in relation to the matter that was the subject of investigation. [*Schedule 1, Item 18, Division 606, subsection 606-25(6) of Schedule 1 to the TAA 1953*]

Notification of decision

4.51 The Board must notify the entity affected by the decision of its decision following an investigation. The notice must be in writing. In the case of a decision under subsection 606-25(1) (that is, a decision about an application for registration or a decision to take no further action, impose a disciplinary sanction or apply to the Federal Court for a civil penalty order or an injunction), the notice must state the reasons for the decision, and notice of the decision and the reasons must be provided to the Commissioner. For the reviewable decisions listed in section 610-5, the Board is required by section 27A of the *Administrative Appeals Tribunal Act 1975* to give a notice stating that the decision was made and that the entity being investigated has the right to have that decision reviewed. [*Schedule 1, Item 18, Division 606, subsections 606-25(7) and (8) of Schedule 1 to the TAA 1953*]

4.52 Board decisions following an investigation are reviewable by the AAT, except for decisions to take no further action and decisions to apply to the Federal Court for an order that the tax practitioner pay the Commonwealth a pecuniary penalty (a civil penalty order) or for an injunction. Further detail on the right to review is provided in paragraph 4.49 above. [*Schedule 1, Item 18, Division 610, section 610-5 of Schedule 1 to the TAA 1953*]

Obtaining orders for civil remedies

Order to pay a pecuniary penalty for contravening a civil penalty provision

4.53 If an entity contravenes a provision of Part 5-90 imposing a civil penalty (as discussed in Chapter 3 of this explanatory memorandum), an application may be made to the Federal Court for an order that the entity pays the Commonwealth a pecuniary penalty.

4.54 The application must be made within four years of the contravention, and may be made by either the Board or the Commissioner, on behalf of the Commonwealth. The four year limitation period for commencing proceedings is consistent with other instances in the taxation laws where a civil penalty is the appropriate remedy (for example, the Promoter Penalties regime). *[Schedule 1, Item 18, Division 606, subsection 606-35(1) of Schedule 1 to the TAA 1953]*

4.55 If the Federal Court is satisfied that the entity has contravened a provision, it may order the entity to pay a pecuniary penalty to the Commonwealth. The penalty is payable for each contravention, but an entity is not liable for more than one pecuniary penalty for the same instance of misconduct. *[Schedule 1, Item 18, Division 606, subsections 606-35(2) and (4) of Schedule 1 to the TAA 1953]*

4.56 The amount of the penalty is determined by the Federal Court, but must not exceed the amount specified in the relevant civil penalty provision. Discussion of the penalty provisions and penalty amounts is provided in this explanatory memorandum as follows:

- Chapter 2 — conduct by an unregistered entity
- Chapter 3 — misconduct by a registered tax practitioner

4.57 If a tax practitioner's conduct contravenes more than one provision of Part 5-90 imposing a civil penalty, then proceedings may be commenced against the tax practitioner for contravention of any or all of those provisions that have been breached. *[Schedule 1, Item 18, Division 606, subsection 606-35(3) of Schedule 1 to the TAA 1953]*

4.58 A contravention of a provision of Part 5-90 of the Bill imposing a civil penalty is not an offence. A contravention is not a violation of the criminal law. *[Schedule 1, Item 18, Division 606, section 606-40 of Schedule 1 to the TAA 1953]*

Recovery of a pecuniary penalty

4.59 If the Court orders an entity to pay a pecuniary penalty, then the penalty is payable to the Commissioner, who receives the penalty on behalf of the Commonwealth. The Commissioner may enforce the order on behalf of the Commonwealth as if it were a judgment of the Court. If the entity does not remit the penalty, then it will be held in contempt of court and may be subject to further proceedings. *[Schedule 1, Item 18, Division 606, section 606-45 of Schedule 1 to the TAA 1953]*

Injunctions

4.60 Whilst an application to the Federal Court for a civil penalty order may result in the entity being penalised financially, there is no guarantee that the penalty will change the entity's behaviour. In such circumstances, the Board or the Commissioner may apply to the Federal Court for an injunction.

4.61 The Federal Court may grant an injunction against an entity on such terms as it thinks appropriate. The Court may grant an injunction restraining an entity from engaging, or continuing to engage, in an activity or grant a performance injunction requiring the entity to do something if it is satisfied that the entity has not done that thing and/or is likely not do the thing required without compulsion.

4.62 An injunction may be granted if the Federal Court is satisfied that a tax practitioner has engaged in the past, or is proposing to engage in the future, in conduct that would constitute a contravention of:

- Subdivision 602-A of this Bill (Conduct that is prohibited without registration); or
- Subdivision 604-C of this Bill (Your liability to civil penalty).

Example 4.5

Felix was a registered tax agent, however the Board recently terminated his registration due to a serious breach of the Code. Although Felix's registration has been terminated, he continues to advertise the provision of tax agent services (for a fee) in the local newspaper and continues to act for many of his former clients.

The Board could apply to the Federal Court for a civil penalty order against Felix or an injunction prohibiting Felix from advertising these services and acting for others, or both.

[Schedule 1, Item 18, Division 606, subsection 606-50(1) of Schedule 1 to the TAA 1953]

4.63 Injunctions can be used as an alternative to civil penalty proceedings or in addition to them if the Federal Court considers the circumstances of a case warrant both injunctive relief and a civil penalty order.

4.64 Before deciding the Board's or Commissioner's application, the Federal Court may also choose to grant an interim injunction. [*Schedule 1, Item 18, Division 606, subsection 606-50(2) of Schedule 1 to the TAA 1953*]

4.65 The ability to seek injunctions and interim injunctions allows the Board to take immediate action against entities which engage in conduct prohibited by this Bill, limiting the period during which they can engage in such conduct.